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Superior Court Of California,
Sacramento
12/20/2022
Exhibit
By _____, Deputy
Case Number:
34-2022-00392680

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

JONATHAN TEJEDA, on behalf of the State
of California, as a private attorney general,

Plaintiff,

vs.

SACRAMENTO BEHAVIORAL
HEALTHCARE HOSPITAL, LLC, a
California Limited Liability Company; and
DOES 1 through 50, inclusive,

Defendants.

Case No. _____

REPRESENTATIVE ACTION
COMPLAINT FOR:

1. Civil Penalties Pursuant to Labor Code
§ 2699, *et seq.* for violations of Labor
Code §§ 201, 202, 203, 204 *et seq.*, 210,
218, 221, 226(a), 226.7, 227.3, 510, 512,
558(a)(1)(2), 1194, 1197, 1197.1, 1198,
2802, California Code of Regulations,
Title 8, Section 11040, Subdivision 5(A)-
(B), and the applicable Wage Order(s).

1 Plaintiff Jonathan Tejada (“PLAINTIFF”), on behalf of the people of the State of
2 California and as an “aggrieved employee” acting as a private attorney general under the Labor
3 Code Private Attorney General Act of 2004, § 2699, *et seq.* (“PAGA”) only, alleges on
4 information and belief, except for his own acts and knowledge which are based on personal
5 knowledge, the following:

6 **INTRODUCTION**

7 1. PLAINTIFF brings this action against Defendant Sacramento Behavioral
8 Healthcare Hospital, LLC (referred to as “DEFENDANT”) seeking only to recover PAGA civil
9 penalties for himself, and on behalf of all current and former aggrieved employees that worked
10 for DEFENDANT. PLAINTIFF does **not seek to recover anything other than penalties as**
11 **permitted by California Labor Code § 2699.** To the extent that statutory violations are
12 mentioned for wage violations, PLAINTIFF does not seek underlying general and/or special
13 damages for those violations, but simply the civil penalties permitted by California Labor Code
14 § 2699.

15 2. California has enacted the PAGA to permit an individual to bring an action on
16 behalf of himself and on behalf of others for PAGA penalties *only*, which is the precise and sole
17 nature of this action.

18 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for
19 DEFENDANT’s violations under PAGA and solely for the relief as permitted by PAGA – that
20 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this
21 complaint should be construed as attempting to obtain any relief that would not be available in
22 a PAGA-only action.

23 **THE PARTIES**

24 4. Defendant Sacramento Behavioral Healthcare Hospital, LLC (“DEFENDANT”)
25 is a California limited liability company that at all relevant times mentioned herein conducted
26 and continues to conduct substantial business in the state of California.

27 5. DEFENDANT offers a wide array of individualized mental health treatment
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1 services for teens, adults, and senior adults.

2 6. PLAINTIFF has been employed by DEFENDANT in California since April of
3 2022 and has been at all times classified by DEFENDANT as a non-exempt employee, paid on
4 an hourly basis, and entitled to the legally required meal and rest periods and payment of
5 minimum and overtime wages due for all time worked.

6 7. PLAINTIFF, and such persons that may be added from time to time who satisfy
7 the requirements and exhaust the administrative procedures under the Private Attorney General
8 Act, brings this Representative Action on behalf of the State of California with respect to
9 himself and all individuals who are or previously were employed by DEFENDANT in
10 California, including any employees staffed with DEFENDANT by a third party, and classified
11 as non-exempt employees ("AGGRIEVED EMPLOYEES") during the time period of October
12 14, 2021 until a date as determined by the Court (the "PAGA PERIOD").

13 8. PLAINTIFF, on behalf of himself and all AGGRIEVED EMPLOYEES presently
14 or formerly employed by DEFENDANT during the PAGA PERIOD, brings this representative
15 action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for DEFENDANT's
16 violation of California Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7,
17 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations,
18 Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s). Based upon
19 the foregoing, PLAINTIFF and all AGGRIEVED EMPLOYEES are aggrieved employees
20 within the meaning of Labor Code § 2699, *et seq.*

21 9. The true names and capacities, whether individual, corporate, subsidiary,
22 partnership, associate or otherwise of DEFENDANT, DOES 1 through 50, inclusive, are
23 presently unknown to PLAINTIFF who therefore sues this DEFENDANT by such fictitious
24 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this
25 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they
26 are ascertained. PLAINTIFF is informed and believes, and based upon that information and
27 belief alleges, that the DEFENDANT named in this Complaint, including DOES 1 through 50,
28 inclusive, are responsible in some manner for one or more of the events and happenings that

1 proximately caused the injuries and damages hereinafter alleged.

2 10. The agents, servants and/or employees of the Defendant and each of them acting
3 on behalf of the Defendant acted within the course and scope of his, her or its authority as the
4 agent, servant and/or employee of the Defendant, and personally participated in the conduct
5 alleged herein on behalf of the Defendant with respect to the conduct alleged herein.
6 Consequently, the acts of each Defendant are legally attributable to the other Defendant and all
7 Defendants are jointly and severally liable to PLAINTIFF and all the AGGRIEVED
8 EMPLOYEES, for the loss sustained as a proximate result of the conduct of the Defendant's
9 agents, servants and/or employees.

10 THE CONDUCT

11 11. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
12 required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all their time worked,
13 meaning the time during which an employee is subject to the control of an employer, including
14 all the time the employee is suffered or permitted to work. DEFENDANT requires PLAINTIFF
15 and the AGGRIEVED EMPLOYEES to work without paying them for all the time they are
16 under DEFENDANT's control. Among other things, DEFENDANT requires PLAINTIFF to
17 work while clocked out during what is supposed to be PLAINTIFF's off-duty meal break.
18 PLAINTIFF was from time to time interrupted by work assignments while clocked out for what
19 should have been PLAINTIFF's off-duty meal break. Additionally, DEFENDANT, as a matter
20 of established company policy and procedure, administers a uniform practice of rounding the
21 actual time worked and recorded by PLAINTIFF and the AGGRIEVED EMPLOYEES, always
22 to the benefit of DEFENDANT, so that during the course of their employment, PLAINTIFF and
23 the AGGRIEVED EMPLOYEES are paid less than they would have been paid had they been
24 paid for actual recorded time rather than "rounded" time. Additionally, DEFENDANT engages
25 in the practice of requiring PLAINTIFF and the AGGRIEVED EMPLOYEES to perform work
26 off the clock in that DEFENDANT, as a condition of employment, required these employees
27 to submit to mandatory temperature checks and symptom questionnaires for COVID-19
28 screening prior to clocking into DEFENDANT's timekeeping system for the workday. As a

1 result, PLAINTIFF and the AGGRIEVED EMPLOYEES forfeit minimum wage, overtime
2 wage compensation, and off-duty meal breaks by working without their time being correctly
3 recorded and without compensation at the applicable rates. DEFENDANT's policy and practice
4 not to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all time worked, is evidenced
5 by DEFENDANT's business records.

6 12. State law provides that employees must be paid overtime and meal and rest break
7 premiums at one-and-one-half times their "regular rate of pay." PLAINTIFF and the
8 AGGRIEVED EMPLOYEES are compensated at an hourly rate plus incentive pay that is tied
9 to specific elements of an employee's performance.

10 13. The second component of PLAINTIFF's and the AGGRIEVED EMPLOYEES'
11 compensation is DEFENDANT's non-discretionary incentive program that paid PLAINTIFF
12 and the AGGRIEVED EMPLOYEES incentive wages based on their performance for
13 DEFENDANT. The non-discretionary incentive program provided all employees paid on an
14 hourly basis with incentive compensation when the employees met the various performance
15 goals set by DEFENDANT. However, when calculating the regular rate of pay in order to pay
16 overtime and meal and rest break premiums to PLAINTIFF and the AGGRIEVED
17 EMPLOYEES, DEFENDANT failed to include the incentive compensation as part of the
18 employees' "regular rate of pay" for purposes of calculating overtime pay and meal and rest
19 break premium pay. Management and supervisors described the incentive program to potential
20 and new employees as part of the compensation package. As a matter of law, the incentive
21 compensation received by PLAINTIFF and the AGGRIEVED EMPLOYEES must be included
22 in the "regular rate of pay." The failure to do so has resulted in a underpayment of overtime
23 compensation and meal and rest break premiums to PLAINTIFF and the AGGRIEVED
24 EMPLOYEES by DEFENDANT.

25 14. As a result of their rigorous work schedules, PLAINTIFF and the AGGRIEVED
26 EMPLOYEES are from time to time unable to take thirty (30) minute off duty meal breaks and
27 are not fully relieved of duty for their meal periods. PLAINTIFF and the AGGRIEVED
28 EMPLOYEES are required from time to time to perform work as ordered by DEFENDANT for

1 more than five (5) hours during some shifts without receiving a meal break. Further,
2 DEFENDANT from time to time fails to provide PLAINTIFF and the AGGRIEVED
3 EMPLOYEES with a second off-duty meal period for some workdays in which these employees
4 are required by DEFENDANT to work ten (10) hours of work. DEFENDANT also engages in
5 the practice of rounding the meal period times to avoid paying penalties to PLAINTIFF and the
6 AGGRIEVED EMPLOYEES. PLAINTIFF and the AGGRIEVED EMPLOYEES therefore
7 forfeit meal breaks without additional compensation and in accordance with DEFENDANT's
8 corporate policy and practice.

9 15. During the PAGA PERIOD, PLAINTIFF and the AGGRIEVED EMPLOYEES
10 are also required from time to time to work in excess of four (4) hours without being provided
11 ten (10) minute rest periods. Further, these employees are denied their first rest periods of at
12 least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from time to
13 time, a first and second rest period of at least ten (10) minutes for some shifts worked of
14 between six (6) and eight (8) hours from time to time, and a first, second and third rest period
15 of at least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time.
16 PLAINTIFF and the AGGRIEVED EMPLOYEES are also not provided with one hour wages
17 in lieu thereof. Additionally, the applicable California Wage Order requires employers to
18 provide employees with off-duty rest periods, which the California Supreme Court defined as
19 time during which an employee is relieved from all work related duties and free from employer
20 control. In so doing, the Court held that the requirement under California law that employers
21 authorize and permit all employees to take rest period means that employers must relieve
22 employees of all duties and relinquish control over how employees spend their time which
23 includes control over the locations where employees may take their rest period. Employers
24 cannot impose controls that prohibit an employee from taking a brief walk - five minutes out,
25 five minutes back. Here, DEFENDANT's policy restricts PLAINTIFF and the AGGRIEVED
26 EMPLOYEES from unconstrained walks and is unlawful based on DEFENDANT's rule which
27 states PLAINTIFF and the AGGRIEVED EMPLOYEES cannot leave the work premises during
28 their rest period.

1 16. During the PAGA PERIOD, DEFENDANT fails to accurately record and pay
2 PLAINTIFF and the AGGRIEVED EMPLOYEES for the actual amount of time these
3 employees work. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT
4 is required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all time worked,
5 meaning the time during which an employee was subject to the control of an employer,
6 including all the time the employee was permitted or suffered to permit this work.
7 DEFENDANT requires these employees to work off the clock without paying them for all the
8 time they are under DEFENDANT's control. As such, DEFENDANT knew or should have
9 known that PLAINTIFF and the AGGRIEVED EMPLOYEES are under compensated for all
10 time worked. As a result, PLAINTIFF and the AGGRIEVED EMPLOYEES forfeit time
11 worked by working without their time being accurately recorded and without compensation at
12 the applicable minimum wage and overtime wage rates. To the extent that the time worked off
13 the clock does not qualify for overtime premium payment, DEFENDANT fails to pay minimum
14 wages for the time worked off-the-clock in violation of Cal. Lab. Code §§ 1194, 1197, and
15 1197.1.

16 17. From time to time, DEFENDANT also fails to provide PLAINTIFF and the
17 AGGRIEVED EMPLOYEES with complete and accurate wage statements which failed to
18 show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226
19 provides that every employer shall furnish each of his or her employees with an accurate
20 itemized wage statement in writing showing, among other things, gross wages earned and all
21 applicable hourly rates in effect during the pay period and the corresponding amount of time
22 worked at each hourly rate. PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on
23 an hourly basis. As such, the wage statements should reflect all applicable hourly rates during
24 the pay period and the total hours worked, and the applicable pay period in which the wages
25 were earned pursuant to California Labor Code Section 226(a). The wage statements
26 DEFENDANT provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify
27 such information. More specifically, the wage statements failed to identify the accurate total
28 hours worked each pay period. When the hours shown on the wage statements were added up,

1 they did not equal the actual total hours worked during the pay period in violation of Cal. Lab.
2 Code 226(a)(2). Additionally, DEFENDANT violates Cal. Lab. Code 226(a)(8) by failing to
3 list the correct name of the legal entity that employs PLAINTIFF and the AGGRIEVED
4 EMPLOYEES. Aside, from the violations listed above in this paragraph, DEFENDANT fails
5 to issue to PLAINTIFF an itemized wage statement that lists all the requirements under
6 California Labor Code 226 *et seq.* As a result, DEFENDANT from time to time provides
7 PLAINTIFF and the AGGRIEVED EMPLOYEES with wage statements which violated Cal.
8 Lab. Code § 226.

9 18. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be
10 deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the
11 wages are paid not more than seven calendar days following the close of the payroll period.
12 Cal. Lab. Code § 210 provides:

13 [I]n addition to, and entirely independent and apart from, any other penalty provided in
14 this article, every person who fails to pay the wages of each employee as provided in
15 Sections. . . .204. . .shall be subject to a civil penalty as follows: (1) For any initial
16 violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each
subsequent violation, or any willful or intentional violation, two hundred dollars (\$200)
for each failure to pay each employee, plus 25 percent of the amount unlawfully
withheld.

17 19. DEFENDANT from time to time fails to pay PLAINTIFF and the AGGRIEVED
18 EMPLOYEES within seven (7) days of the close of the payroll period in accordance with Cal.
19 Lab. Code § 204(d).

20 20. DEFENDANT underpays sick pay wages to PLAINTIFF and the AGGRIEVED
21 EMPLOYEES by failing to pay such wages at the regular rate of pay in violation of Cal. Lab.
22 Code Section 246. Specifically, PLAINTIFF and other non-exempt employees earn non-
23 discretionary remuneration, including but not limited to, incentives, shift differential pay, and
24 bonuses. Rather than pay sick pay at the regular rate of pay, DEFENDANT underpays sick pay
25 to PLAINTIFF and the AGGRIEVED EMPLOYEES at their base rates of pay.

26 21. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt
27 employees be calculated by dividing the employee's total wages, not including overtime
28 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days

1 of employment.

2 22. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at
3 the regular rate of pay. PLAINTIFF and the AGGRIEVED EMPLOYEES routinely earned non-
4 discretionary incentive wages which increased their regular rate of pay. However, when sick pay
5 was paid, it was paid at the base rate of pay for PLAINTIFF and the AGGRIEVED
6 EMPLOYEES, as opposed to the correct, higher regular rate of pay, as required under Cal. Lab.
7 Code Section 246.

8 23. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF and
9 the AGGRIEVED EMPLOYEES their correct wages and accordingly owe waiting time
10 penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is informed and believes
11 and based thereon alleges that such failure to pay sick pay at regular rate was willful, such that
12 the AGGRIEVED EMPLOYEES whose employment has separated are entitled to waiting time
13 penalties pursuant to Cal. Lab. Code Sections 201-203.

14 24. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer
15 to collect or receive from an employee any part of wages theretofore paid by said employer to
16 said employee." DEFENDANT fails to pay all compensation due to PLAINTIFF and the
17 AGGRIEVED EMPLOYEES, makes unlawful deductions from compensation payable to
18 PLAINTIFF and the AGGRIEVED EMPLOYEES, fails to disclose all aspects of the deductions
19 from compensation payable to PLAINTIFF and the AGGRIEVED EMPLOYEES, and thereby
20 fails to pay these employees all wages due at each applicable pay period and upon termination.

21 25. DEFENDANT intentionally and knowingly fails to reimburse and indemnify
22 PLAINTIFF and the AGGRIEVED EMPLOYEES for required business expenses incurred by
23 the PLAINTIFF and the AGGRIEVED EMPLOYEES in direct consequence of discharging
24 their duties on behalf of DEFENDANT. Under California Labor Code Section 2802, employers
25 are required to indemnify employees for all expenses incurred in the course and scope of their
26 employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or
27 her employee for all necessary expenditures or losses incurred by the employee in direct
28 consequence of the discharge of his or her duties, or of his or her obedience to the directions of

1 the employer, even though unlawful, unless the employee, at the time of obeying the directions,
2 believed them to be unlawful."

3 26. In the course of their employment PLAINTIFF and the AGGRIEVED
4 EMPLOYEES as a business expense, are required by DEFENDANT to use their own personal
5 cellular phones as a result of and in furtherance of their job duties as employees for
6 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost associated
7 with the use of their personal cellular phones for DEFENDANT's benefit. Specifically,
8 PLAINTIFF and the AGGRIEVED EMPLOYEES are required by DEFENDANT to use their
9 personal cellular phones. As a result, in the course of their employment with DEFENDANT,
10 PLAINTIFF and the AGGRIEVED EMPLOYEES incurred unreimbursed business expenses
11 which included, but were not limited to, costs related to the use of their personal cellular phones
12 all on behalf of and for the benefit of DEFENDANT.

13 27. All of the conduct and violations alleged herein occurred during the PAGA
14 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
15 PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations that
16 affected the AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018
17 AJDAR 12157 (Certified for Publication 12/19/18).

18 **JURISDICTION AND VENUE**

19 28. This Court has jurisdiction over this Action pursuant to California Code of Civil
20 Procedure, Section 410.10.

21 29. Venue is proper in this Court pursuant to California Code of Civil Procedure,
22 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and
23 DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities
24 in this County and/or conducts substantial business in this County, and (ii) committed the
25 wrongful conduct herein alleged in this County against PLAINTIFF and other AGGRIEVED
26 EMPLOYEES.

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1 commence a representative civil action under PAGA pursuant to Section 2699 as the proxy of
2 the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

3 34. The policies, acts and practices heretofore described were and are an unlawful
4 business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the
5 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record
6 and provide legally required meal and rest periods, (c) failed to pay minimum wages, (d) failed
7 to pay overtime wages and sick pay wages, and (e) failed to reimburse employees for required
8 expenses, all in violation of the applicable Labor Code sections listed in Labor Code §§ 201,
9 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197,
10 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-
11 (B), and the applicable Wage Order(s), and thereby gives rise to civil penalties as a result of
12 such conduct.¹ PLAINTIFF hereby seeks recovery of only civil penalties as prescribed by the
13 Labor Code Private Attorney General Act of 2004 as the representative of the State of
14 California for the illegal conduct perpetrated on PLAINTIFF and the AGGRIEVED
15 EMPLOYEES.

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17 **PRAYER FOR RELIEF**

18 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
19 severally, as follows:

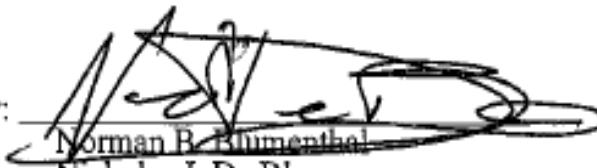
20 1. On behalf of the State of California and with respect to all AGGRIEVED
21 EMPLOYEES:

22 A) Recovery of civil penalties as prescribed by the Labor Code Private
23 Attorneys General Act of 2004; and,

24 B) An award of attorneys' fees and cost of suit, as allowable under the
25 law, including, but not limited to, pursuant to Labor Code §2699.

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28 ¹Plaintiff specifically excludes and/or does not allege any claims under California Labor
Code §558(a)(3).

1 Dated: December 27, 2022 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
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By: 
Norman B. Blumenthal
Nicholas J. De Blouw
Attorneys for Plaintiff