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MYRA MEDINA

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

MYRA MEDINA, an individual, for the real
party in interest, the State of California,

Plaintiff,

vs.

SOCIAL SERVICE PROFESSIONALS, A
DIVISION OF REHABILITIES; and DOES 1
through 50,

Defendants.

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

12/28/2022 at 02:36:59 PM

Clerk of the Superior Court
By Marfil Estrada, Deputy Clerk

Case No. 37-2022-00051944-CU-OE-CTL

REPRESENTATIVE ACTION

**COMPLAINT FOR VIOLATIONS OF THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code Section 2698 et seq.)**

1 Plaintiff MYRA MEDINA (“Plaintiff”), in her capacity as the State of California’s designated
2 proxy under the Private Attorneys General Act, and on behalf of other current and former California
3 employees (“Represented Employees”) alleges the following:

4 **NATURE OF THE ACTION**

5 1. Pursuant to the Private Attorneys General Act (“PAGA”), incorporated in Labor Code
6 sections 2698, 2699 *et seq.*, Plaintiff brings this representative action against Defendants SOCIAL
7 SERVICE PROFESSIONALS, A DIVISION OF REHABILITATION (“SSP”) and DOES 1 through
8 50 (all defendants are hereinafter collectively referred to as “Defendants”) for wage and hour
9 violations of the California Labor Code and the applicable Industrial Welfare Commission Wage
10 Order (the “IWC Wage Order”).

11 2. Pursuant to Labor Code section 2699 *et seq.*, any provision of the Labor Code that
12 provides for a civil penalty to be assessed and collected by the Labor and Workforce Development
13 Agency (“LWDA”) or any of its departments, divisions, commissions, boards, agencies or employees
14 for violation of the code may, as an alternative, be recovered through a civil action brought by an
15 aggrieved employee on behalf of himself or herself and other current or former employees pursuant
16 to the procedures specified in Labor Code section 2699.3.

17 3. Through this representative action, Plaintiff seeks to recover civil penalties under the
18 PAGA. No class certification is required. (*Arias v. Superior Court* (2009) 46 Cal.4th 969.)

19 **JURISDICTION AND VENUE**

20 4. Pursuant to Article VI, section 10 of the California Constitution, subject matter
21 jurisdiction is proper in the Superior Court of California, County of San Diego, State of California
22 because Plaintiff alleges claims arising under California law.

23 5. This Court has jurisdiction over Defendants because each is believed to be an
24 association, corporation, business entity, or individual that conducts substantial business in the State
25 of California, County of San Diego.

26 6. This Court has jurisdiction over Plaintiff’s claim for civil penalties under the PAGA.

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7. Pursuant to California Code of Civil Procedure section 395, venue is proper in the Superior Court of California for the County of San Diego because this is where the wrongful misconduct alleged herein occurred.

THE PARTIES

8. The State of California is the real party in interest in a PAGA action. (*Kim v. Reins Int'l California, Inc.* (2020) 9 Cal.5th 73, 81. [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”].)

9. Plaintiff is an “aggrieved employee” because she was employed by Defendants and had one or more of the alleged violations committed against her, and therefore is properly suited to act on behalf the state, and collect civil penalties for all violations committed against the Represented Employees, who are also aggrieved employees as defined by Labor Code section 2699(c).

10. Plaintiff worked for Defendants during which time she was paid hourly and was considered non-exempt.

11. Defendants are doing business throughout the state of California.

12. The true names and capacities, whether individual, corporate, associate or otherwise of the Defendant named herein as DOES 1 through 50, are unknown to Plaintiff at this time. Plaintiff therefore sues said Defendants by such fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff will seek leave to amend the operative complaint (“Complaint”) to allege the true names and capacities of DOES 1 through 50 when their names are ascertained. Plaintiff is informed and believes, and based thereon allege, that each of the DOE Defendants is in some manner liable to Plaintiff for the events and actions alleged herein.

13. Plaintiff is informed and believes, and based thereon allege, that at all times, each Defendant was acting as an agent, joint venturer, integrated enterprise and/or alter ego for each of the other defendants and each were co-conspirators with respect to the acts and the wrongful conduct alleged herein so that each is responsible for the acts of the other in connection with the conspiracy and in proximate connection with the other defendants.

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1 14. Plaintiff is informed and believes, and based thereon alleges, that each Defendant was
2 acting partly within and partly without the scope and course of their employment, and was acting with
3 the knowledge, permission, consent, and ratification of every other Defendant.

4 15. At all material times, Defendants were and/or are Represented Employees' employers
5 or persons acting on behalf of Represented Employees' employer, under California law, the IWC
6 Wage Order, and Labor Code sections 558 and 558.1 and thus are jointly and severally liable for the
7 violations alleged herein and any amounts awarded and/or recoverable as a result of this action.

8 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

9 16. On October 22, 2022, Plaintiff, via counsel, sent the statutorily required notice to the
10 LWDA ("PAGA Notice"), indicating that Plaintiff intends to pursue claims against Defendants for
11 violations of the Labor Code.

12 17. On October 22, 2022, Plaintiff, via counsel, sent a copy of the PAGA Notice to
13 Defendant SSP.

14 18. The statutory period expired since Plaintiff sent the PAGA Notice to the LWDA and
15 LWDA did not serve Plaintiff with a notice of its intent to assume jurisdiction over the applicable
16 penalty claims and did not provide notice as set forth in Labor Code section 2699.3(a)(2)(A). Thus,
17 Plaintiff has exhausted the administrative requirements under the PAGA.

18 **PAGA REPRESENTATIVE ACTION CLAIMS**

19 19. On information and belief, current and former employees of Defendants were subject
20 to wage and hour violations by Defendants, specifically by Defendants' violations of Labor Code
21 sections 227.3, 512, 226.7, 226(a)(1), 226(a)(5), 226(a)(9), 204, 201, 202, 203, 204, 432.5, 2698, and
22 2699 et seq.

23 20. California law provides that an aggrieved employee may file a representative action
24 under the PAGA against an employer for civil penalties in connection with violations of the Labor
25 Code and Wage Order.

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1 **FIRST CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code**

3 **Section 227.3 against all Defendants)**

4 21. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set
5 forth herein.

6 22. Under Labor Code section 227.3, “whenever a contract of employment or employer
7 policy provides for paid vacations, and an employee is terminated without having taken off his vested
8 vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with
9 such contract of employment or employer policy respecting eligibility or time served [...].”

10 23. Defendants violated Labor Code section 227.3. Upon information and belief,
11 Defendant would provide Plaintiff and the Represented Employees with an accrual rate less than what
12 there were legally entitled to. As a result, (i) Plaintiff and the Represented Employees received less
13 vacation hours than they were legally entitled to and (ii) Plaintiff and the Represented Employees did
14 not receive all of their vested vacation hours upon cessation from employment.

15 24. PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor
16 Code section 227.3.

17 25. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
18 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
19 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
20 all Labor Code provisions for which a civil penalty is not specifically provided.

21 26. Plaintiff is seeking civil penalties against Defendants under Labor Code section
22 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in
23 an amount to be shown according to proof.

24 27. Pursuant to the PAGA, Labor Code section 2699(g), or any other applicable statute,
25 Plaintiff seeks to recover reasonable attorney’s fees, costs, filing fees paid to the LWDA, and civil
26 penalties in an amount to be shown according to proof.

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1 **SECOND CAUSE OF ACTION**

2 **(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code**
3 **Sections 512, 226.7 and the IWC Wage Order against all Defendants)**

4 28. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though
5 set forth herein.

6 29. Under Labor Code section 512 and the IWC Wage Order, an employer must provide a
7 meal period of at least thirty minutes if the employee works more than five hours. California Labor
8 Code section 512 “requires a first meal period no later than the end of an employee’s fifth hour of
9 work [...]” (*Brinker Rest. Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004.)

10 30. Labor Code section 226.7 prohibits an employer from requiring an employee to work
11 during a meal period and provides that an employee must be paid a wage for doing so.

12 31. Upon information and belief, during all times relevant to this action, Defendants failed
13 to provide Plaintiffs and the Represented Employees with compliant meal periods in violation
14 of Labor Code sections 512, 226.7, and the IWC Wage Order.

15 32. The PAGA imposes upon Defendants, and each of them, civil penalties for violating
16 Labor Code sections 512, 226.7 and the IWC Wage Order.

17 33. Labor Code section 558 imposes upon Defendants, and each of them, penalties of one
18 hundred dollars (\$50) per pay period, per aggrieved employee for initial violations, and two hundred
19 dollars (\$100) per pay period, per aggrieved employee for subsequent violations.

20 34. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil
21 penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations,
22 and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for
23 all Labor Code provisions for which a civil penalty is not specifically provided.

24 35. Plaintiff is seeking civil penalties against Defendants under Labor Code sections
25 2699(f), 226.7, 558, the IWC Wage Order, and/or any other applicable statute allowing recovery of
26 civil penalties under the PAGA as alleged herein in an amount to be shown according to proof.

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36. Pursuant to the PAGA, or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

THIRD CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(1) against all Defendants)**

37. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

38. Labor Code section 226(a)(1) requires that wage statements that an employer issues to its employees accurately state the gross wages earned.

39. Defendants failed to accurately state the proper gross on the wage statements in violation of Labor Code section 226(a)(1). By way of one example, the wage statements issued to Plaintiff and the Represented Employees failed to include the accurate amount of gross wages because they failed to include the proper amount of wages, including, but not limited to, vacation and meal premium wages.

40. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(1).

41. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

42. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

43. Plaintiff is seeking civil penalties against Defendants, including Labor Code section 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

44. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FOURTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(5) against all Defendants)**

45. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

46. Labor Code section 226(a)(5) requires that wage statements that an employer issues to its employees accurately state the net wages earned.

47. Defendants failed to accurately state the proper net on the wage statements in violation of Labor Code section 226(a)(5). By way of one example, the wage statements issued to Plaintiff and the Represented Employees failed to include the accurate amount of net wages because they failed to include the proper amount of wages, including, but not limited to, vacation and meal premium wages.

48. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(1).

49. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

50. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

51. Plaintiff is seeking civil penalties against Defendants, including Labor Code section 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

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52. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

FIFTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 226(a)(9) against all Defendants)**

53. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

54. Labor Code section 226(a)(9) requires that the employer's wage statements accurately state all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

55. Defendants failed to provide the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee in violation of Labor Code section 226(a)(9). By way of one example, the rates/hours for vacation pay and meal premiums are inaccurately itemized.

56. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a)(9).

57. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

58. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

59. Plaintiff is seeking civil penalties against Defendants, including Labor Code section 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

60. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

SIXTH CAUSE OF ACTION

(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code

Section 226(a) against all Defendants)

61. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

62. Under Labor Code section 226(a) an employer must either keep a duplicate of the wage statement provided to an employee or a computer-generated record that accurately shows all of the information required under 226(a)(1) through (a)(9).

63. Upon information and belief, during all times relevant to this action, Defendants failed to keep records required under Labor Code section 226(a). By way of example, the copies of the wage statements that Defendants kept do not include the accurate gross and net wages as well as all applicable hourly rates and corresponding hours worked as described herein and in the aforementioned paragraphs.

64. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 226(a).

65. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

66. With respect to violations of Labor Code section 226, Labor Code section 226.3 imposes a civil penalty of two hundred and fifty dollars (\$250) for initial violations for each employee for each pay period, and one thousand dollars (\$1000) for each subsequent violation for each employee for each pay period.

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67. Plaintiff is seeking civil penalties against Defendants, including Labor Code section 2699(f), 226.3, and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

68. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

SEVENTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Section 204 against all Defendants)**

69. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

70. Labor Code section 204 imposes an obligation of timely payment of wages upon California employers.

71. Defendants violated Labor Code section 204 because they failed to timely pay Plaintiff and the Represented Employees all earned wages during an applicable pay period.

72. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 204.

73. Labor Code section 204 imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations.

74. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

75. Plaintiff is seeking civil penalties against Defendants under Labor Code section 204, 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

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76. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

EIGHTH CAUSE OF ACTION

**(Representative Claim for Civil Penalties Under the PAGA for Violations of Labor Code
Sections 201, 202, and 203 against all Defendants)**

77. Plaintiff re-alleges and incorporates by reference the foregoing allegations as though set forth herein.

78. Under Labor Code section 201, if an employee is discharged by his/her employer, the wages earned and unpaid at the time of discharge are due and payable immediately.

79. Under Labor Code section 202, if on the other hand, “an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

80. Labor Code section 203 provides, in pertinent part: “If an employer willfully fails to pay, without abatement or reduction, ... any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days. ...”

81. Upon information and belief, Plaintiff and the Represented Employees did not receive all wages upon termination or separation of employment. By way of one example, Plaintiff and the Represented Employees were owed vacation wages and meal premium wages. To this date, Defendants have not paid all wages upon termination or separation of employment.

82. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code sections 201, 202, and 203.

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83. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

84. Plaintiff is seeking civil penalties against Defendants under Labor Code section 2699(f), and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

85. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover reasonable attorneys' fees, costs, and filing fees paid to the LWDA in an amount to be shown according to proof.

NINTH CAUSE OF ACTION

(Representative Claim for Civil Penalties Under the PAGA for violations of Labor Code section 432.5 against all Defendants)

86. Plaintiff re-alleges and incorporate by reference the foregoing allegations as though set forth herein.

87. Under Labor Code section 432.5, “[n]o employer, or agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law.”

88. Defendants violated Labor Code section 432.5. Defendants required Plaintiff and the Represented Employees to sign background and credit check authorizations that were violative of the Federal Fair Credit Reporting Act (“FCRA”), the California Investigative Consumer Reporting Agencies Act (“ICRA”), and the California Consumer Credit Reporting Agencies Act (“CCRAA”). By way of one example, the disclosure violates the stand-alone document requirements under both the FCRA and ICRA because it is not on a separate document as required by law and includes extraneous information.

89. Defendants' disclosure notice also violates the CCRAA because it does not contain a box that an employee may check off to receive a copy of the credit report.

90. The PAGA imposes upon Defendants, and each of them, civil penalties for violating Labor Code section 432.5.

91. Labor Code section 2699(f) imposes upon Defendants, and each of them, civil penalties of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

92. Plaintiff is seeking civil penalties against Defendants under the PAGA, including Labor Code sections 2699(f) and/or any other applicable statute allowing recovery of civil penalties under the PAGA in an amount to be shown according to proof.

93. Pursuant to the PAGA, and/or Labor Code section 2699(g), Plaintiff seeks to recover attorneys' fees, costs, filing fees paid to the LWDA and civil penalties in an amount to be shown according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

1. An award of civil penalties pursuant to the PAGA and/or other applicable laws;
2. An award of reasonable attorneys' fees, costs, and filing fees paid to the LWDA pursuant to the PAGA, California Labor Code section 2699(g), and/or other applicable law;
3. Post-judgment interest as provided by law; and
4. Such other and further relief that the Court may deem just and proper.

Dated: December 28, 2022

MASHIRI LAW FIRM, APC

By: 
Alex Asil Mashiri
Attorney for Plaintiff
Myra Medina