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Amanda Toste  
Clerk of the Superior Court  
By: Brandon Chow, Deputy

Attorneys for Plaintiff Amanda Oliver, on behalf of herself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

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

AMANDA OLIVER, on behalf of herself and  
all “aggrieved employees” pursuant to Labor  
Code § 2698 *et seq.*,

Plaintiff,

v.

UNIVERSAL CARE, INC., a California  
corporation, d/b/a BRAND NEW DAY,  
BRIGHT HEALTH GROUP, INC., a  
Delaware corporation, and DOES 1 through  
10, inclusive,

Defendants.

CASE NO: 22CV-03842

**REPRESENTATIVE ACTION  
COMPLAINT FOR PENALTIES  
PURSUANT TO LABOR CODE § 2699(f)  
FOR VIOLATIONS OF LABOR CODE  
§§ 201, 202, 212, 226(a), 226.7, 246, 510, 512,  
1194, AND 2802 AND PURSUANT TO  
LABOR CODE § 2699(a) FOR  
VIOLATIONS OF LABOR CODE §§  
225.5, 226.3, AND 558**

1 Plaintiff AMANDA OLIVER (“Plaintiff”), on behalf of herself and others as an “aggrieved  
2 employee” under the Labor Code Private Attorneys General Act of 2004, complains of UNIVERSAL  
3 CARE, INC., a California corporation, d/b/a BRAND NEW DAY, BRIGHT HEALTH GROUP,  
4 INC., a Delaware corporation, and/or any subsidiaries or affiliated companies (hereinafter referred to  
5 as “Defendants”), as follows:

6 **I.**

7 **INTRODUCTION AND FACTUAL BACKGROUND**

8 1. This is a Representative Action, pursuant to Labor Code § 2698 et seq., on behalf of  
9 Plaintiff and other California employees who currently work or formerly worked for Defendants  
10 (“Aggrieved Employees”).

11 2. For at least one (1) year prior to the filing of this action and at least one (1) year prior  
12 to the date Plaintiff began the process of exhausting the administrative requirements, pursuant to  
13 Labor Code § 2698 et seq., and continuing to the present (the “liability period”), Defendants have had  
14 consistent policies of:

15 a. Failing to pay all minimum and overtime wages earned during the course of  
16 employment, in violation of Labor Code §§ 510, 558, 1194, and 1194.2. Plaintiff and other  
17 non-exempt Aggrieved Employees worked off-the-clock, without compensation: they were  
18 not paid for (1) time spent to complete a daily COVID screening, and (2) time spent on pre-  
19 shift and post-shift activities, such as preparing for meetings. In addition, Plaintiff alleges that  
20 Defendants also maintain a policy and practice to round down the hours reflected on Plaintiff’s  
21 and other non-exempt Aggrieved Employees’ time records to pay fewer hours than were  
22 actually worked. On a weekly basis, this rounding deprived Plaintiff and other non-exempt  
23 Aggrieved Employees of significant hours worked. These failures to pay all minimum and  
24 overtime wages due constitute violations of Labor Code §§ 510, 558, and 1194;

25 b. Failing to properly compute bonuses earned by Plaintiff and other non-exempt  
26 Aggrieved Employees into their regular rate of pay for purposes of paying them meal and rest  
27 period premiums, overtime wages, and sick pay at the correct rates, in violation of Labor Code  
28 §§ 246(d), 226.7, 510, 512, 558 and 1194 and IWC Wage Order No. 4-2001. Defendants failed

1 to properly blend bonuses and instead paid Plaintiff and other non-exempt Aggrieved  
2 Employees meal period premiums, rest period premiums, overtime wages, and sick pay based  
3 only on the base hourly rate of pay, thus depriving Plaintiff and other non-exempt Aggrieved  
4 Employees of all meal and rest period premiums, overtime wages, and sick pay earned. This  
5 violates Labor Code §§ 246(d), 226.7, 510, 512, 558 and 1194 and IWC Wage Order No. 4-  
6 2001;

7 c. Failing to offer Plaintiff and other Aggrieved Employees a method for them to  
8 receive their bonus wages “in cash, on demand,” in violation of Labor Code § 212. Plaintiff  
9 and other Aggrieved Employees were paid bonuses via gift cards, not redeemable for cash,  
10 which violates the express requirements Labor Code § 212. Labor Code § 212 requires that  
11 “No person . . . shall issue in payment of wages due” of any “acknowledgment of  
12 indebtedness, unless it is negotiable and payable in cash, on demand.” Labor Code § 225.5  
13 provides for penalties resulting from Labor Code § 212 violations, stating “every person who  
14 unlawfully withholds wages due any employee in violation of Section 212.” The gift cards  
15 issued to Plaintiff and other Aggrieved Employees violate the payment requirements of Labor  
16 Code §§ 212 and 225.5;

17 d. Failing to pay correct premium wages to Plaintiff and other non-exempt  
18 Aggrieved Employees who were denied rest periods, in violation of Labor Code § 226.7 and  
19 IWC Wage Order No. 4-2001. Plaintiff and other non-exempt Aggrieved Employees were  
20 routinely unable to take a 10-minute rest period for every four (4) hours of work or major  
21 fraction thereof, but were not paid premium wages of one hour’s pay for each missed rest  
22 period. Plaintiff was simply denied and not authorized to take her legally entitled rest periods  
23 and was never paid premium wages at the proper rate of pay for missed rest periods. This  
24 violates Labor Code § 226.7 and IWC Wage Order No. 4-2001;

25 e. Failing to pay correct premium wages to Plaintiff and other non-exempt  
26 Aggrieved Employees who were denied proper meal periods, in violation of Labor Code §§  
27 226.7, 512, 558, and 1194 and IWC Wage Order 4-2001. Plaintiff and other non-exempt  
28

1 Aggrieved Employees were routinely denied, and not authorized to take, a timely,  
2 uninterrupted, 30-minute meal period for every shift worked that exceeded five hours, or a  
3 second timely, uninterrupted, 30-minute meal period for every shift worked that exceeded ten  
4 hours, but were not paid premium wages of one hour's pay at the proper rate of pay for each  
5 missed first or second meal period. Plaintiff and non-exempt Aggrieved Employees would  
6 also clock out for their meal breaks and continue to work through them, off-the-clock, thereby  
7 depriving them of all wages due. This violates Labor Code §§ 226.7, 510, 512, 558, and 1194  
8 and IWC Wage Order 4-2001;

9  
10 e. Failing to reimburse Plaintiff and other Aggrieved Employees for necessary  
11 business expenses incurred in direct consequence of the discharge of their duties, in violation  
12 of Labor Code § 2802, including, but not limited to, the use of their personal cell phones, as  
13 well as expenses incurred from work from home, including, but not limited to, internet, a  
14 printer, and ink. Labor Code § 2802 requires that an employer must indemnify its employees  
15 for all necessary expenditures or losses incurred by the employee in direct consequence of the  
16 discharge of their duties, and Defendants' failure to do so has violated this section;

17 f. Failing to provide Plaintiff and other non-exempt Aggrieved Employees with  
18 wage statements that fully and accurately itemized the requirements set forth in Labor Code  
19 §§ 226(a) and 226.3. Plaintiff and other non-exempt Aggrieved Employees were not paid all  
20 wages due, as stated above. As such, the wage statements provided by Defendants failed to  
21 accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3,  
22 total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in  
23 violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during  
24 the pay period and the corresponding number of hours worked, in violation of Labor Code §§  
25 226(a)(9) and 226; and  
26

27 g. Failing to pay Plaintiff and other non-exempt Aggrieved Employees all wages  
28 due at the separation of their employment based on the time frames required by Labor Code

1 §§ 201 and 202. As stated above, Plaintiff and other non-exempt Aggrieved Employees were  
2 not paid all wages due during the course of their employment and, as a result of this failure,  
3 they were not timely paid all wages due at the separation of their employment. Furthermore,  
4 when Plaintiff was terminated, she was not issued her final wages on the day of her  
5 termination—instead, she was issued her final wages many days later. Plaintiff alleges that  
6 Defendants maintain a policy to untimely pay final wages to its former employees. This  
7 violates Labor Code §§ 201-202 and is alleged on behalf of Plaintiff and certain Aggrieved  
8 Employees no longer employed by Defendants.

9  
10 3. Plaintiff, on behalf of herself and all Aggrieved Employees pursuant to Labor Code §  
11 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

12 4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395  
13 because Defendants employed Plaintiff and Class Members in Merced County, California.

14 **II.**

15 **TOLLING AGREEMENT**

16 5. Plaintiff and Defendants entered into an agreement to toll the statute of limitations,  
17 pursuant to California Code of Civil Procedure § 360.5, from September 6, 2022 through and  
18 including December 1, 2022. As such, all periods of limitation (statutory or otherwise) affecting any  
19 and all claims or causes of actions which Plaintiff may have against Defendants have been tolled  
20 between September 6, 2022 and December 1, 2022.

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1 III.

2 PARTIES

3 A. Plaintiff

4 6. Plaintiff AMANDA OLIVER was employed by Defendants from July 2020 through  
5 March 2022 as a non-exempt employee in Merced County, California.

6 B. Defendant

7 7. Defendant UNIVERSAL CARE, INC. is a California corporation, doing business as  
8 BRAND NEW DAY. Defendant UNIVERSAL CARE, INC. employed Plaintiff and Aggrieved  
9 Employees throughout the State of California, including Merced County, California.

10 8. Defendant BRIGHT HEALTH GROUP, INC., is a Delaware corporation that  
11 employed Plaintiff and Aggrieved Employees throughout the State of California, including Merced  
12 County, California.

13 9. The true names and capacities, whether individual, corporate, associate, or otherwise,  
14 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who  
15 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is  
16 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a  
17 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will  
18 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants  
19 designated hereinafter as DOES when such identities become known.

20 10. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted  
21 in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme,  
22 business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally  
23 attributable to the other Defendants.

24 11. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting  
25 on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more  
26 provisions of the California Labor Code as alleged herein.

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IV.

**CAUSES OF ACTION**

**FIRST CAUSE OF ACTION**

**PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS  
CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF  
LABOR CODE §§ 201, 202, 212, 226(a), 226.7, 246, 510, 512, 1194, AND 2802 AND  
PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF  
LABOR CODE §§ 225.5, 226.3, AND 558**

12. Plaintiff incorporates paragraphs 1 through 11 of this Complaint as though fully set forth herein.

13. As a result of the acts alleged above, including the Labor Code violations set forth in paragraph 2 above, Plaintiff seeks civil penalties pursuant to Labor Code §§ 2698 *et seq.*

14. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to civil penalties subject to the following formula:

- a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 212, 226(a), 226.7, 246, 510, 512, 1194, and 2802; and
- b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 225.5, 226.3, and 558.

15. Civil penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

16. On July 1, 2022, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of July 1, 2022. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

**RELIEF REQUESTED**

WHEREFORE, Plaintiff prays for the following relief:

1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other Aggrieved Employees;
2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1) and other applicable law;
3. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable law; and
4. Such other and further relief as this Court may deem just and proper.

Dated: November 29, 2022

Respectfully submitted,

GAINES &amp; GAINES

A Professional Law Corporation

By: Daniel F. Gaines  
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EVAN S. GAINES  
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