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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

ANNE ELIZABETH DAUPHINAIS, as an
individual and on behalf of all others
similarly situated,

Plaintiff,

vs.

MEDELY, INC., a Delaware corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: **23CV420358**

**REPRESENTATIVE ACTION COMPLAINT
FOR VIOLATION OF LABOR CODE
SECTION 2698 *ET. SEQ.***

DEMAND OVER \$25,000.00

1 Plaintiff Anne Elizabeth Dauphinais (“Plaintiff”) hereby submits this Representative Action
2 (“Complaint”) against Defendant Medely, Inc. (“Defendant”) and Does 1 through 50 (collectively,
3 “Defendants”), as an individual and on behalf of herself and other Aggrieved Employees of
4 Defendant for penalties for violations of the California Labor Code, as follows::

5 **INTRODUCTION**

6 1. This representative action complaint is within the Court’s jurisdiction under
7 California Labor Code sections 226(a), 226.8 and 2698 *et seq.*, the Private Attorney General Act
8 (“PAGA”) and the California Industrial Welfare Commission’s (“IWC”) Wage Orders..

9 2. This Complaint challenges systemic illegal employment practices resulting in
10 violations of the California Labor Code against individuals who worked for Defendants.

11 3. Plaintiff is informed and believes and based thereon alleges that Defendants jointly
12 and severally have acted intentionally and with deliberate indifference and conscious disregard to
13 the rights of all employees by: (1) misclassifying workers as independent contractors instead of
14 employees; and (2) failing to provide accurate and complete wage statements to employees.

15 **JURISDICTION AND VENUE**

16 4. The Court has jurisdiction over the violations of the California Labor Code sections
17 226(a), 226.8 and 2698 *et seq.*, and the applicable IWC Wage Orders.

18 5. Venue is proper in Santa Clara County, because Plaintiff worked for Defendant in
19 Los Gatos, California.

20 **PARTIES**

21 6. Plaintiff was employed by Defendant as a Staff Nurse during the approximate period
22 of 2021 to on or about February 8, 2023. During her employment with Defendant, Plaintiff was an
23 hourly, non-exempt employee.

24 7. Plaintiff was and is the victim of the policies, practices, and customs of Defendant
25 complained of in this action in ways that have deprived her of the rights guaranteed by California
26 Labor Code sections 226(a), 226.8 and 2698 *et seq.*, and the applicable IWC Wage Orders.

27 8. Plaintiff is informed and believes, and based thereon alleges, that Defendant Medely,

1 Inc. maintains operations and does business in the State of California, including in Santa Clara
2 County, California.

3 9. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
4 mentioned Does 1 through 50, are and were corporations, business entities, individuals, and
5 partnerships, licensed to do business and actually doing business in the State of California. As such
6 and based upon all the facts and circumstances incident to Defendants' business, Defendants are
7 subject to the California Labor Code and the IWC Wage Orders.

8 10. Plaintiff does not know the true names or capacities, whether individual, partner or
9 corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason, said
10 defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
11 Complaint when the true names and capacities are known. Plaintiff is informed and believes and
12 based thereon alleges that each of said fictitious defendants was responsible in some way for the
13 matters alleged herein and proximately caused Plaintiff and Aggrieved Employees to be subject to
14 the illegal employment practices, wrongs and injuries complained of herein.

15 11. At all times herein mentioned, each of said Defendants participated in the doing of
16 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,
17 Defendants, and each of them, were the agents, servants, and employees of each of the other
18 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
19 within the course and scope of said agency and employment.

20 12. Plaintiff is informed and believes, and based thereon alleges, that at all times
21 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
22 joint venturer of, or working in concert with each of the other co-Defendants and was acting within
23 the course and scope of such agency, employment, joint venture, or concerted activity. To the extent
24 said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining
25 Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

26 13. At all times herein mentioned, Defendants, and each of them, were members of, and
27 engaged in, a joint venture, partnership, and common enterprise, and acting within the course and

1 scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

2 14. At all times herein mentioned, the acts and omissions of various Defendants, and
3 each of them, concurred and contributed to the various acts and omissions of each and all of the
4 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
5 herein mentioned, Defendants, and each of them, ratified each and every act or omission
6 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
7 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
8 damages as herein alleged.

9 **FIRST CAUSE OF ACTION**

10 **Violation of Labor Code §§ 2698 Et Seq.**

11 **(By Plaintiff and Aggrieved Employees Against All Defendants)**

12 15. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
13 fully set forth herein.

14 16. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code
15 section 2698 *et seq.* Plaintiff brings this cause of action for violation of PAGA as a proxy for the
16 State of California and in this capacity, will seek penalties on behalf of all Aggrieved Employees
17 from June 6, 2022, through the present, for Defendant's violations of Labor Code sections 226(a)
18 and 226.8, arising from Defendant's policy and practice of: (1) misclassifying workers as
19 independent contractors instead of employees; and (2) failing to provide accurate and complete
20 wage statements to employees.

21 17. Defendant operates a business that specializes in supplying skilled nurses and other
22 professionals to healthcare facilities. Defendant directly or indirectly exercised control over the
23 wages, hours and/or working conditions of Plaintiff and other Aggrieved Employees, and directly
24 or indirectly engaged, suffered or permitted Plaintiff and other Aggrieved Employees to work.

25 18. Defendant, as a matter of policy and practice, misclassified Plaintiff and other
26 Aggrieved Employees as independent contractors. As a result of that classification, Defendant did
27 not comply with wage and hour statutes and denied Plaintiff and other Aggrieved Employees basic
workplace protections.

1 19. Additionally, Defendant did not provide accurate wage statements to Plaintiff and
2 other Aggrieved Employees, in violation of Labor Code section 226. Labor Code section 226(a)
3 requires that employers provide itemized wage statements to employees that show accurate
4 information, including without limitation, the inclusive dates of the period for which the employee
5 is paid. The wage statements provided to Plaintiff and other Aggrieved Employees failed to identify
6 the pay period start date.

7 20. Based on the above-stated Labor Code violations, Plaintiff is an “aggrieved
8 employee” as defined in Labor Code section 2699(a). As such, Plaintiff brings this cause of action
9 on behalf of the State of California for violations committed against all similarly situated Aggrieved
10 Employees of Defendant.

11 21. On or about June 6, 2023, Plaintiff sent written notice to the California Labor &
12 Workforce Development Agency (“LWDA”) of Defendant’s violations of Labor Code sections
13 226(a) and 226.8, pursuant to Labor Code section 2698 *et seq.* As of the date of the filing of this
14 Complaint, the LWDA has yet to provide notice to Plaintiff as to whether it intends to investigate
15 the violations provided for in the written notice. In addition to the LWDA, Plaintiff also sent his
16 written notice to Defendant via certified mail according to Labor Code section 2699.3.

17 22. As such, pursuant to Labor Code section 2699(a), Plaintiff will seek recovery of any
18 and all applicable civil penalties for Defendant’s violation of Labor Code sections 226(a) and 226.8,
19 for the time period described above, on behalf of herself and other Aggrieved Employees.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf this
22 suit is brought against Defendants, jointly and severally, as follows:

23 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
24 Labor Code section 2698, *et seq.*, and for costs and attorneys’ fees;

25 2. On all causes of action for attorneys’ fees and costs as provided by California Labor
26 Code section 2699, and Code of Civil Procedure section 1021.5; and

27 3. For such other and further relief the Court may deem just and proper.

1 DATED: August 4, 2023

DIVERSITY LAW GROUP, P.C.

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3 By: _____

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5 Attorneys for Plaintiff and the Aggrieved
6 Employees