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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE, CIVIL COMPLEX CENTER

DAISY MONTOYA, an individual and on
behalf of all others similarly situated;

Plaintiff,

vs.

GLOBAL REGENCY OXNARD SENIOR
CARE SERVICES, LLC, a California limited
liability company; and DOES 1 through 50,

Defendants.

Case No.: 30-2023-01349014-CU-OE-CXC

**FIRST AMENDED REPRESENTATIVE
ACTION COMPLAINT FOR
VIOLATION OF THE CALIFORNIA
PRIVATE ATTORNEYS GENERAL ACT
(LABOR CODE §§ 2698, *et seq.*)**

Plaintiff DAISY MONTOYA ("Plaintiff"), on behalf of herself as an aggrieved employee,
the State of California, and other aggrieved employees, hereby brings this First Amended
Representative Action Complaint ("Complaint") against Defendants GLOBAL REGENCY
OXNARD SENIOR CARE SERVICES, LLC, a California limited liability company, and DOES 1
to 50 inclusive (collectively "Defendants"), and on information and belief alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff brings this Complaint for recovery of civil penalties under the California
Private Attorneys General Act, California Labor Code §§ 2698, *et seq.* ("PAGA"), for Defendants'
violations of the Labor Code and Industrial Welfare Commission ("IWC") Wage Order 5-2001
("Wage Order 5"), including Labor Code §§ 201-204, 226, 226.7, 246, 510, 512, 516, 558, 1182.12,
1194, 1194.2, 1197, 1198. This Court has jurisdiction over Defendants' violations of the Labor

1 Code because the amount in controversy exceeds \$25,000.

2 2. Venue is proper in this judicial district because Defendants maintain offices, have
3 agents, and/or transact business in the State of California, including Orange County, and maintain
4 its principal place of business in Irvine, California.

5 **PARTIES**

6 3. Plaintiff is, and at all times relevant herein was, an individual over the age of
7 eighteen (18) and is a California resident. Within the statute of limitations periods applicable to
8 each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt employee.
9 Plaintiff was, and is, a victim of Defendants' policies, practices, and/or customs complained of
10 herein and has been deprived of the rights guaranteed by Labor Code §§ 201-204, 226, 226.7, 246,
11 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, and Wage Order 5.

12 4. Plaintiff is informed and believes, and based thereon alleges, that during the
13 applicable statute of limitations for each cause of action pled herein and continuing to the present,
14 Defendants employed Plaintiff and other, similarly-situated non-exempt employees in the State of
15 California.

16 5. Plaintiff does not know the true names or capacities, whether individual, partner, or
17 corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said
18 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
19 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
20 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
21 partners, or corporate, was responsible in some manner for the acts and omissions alleged herein,
22 and proximately caused Plaintiff and the Classes (as defined below) to be subject to the unlawful
23 employment practices, wrongs, injuries, and damages complained of herein.

24 6. At all times herein mentioned, each of said Defendants participated in the doing of
25 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,
26 Defendants, and each of them, were the agents, servants, and employees of each of the other
27 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
28 within the course and scope of said agency and employment.

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

7 8. At all times herein mentioned, Defendants, and each of them, were members of, and
8 engaged in, a joint venture, partnership, and common enterprise, and acting within the course and
9 scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

10 9. At all times herein mentioned, the acts and omissions of various Defendants, and
11 each of them, concurred and contributed to the various acts and omissions of each and all of the
12 other Defendants in proximately causing the injuries and damages as herein alleged.

13 **FACTUAL ALLEGATIONS**

14 10. Defendants own and operate assisted living and memory care facilities in the State of
15 California. Plaintiff began working for Defendants as a non-exempt employee from approximately
16 April 12, 2021 to approximately July 17, 2023.

17 11. Labor Code §§ 1194, 1197, and Wage Order 5, § 4 entitle employees to receive no
18 less than the minimum wage fixed by the comission or by any applicable state or local law for all
19 hours worked. Labor Code §§ 510, 1198, and Wage Order 5, § 3 provide that non-exempt
20 employees are entitled to all overtime wages at the regular rate of pay. Throughout Plaintiff's
21 employment with Defendants, Defendants' timekeeping policies and/or practices resulted in
22 Plaintiff and other non-exempt employees not being compensated for all hours actually worked.
23 Plaintiff and other non-exempt employees regularly worked more than eight hours in a workday or
24 40 hours in a workweek. Upon information and belief, Defendants required Plaintiff and other non-
25 exempt employees to perform work before their scheduled shifts, after their scheduled shifts, and/or
26 during off-the-clock meal breaks, and failed to compensate employees for this time. Upon
27 information and belief, Defendants also failed to incorporate multiple rates of pay and/or all non-
28 discretionary remuneration into the regular rate of pay. As a result, Plaintiff and other non-exempt

1 employees were not compensated for all earned minimum and overtime wages.

2 12. Labor Code §§ 226.7, 512, and Wage Order 5, § 11 require employers to provide
3 non-exempt employees with compliant meal periods or pay premiums at the regular rate of
4 compensation. Defendants failed to provide Plaintiff and other non-exempt employees with all
5 legally compliant meal periods due to Defendants' meal period policies/practices, which have
6 frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes),
7 and/or missed meal periods. Upon information and belief, Plaintiff and other non-exempt
8 employees were not able to take their legally compliant meal breaks due to work demands imposed
9 by Defendants and staffing shortages. Upon information and belief, Defendants do not keep
10 accurate records of Plaintiff's and other non-exempt employees' hours worked, including accurate
11 time records showing when employees take their meal periods. On those occasions when Plaintiff
12 and other non-exempt employees were not provided with all legally compliant meal periods to
13 which they were entitled, Defendants failed to compensate Plaintiff and other non-exempt
14 employees with the required meal period premium(s) for each workday there was a meal period
15 violation as mandated by Labor Code § 226.7. Upon information and belief, Defendants maintained
16 no mechanism for the payment of meal period premium payments as required by Labor Code §
17 226.7 in the event that a legally compliant meal period was not provided to their non-exempt
18 employees.

19 13. Labor Code §§ 226.7 and Wage Order 5, § 12 require employers to authorize and
20 permit non-exempt employees to take compliant rest periods or pay premiums at the regular rate of
21 compensation. Plaintiff and other non-exempt employees were not authorized and permitted to take
22 all required rest periods due to Defendants' unlawful rest period policies/practices, which failed to
23 authorize and permit a net 10-minute rest period for every four hours worked, or major fraction
24 thereof. Plaintiff and other non-exempt employees were not able to take their legally compliant rest
25 breaks due to work demands imposed by Defendants and staffing shortages. On those occasions
26 when Plaintiff and other non-exempt employees were not authorized and permitted to take all
27 legally compliant rest periods to which they were entitled, Defendants failed to compensate them
28 with the required rest period premium(s) for each workday there was a rest period violation as

1 mandated by Labor Code § 226.7. Upon information and belief, Defendants maintained no
2 mechanism for the payment of rest period premium payments as required by Labor Code § 226.7, in
3 the event that a legally compliant rest period was not authorized and permitted to their non-exempt
4 employees.

5 14. Additionally, upon information and belief, Defendants failed to provide Plaintiff and
6 other non-exempt employees with paid sick leave and failed to provide Plaintiff and other non-
7 exempt employees with a written notice that set forth the amount of paid sick leave available for use
8 in violation of Labor Code § 246. Additionally, upon information and belief, Defendants Labor
9 Code § 246 by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration
10 into the paid sick leave pay rate.

11 15. As a result of Defendants' failure to pay all minimum and overtime wages, failure to
12 pay all meal and rest period premium wages, and unlawful timekeeping and payroll practices as
13 alleged above, Defendants maintained inaccurate payroll records and issued inaccurate wage
14 statements to Plaintiff and other non-exempt employees. Defendants' wage statements to Plaintiff
15 also identified an incorrect double time rate. As a further result of Defendants' failure to pay all
16 minimum and overtime wages and meal and rest period premium wages, Defendants failed to
17 timely pay all final wages to Plaintiff and other former non-exempt employees upon their separation
18 of employment from Defendants. Furthermore, Defendants terminated Plaintiff on July 17, 2023 but
19 failed to issue a final paycheck to her until July 27, 2023.

20 16. On July 17, 2023, Plaintiff submitted a request for inspection or copy of her
21 personnel file, payroll and time records, and all documents she signed relating to the obtaining or
22 holding of employment under Labor Code §§ 226(b), 432, and 1198.5 to Defendants via certified
23 mail. As of the date of this Complaint, Defendants have failed to permit Plaintiff to inspect or copy
24 her personnel and payroll records.

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1 **1 CAUSE OF ACTION**

2 **PRIVATE ATTORNEYS GENERAL ACT**

3 **(Against All Defendants)**

4 17. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
5 fully set forth herein.

6 18. Plaintiff, an “aggrieved employee” within the meaning of Labor Code § 2698, *et*
7 *seq.*, acting on behalf of herself and other aggrieved employees (collectively, “Aggrieved
8 Employees”), brings this representative action against Defendants to recover the civil penalties due
9 to Plaintiff and other Aggrieved Employees, and the State of California according to proof pursuant
10 to Labor Code § 558 and § 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial
11 violation for each failure to pay each employee and \$200 for each subsequent violation or willful or
12 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25%
13 of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each
14 subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100 for each
15 initial violation and \$250 for each subsequent violation pursuant to Labor Code § 1197.1 per
16 employee per pay period; (4) \$250 for each initial violation and \$1,000 for each subsequent
17 violation pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code
18 section 256, a civil penalty in an amount not exceeding 30 days per former employee as waiting
19 time under the terms of Labor Code § 203; and/or (6) \$100 for each initial violation and \$200 for
20 each subsequent violation per employee per pay period for those violations of the Labor Code for
21 which no civil penalty is specifically provided, based on the following Labor Code violations:

- 22 a. Failing to pay minimum wages for all hours worked to Aggrieved Employees in
23 violation of Labor Code § 558, 1182.12, 1194, 1194.2, 1197, and 1198;
- 24 b. Failing to pay Aggrieved Employees all earned overtime compensation in violation
25 of Labor Code §§ 204, 510, 558, 1194, and 1198;
- 26 c. Failing to provide all legally required meal periods, and failure to pay meal period
27 premium wages, to Aggrieved Employees at the regular rate of compensation in
28 violation of Labor Code §§ 226.7, 512, 558, and 1198;

- d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Aggrieved Employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
 - e. Failing to furnish Aggrieved Employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
 - f. Failing to timely pay all final wages and compensation earned by Aggrieved Employees at the time of separation in violation of Labor Code §§ 201-202;
 - g. Failure to reimburse Aggrieved Employees for all necessary business expenses in violation of Labor Code § 2802;
 - h. Failing to pay Aggrieved Employees all earned wages at least twice during each calendar month in violation of Labor Code § 204;
 - i. Failing to permit Aggrieved Employees to inspect their personnel records in violation of Labor Code §§ 226, 432, and 1198.5; and
 - j. Failing to maintain accurate records on behalf of Aggrieved Employees in violation of Labor Code §§ 1174 and 1198.
19. Plaintiff has incurred attorneys' fees and costs, which Plaintiff is entitled to receive under California Labor Code § 2699(g).

PRAYER FOR RELIEF

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

1. Upon the First Cause of Action, for civil penalties due to Plaintiff, other Aggrieved Employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay

1 period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant
2 to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code section 256, a civil
3 penalty in an amount not exceeding 30 days per former employee as waiting time under the terms of
4 Labor Code § 203; and/or (6) \$100.00 for each initial violation and \$200 for each subsequent
5 violation per employee per pay period for those violations of the Labor Code for which no civil
6 penalty is specifically provided;

7 2. On all causes of action, for attorneys' fees and costs as provided by Labor Code §
8 2699(g) and Code of Civil Procedure § 1021.5; and

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

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11 DATED: October 5, 2023

JUSTICE FOR WORKERS, P.C.

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13 By: 

14 Young K. Park
15 William C. Sung
16 Attorneys for Plaintiff DAISY MONTROYA
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