

FILED/ENDORSED
Clerk of the Superior Court

OCT 06 2022

By **K. FUENTES**
DEPUTY CLERK

ASSIGNED TO
JUDGE CHRISTINE CARRINGER
FOR ALL PURPOSES

CMFF 424920 \$435

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Attorneys for Plaintiff Parise Shepherd

SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF SOLANO

PARISE SHEPHERD, an individual, on her
own behalf and on behalf of the Labor and
Workforce Development Agency;

Plaintiff,

vs.

BLAKE AUSTIN COLLEGE, a
corporation; and DOES 1-100, inclusive,

Defendants.

Case No.:

FCS058983

COMPLAINT FOR DAMAGES AND CIVIL
PENALTIES

1. FAILURE TO PROPERLY CALCULATE
AND PAY OVERTIME
2. FAILURE TO PROPERLY CALCULATE
AND PAY SICK LEAVE
3. FAILURE TO PROVIDE REST PERIODS
OR PAY PREMIUMS
4. FAILURE TO FURNISH ACCURATE
ITEMIZED WAGE STATEMENTS
5. FAILURE TO PAY ALL WAGES DUE AT
END OF EMPLOYMENT
6. PRIVATE ATTORNEYS GENERAL ACT

JURY TRIAL DEMANDED

Plaintiff Parise Shepherd brings this action against Blake Austin College, a corporation; and
Does 1 through 100, for violations of the Labor Code.

PARTIES

1. Plaintiff Parise Shepherd ("Shepherd" or "Plaintiff") is and at all times relevant herein
was employed in Solano County, California, and was an "employee" as defined by the Labor Code
and applicable California Industrial Wage Commission ("IWC") Wage Order(s).

2. Defendant Blake Austin College (aka “Defendant”) is a California corporation, formed under the laws of California, and at all times relevant was an “employer” as defined by the Labor Code and applicable IWC Wage Order(s).

3. Blake Austin College and Does 1-100 are collectively referred to as Defendants.

4. Plaintiff is not aware of the true names and capacities of the Defendants sued herein as Does 1 through 100, whether individual, corporate, associate, or otherwise and therefore sues such Defendants by these fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged and that Plaintiff's injuries and damages herein alleged were legally caused by such Defendants. Unless otherwise indicated, each Defendant was acting within the course and scope of said agency and/or employment, with the knowledge and/or consent of said co-Defendant.

5. Plaintiff is informed and believes and thereupon alleges that at all times mentioned herein, each of the Defendants, including each Doe Defendant, was acting as the agent, servant, employee, partner and/or joint venturer of and was acting in concert with each of the remaining Defendants, including each Doe Defendant, in doing the things herein alleged, while at all times acting within the course and scope of such agency, service, employment partnership, joint venture and/or concert of action. Each Defendant, in doing the acts alleged herein, was acting both individually and within the course and scope of such agency and/or employment, with the knowledge and/or consent of the remaining Defendants.

VENUE AND JURY TRIAL DEMAND

6. Venue is proper in this court because the unlawful acts alleged herein took place in Solano County, California and Plaintiff's place of employment with Defendants was within Solano County. Plaintiff demands a jury trial.

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GENERAL ALLEGATIONS

7. Shepherd was hired by Blake Austin College on or around January 7, 2022 as a Licensed Vocational Nurse Instructor in Vacaville, California. Her employment ended on or around May 27, 2022.

8. At all times during her employment with Blake Austin College, Shepherd was properly classified as an hourly employee, eligible for overtime. Indeed, Shepherd worked overtime on a regular basis.

9. However, Blake Austin College failed to properly calculate Shepherd's "regular rate of pay" for purposes of calculating and paying overtime. In addition to her base, hourly pay, Shepherd also received other items of compensation, e.g., shift differential pay. (**Exhibit 1.**) However, even when Shepherd earned and received shift differential pay, the value of such was not factored into her "regular rate of pay" for purposes of calculating and paying overtime; instead, Blake Austin College merely multiplied Austin's base hourly rate by 1.5 and paid overtime accordingly. (See Division of Labor Standards Enforcement Policies and Interpretations Manual, § 49.) By failing to pay earned overtime at 1.5 times the regular rate of pay, Blake Austin College violated Labor Code section 510.

10. Shepherd also received paid sick days while she was employed by Blake Austin College. However, when she received paid sick days, they were paid only at Shepherd's base hourly rate—again, Blake Austin College failed to account for the value of earned shift differentials and other items of compensation. (Exhibit 1, *supra*; see also Lab. Code, § 246, subd. (l) [sick pay shall be paid at the regular rate of pay].) By failing to pay sick days at the regular rate of pay, Blake Austin College violated Labor Code sections 233 and 246.

11. Additionally, Shepherd was not provided with rest periods to which she was entitled. Though she typically worked shifts of eight hours or more, she was not relieved of all duty and given the opportunity to take a paid, uninterrupted, ten-minute rest period for every work period of four hours. Shepherd was not paid an hour of pay at her regular rate of compensation

(premiums) for every rest period which was not authorized and permitted. Accordingly, Blake Austin College violated Labor Code section 226.7.

12. Because of the aforementioned wage-and-hour violations, the itemized wage statements failed to show accurately (1) gross wages earned; (2) net wages earned; and (3) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in violation of Labor Code section 226, subdivisions (a)(1), (5), and (9).

13. At no point since the ending of Shepherd's employment did Blake Austin College pay her the full balance of unpaid overtime and paid sick days, *supra*. By failing to pay all wages due upon cessation of employment, Blake Austin College violated Labor Code sections 201 and 202.

14. The foregoing list of misconduct is a partial list only and set forth by way of example.

15. On July 29, 2022, Shepherd provided written notice to the Labor and Workforce Development Agency ("LWDA") and Blake Austin College regarding the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support those alleged violations. (**Exhibit 2.**)

16. As of the filing of this Complaint, more than 65 calendar days after Shepherd's initial written notice, the LWDA has not provided written notice that it intends to investigate any of Shepherd's allegations as set forth above. Accordingly, Shepherd has satisfied the administrative prerequisites under Labor Code section 2699.3 to bring a civil action to recover civil penalties against Defendants, in addition to other remedies, for violations of the California Labor Code.

FIRST CAUSE OF ACTION
FAILURE TO PROPERLY CALCULATE AND PAY OVERTIME
(Lab. Code § 510 & 1198)
Against Defendants

17. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

1 18. Pursuant to Labor Code section 510, any work in excess of eight hours in one workday
2 and any work in excess of 40 hours in any one workweek and the first eight hours worked on the
3 seventh day of work in any one workweek shall be compensated at the rate of no less than one and
4 one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day
5 shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In
6 addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at
7 the rate of no less than twice the regular rate of pay of an employee.

8 19. The “regular rate of pay” includes all remuneration for employment paid to the
9 employee and includes, but is not limited to, hourly earnings, salary, piece work earnings,
10 commissions, non-discretionary bonuses, and the value of meals and lodging. (See 29 U.S.C. §
11 207(e); DLSE Enforcement Policies and Interpretations Manual Section 49.)

12 20. Pursuant to Labor Code section 1198, the maximum hours of work and standard
13 conditions of labor fixed by the Commission shall be the maximum hours of work and the standard
14 conditions of labor for employees and the employment of any employee for longer hours than those
15 fixed by the Commission or under conditions of labor prohibited by the order is unlawful.

16 21. During the relevant time period, Plaintiff regularly worked overtime and doubletime.

17 22. During the relevant time period, Defendants intentionally and willfully failed to pay the
18 proper overtime/doubletime wages due to Plaintiff.

19 23. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter
20 provided.

21 **SECOND CAUSE OF ACTION**
22 **FAILURE TO PROPERLY CALCULATE AND PAY SICK LEAVE**
23 **(Lab. Code, §§ 218, 233, 246 *et seq.*)**
24 **Against Defendants**

25 24. Plaintiff hereby realleges and incorporates by reference each and every allegation set
26 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
27 allegations of this cause of action.
28

1 25. Labor Code section 246(l) requires that employers pay sick time pay to non-exempt
2 employees at that employee's "regular rate of pay."

3 26. According to the California Supreme Court, sick pay is a form of wages. (*Murphy v.*
4 *Kenneth Cole Productions* (2007) 40 Cal.4th 1094, 1103.)

5 27. Labor Code section 233 provides that "any employer who provides sick leave for
6 employees shall permit an employee to use in any calendar year the employee's accrued and
7 available sick leave entitlement, in an amount not less than the sick leave that would be accrued
8 during six months at the employee's then current rate of entitlement, for the reasons specified in
9 subdivision (a) of Section 246.5."

10 28. During the relevant time period, Defendants intentionally and willfully failed to
11 provide paid sick leave as required by law. Accordingly, Plaintiff did not receive the full amount of
12 paid sick time that she was entitled to receive by law and was therefore denied the right to use sick
13 leave within the meaning of Labor Code sections 233(a) and (c).

14 29. Any employer who violates Labor Code section 233 is liable to employees for the
15 greater of one days' pay or actual damages, reasonable equitable relief, and reasonable attorneys'
16 fees and costs. (Lab. Code, § 233, subds. (d), (e).)

17 30. Further, Labor Code section 218 authorizes a private right of action to recover unpaid
18 wages.

19 31. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter
20 provided.

21 **THIRD CAUSE OF ACTION**
22 **FAILURE TO PROVIDE REST PERIODS OR PAY PREMIUMS**
23 **(Lab. Code, § 226.7)**
 Against Defendants

24 32. Plaintiff hereby realleges and incorporates by reference each and every allegation
25 set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
26 allegations of this cause of action.

1 33. Labor Code section 226.7 requires employers to provide employees rest periods as
2 mandated by Order of the Industrial Welfare Commission. It states:

- 3 a. No employer shall require any employee to work during any meal or rest period
4 mandated by an applicable order of the Industrial Welfare Commission.
5 b. If an employer fails to provide an employee a meal period or rest period in
6 accordance with an applicable order of the Industrial Welfare Commission, the
7 employer shall pay the employee one additional hour of pay at the employee's
8 regular rate of compensation for each work day that the meal or rest period is
9 not provided.

10 34. Section 11 of the applicable IWC Wage Order provides:

- 11 “(A) Every employer shall authorize and permit all employees to take rest periods,
12 which insofar as practicable shall be in the middle of each work period. Nothing
13 in this provision shall prevent an employer from staggering rest periods to avoid
14 interruption in the flow of work and to maintain continuous operations, or from
15 scheduling rest periods to coincide with breaks in the flow of work that occur
16 in the course of the workday. The authorized rest period time shall be based on
17 the total hours worked daily at the rate of ten (10) minutes net rest time for
18 every four (4) hours worked, or major fraction thereof. Rest periods shall take
19 place at employer designated areas, which may include or be limited to the
20 employees' immediate work area.
21 (B) Rest periods need not be authorized in limited circumstances when the disruption
22 of continuous operations would jeopardize the product or process of the work.
23 However, the employer shall make up the missed rest period within the same
24 workday or compensate the employee for the missed ten (10) minutes of rest
25 time at his/her regular rate of pay within the same pay period.
26 (C) A rest period need not be authorized for employees whose total daily work time
27 is less than three and one-half (3 ½) hours. Authorized rest period time shall be
28 counted as hours worked for which there shall be no deduction from wages.
29 (D) If an employer fails to provide an employee a rest period in accordance with the
30 applicable provisions of this order, the employer shall pay the employee one (1)
31 hour of pay at the employee's regular rate of compensation for each workday
32 that the rest period is not provided.”

33 35. During the relevant time period, Plaintiff was not provided with rest breaks as
34 required by law and did not receive an additional hour of premium pay for each missed rest break.

1 36. Wherefore, Plaintiff has been injured and requests relief as hereinafter provided.

2 **FOURTH CAUSE OF ACTION**
3 **FAILURE TO FURNISH COMPLETE AND ACCURATE ITEMIZED WAGE STATEMENTS**
4 **(Lab. Code, § 226(a))**
5 **Against Defendants**

6 37. Plaintiff hereby realleges and incorporates by reference each and every allegation set
7 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
8 allegations of this cause of action.

9 38. Pursuant to Labor Code section 226(a) “every employer shall, semimonthly or at the
10 time of each payment of wages, furnish each of his or her employees, either as a detachable part of the
11 check, draft, or voucher paying the employee’s wages, or separately when the wages are paid by
12 personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2)
13 total hours worked by the employee [. . .], (3) the number of piece-rate units earned and any applicable
14 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the
15 inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the
16 last four digits of his or her social security number or an employee identification number, (8) the name
17 and address of the legal entity that is the employer [. . .], (9) all applicable hourly rates in effect during
18 the pay period and corresponding number of hours worked at each hourly rate by the employee and, if
19 the employer is a temporary services employer [. . .], the rate of pay and the total hours worked for each
20 temporary services assignment.”

21 39. An employee suffering injury as a result of the knowing and intentional failure by an
22 employer to comply with Labor Code section 226(a) is entitled to recover the greater of all actual
23 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred
24 dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed the aggregate
25 penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s
26 fees. (Lab. Code, § 226, subd. (e)(1).)

27 40. An employee is deemed to suffer injury if the employer fails to provide a wage
28 statement or if the employer fails to provide accurate and complete information as required by any one

1 or more of the items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and
2 easily determine from the wage statement alone, i) the amount of gross/net wages paid to the employee
3 during the pay period or any of the other information required to be provided pursuant to Labor Code
4 section 226(a) items (2) to (4), inclusive, (6) and (9), ii) deductions made by the employer, iii) the name
5 and address of the employer and iv) the name of the employee and the last four digits of his or her
6 social security number or employee identification number. (Lab. Code, § 226, subds. (e)(2)(A), (B)(i)-
7 (iv).) “Promptly and easily determine” means a reasonable person would be able to readily ascertain
8 the information without reference to other documents or information. (Lab. Code, § 226, subd.
9 (e)(2)(C).)

10 41. As set forth above, Defendants intentionally and willfully failed to furnish accurate
11 itemized wage statements which complied with Labor Code section 226.

12 42. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter
13 provided.

14 **FIFTH CAUSE OF ACTION**
15 **FAILURE TO PAY ALL WAGES DUE AT END OF EMPLOYMENT**
16 **(Lab. Code, § 201, *et seq.*)**
Against Defendants

17 43. Plaintiff hereby realleges and incorporates by reference each and every allegation set
18 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
19 allegations of this cause of action.

20 44. Labor Code section 201 provides that if an employer discharges an employee, the wages
21 earned and unpaid at the time of discharge are due and payable immediately.

22 45. Labor Code section 202 requires an employer to pay an employee all earned wages
23 within 72 hours of the employee quitting his or her employment, or immediately at the time of quitting
24 if the employee has given 72 hours previous notice of his or her intention to quit.

25 46. As set forth above, Plaintiff was not timely paid all earned but unpaid wages when her
26 employment with Defendants ended.

1 47. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter
2 provided.

3 **SIXTH CAUSE OF ACTION**
4 **PRIVATE ATTORNEYS GENERAL ACT**
5 **(Lab. Code, § 2698 *et seq.*)**
6 **Against Defendants**

7 48. Plaintiff hereby realleges and incorporates by reference each and every allegation
8 set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
9 allegations of this cause of action.

10 49. Pursuant to Labor Code section 2699, subdivision (a), any provision of the Labor
11 Code which provides for a civil penalty to be assessed and collected by the LWDA for violations
12 of the Labor Code may, as an alternative, be recovered through a civil action brought by an
13 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
14 to the procedures outlined in Labor Code section 2699.3.

15 50. Plaintiff was employed by Defendants and the alleged violations were committed
16 against her during her time of employment. Plaintiff is therefore an aggrieved employee as defined
17 by Labor Code section 2699, subdivision (c). Other current and former employees are also
18 aggrieved employees in that one or more of the alleged violations were also committed against
19 them during their time of employment with Defendants.

20 51. Pursuant to Labor Code section 2699, subdivision (f), the civil penalty recoverable
21 in a PAGA action is that which is provided for by the Labor Code or, where no civil penalty is
22 specifically provided, one hundred dollars (\$100) for each aggrieved employee per pay period for
23 the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for
24 each subsequent violation.

25 52. Pursuant to California Labor Code section 2699, subdivision (g), an aggrieved
26 employee may recover the civil penalty on behalf of himself or herself and other current or former
27 employees against whom one or more of the alleged violations was committed. Furthermore, any
28

1 employee who prevails in any such action shall be entitled to an award of reasonable attorney's fees
2 and costs.

3 53. Pursuant to the PAGA, Shepherd seeks to recover civil penalties against Defendants
4 for violations of the Labor Code.

5 54. Wherefore, Plaintiff and other employees (current and former) have been aggrieved
6 and Plaintiff, on behalf of the Labor and Workforce Development Agency, requests relief as
7 hereafter provided.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays judgment against Defendants as follows:

10 **As to the First through Fifth Causes of Action:**

- 11 1. That this Court award injunctive relief, including that available under Labor Code
12 sections 226(h) and 248.5(e);
- 13 2. That this Court award unpaid wages, including rest break premiums;
- 14 3. That this Court award statutory penalties including, but not limited to, those available
15 under Labor Code sections 203 and 226;
- 16 4. That this Court award statutory attorneys' fees and costs under Labor Code sections
17 218.5, 226(e)(1) and (h), 248.5(e), and 1194, as well as those available under Code of
18 Civil Procedure section 1021.5;
- 19 5. That this Court award prejudgment and post-judgment interest according to any
20 applicable provision of law or as otherwise permitted by law; and
- 21 6. That this Court award such other and further relief as the court deems just and proper.

22 **As to the Sixth Cause of Action:**

- 23 1. For civil penalties, including but not limited to those available under Labor Code
24 sections 226.3, 558, and 2699(f);
- 25 2. For injunctive relief;
- 26 3. For statutory attorneys' fees and costs, including but not limited to those available
27 under Labor Code section 2699(g);

1 4. For prejudgment and post-judgment interest according to any applicable provision
2 of law or as otherwise permitted by law, including those available under Civil Code
3 sections 3287(a) and 3289(b); and

4 5. For such other and further relief as the court deems just and proper.

5 ///

6 **DATED:** October 3, 2022

MAYALL HURLEY P.C.

7 By _____



8 JOHN P. BRISCOE
9 Attorneys for Plaintiff
10 PARISE SHEPHERD

EXHIBIT 1

BLAKE AUSTIN COLLEGE
20347

Employee
Parise S Shepherd

SSN

Pay Period: 05/11/2022 - 05/25/2022

Pay Date: 05/27/2022

Earnings and Hours	Hours	Rate	Current	YTD Amount
Nursing Faculty Hourly	80.50	50.00	4,025.00	21,150.00
Nursing Faculty Overtime	1.50	75.00	112.50	112.50
Nursing Shift Differential	26.75	10.00	267.50	1,627.50
Nursing Faculty Vacation			0.00	200.00
Nursing Faculty Sick Pay			0.00	612.50
	108.75		4,405.00	23,702.50

Taxes	Current	YTD Amount
Medicare Employee Addl Tax	0.00	
Federal Withholding	-596.00	-2,784.00
Social Security Employee	-273.11	-1,469.56
Medicare Employee	-63.88	-343.69
CA - Withholding	-232.22	-1,166.85
CA - Disability Employee	-48.46	-260.73
	-1,213.67	-6,024.83

Net Pay 3,191.33 17,677.67

Sick	Accrued	Used	Available
Current	0.00	0.00	11.75
YTD	0.00	12.25	

Blake Austin College, 611-K Orange Drive, Vacaville, CA 95687

Powered by Intuit Payroll

BLAKE AUSTIN COLLEGE
20348

Employee
Parise S Shepherd

SSN

Pay Period: 05/26/2022 - 06/04/2022

Pay Date: 05/27/2022

Earnings and Hours	Hours	Rate	Current	YTD Amount
Nursing Faculty Hourly	8.50	50.00	425.00	21,575.00
Nursing Faculty Vacation	5.99	50.00	299.50	499.50
Nursing Faculty Overtime			0.00	112.50
Nursing Shift Differential			0.00	1,627.50
Nursing Faculty Sick Pay			0.00	612.50
	14.49		724.50	24,427.00

Taxes	Current	YTD Amount
Medicare Employee Addl Tax	0.00	
Federal Withholding	-50.00	-2,834.00
Social Security Employee	-44.91	-1,514.47
Medicare Employee	-10.50	-354.19
CA - Withholding	-50.00	-1,216.85
CA - Disability Employee	-7.97	-268.70
	-163.38	-6,188.21

Net Pay 561.12 18,238.79

Sick	Accrued	Used	Available
Current	0.00	0.00	11.75
YTD	0.00	12.25	

Blake Austin College, 611-K Orange Drive, Vacaville, CA 95687

Powered by Intuit Payroll

EXHIBIT 2

SOUTHERN CALIFORNIA OFFICE:
450 N. BRAND BLVD., SUITE 600
GLENDALE, CALIFORNIA 91206

STOCKTON OFFICE:
2453 GRAND CANAL BOULEVARD
STOCKTON, CALIFORNIA 95207

LODI OFFICE:
118 WEST OAK STREET
LODI, CALIFORNIA 95240

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SHANE M. HOOVER
ALI HASHEMI

July 29, 2022

SUBMITTED ELECTRONICALLY

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612

SENT VIA CERTIFIED MAIL

Blake Austin College
611-K Orange Dr.
Vacaville, CA 95687

Re: Parise Shepherd

To whom it may concern:

This firm represents Parise Shepherd (“Shepherd”) in relation to her prior employment with Blake Austin College. In accordance with Labor Code section 2699.3, this letter shall serve as Shepherd’s written notice to the Labor and Workforce Development Agency (“LWDA”) and Blake Austin College regarding the following violations, and facts and theories supporting those violations, on Shepherd’s behalf and, as a proxy for the LWDA, on behalf of current and other former California employees of Blake Austin College.

Shepherd was hired by Blake Austin College on or around January 7, 2022 as a Licensed Vocational Nurse Instructor in Vacaville, California. Her employment ended on or around May 27, 2022.

At all times during her employment with Blake Austin College, Shepherd was properly classified as an hourly employee, eligible for overtime. Indeed, Shepherd worked overtime on a regular basis.

However, Blake Austin College failed to properly calculate Shepherd’s “regular rate of pay” for purposes of calculating and paying overtime. In addition to her base, hourly pay, Shepherd also received other items of compensation, e.g., shift differential pay. (**Exhibit A.**) However, even when Shepherd earned and received shift differential pay, the value of such was not factored into her “regular rate of pay” for purposes of calculating and paying overtime;

Labor and Workforce Development Agency
Blake Austin College
July 29, 2022
Re: Parise Shepherd
Page 2 of 3

instead, Blake Austin College merely multiplied Austin's base hourly rate by 1.5 and paid overtime accordingly. (See Division of Labor Standards Enforcement Policies and Interpretations Manual, § 49.) By failing to pay earned overtime at 1.5 times the regular rate of pay, Blake Austin College violated Labor Code section 510.

Shepherd also received paid sick days while she was employed by Blake Austin College. However, when she received paid sick days, they were paid only at Shepherd's base hourly rate—again, Blake Austin College failed to account for the value of earned shift differentials and other items of compensation. (Exhibit A; see also Lab. Code, § 246, subd. (l) [sick pay shall be paid at the regular rate of pay].) By failing to pay sick days at the regular rate of pay, Blake Austin College violated Labor Code sections 233 and 246.

Additionally, Shepherd was not provided with rest periods to which she was entitled. Though she typically worked shifts of eight hours or more, she was not relieved of all duty and given the opportunity to take a paid, uninterrupted, ten-minute rest period for every work period of four hours. Shepherd was not paid an hour of pay at her regular rate of compensation (premiums) for every rest period which was not authorized and permitted. Accordingly, Blake Austin College violated Labor Code section 226.7.

Because of the aforementioned wage-and-hour violations, the itemized wage statements failed to show accurately (1) gross wages earned; (2) net wages earned; and (3) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in violation of Labor Code section 226, subdivisions (a)(1), (5), and (9).

At no point since the ending of Shepherd's employment did Blake Austin College pay her the full balance of unpaid overtime and paid sick days, *supra*. By failing to pay all wages due upon cessation of employment, Blake Austin College violated Labor Code sections 201 and 202.

The foregoing violations, and each of them, were committed as against current and other former employees of Blake Austin College, and within the last year.

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request the additional information, which I will provide to the extent it is available to me or my client.

If the LWDA does not intend to investigate these violations, Shepherd intends to file a civil complaint against Blake Austin College pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code, § 2698 *et seq.*), on her behalf and, as a proxy for the LWDA,

Labor and Workforce Development Agency
Blake Austin College
July 29, 2022
Re: Parise Shepherd
Page 3 of 3

on behalf of all aggrieved current and former employees. Thank you for your attention in this matter.

Sincerely,

MAYALL HURLEY P.C.



By _____
JOHN P. BRISCOE

Attachment

EXHIBIT A

BLAKE AUSTIN COLLEGE
20347

Employee
Parise S Shepherd

SSN

Pay Period: 05/11/2022 - 05/25/2022

Pay Date: 05/27/2022

Earnings and Hours	Hours	Rate	Current	YTD Amount
Nursing Faculty Hourly	80.50	50.00	4,025.00	21,150.00
Nursing Faculty Overtime	1.50	75.00	112.50	112.50
Nursing Shift Differential	26.75	10.00	267.50	1,627.50
Nursing Faculty Vacation			0.00	200.00
Nursing Faculty Sick Pay			0.00	612.50
	108.75		4,405.00	23,702.50

Taxes	Current	YTD Amount
Medicare Employee Addl Tax	0.00	
Federal Withholding	-596.00	-2,784.00
Social Security Employee	-273.11	-1,469.56
Medicare Employee	-63.88	-343.69
CA - Withholding	-232.22	-1,166.85
CA - Disability Employee	-48.46	-260.73
	-1,213.67	-6,024.83

Net Pay 3,191.33 17,677.67

Sick	Accrued	Used	Available
Current	0.00	0.00	11.75
YTD	0.00	12.25	

Blake Austin College, 611-K Orange Drive, Vacaville, CA 95687

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BLAKE AUSTIN COLLEGE
20348

Employee
Parise S Shepherd

SSN

Pay Period: 05/26/2022 - 06/04/2022

Pay Date: 05/27/2022

Earnings and Hours	Hours	Rate	Current	YTD Amount
Nursing Faculty Hourly	8.50	50.00	425.00	21,575.00
Nursing Faculty Vacation	5.99	50.00	299.50	499.50
Nursing Faculty Overtime			0.00	112.50
Nursing Shift Differential			0.00	1,627.50
Nursing Faculty Sick Pay			0.00	612.50
	14.49		724.50	24,427.00

Taxes	Current	YTD Amount
Medicare Employee Addl Tax	0.00	
Federal Withholding	-50.00	-2,834.00
Social Security Employee	-44.91	-1,514.47
Medicare Employee	-10.50	-354.19
CA - Withholding	-50.00	-1,216.85
CA - Disability Employee	-7.97	-268.70
	-163.38	-6,188.21

Net Pay 561.12 18,238.79

Sick	Accrued	Used	Available
Current	0.00	0.00	11.75
YTD	0.00	12.25	

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