

**SUMMONS
(CITACION JUDICIAL)**

NOTICE TO DEFENDANT: ACCLAIM HOME CARE, INC., a California
(AVISO AL DEMANDADO): corporation, BROOKDALE SENIOR LIVING
COMMUNITIES, INC., a Delaware corporation, and DOES 1 through
10, inclusive

YOU ARE BEING SUED BY PLAINTIFF: IRIS FRANCO, on behalf of
(LO ESTÁ DEMANDANDO EL DEMANDANTE): herself and all
"aggrieved employees" pursuant to Labor Code § 2698 et seq.

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
FILED
11/15/2022 2:19 PM
Clerk of the Napa Superior Court
By: Maricela Bahena, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
Superior Court of California, County of Napa
825 Brown Street
Napa, California 94559

CASE NUMBER:
(Número de caso)
22CV001395

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Daniel F. Gaines, Esq. #251488
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

GAINES & GAINES, APLC

4550 East Thousand Oaks Blvd., Suite 100, Westlake Village, CA 91362 818-703-8985

DATE: 11/15/2022 Clerk, by Maricela Bahena, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

22CV001395

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Daniel F. Gaines, Esq.

Napa - Civil

SBN: 251488

GAINES & GAINES, APLC

4550 East Thousand Oaks Blvd., Suite 100, Westlake Village, CA 91362

TELEPHONE NO.: 818-703-8985

FAX NO. (Optional): 818-703-8984

E-MAIL ADDRESS: daniel@gaineslawfirm.com

ATTORNEY FOR (Name): Plaintiff, Iris Franco

FOR COURT USE ONLY

FILED

11/15/2022 2:19 PM

Clerk of the Napa Superior Court

By: Maricela Bahena, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF NAPA

STREET ADDRESS: 825 Brown Street

MAILING ADDRESS: 825 Brown Street

CITY AND ZIP CODE: Napa, 94559

BRANCH NAME: Historic Courthouse

CASE NAME: Franco v. Acclaim Home Care, Inc., et al.

CIVIL CASE COVER SHEET

☒ **Unlimited** (Amount demanded exceeds \$25,000) ☐ **Limited** (Amount demanded is \$25,000 or less)

Complex Case Designation

☐ Counter ☐ Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: 22CV001395

JUDGE:

DEPT.:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort

☐ Auto (22)
☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment

☐ Wrongful termination (36)
☒ Other employment (15)

Contract

☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)

☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): One (1)

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 11/15/22

Daniel F. Gaines, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)–Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice–Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach–Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case–Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ–Administrative Mandamus
Writ–Mandamus on Limited Court Case Matter
Writ–Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal–Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

FILED
11/15/2022 2:19 PM
Clerk of the Napa Superior Court
By: Maricela Bahena, Deputy

DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
ALEX P. KATOFISKY, ESQ. SBN 202754
alex@gaineslawfirm.com
EVAN S. GAINES ESQ. SBN 287668
evan@gainleslawfirm.com
GAINES & GAINES, APLC
4550 East Thousand Oaks Boulevard, Suite 100
Westlake Village, CA 91362
Telephone: (818) 703-8985
Facsimile: (818) 703-8984

Attorneys for Plaintiff Iris Franco, 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 NAPA**

22CV001395

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

Plaintiff,

v.

ACCLAIM HOME CARE, INC., a California
corporation, BROOKDALE SENIOR LIVING
COMMUNITIES, INC., a Delaware
corporation, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO:

**REPRESENTATIVE ACTION
COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201, 202, 204, 221, 226(a), 226.7, 510, 512,
1174, 1174.5, 1194, AND 2802 AND
PURSUANT TO LABOR CODE § 2699(a)
FOR VIOLATIONS OF LABOR CODE §§
210, 225.5, 226.3, AND 558**

1 Plaintiff IRIS FRANCO (“Plaintiff”), on behalf of herself and others as an “aggrieved
2 employee” under the Labor Code Private Attorneys General Act of 2004, complains of ACCLAIM
3 HOME CARE, INC., a California corporation, BROOKDALE SENIOR LIVING COMMUNITIES,
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 to Plaintiff and other non-exempt Aggrieved Employees, in violation of Labor Code §§
17 510, 558, and 1194. Plaintiff and other non-exempt Aggrieved Employees worked off-the-clock,
18 without compensation: they were not paid for time spent answering work-related calls and text
19 messages outside of their scheduled shifts. This violates Labor Code §§ 510, 558, and 1194;

20 b. Requiring Plaintiff and other non-exempt Aggrieved Employees to be on-call, without
21 pay, in violation of Labor Code §§ 510, 558, and 1194 and IWC Wage Order 5-2001. Defendants
22 would not compensate Plaintiff and other non-exempt Aggrieved Employees for time spent on-call,
23 notwithstanding the fact they were subject to Defendants’ control during this on-call time. An
24 employer is obligated to pay the wages of an hourly employee for all time that the employee is under
25 the control of the employer, and this includes all the time the employee is suffered or permitted to
26 work, whether or not required to do so. When Plaintiff and other non-exempt Aggrieved Employees
27 were on-call, they were under the control of Defendants and required to be compensated for all hours
28 worked. Defendants, however, failed to do so. These instances deprived Plaintiff and other non-

1 exempt Aggrieved Employees of significant hours worked and minimum and overtime wages due,
2 and constitute violations of Labor Code §§ 510, 558, and 1194 and IWC Wage Order 5-2001;

3 c. Failing to pay all wages due to Plaintiff and other Aggrieved Employees by making
4 unlawful deductions from their wages, in violation of Labor Code §§ 221, 225.5, 510, and 1194 and
5 IWC Wage Order No. 5-2001. Defendants improperly made deductions from Plaintiff's and
6 Aggrieved Employee' wages. Labor Code § 221 states that it is "unlawful for any employer to collect
7 or receive from an employee any part of wages theretofore paid by said employer to said employee."
8 Defendants' practice of unlawfully deducting wages from Plaintiff and other Aggrieved Employees
9 violates Labor Code §§ 221, 225.5, 510 and 1194 and IWC Wage Order No. 5-2001, section 7;

10 d. Failing to pay premium wages to Plaintiff and other non-exempt Aggrieved
11 Employees who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order
12 No. 5-2001. Plaintiff and other non-exempt Aggrieved Employees were routinely unable to take a 10-
13 minute rest period for every four (4) hours of work or major fraction thereof, but were not paid
14 premium wages of one hour's pay for each missed rest period. Plaintiff and non-exempt Aggrieved
15 Employees were simply denied and not authorized to take their legally entitled rest periods and were
16 never paid premium wages for missed rest periods. When rest periods were provided, Plaintiff and
17 other non-exempt Aggrieved Employees were required to carry, be alert to, and use a two-way radio,
18 resulting in on-duty rest periods. This violates Labor Code §§ 226.7, 510, and 1194 and IWC Wage
19 Order No. 5-2001;

20 e. Failing to pay premium wages to Plaintiff and other non-exempt Aggrieved
21 Employees who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512, and 558
22 and IWC Wage Order 5-2001. Plaintiff and other non-exempt Aggrieved Employees were routinely
23 denied, and not authorized to take, a timely, uninterrupted, 30-minute meal period for every shift
24 worked that exceeded five hours, or a second timely, uninterrupted, 30-minute meal period for every
25 shift worked that exceeded ten hours, but were not paid premium wages of one hour's pay for each
26 missed first or second meal period. When meal periods were provided, Plaintiff and other non-exempt
27 Aggrieved Employees were required to carry, be alert to, and use a two-way radio, resulting in on-
28 duty meal periods. Furthermore, Defendants also failed to maintain meal period records which track

1 the start and stop time of meal periods, if one ever occurred. This violates Labor Code §§ 226.7, 512,
2 558, 1174, and 1174.5, and IWC Wage Order 5-2001;

3 f. Failing to reimburse Plaintiff and Aggrieved Employees for necessary business
4 expenses incurred in direct consequence of the discharge of their duties, in violation of Labor Code §
5 2802, including, but not limited to, the use of their personal cell phones. Labor Code § 2802 requires
6 that an employer must indemnify its employees for all necessary expenditures or losses incurred by
7 the employee in direct consequence of the discharge of their duties, and Defendants' failure to do so
8 has violated this section;

9 g. Failing to timely pay all wages due during their employment to Plaintiff and Aggrieved
10 Employees, in violation of Labor Code §§ 204 and 210. Defendants paid Plaintiff and Aggrieved
11 Employees on a semi-monthly basis, but failed to issue them all their wages for work "performed
12 between the 1st and 15th days" of the month no later than the 26th day of the month and for work
13 "performed between the 16th and the last day" of any month no later than the 10th day of the following
14 month as required by Labor Code § 204(a); instead, Plaintiff and other Aggrieved Employees were
15 paid beyond the time frames required by Labor Code § 204(a). This subjects Defendants to penalties
16 as authorized by Labor Code § 210;

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

25 i. Failing to pay Plaintiff and Aggrieved Employees all wages due at the separation of
26 their employment based on the time frames required by Labor Code §§ 201 and 202. As stated above,
27 Plaintiff and Aggrieved Employees were not paid all wages due during the course of their employment
28 and, as a result of this failure, they were not timely paid all wages due at the separation of their

1 employment. Furthermore, when Plaintiff was terminated, she was not issued her final wages on the
2 day of her termination—instead, she was issued her final wages fifteen days later. Plaintiff alleges
3 that Defendants maintain a policy to untimely pay final wages to their former employees. This violates
4 Labor Code §§ 201-202 and is alleged on behalf of our client and certain Aggrieved Employees no
5 longer employed by Defendants.

6 3. Plaintiff, on behalf of herself and all Aggrieved Employees pursuant to Labor Code §
7 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

8 4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395.
9 The Labor Code violations alleged against Defendants herein arose throughout California, including
10 in Napa County, California.

11 II.

12 PARTIES

13 A. Plaintiff

14 5. Plaintiff IRIS FRANCO was employed by the Defendants from May 2021 through
15 April 2022 in Napa County, California.

16 B. Defendant

17 6. Defendant ACCLAIM HOME CARE, INC., is a California corporation that employed
18 Plaintiff and Aggrieved Employees throughout the State of California, including Napa County,
19 California.

20 7. Defendant BROOKDALE SENIOR LIVING COMMUNITIES, INC., is a Delaware
21 corporation that employed Plaintiff and Aggrieved Employees throughout the State of California,
22 including Napa County, California.

23 8. The true names and capacities, whether individual, corporate, associate, or otherwise,
24 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who
25 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
26 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
27 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
28

1 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
2 designated hereinafter as DOES when such identities become known.

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

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

10 III.

11 CAUSES OF ACTION

12 FIRST CAUSE OF ACTION

13 **PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS**
14 **PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR**
15 **CODE §§ 201, 202, 204, 221, 226(a), 226.7, 510, 512, 1174, 1174.5, 1194, AND 2802 AND**
16 **PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF**
17 **LABOR CODE §§ 210, 225.5, 226.3, AND 558**

18 11. Plaintiff incorporates paragraphs 1 through 10 of this Complaint as though fully set
19 forth herein.

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

22 13. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to
23 penalties and other relief in an amount to be shown at the time of trial subject to the following formula:

- 24 a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for
25 each subsequent violation of Labor Code §§ 201, 202, 204, 221, 226(a), 226.7,
26 510, 512, 1174, 1174.5, 1194, and 2802; and
- 27 b. Pursuant to Labor Code § 2699(f), the penalties as authorized by Labor Code
28 §§ 210, 225.5, 226.3, and 558.

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

15. On August 10, 2022, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendant Acclaim Home Care, Inc. setting forth the facts and theories of the violations alleged, as prescribed by Labor Code § 2698 *et seq.* On September 7, 2022, Plaintiff sent another letter, by online submission to the LWDA and by certified mail, return receipt requested, to all 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 August 10, 2022 or September 7, 2022. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiff and the Aggrieved Employees she seeks to represent request relief as described below.

IV.

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 15, 2022

Respectfully submitted,

GAINES & GAINES
A Professional Law Corporation

By: Daniel F. Gaines
DANIEL F. GAINES
EVAN S. GAINES
Attorneys for Plaintiff