

Joseph Lavi, Esq. (SBN 209776)
Vincent C. Granberry, Esq. (SBN 276483)
Danielle E. Montero, Esq. (SBN 333945)
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Boulevard, Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001
Email: jlavi@lelawfirm.com
vgranberry@lelawfirm.com
dmontero@lelawfirm.com
WHT2@lelawfirm.com

Electronically FILED by
Superior Court of California,
County of Los Angeles
5/02/2023 10:20 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By E. Galicia, Deputy Clerk

Attorneys for Plaintiff JULIE ANNE JANKOWSKI,
on behalf of herself and current and former aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES-CENTRAL DISTRICT**

JULIE ANNE JANKOWSKI, on behalf of herself
and current and former aggrieved employees

Plaintiff,

vs.

MEDTRONIC, INC.; AEROTEK, INC.; and
DOES 1 to 100, inclusive,

Defendants.

Case No.: **23STCV09757**

PAGA ACTION

**PLAINTIFF JULIE ANNE
JANKOWSKI'S COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff JULIE ANNE JANKOWSKI ("Plaintiff"), who alleges and
complains against Defendants MEDTRONIC, INC.; AEROTEK, INC.; and DOES 1 to 100,
inclusive (collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, herself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all

1 hours worked at minimum wage and all overtime hours worked at the overtime rate of pay;
2 indemnification for all necessary expenditures or losses incurred by employees in direct
3 consequence of discharging their duties; statutory penalties for failure to provide accurate wage
4 statements; statutory waiting time penalties in the form of continuation wages for failure to timely
5 pay employees all wages due upon separation of employment. Plaintiff seeks on a representative
6 basis, following notice to the Labor and Workforce Development Agency, civil penalties,
7 reasonable attorneys' fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf
8 of Plaintiff, the State of California, and others aggrieved.

9 **II. JURISDICTION AND VENUE**

10 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
11 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
12 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
13 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
14 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
15 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
16 aggrieved California-based hourly non-exempt employees occurred in locations throughout
17 California, including but not limited to Los Angeles County, at 18000 Devonshire Street,
18 Northridge, California 91325.

19 3. In response to the COVID-19 pandemic, the Judicial Council of California enacted
20 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any
21 other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are
22 tolled from April 6, 2020, until October 1, 2020.

23 **III. PARTIES**

24 4. Plaintiff brings this action as a representative of the Labor and Workforce
25 Development Agency on behalf of herself and other current and former employees subject to
26 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
27 filed include current, former and/or future employees of Defendants who work, worked, or will
28 work for Defendants as direct employees as well as temporary employees employed through temp

1 agencies as hourly non-exempt employees in California. At all times mentioned herein, the
2 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
3 employed by Defendants in an hourly position at Defendants' location in Los Angeles from in or
4 around February 6, 2022, until on or about May 6, 2022.

5 5. Plaintiff is informed and believes and thereon alleges that Defendant
6 MEDTRONIC, INC. is authorized to do business within the State of California and is doing
7 business in the State of California and/or that Defendants DOES 1-50 are, and at all times relevant
8 hereto were persons acting on behalf of Defendant MEDTRONIC, INC. in the establishment of, or
9 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant
10 MEDTRONIC, INC. operates in Los Angeles County and employed Plaintiff and aggrieved
11 employees in Los Angeles County, including but not limited to, at 18000 Devonshire Street,
12 Northridge, California 91325.

13 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
14 through 50 are corporations, or are other business entities or organizations of a nature unknown to
15 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
16 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
17 working conditions of employment of Plaintiff and aggrieved employees.

18 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
19 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
20 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
21 supervisor, independent contractor and/or employee of each defendant who violated or caused to
22 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
23 the Industrial Welfare Commission's wage orders regulating hours and days of work.

24 8. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
25 sues said defendants by said fictitious names, and will amend this complaint when the true names
26 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
27 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
28 named defendants is in some manner responsible for the events and allegations set forth in this

1 complaint.

2 9. Plaintiff makes the allegations in this complaint without any admission that, as to
3 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
4 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

5 **FIRST CAUSE OF ACTION**

6 **CIVIL PENALTIES AND WAGES PURSUANT TO THE PRIVATE ATTORNEYS**

7 **GENERAL ACT OF 2004, LABOR CODE SECTIONS 2698, ET SEQ.**

8 **(Against all Defendants by Plaintiff)**

9 10. Plaintiff incorporates all paragraphs above as though fully set forth herein.

10 11. During the period beginning one (1) year preceding Plaintiff sending the initial
11 PAGA Claim Notice to the LWDA to the present, Defendants violated Labor Code sections 201,
12 202, 203, 204, 226, 510, 1194, 1197, 2802, and the applicable Wage Orders.

13 12. Specifically, Defendants have committed the following violations of California
14 Labor Code:

15 13. **Failure to pay wages for all hours worked at the legal minimum wage:**
16 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
17 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
18 which includes all time that an employee is under control of the employer and all time the
19 employee is suffered and permitted to work. This includes the time an employee spends, either
20 directly or indirectly, performing services which inure to the benefit of the employer.

21 14. Labor Code sections 1194 and 1197 require an employer to compensate employees
22 for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the
23 Wage Orders.

24 15. In this case, Plaintiff and other current and former aggrieved California-based
25 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
26 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
27 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
28 wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but

not limited to:

(a) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to line up to wait to undergo and undergo off-the-clock COVID-19 screenings, including temperature checks, COVID-19 testing, and/or signing COVID-19 waiver forms prior to being permitted to clock in for their start shift;

(b) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to maintain company work uniforms while off-the-clock; and

(c) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to communicate with management personnel on their personal cell phones while off-the-clock.

16. Therefore, Defendants suffered, permitted, and required Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to be subject to Defendants' control without paying wages for that time. This resulted in Plaintiff and other current and former aggrieved California-based hourly non-exempt employees working time for which they were not compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable Wage Order.

17. **Failure to pay wages for overtime hours worked at the overtime rate of pay:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all "hours worked," which includes all time that an employee is under control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services that inure to the benefit of the employer.'

18. Labor Code sections 510 and 1194 require an employer to compensate employees a higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

Any work in excess of eight (8) hours in one workday, any work in excess of forty (40) hours in any one (1) workweek, and the first eight (8) hours worked on the seventh day of work in any one (1) workweek, shall be compensated at the rate of no less than one-and-one-half (1.5) times the regular rate of pay for an employee. Any work in excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight (8) hours on any

seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Labor Code section 510.

19. In this case, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees overtime wages for all overtime hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to:

(a) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to line up to wait to undergo and undergo off-the-clock COVID-19 screenings, including temperature checks, COVID-19 testing, and/or signing COVID-19 waiver forms prior to being permitted to clock in for their start shift;

(b) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to maintain company work uniforms while off-the-clock; and

(c) Requiring Plaintiff and other current and former aggrieved California-based hourly non-exempt employees to communicate with management personnel on their personal cell phones while off-the-clock.

20. The foregoing policies, practices, and/or procedures resulted in time during each workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt employees were under the control of Defendants but were not compensated. To the extent that the foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved California-based hourly non-exempt employees worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code sections 510 and 1194 and the applicable Wage Order.

21. **Failure to Indemnify for Losses and Expenditures Incurred as Part of Employment:** California law requires that every employer must indemnify its employees for all necessary expenditures or losses incurred by the employee in discharge of his or her duties or at the obedience of the directions of the employer. Moreover, an employer is prohibited from passing the ordinary business expenses and losses of the employer onto the employee. (Lab. Code, § 2802.)

1 22. Defendants have violated Labor Code Section 2802 by failing to indemnify
2 Plaintiff and other current and former aggrieved California-based non-exempt hourly employees'
3 necessary expenditures they incurred in the discharge of their duties. These policies, practices,
4 and/or procedures included, but were not limited to, requiring Plaintiff and similarly situated
5 employees to use or purchase their own tools and/or resources in order to work for Defendants,
6 including but not limited to:

7 (a) Requiring Plaintiff and other current and former aggrieved California-based hourly
8 non-exempt employees to maintain company work uniforms while off-the-clock at their own
9 expense; and

10 (b) Requiring Plaintiff and other current and former aggrieved California-based hourly
11 non-exempt employees to use personal cellphone for work-related purposes without
12 reimbursement from Defendants.

13 23. Moreover, Defendants employed policies and procedures which ensured Plaintiff
14 and aggrieved employees would not receive indemnification for their employment related
15 expenses. This practice resulted in Plaintiff and aggrieved employees not receiving such
16 indemnification in compliance with California law.

17 24. Therefore, Defendants are liable to Plaintiff and aggrieved employees for their
18 employment related expenses, including but not limited to costs related to use of their personal
19 cell phones and costs associated with their uniforms pursuant to Labor Code section 2802.

20 25. **Failure to timely pay earned wages during employment:** In California, wages
21 must be paid at least twice during each calendar month on days designated in advance by the
22 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
23 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
24 16th and the 26th day of that month and wages earned between the 16th and the last day,
25 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
26 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
27 paid within seven (7) calendar days following the close of the payroll period in which wages were
28 earned. Labor Code section 204(d).

1 26. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
2 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
3 exempt employees' earned wages (including minimum wages, overtime wages, meal period
4 premium wages and/or rest period premium wages), in violation of Labor Code section 204.
5 Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay
6 Plaintiff's and other current and former aggrieved California-based hourly non-exempt employees'
7 their earned wages within the applicable time frames outlined in Labor Code section 204.

8 27. **Failure to provide complete and accurate wage statements:** Labor Code section
9 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
10 employee his or her wages, the employer must "furnish each of his or her employees ... an
11 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
12 employee, except for any employee whose compensation is solely based on a salary and who is
13 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
14 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
15 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
16 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
17 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
18 name of the employee and his or her social security number, (8) the name and address of the legal
19 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
20 the corresponding number of hours worked at each hourly rate by the employee."

21 28. As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff
22 and other current and former aggrieved California-based hourly non-exempt employees all wages
23 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest
24 period premium wages) rendered Plaintiff's and other current and former aggrieved California-
25 based hourly non-exempt employees' wage statements inaccurate, in violation of Labor Code
26 section 226.

27 29. **Failure to pay employees all wages due at time of termination/resignation:** An
28 employer is required to pay all unpaid wages timely after an employee's employment ends. The

1 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
2 hours of resignation (Labor Code section 202).

3 30. As a derivative of Plaintiff's allegations above, because Defendants failed to pay
4 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
5 all their earned wages (including minimum wages, overtime wages, meal period premium wages,
6 and/or rest period premium wages), Defendants failed to pay those employees timely after each
7 employee's termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

8 31. Defendants' violations of Wage Order 1 constituted violations of Labor Code
9 section 1198, which prohibits employment under conditions of labor that violate the Wage Orders.

10 32. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
11 employee, on behalf of himself or herself and other current or former employees, to bring a civil
12 action to recover civil penalties against all Defendants pursuant to the procedures specified in
13 Labor Code section 2699.3.

14 33. Plaintiff has complied with the procedures for bringing suit specified in Labor
15 Code section 2699.3. On February 24, 2023, Plaintiff filed a PAGA Claim Notice with the LWDA
16 and provided notice to Defendants by certified mail which provided notice of the specific
17 provisions of the Labor Code alleged to have been violated, including the facts and theories to
18 support the violations alleged.

19 34. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
20 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
21 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
22 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
23 to investigate Plaintiff's claims.

24 35. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
25 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 510, 1194,
26 1197, 2802, beginning one (1) year preceding Plaintiff sending the initial PAGA Claim Notice to
27 the LWDA to the present, in the following amounts:

28 a. For violations of Labor Code sections 201, 202, 203, 204, and 2802; one

1 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and
2 two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
3 violation [penalty amounts established by Labor Code section 2699(f)(2)].

4 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
5 for each employee for each pay period for the initial violation, and for each subsequent violation,
6 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts
7 established by Labor Code section 226.3].

8 c. For violations of Labor Code section 510, fifty dollars (\$50) for each
9 employee for each pay period for the initial violation, and for each subsequent violation, one
10 hundred dollars (\$100) for each underpaid employee for each pay period [penalty amounts
11 established by Labor Code section 558] and any unpaid wages.

12 d. For violations of Labor Code section 1194 and 1197, one hundred dollars
13 (\$100) for each underpaid employee for each pay period for the initial violation, and for each
14 subsequent violation, two hundred fifty dollars (\$250) for each underpaid employee for each pay
15 period [penalty amounts established by Labor Code section 1197.1] and any unpaid wages.

16 36. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
17 reasonable attorneys' fees and costs in connection with her claims for civil penalties.

18 **PRAYER FOR RELIEF**

19 **WHEREFORE, PLAINTIFF, ON BEHALF OF HERSELF AND ON OTHER**
20 **AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:**

21 **ON THE FIRST CAUSE OF ACTION:**

22 1. That Defendants be found to have violated the provisions of the Labor Code and
23 the IWC Wages Orders as to the Plaintiff and aggrieved employees;

24 2. For any and all legally applicable penalties during the relevant statute of limitations
25 subject to any permissible tolling, including but not limited to those recoverable under the
26 California Labor Code, including but not limited to section 2699(f);

27 3. For attorneys' fees and costs of suit, including but not limited to those recoverable
28 under California Labor Code section 2699(g); and

1 4. For such and other further relief, in law and/or equity, as the Court deems just or
2 appropriate

3
4 Dated: May 1, 2023

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

5
6 By: *Vincent C. Granberry*
7 Joseph Lavi, Esq.
8 Vincent C. Granberry, Esq.
9 Danielle E. Montero Esq.
10 Attorneys for Plaintiff
11 JULIE ANNE JANKOWSKI,
12 on behalf of herself and current and former
13 aggrieved employees
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28