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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

AUSHARA LOVE, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

SIERRA HEALTH AND WELLNESS
CENTERS LLC, a California limited
liability company; and DOES 1 through
50, inclusive,

Defendants.

Case No.: 34-2022-00324971

**SECOND AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT
FOR:**

- 1. FAILURE TO REIMBURSE BUSINESS
EXPENSES IN VIOLATION OF LABOR
CODE § 2802;**
- 2. VIOLATION OF BUSINESS &
PROFESSIONS CODE § 17200, *ET SEQ.*
and**
- 3. VIOLATION OF LABOR CODE § 2698,
*ET SEQ.***

DEMAND OVER \$25,000.00

Plaintiff Aushara Love (“Plaintiff”) hereby submits this Second Amended Class and Representative Action Complaint (“Complaint”) against Defendant Sierra Health and Wellness Centers LLC, a California limited liability company, and Does 1 through 50 (collectively, “Defendants”) on behalf of herself and all other similarly situated current and former employees of Defendants, for penalties and/or damages for failure to reimburse business expenses in

violation of the California Labor Code and Business & Professions Code, as follows:

INTRODUCTION

1. This class and representative action is within the Court's jurisdiction under California Labor Code §§ 2802 and 2698, *et seq.* and Business & Professions Code §§ 17200 *et seq.*

2. This Complaint challenges systemic illegal employment practices resulting in violations of the California Labor Code against individuals who worked for Defendants.

3. Plaintiff is informed and believes, and based thereon alleges, that Defendants, jointly and severally, have acted intentionally and with deliberate indifference and conscious disregard to the rights of all employees by failing to reimburse employees for required training courses.

4. Plaintiff is informed and believes, and based thereon alleges, that Defendants have engaged in, among other things a system of willful violations of the California Labor Code by creating and maintaining policies, practices, and customs that knowingly deny its employees the above stated rights and benefits.

5. The policies, practices, and customs of defendants described above and below have resulted in unjust enrichment of Defendants and an unfair business advantage over businesses that routinely adhere to the strictures of the California Labor Code.

JURISDICTION AND VENUE

6. The Court has jurisdiction over the violations of California Labor Code §§ 2802 and 2698, *et seq.* and Business & Professions Code §§ 17200 *et seq.*

7. Venue is proper because Defendants do business in Sacramento County and Plaintiff worked for Defendants in Sacramento County, specifically in Sacramento, California.

PARTIES

8. Plaintiff was employed by Defendants as a Certified Nurse Assistant from about December 19, 2021, until on or about April 15, 2022. Throughout her employment with Defendants, Plaintiff was employed as an hourly, non-exempt employee.

9. Plaintiff was and is the victim of the policies, practices, and customs of

Defendants complained of in this action in ways that have deprived her of the rights guaranteed by California Labor Code §§ 2802 and 2698, *et seq.* and Business & Professions Code §§ 17200 *et seq.*

10. Plaintiff is informed and believes, and based thereon alleges, that Sierra Health and Wellness Centers is a business that operates behavioral health and rehab centers. Plaintiff is informed and believes, and based thereon alleges, that Defendant operates and maintains business locations and facilities across the State of California, including facilities in Sacramento, California.

11. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned Defendants and Does 1 through 50, are and were corporations, business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California. As such, and based upon all the facts and circumstances incident to Defendants' business, Defendants are subject to California Labor Code §§ 2802 and 2698, *et seq.* and Business & Professions Code §§ 17200 *et seq.*

12. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this Complaint when the true names and capacities are known. Plaintiff is informed and believes and based thereon alleges that each of said fictitious defendants were responsible in some way for the matters alleged herein and proximately caused Plaintiff and members of the general public and class to be subject to the illegal employment practices, wrongs, and injuries complained of herein.

13. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting within the course and scope of said agency and employment.

14. Plaintiff is informed and believes, and based thereon alleges, that at all times

1 material hereto, each of the Defendants named herein was the agent, employee, alter ego, and/or
2 joint venturer of, or working in concert with each of the other co-Defendants and was acting
3 within the course and scope of such agency, employment, joint venture, or concerted activity.
4 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
5 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
6 Defendants.

7 15. At all times herein mentioned, Defendants, and each of them, were members of,
8 and engaged in, a joint venture, partnership, and common enterprise, and acting within the course
9 and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

10 16. At all times herein mentioned, the acts and omissions of various Defendants, and
11 each of them, concurred and contributed to the various acts and omissions of each and all of the
12 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
13 herein mentioned, Defendants, and each of them, ratified each and every act or omission
14 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
15 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
16 damages as herein alleged.

17 **CLASS ACTION ALLEGATIONS**

18 17. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
19 California Code of Civil Procedure § 382. Plaintiff proposes the following Class:

- 20 a. All current and former non-exempt employees of Defendants in the State
21 of California, who worked during the period of August 9, 2018, through
22 class certification or final judgment (the "Class").

23 18. Plaintiff further reserves the right to amend the Class definition based upon
24 further discovery.

25 19. **Numerosity and Ascertainability:** The members of the Class are so numerous
26 that joinder of all members would be impractical, if not impossible. The identities of the
27 members of the Class are readily ascertainable by review of Defendants' records, including
28 payroll records. Plaintiff is informed and believes, and based thereon alleges, that Defendants

1 failed to reimburse employees for required training courses in violation of Labor Code § 2802.
2 The number of individuals in the Class are similarly so numerous that joinder of all members
3 would be impractical, if not impossible.

4 20. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
5 necessary steps to represent fairly and adequately the interests of the Class defined above.
6 Plaintiff's attorneys are ready, willing, and able to represent the Class fully and adequately.
7 Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past and
8 currently have a number of wage-and-hour class actions pending in California state and federal
9 courts.

10 21. Defendants uniformly administered a corporate policy and practice of failing to
11 reimburse employees for required training courses.

12 22. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
13 a consistent and uniform policy, practice, and procedure of willfully failing to comply with
14 Labor Code § 2802.

15 23. **Common Question of Law and Fact:** There are predominant common questions
16 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
17 concerning Defendants' policy and practice of failing to reimburse employees for required
18 training courses in violation of Labor Code § 2802.

19 24. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
20 Class in that Plaintiff suffered the harm alleged in this Complaint in a similar and typical manner
21 as the Class Members. As with other California employees, Plaintiff was required to take
22 training for work-related purposes and was required to pay for such training courses using her
23 own money. Defendant failed to reimburse Plaintiff and the Class, in violation of Labor Code §
24 2802 and Business & Professions Code §§ 17200 *et seq.* As such, Plaintiff is a member of the
25 Class and has suffered the alleged violations of California Labor Code § 2802 and Business &
26 Professions Code §§ 17200 *et seq.*

27 25. The California Labor Code upon which Plaintiff bases these claims is broadly
28 remedial in nature. These laws and labor standards serve an important public interest in

1 establishing minimum working conditions and standards in California. These laws and labor
2 standards protect the average working employee from exploitation by employers who may seek
3 to take advantage of superior economic and bargaining power in setting onerous terms and
4 conditions of employment.

5 26. The nature of this action and the format of laws available to Plaintiff and
6 members of the Class identified herein make the class action format a particularly efficient and
7 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
8 file an individual lawsuit, the corporate Defendants would necessarily gain an unconscionable
9 advantage since it would be able to exploit and overwhelm the limited resources of each
10 individual plaintiff with their vastly superior financial and legal resources. Requiring each Class
11 Member to pursue an individual remedy would also discourage the assertion of lawful claims
12 by employees who would be disinclined to file an action against their former and/or current
13 employer for real and justifiable fear of retaliation and permanent damage to their careers at
14 subsequent employment.

15 27. The prosecution of separate actions by the individual Class Members, even if
16 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
17 to individual Class Members against the Defendants and which would establish potentially
18 incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to
19 individual Class Members which would, as a practical matter, be dispositive of the interest of the
20 other Class Members not parties to the adjudications or which would substantially impair or
21 impede the ability of the Class Members to protect their interests. Further, the claims of the
22 individual Class Members are not sufficiently large to warrant vigorous individual prosecution
23 considering all of the concomitant costs and expenses.

24 28. Such a pattern, practice, and uniform administration of corporate policy regarding
25 illegal employee compensation described herein is unlawful and creates an entitlement to
26 recovery by Plaintiff and the Class identified herein, in a civil action, for applicable penalties,
27 reasonable attorneys' fees, and costs of suit according to the mandate of California Code of Civil
28 Procedure § 1021.5.

1 29. Proof of a common business practice or factual pattern, which the named Plaintiff
2 experienced and is representative of, will establish the right of each of the members of the Class
3 to recovery on the causes of action alleged herein.

4 **FIRST CAUSE OF ACTION**

5 **FAILURE TO REIMBURSE BUSINESS EXPENSES IN VIOLATION OF**

6 **LABOR CODE § 2802**

7 **(BY PLAINTIFF AND THE CLASS AGAINST DEFENDANTS)**

8 30. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
9 though fully set forth herein.

10 31. Labor Code § 2802 requires that an employer must reimburse employees for all
11 necessary expenditures and losses incurred in the performance of their jobs. Section 2802 is
12 intended to prevent employers from placing their operating expenses and cost of doing business
13 on employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014).

14 32. As a matter of policy and practice, Defendants fail to reimburse Plaintiff and the
15 Class for necessary business expenses incurred in performing their work for Defendants. As a
16 matter of policy and practice, Plaintiff and the Class were required to attend work-related
17 training and were required to pay for such training courses with their own money. Although the
18 costs of required training courses are expenses of Defendants' business, Defendants fail to
19 reimburse Plaintiff and the Class for the costs of the training courses.

20 33. Such a pattern, practice, and uniform administration of corporate policy is
21 unlawful and entitles Plaintiff and the Class to recover unreimbursed expenses, including
22 interest thereon, attorneys' fees, and costs of suit.

23 **SECOND CAUSE OF ACTION**

24 **VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200, ET SEQ.**

25 **(BY PLAINTIFF AND THE CLASS AGAINST DEFENDANTS)**

26 34. Plaintiff re-alleges and incorporates by reference the paragraphs above, as though
27 fully set forth herein.

28 35. Defendants' conduct, as alleged in this complaint, has been, and continues to be,

1 unfair, unlawful, and harmful to Plaintiff and Class Members, Defendants' competitors, and the
2 general public. Plaintiff also seeks to enforce important rights affecting the public interest
3 within the meaning of the California Code of Civil Procedure § 1021.5.

4 36. Defendants' policies, activities, and actions as alleged herein are violations of
5 California law and constitute unlawful business acts and practices in violation of California
6 Business and Professions Code §§ 17200, et seq.

7 37. A violation of California Business and Professions Code §§ 17200, et seq. may
8 be predicated on the violation of any state or federal law.

9 38. The state law violations, including violations of the California Labor Code,
10 detailed herein above are the predicate violations for this cause of action.

11 39. By way of example only, in the instant case Defendants' policy of failing to
12 reimburse employees for training, pursuant to Labor Code § 2802, constitutes a predicate
13 violation that supports a claim under the unfair competition law.

14 40. Plaintiff and the Class Members have been personally aggrieved by Defendants'
15 unlawful and unfair business acts and practices alleged herein by the loss of money.

16 41. Pursuant to California Business and Professions Code §§ 17200, et seq., Plaintiff
17 and the Class Members are entitled to restitution of the wages withheld and retained by
18 Defendants during a period that commences four (4) years prior to the filing of this complaint,
19 an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5, interest,
20 and an award of costs.

21 **THIRD CAUSE OF ACTION**

22 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

23 **(BY PLAINTIFF, ON BEHALF OF THE STATE AND AGGRIEVED EMPLOYEES,**
24 **AGAINST ALL DEFENDANTS)**

25 42. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
26 though fully set forth herein.

27 43. Plaintiff brings this cause of action as a proxy for the State of California and in
28 this capacity, seeks penalties on behalf of all Aggrieved Employees from July 29, 2021, through

the present, for Defendant's violations of Labor Code § 2802, arising from Defendant's policy and practice of failing to reimburse employees for work related expenses.

44. On or about July 29, 2022, Plaintiff sent written notice to the California Labor & Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code § 2802, pursuant to Labor Code § 2698, et seq., the Private Attorneys General Act ("PAGA"). To date, the LWDA has not responded to Plaintiff's written notice.

45. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all applicable civil penalties for Defendant's violation of Labor Code § 2802 for the time period described above, on behalf of herself and other Aggrieved Employees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as the representative of the Class;
3. For an order appointing Counsel for Plaintiff as Class Counsel;
4. On the First Cause of Action, including interest thereon, pursuant to California Labor Code § 2802, and for costs and attorneys' fees;
5. On the Second Cause of Action, that Defendants, jointly and/or severally, pay restitution and/or disgorgement of sums to Plaintiff and the Classes for Defendants' failure to properly reimburse employees, for reasonable attorneys' fees and costs pursuant to statute, and for such other and further relief as the Court deems proper
6. On the Third Cause of Action, for civil penalties and/or damages pursuant to California Labor Code § 2698, et seq., and for interest, costs, and attorneys' fees;
7. On all causes of action for attorneys' fees and costs as provided by California Labor Code §§ 218.5 and 2699, and Code of Civil Procedure § 1021.5; and
8. For such other and further relief that the Court may deem just and proper.

1 DATED: January 24, 2024

DIVERSITY LAW GROUP, P.C.

2
3 By: 

Larry W. Lee

4 Max W. Gavron

5 Kwanporn "Mai" Tulyathan

6 Attorneys for Plaintiff and the Class
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PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On February 16, 2024, I served the following document(s) described as: **SECOND AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action as follows:

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 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the ACE E-Filing System at the website www.efile.acelegal.com, addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 16, 2024, at Los Angeles, California.



Erika Mejia