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FILED
Superior Court of California
County of Los Angeles
10/10/2023

David W. Slayton, Executive Officer / Clerk of Court

By: M. Arellanes Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

HAGOOD, ALTHEA, an individual, on behalf
of all others similarly situated;

Plaintiff,

v.

HYDE PARK REHABILITATION CENTER,
LLC, doing business as HYDE PARK
HEALTHCARE CENTER, a California
limited liability company; and DOES 1
through 10, inclusive;

Defendants.

CASE NO.: 23STCV22313

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

- (1) Failure to Provide Meal Periods;**
- (2) Failure to Provide Rest Periods;**
- (3) Failure to Pay Minimum Wages;**
- (4) Failure to Pay Overtime;**
- (5) Failure to Timely Pay Wages;**
- (6) Failure to Provide Accurate Wage Statements;**
- (7) Waiting Time Penalties;**
- (8) Unfair Competition; and**
- (9) Violations of the Private Attorneys General Act ("PAGA")**

JURY TRIAL DEMANDED

1 Plaintiff ALTHEA HAGOOD, on behalf of herself and all others similarly situated, alleges
2 as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this action as a Class Action pursuant to California Code of Civil
5 Procedure section 382 on behalf of herself and other current and former non-exempt employees of
6 Defendant HYDE PARK REHABILITATION CENTER, LLC, doing business as HYDE PARK
7 HEALTHCARE CENTER and DOES 1 through 10, inclusive (collectively “Defendants”). This
8 action arises from Defendants’ unlawful employment practices, including failing to provide
9 compliant meal periods, failing to provide compliant rest periods, failing to pay minimum wages
10 for all hours worked, failing to pay overtime for all hours worked, failing to pay overtime at the
11 correct rates, and failing to timely pay wages upon separation of employment.

12 2. All allegations in this Complaint are based upon information and belief except those
13 allegations specifically pertaining to Plaintiff and/or her counsel, which are based upon personal
14 knowledge. Each allegation in this Complaint has evidentiary support and/or is likely to have
15 evidentiary support after reasonable opportunity for further investigation and formal discovery.

16 3. Defendants have engaged in a systematic pattern of wage and hour abuse towards
17 Plaintiff and other current and former non-exempt employees by denying them specific rights
18 afforded to them under California law, including the California Labor Code and applicable Industrial
19 Welfare Commission (“IWC”) Wage Order.

20 4. At all relevant times, Defendants maintained uniform and consistent policies and
21 practices of:

- 22 a. failing to provide Plaintiff and similarly situated employees compliant meal
23 periods and to pay meal period premiums at the correct rates;
- 24 b. failing to provide Plaintiff and similarly situated employees compliant rest
25 periods and to pay rest period premiums at the correct rate;
- 26 c. failing to pay Plaintiff and similarly situated employees minimum wages for
27 all hours worked;

- 1 d. failing to pay Plaintiff and similarly situated employees overtime wages for
2 all overtime hours worked;
- 3 e. failing to pay Plaintiff and similarly situated employees for overtime at the
4 correct rates;
- 5 f. failing to timely pay Plaintiff and similarly situated employees all wages due
6 and owing during employment;
- 7 g. failing to provide Plaintiff and similarly situated employees with accurate
8 itemized wage statements; and,
- 9 h. failing to timely pay Plaintiff and similarly situated former employees all
10 wages that were due and owing upon separation of employment.

11 **JURISDICTION AND VENUE**

12 5. Venue as to each Defendant is proper in this judicial district pursuant to Code of
13 Civil Procedure 395(a). Defendants conduct business in Los Angeles County, maintain offices,
14 transact business, and/or have an agent in Los Angeles County. Defendants employed Plaintiff and
15 similarly situated employees, and committed the unlawful activities subject to this Complaint, in
16 Los Angeles County.

17 6. This Court has jurisdiction over this matter because the value of the claims of
18 individual members of the classes stated herein are less than the seventy-five (\$75,000)
19 jurisdictional threshold for federal courts. No federal question is at issues, as the claims pled are
20 solely based on California law.

21 **THE PARTIES**

22 7. Plaintiff ALTHEA HAGOOD is, and at all relevant times, was a resident of Los
23 Angeles County, California.

24 8. Defendant HYDE PARK REHABILITATION CENTER, LLC, doing business as
25 HYDE PARK HEALTHCARE CENTER owns and operates a skilled nursing facility located at
26 6520 West Blvd., Los Angeles, CA 90043, Los Angeles, CA 90043.

27 9. The true names and capacities of Defendants sued herein as DOES 1-10, inclusive,
28

1 are currently unknown to Plaintiff, who therefore sues them by such fictitious names under Code of
2 Civil Procedure section 474. Each of the Defendants designated as a DOE is legally responsible in
3 some manner for the unlawful acts alleged. Plaintiff will seek leave of court to amend this
4 Complaint to reflect the true names and capacities of Defendants designated as DOES when those
5 identities become known.

6 10. Each Defendant acted in all respects pertinent to this action as the agent of the other
7 Defendants, carried out a joint scheme, business plan or policy, and the acts of each Defendant are
8 legally attributable to the other Defendants.

9 **GENERAL ALLEGATIONS**

10 11. Plaintiff was employed by Defendants as a non-exempt Sitter from approximately
11 November 2020 until February 2023, and was paid an hourly wage.

12 12. During her employment, Defendants failed to provide Plaintiff with a reasonable
13 opportunity to take complaint meal periods under California law. Plaintiff routinely received late,
14 interrupted, or no meal period. This was often due to the nature of the work and the lack of
15 coverage. Plaintiff was often interrupted by residents as she attempted to walk from the time clock
16 to the break room. In addition, Defendants subjected Plaintiff to off-the-clock Covid screenings
17 that often triggered late meal periods. Defendants failed to pay Plaintiff meal period premiums for
18 each day that she was denied a compliant meal period. When Defendants paid Plaintiff meal
19 period premiums, Defendants calculated them incorrectly by failing to include all forms of non-
20 discretionary pay into the regular rate, including payments for “Covid Testing” “Retro Pay” and
21 “Angel Pay.”

22 13. Defendants similarly failed to provide Plaintiff with a reasonable opportunity to
23 take rest periods. This was primarily due to the nature of the work and the lack of coverage.
24 Defendants failed to pay Plaintiff rest period premiums for each day that she was denied a
25 compliant meal period. When Defendants paid Plaintiff rest period premiums, Defendants
26 calculated them incorrectly by failing to include all forms of non-discretionary pay into the regular
27 rate, including payments for “Covid Testing” “Retro Pay” and “Angel Pay.”

14. During her employment, Defendants failed to pay Plaintiff minimum wages for all hours worked. Among other things, Defendants did not keep track of the time it took Plaintiff to perform Covid screenings. Instead, it paid Plaintiff an estimated six minutes each time she was subjected to a Covid Screening. The Covid screenings occasionally took more time for which Plaintiff was not paid.

15. During her employment, Defendants failed to pay Plaintiff overtime wages for all overtime hours worked. Among other things, Defendants did not account for the time that Plaintiff spent performing Covid screenings in calculating her overtime pay. These Covid screenings took approximately six minutes and often triggered overtime pay that Plaintiff did not receive.

16. Defendants similarly failed to pay Plaintiff the correct overtime rate for the overtime hours she worked. In particular, Defendants failed to include all forms of non-discretionary pay into the regular rate, including payments for “Covid Testing” “Retro Pay” and “Angel Pay.”

17. During her employment, Defendants failed to timely pay Plaintiff all wages that were due and owing each month, including minimum wages, overtime wages, and meal and rest period premiums as discussed herein.

18. Defendants similarly failed to timely pay Plaintiff all wages that were due and owing upon separation of employment, including minimum wages, overtime wages, and meal and rest period premiums as discussed herein.

19. In addition, Defendants failed to provide Plaintiff with accurate wage statements. Among other things, the wage statements (a) failed to accurately state the total hours worked, including failing to include time spent performing Covid screening, (b) failed to include meal and rest period premiums and to state the correct rates for these premiums; (c) failed to include all overtime hours and to state the correct rates for overtime; and, (d) failed to accurately state the gross wages due.

CLASS ACTION ALLEGATIONS

20. Plaintiff brings this action on behalf of herself, and all others similarly situated as a

1 Class Action pursuant to Code of Civil Procedure section 382. The Class that Plaintiff seeks to
2 represent is defined as:

3 **Class:**

4 All non-exempt employees who were employed by Defendants in
5 the State of California at any time in the four-year period preceding
6 the filing of this Complaint.

7 21. Plaintiff reserves the right under California Rules of Court, Rule 3.765(b) to amend
8 or modify the class definition with greater specificity or to further divide the Class into subclasses.

9 22. Defendants have engaged in the same unlawful acts and omissions described herein
10 with respect to each member of the Class during the four-year period prior to filing this Complaint
11 (“Class Period”).

12 23. This action may be maintained as a class action pursuant to Code of Civil
13 Procedure section 382 because there is a well-defined community of interest among many persons,
14 and it is impractical to bring individual suits before this Court.

15 24. **Ascertainable Class:** The potential members of the Class are ascertainable because
16 they can be identified and located using Defendants’ payroll and personnel records.

17 25. **Numerosity:** The potential members of the Class are so numerous that joinder of
18 all members would be impractical and unfeasible. The disposition of member of their claims will
19 benefit both the parties and the Court. The number of Class members is unknown to Plaintiff, who
20 is informed and believes that the Class exceeds fifty individuals.

21 26. **Typicality:** The claims of Plaintiff are typical of the claims of Class members,
22 because Plaintiff and Class members were subjected to the same violations of the Labor Code and
23 applicable IWC Wage Order committed by Defendants, and they sustained similar injuries and
24 damages arising out of Defendants’ common policies and practices.

25 27. **Adequacy:** Plaintiff is an adequate representatives of the Class, will fairly protect
26 the interest of Class members, has no interests antagonistic to the members of the Class, and will
27 vigorously pursue the suit. Plaintiff’s attorney is competent, skilled and experienced in litigating
28 employment law class actions.

1 28. **Superiority:** A class action is superior to other available means for the fair and
2 efficient adjudication of this controversy. Individual joinder of all Class members is not
3 practicable or feasible, and questions of law and fact common to the Class predominate over
4 questions affecting only individual Class members. All Class members have been damaged by the
5 unlawful policies and practices discussed herein. A class action will allow the Class members to
6 determine the legality of these uniform policies and practices in a single lawsuit, which is the most
7 efficient and economical process for the Court and the parties.

8 29. The predominating common questions or law in fact include:

- 9 a. whether Defendants provided Class members with compliant meal periods;
- 10 b. whether Defendants provided Class members with compliant rest periods;
- 11 c. whether Defendants paid Class members minimum wages for all hours
12 worked;
- 13 d. whether Defendants paid Class members overtime for all overtime hours
14 worked;
- 15 e. whether Defendants paid Class members overtime for all overtime hours
16 worked at the correct rates;
- 17 f. whether Defendants provided Class members with accurate itemized wage
18 statements;
- 19 g. whether Defendants timely paid Class members who are former employees
20 all wages upon separation of employment; and,
- 21 h. whether Defendants engaged in unfair competition.

22 30. All of the acts and omissions committed by Defendants as alleged herein were
23 intentional and willful because Defendants were advised by counsel as to these unlawful practices
24 and there is no good faith dispute concerning the validity of these practices.

25 ///

26 ///

27 ///

28 ///

1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**
3 **(Failure to Provide Meal Periods)**
4 **[Plaintiff and Class Against Defendants]**

5 31. Plaintiff incorporate each of the preceding paragraphs of this Complaint.

6 32. Labor Code section 512(a) provides “[a]n employer shall not employ an employee
7 for a work period of more than five hours per day without providing the employee with a meal
8 period of not less than 30 minutes, except that if the total work period per day of the employee is
9 no more than six hours, the meal period may be waived by mutual consent of both the employer
10 and employee. An employer shall not employ an employee for a work period of more than 10
11 hours per day without providing the employee with a second meal period of not less than 30
12 minutes, except that if the total hours worked is no more than 12 hours, the second meal period
13 may be waived by mutual consent of the employer and the employee only if the first meal period
14 was not waived.”

15 33. The applicable IWC Wage Order, section 11(A) similarly provides that “[n]o
16 employer shall employ any person for a work period of more than five (5) hours without a meal
17 period of not less than 30 minutes, except that when a work period of not more than six (6) hours
18 will complete the day’s work the meal period may be waived by mutual consent of the employer
19 and the employee. Unless the employee is relieved of all duty during a thirty-minute meal period,
20 the meal period shall be considered an “on duty” meal period and counted as time worked. An “on
21 duty” meal period shall be permitted only when the nature of the work prevents an employee from
22 being relieved of all duty and when by written agreement between the parties an on-the- job paid
23 meal period is agreed to. The written agreement shall state that the employee may, in writing,
24 revoke the agreement at any time.

25 34. The applicable IWC Wage Order, section 11(B) provides that “[i]f an employer
26 fails to provide an employee a meal period in accordance with the applicable provisions of this
27 order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
28 compensation for each workday that the meal period is not provided.”

35. Labor Code section 226.7(a) provides that “[n]o employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.”

36. Labor Code section 226.7(b) provides that “[i]f an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each work day that the meal or rest period is not provided.”

37. During the Class Period, Defendant failed to provide Plaintiff and the Class members with an opportunity to take compliant meal periods due to the nature of the work and lack of coverage. Plaintiff and the Class often received late, interrupted or no meal periods. Defendants subjected them to off-the-clock Covid screenings that occasionally triggered late meal periods. Defendants often failed to pay them meal period premiums for each day that compliant meal periods were not provided. When Defendants paid meal period premiums, Defendants calculated them incorrectly by failing to include all forms of non-discretionary pay into the regular rate, including payments for “Covid Testing” “Retro Pay” and “Angel Pay.”

38. Plaintiff and the Class members have been injured and seek damages, meal period premiums and interest.

SECOND CAUSE OF ACTION
(Failure to Provide Rest Periods)
[Plaintiff and Class Against Defendants]

39. Plaintiff incorporates each of the preceding paragraphs of this Complaint.

40. The applicable IWC Wage Order section 12(A) provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate often (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3½) hours. Authorized rest period time shall be counted as hours

1 worked for which there shall be no deduction from wages.”

2 41. The applicable IWC Wage Order section 12(B) provides that “[i]f an employer fails
3 to provide an employee a rest period in accordance with the applicable provisions of this order, the
4 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
5 compensation for each workday that the rest period is not provided.”

6 42. Labor Code section 226.7(a) provides that “[n]o employer shall require any
7 employee to work during any meal or rest period mandated by an applicable order of the Industrial
8 Welfare Commission.”

9 43. Labor Code section 226.7(b) provides that “[i]f an employer fails to provide an
10 employee a meal period or rest period in accordance with an applicable order of the Industrial
11 Welfare Commission, the employer shall pay the employee one additional hour of pay at the
12 employee s regular rate of compensation for each work day that the meal or rest period is not
13 provided.”

14 44. During the Class Period, Defendants failed to provide Plaintiff and the Class
15 members with an opportunity to take compliant rest periods due to the nature of the work and lack
16 of coverage. On these occasions, Defendants failed to pay rest period premiums or did so at the
17 wrong rates by failing to include all forms of non-discretionary pay when calculating the regular
18 rates.

19 45. As a result, Plaintiff and the Class members have been injured and are entitled to
20 recover damages, rest period premiums and interest.

21 **THIRD CAUSE OF ACTION**
22 **(Failure to Pay Minimum Wages for All Hours Worked)**
23 **[Plaintiff and Class Against Defendants]**

24 46. Plaintiff incorporates each of the preceding paragraphs of this Complaint.

25 47. California Labor Code section 1194 provides that “[n]otwithstanding any
26 agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or
27 the legal overtime compensation applicable to the employee is entitled to recover in a civil action
28 the unpaid balance of the full amount of this minimum wage or overtime compensation, including

1 interest thereon, reasonable attorney's fees, and costs of suit."

2 48. California Labor Code section 1197.1 provides in relevant part that "[i]n any action
3 under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less
4 than the minimum wage fixed by an order of the commission or by statute, an employee shall be
5 entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and
6 interest thereon."

7 49. During the Class Period, Defendants failed to pay Plaintiff and the Class members
8 minimum wages for all hours worked. Among other things, Defendants did not keep track of the
9 time it took Plaintiff and Class members to perform Covid screenings. Instead, it paid them an
10 estimated six minutes each time they were subjected to a Covid Screening. The Covid screenings
11 occasionally took more time for which Plaintiff and the Class members were not paid. Defendants
12 also failed to pay Plaintiff and the Class members for work performed during meal periods or
13 while off-the-clock. Defendants further engaged in a uniform policy and practice of unlawful time
14 shaving, rounding or "time adjustments" for Plaintiff and the Class members.

15 50. As a result, Plaintiff and the Class were injured and not paid minimum wages for all
16 hours worked. Plaintiff and the Class seek damages, liquidated damages, and interest.

17 **FOURTH CAUSE OF ACTION**
18 **(Failure to Pay Overtime Wages for All Overtime Hours Worked)**
19 **[Plaintiff and Class Against Defendants]**

20 51. Plaintiff incorporates each of the preceding paragraphs of this Complaint.

21 52. California Labor Code section 510(a) provides in relevant part that "[e]ight hours of
22 labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in
23 excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work
24 in any one workweek shall be compensated at the rate of no less than one and one-half times the
25 regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated
26 at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in
27 excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less
28 than twice the regular rate of pay of an employee."

53. California Labor Code section 1198 provides that “[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

54. The applicable IWC Wage Order, Section 3(A) requires employers to pay non-exempt employees (1) one and one half times the employee's regular rate of pay for all hours worked in excess of eight hours up to and including twelve hours in any workday, and for the first eight hours worked on the seventh consecutive day of work in a workweek, and (2) double the employee's regular rate of pay for all hours worked in excess of twelve hours in any workday and for all hours worked in excess of eight hours on the seventh consecutive day of work in a workweek.

55. During the Class Period, Defendants failed to pay Plaintiff and the Class members overtime for all the overtime hours that they worked. Among other things, Defendants failed to pay Plaintiff and the Class members for work performed during meal periods or while off-the-clock. Defendant also failed to include Covid screenings in their total hours worked, which often triggered overtime for which Plaintiff and the Class members were not paid. Plaintiff is informed and believes that Defendants also engaged in a uniform policy and practice of unlawful time shaving, rounding or “time adjustments” for Plaintiff and the Class members.

56. As a result, Plaintiff and the Class members were injured and not paid overtime wages for all overtime hours worked. Plaintiff and the Class member seek damages and interest.

FIFTH CAUSE OF ACTION
(Failure to Timely Pay Wages During Employment)
[Plaintiff and Class Against Defendants]

57. Plaintiff incorporates each of the preceding paragraphs of this Complaint.

58. Labor Code section 204 requires an employer to pay all wages that are due and owing to employees twice during each calendar month on days designated in advance by the employer as regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any

1 calendar month, shall be paid for between the 1st and 10th day of the following month.

2 59. Labor Code section 210 provides that entirely independent and apart from other
3 penalties, an employer who violates Section 204 is subject to a statutory penalty of \$100 for each
4 initial violation and \$200 for each subsequent violation, plus 25% of the amount unlawfully
5 withheld.

6 60. Defendants violated Section 204 by failing to pay Plaintiff and Class members all
7 wages that were due and owing each pay period as discussed herein.

8 61. Employer is therefore subject to statutory penalties under Labor Code § 210(b).

9
10 **SIXTH CAUSE OF ACTION**
(Failure to Provide Accurate Itemized Wage Statements)
[Plaintiff and Class Against Defendants]

11 62. Plaintiff incorporates each of the preceding paragraphs of this Complaint.

12 63. California Labor Code section 226(a) provides in relevant part that: “Every employer
13 shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees,
14 either as a detachable part of the check, draft, or voucher paying the employee s wages, or separately
15 when wages are paid by personal check or cash, an accurate itemized statement in writing showing
16 (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose
17 compensation is solely based on a salary and who is exempt from payment of overtime under
18 subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the
19 number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-
20 rate basis, (4) all deductions, provided that all deductions made on written orders of the employee
21 may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period
22 for which the employee is paid, (7) the name of the employee and the last four digits of his or her
23 social security number or an employee identification number other than a social security number,
24 (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor
25 contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity
26 that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay
27 period and the corresponding number of hours worked at each hourly rate by the employee.”

1 64. California Labor Code section 226(e) provides that: “An employee suffering injury
2 as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is
3 entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in
4 which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
5 subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is
6 entitled to an award of costs and reasonable attorney s fees.”

7 65. During the Class Period, Defendants failed to provide Plaintiff and the Class
8 members with accurate itemized wage statements in compliance with Labor Code section 226(a).
9 Among other things, the wage statements failed to accurately state the gross wages earned, the total
10 hours worked, the correct rates for overtime pay, meal and rest periods, and the meal and rest period
11 premiums due.

12 66. As result, Plaintiff and the Class members were injured because they could not
13 promptly and easily determine from the wage statement the total hours they worked and the correct
14 hourly rates.

15 67. Plaintiff and the Class members are therefore entitled to recover the penalties
16 specified in Labor Code section 226(e).

17 **SEVENTH CAUSE OF ACTION**
18 **(Failure to Timely Pay Wages Upon Separation of Employment)**
19 **[Plaintiff and Class Against Defendants]**

20 68. Plaintiff incorporates each of the preceding paragraphs of this Complaint.

21 69. If an employer discharges an employee, the wages earned and unpaid at the time of
22 discharge are due and payable immediately. (Labor Code § 201.) If an employee not having a written
23 contract for a definite period quits his or her employment, his or her wages shall become due and
24 payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice
25 of his or her intention to quit, in which case the employee is entitled to his or her wages at the time
26 of quitting. (Labor Code § 202.) If an employer willfully fails to pay, without abatement or
27 reduction, in accordance with Sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any
28 wages of an employee who is discharged or who quits, the wages of the employee shall continue as

1 a penalty from the due date thereof at the same rate until paid or until an action therefor is
2 commenced; but the wages shall not continue for more than 30 days. (Labor Code § 203.)

3 70. During the Class Period, Defendants failed to timely pay Plaintiff and all Class
4 members who are former employees all wages that were due and owing upon separation of
5 employment.

6 71. As a result, Plaintiff and all Class members who are former employees have been
7 injured and are entitled to recover waiting time penalties under Labor Code section 203.

8 **EIGHTH CAUSE OF ACTION**
9 **(Unfair Competition)**
10 **[Plaintiff and Class Against Defendants]**

11 72. Plaintiff incorporates each of the preceding paragraphs of this Complaint.

12 73. Defendants' employment acts, omissions and practices discussed herein further
13 constitute unlawful, unfair and/or fraudulent business acts or practices withing of California
14 Business and Professions Code section 17200.

15 74. As a result of Defendants' unlawful, unfair and/or fraudulent business acts or
16 practices, (1) Defendants have gained a competitive advantage over other comparable companies
17 doing business in the State of California that comply with their obligations under the California
18 Labor Code and applicable IWC Wage Orders; and (2) Plaintiff and the members of the Class have
19 been injured and have lost wages and other compensation as described herein.

20 75. Accordingly, Plaintiff and the Class seek to enjoin Defendants' unlawful, unfair
21 and/or fraudulent business acts or practices and seek restitution to restore to them all money which
22 they have been denied.

23 **EIGHTH CAUSE OF ACTION**
24 **(Violation of the Private Attorneys General Act)**
25 **[Plaintiff Against Defendants]**

26 76. Plaintiff incorporates each of the preceding paragraphs of this Complaint.

27 77. During the PAGA period (one year and sixty-five days from the filing of this First
28 Amended Complaint), Defendants subjected Plaintiff and similarly situated non-exempt Aggrieved
Employees to the foregoing unlawful Labor Code/Wage Order practices as discussed herein.

1 78. In addition, Defendants failed to maintain accurate time and payroll records for
2 Plaintiff and Aggrieved Employees during the PAGA period. Under California law, an employer
3 must maintain accurate time and pay records, including (1) time records showing when employees
4 begin and ends each work periods, meal periods, split shift intervals, and total hours worked, and
5 (2) pay records showing its employees' hours worked and applicable rates of pay during each pay
6 period. (Labor Code § 1174 and IWC Wage Orders § 7). Defendant failed to maintain these
7 records, including records for the time that Plaintiff and the Aggrieved Employees spent
8 performing Covid-19/wellness screenings and other off-the-clock work. Defendants are therefore
9 subject to civil penalties.

10 79. During the PAGA period, Defendants further failed to timely pay all wages to
11 Plaintiff and the Aggrieved Employees during their employment. Labor Code section 204
12 requires an employer to pay all wages that are due and owing to employees twice during each
13 calendar month on days designated in advance by the employer as regular paydays. Defendants
14 violated this statute by failing to pay Plaintiff and Aggrieved Employees all wages that are due
15 and owing during their employment, including wages for "off-the-clock" work and meal and rest
16 period premiums. Defendants are therefore subject to civil penalties.

17 80. In addition, Defendants engaged in a practice of requiring Plaintiff and the
18 Aggrieved Employees to sign arbitration agreements as a condition of employment in violation of
19 California Labor Code sections 432.6 and Government Code 12953. These arbitration agreements
20 are not subject to the Federal Arbitration Act as Defendants operate a single assisted living facility
21 located in Los Angeles County and are not engaged in interstate commerce. Defendants are
22 therefore subject to civil penalties.

23 81. In sum, during the PAGA period, Defendants violated the Labor Code and Wage
24 Order sections referenced herein, including Labor Code sections 201-203, 204, 210, 226, 226.3,
25 226.7, 510, 512, 516, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, and the applicable Wage
26 Order, Sections 3, 4, 7, 11, 12, and 20. These violations subject Defendants to civil penalties as set
27 forth in, *inter alia*, Labor Code section 2699.

82. Plaintiff complied with the procedures for bringing suit specified in Labor Code sections 2699.3 and 2699.5 by letter dated July 26, 2023. Plaintiff gave written notice to the LWDA via electronic submission, and via certified mail to all Defendants, of the specific provisions of the Labor Code and applicable Wage Order allegedly violated, including the facts and theories to support the alleged violations.

83. Under Labor Code section 2699.3, the LWDA must give written notice to the parties it intends to investigate the alleged violations within 60 days of the date of the Plaintiff's written notice. As of the filing of this complaint, the LWDA has not provided the parties with any notice of its intention to investigate these claims.

84. Under Labor Code section 2699.3, Defendants has 33 days after the date of written notice to cure the alleged violations. As of the filing of this complaint, Defendant has not responded to Plaintiff's PAGA notice in an attempt to cure.

85. Plaintiff seeks civil penalties in the amounts set forth in the Labor Code for each of the aforesaid violations and/or default penalties as provided by Labor Code section 2699.

86. Under Labor Code section 2699(g), Plaintiff is also entitled to an award of reasonable attorney's fees and costs in connection with his claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief on behalf of themselves and the Class members as follows:

- (1) for an order that this lawsuit be certified as a class action;
- (2) for an order that Plaintiff be appointed the class representative;
- (3) for an order that undersigned counsel for Plaintiff be appointed class counsel;
- (4) for compensatory damages according to proof;
- (5) for statutory and other available penalties according to proof;
- (6) for an order requiring Defendants to make restitution of all amount wrongfully withheld from Plaintiff and the Class as a result of Defendant's unlawful, unfair or fraudulent employment acts and practices;

- 1 (7) for an order enjoining Defendants from further engaging in their unlawful, unfair or
2 fraudulent employment acts and practices;
- 3 (8) for civil penalties according to poof;
- 4 (9) for prejudgment interest as permitted by laws;
- 5 (10) for attorney's fees and costs incurred in prosecuting this action; and,
- 6 (11) for such further relief that the Court deems appropriate.

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8 Dated: October 6, 2023

BLAKE JONES LAW, PC.

9
10 By: _____



11 Blake R. Jones
12 Attorneys for Plaintiff
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on claims where a jury is allowed.

Dated: October 6, 2023

BLAKE JONES LAW, PC.

By: _____



Blake R. Jones
Attorneys for Plaintiff