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Attorney for Plaintiff
Lashaunte Heads

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

LASHAUNTE HEADS, on her own behalf and all similarly situated individuals,	) NO. 30-2023-01353892-CU-OE-CXC
	) CLASS ACTION
Plaintiff,	) FIRST AMENDED COMPLAINT
v.	) 1. Minimum Wage Violations
	) 2. Overtime Violations
OAKMONT MANAGEMENT GROUP, LLC,	) 3. Meal Period Violations
and DOES 1 to 100,	) 4. Rest Period Violations
	) 5. Wage Statement Penalties
Defendants.	) 6. Waiting Time Penalties
	) 7. Work Expenditure Violations
	) 8. Violation of Unfair Competition Law
	) 9. PAGA Penalties

PRELIMINARY ALLEGATIONS

1. Plaintiff Lashaunte Heads is a resident of Orange County.
2. Plaintiff Oakmont Management Group, LLC is a limited liability company that is based in Orange County.
3. Plaintiff does not know the true names and capacities of Does 1 to 100 and therefore use fictitious names. Plaintiff will amend the complaint pursuant to Code of Civil Procedure section 474 to allege the true names and capacities when ascertained.
4. The named and Doe defendants are collectively referred to as "Defendants."
5. Plaintiffs are informed and believe that each of the Defendants was the agent or employee of the other defendants and acted in the scope of agency or employment.

6. Defendants operate elder living facilities, thus Wage Order 5 applies.

7. Defendants employed Plaintiff and the class members as caregivers.

8. Plaintiff worked at the Ivy Park facility in Laguna Woods; however Defendants operate Oakmont Senior Living facilities throughout the state.

9. Plaintiff and the class members were not exempt since they did not customarily and regularly exercise discretion and independent judgment.

10. Throughout Plaintiff's and the class members' employment, they did not receive compliant meal and rest periods since they were interrupted and had to remain on premises.

11. Further, Plaintiff and the class members had to work off the clock and were not paid for time working off the clock.

12. Also, Plaintiff and the class members had to purchase work-related clothes did not receive reimbursement for the purchases.

13. On August 28, 2023 Plaintiff sent a PAGA letter to Oakmont Management Group, LLC and uploaded the letter to the LWDA website. Since it has been more than 65 days, Plaintiff may now add PAGA allegations.

CLASS ACTION ALLEGATIONS

14. The class is defined as the following: "All non-exempt employees who worked for Defendants in California as from four years prior to filing the case to the date of certification or judgment, whichever is earlier."

15. There is a well-defined community of interest, and the proposed class is ascertainable from Defendants' employment records. Further, the following apply to show the viability of a class action pursuant to Code of Civil Procedure section 382:

- a. Numerosity: The members of the class as defined are so numerous that joinder of all class members is impracticable.
- b. Commonality: This action involves common questions of law and fact to the class because the action focuses on Defendants' systematic course of conduct with respect to violating the Labor Code and IWC Wage Order.

- 1 c. Typicality: The claims are typical of the claims of the class. Plaintiff was
2 subjected to the same violations and seeks the same types of damages,
3 restitution, and other relief on the same as those of the members of the class.
- 4 d. Adequacy of Representation: Plaintiff will fairly and adequately represent and
5 protect the interests of the class. Plaintiff understands the obligations as a class
6 representative and is willing and able to fulfill them. Plaintiff's counsel is
7 competent and experienced in litigating large employment class actions and
8 complex litigation matters, including wage and hour cases like this.
- 9 e. Superiority of Class Action: A class action is superior to other available means
10 for efficient adjudication. Class action treatment will allow similarly situated
11 persons to pursue the claims in a manner that is most efficient and economical.
- 12 16. There are common questions of law and fact including but not limited to:
- 13 a. Whether Defendants did not pay overtime for work off the clock in violation of
14 Labor code sections 510 and 1194;
- 15 b. Whether Defendants violated Labor Code sections 510 and 1194 for not paying
16 at least the minimum wage for work off the clock;
- 17 c. Whether Defendants violated Labor Code section 512 and the applicable Wage
18 Order by not providing meal breaks;
- 19 d. Whether Defendants violated the applicable Wage Order for not providing rest
20 breaks;
- 21 e. Whether Defendants violated Labor Code section 226 by providing inaccurate
22 wage statements;
- 23 f. Whether Defendants violated Labor Code section 226.7 by not paying premium
24 pay for missed meal and rest breaks;
- 25 g. Whether Defendants engaged in unfair competition; and
- 26 h. The amount of damages, wages, and penalties owed.

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1 FIRST CAUSE OF ACTION

2 Minimum Wage Violations

3 Against All Defendants

4 16. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

5 17. Plaintiff and the class members were required to work off the clock, and this time should
6 have been paid at least the minimum wage.

7 18. Plaintiff and the class members are owed reimbursement for unpaid wages and interest.

8 19. Also, statutory attorney fees apply.

9
10 SECOND CAUSE OF ACTION

11 Overtime Violations

12 Against All Defendants

13 20. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

14 21. Plaintiff and the class members were required to work over eight hours in a day and/or 40
15 hours in a week without being compensated for all overtime in violation of Labor Code 510.

16 22. Plaintiff and the class members should have received overtime at the correct regular rate of
17 pay for the overtime work off the clock as explained above.

18 23. The remedy for the overtime violations is payment of the unpaid overtime at the correct
19 regular rate of pay, plus interest and attorney fees, pursuant to Labor Code section 1194.

20
21 THIRD CAUSE OF ACTION

22 Meal Period Violations

23 Against All Defendants

24 24. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

25 25. Pursuant to the applicable Wage Order, every employer shall authorize and permit
26 employees to take meal periods of thirty minutes for every five hours worked.

27 26. Pursuant to Labor Code section 226.7(c) and IWC Wage Order 4, when the employer does
28 not provide an employee with the required meal period, the employer shall pay the employee one

1 hour of pay at the employee's regular rate of compensation for each workday that a rest period is
2 not provided.

3 27. Plaintiff and the class members were denied meal periods as meal periods were not
4 provided or were on-duty.

5 28. As a result of Defendants' meal period violations, Plaintiff and the class members are
6 entitled to premium pay which is one additional hour of compensation for each missed break.

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8 FOURTH CAUSE OF ACTION

9 Rest Period Violations

10 Against All Defendants

11 29. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

12 30. Pursuant to the applicable Wage Order every employer shall authorize and permit
13 employees to take rest periods of ten minutes for every four hours worked.

14 31. Pursuant to Labor Code section 226.7(c) and the applicable Wage Order, when the
15 employer does not provide an employee with the required rest period, the employer shall pay the
16 employee one hour of pay at the employee's regular rate of compensation.

17 32. Plaintiff and the class members were denied rest periods as rest periods were not provided
18 or were on-duty.

19 33. As a result of Defendants' rest period violations, Plaintiff and the class members are
20 entitled to premium pay which is one additional hour of compensation for each missed break.

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22 FIFTH CAUSE OF ACTION

23 Wage Statement Penalties

24 Against All Defendants

25 34. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

26 35. Defendants' wage statements issued to Plaintiff and the class members violated Labor Code
27 section 226 since they intentionally did not list the premium pay for missed breaks at the regular
28 rate and for work off the clock.

36. As a result, Plaintiff and the class members are entitled to wage statement penalties up to \$4,000 each and attorney fees.

SIXTH CAUSE OF ACTION

Waiting Time Penalties

Against All Defendants

37. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

38. Plaintiff and the class members who no longer work for Defendants were willfully not paid wages that were still owed after they stopped working for Defendants.

39. Therefore Plaintiff and the class members who no longer work for Defendants are owed waiting time penalties under Labor Code section 203, which are 30 days of wages.

SEVENTH CAUSE OF ACTION

Work Expenditure Violations

Against All Defendants

40. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

41. Plaintiff and the class members incurred work-related clothing expenses but were not reimbursed for the expenses.

42. Pursuant to Labor Code section 2802, Plaintiff and the class members are entitled to reimbursement of the expenses, and attorney fees.

EIGHTH CAUSE OF ACTION

Violation of Unfair Competition Law

Against All Defendants

43. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.

44. The Unfair Competition Law prohibits unfair, unlawful, and fraudulent business practices.

45. This claim is being brought under the unlawful prong of the UCL.

46. Defendants violated the Labor Code and IWC Wage Order by not paying all wages due,

including minimum wage, and overtime and premium pay at the correct regular rate.
47. Plaintiffs and the class members are entitled to restitution for the above.
48. Under Code of Civil Procedure section 1021.5, Plaintiff is entitled to attorney fees.

NINTH CAUSE OF ACTION

PAGA Penalties

Against All Parties

49. Plaintiff incorporates by reference paragraphs 1 to 13 of the complaint.
50. Pursuant to Labor Code section 2699, Plaintiff may seek PAGA penalties on behalf of herself and all aggrieved employees for the Labor Code violations.
51. The PAGA penalties for the minimum wage violations are contained in Labor Code 1197.1.
52. The PAGA penalties for the overtime violations are contained in Labor Code 558 & 2699.
53. The PAGA penalties for the meal break violations are contained in Labor Code 558.
54. The PAGA penalties for the rest break violations are contained in Labor Code 2699.
55. The PAGA penalties for the work expense violations are contained in Labor Code 2699.
56. The PAGA penalties for the wage statement violations are contained in Labor Code 2699.
57. The PAGA penalties for the waiting time violations are contained in Labor Code 2699.
58. Plaintiff is entitled to attorney fees and costs under Labor Code section 2699.

PRAYER

For All Causes of Action

1. That the court determine that this action may be maintained as a class action
2. That Plaintiffs serve as representatives of the class
3 That Counsel for Plaintiffs is appointed as class counsel

First Cause of Action

1. Payment of all unpaid wages
2. Interest

- 1 3. Attorney fees
2 4. Other relief the court deems proper
3

4 Second Cause of Action

- 5 1. Payment of overtime
6 2. Interest
7 3. Attorney fees
8 4. Other relief the court deems proper
9

10 Third Cause of Action

- 11 1. Premium pay at the correct regular rate of pay plus interest
12 2. Other relief the court deems proper
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14 Fourth Cause of Action

- 15 1. Premium pay at the correct regular rate of pay plus interest
16 2. Other relief the court deems proper
17

18 Fifth Cause of Action

- 19 1. Wage statement penalties
20 2. Attorney fees and costs
21 3. Other relief the court deems proper
22

23 Sixth Cause of Action

- 24 1. Waiting time penalties
25

26 Seventh Cause of Action

- 27 1. Reimbursement of work-related expenses
28 2. Attorney fees

- 1 Eighth Cause of Action
2 1. Restitution of unpaid wages and premium pay
3 2. Attorney fees
4 3. Other relief the court deems proper
5

- 6 Ninth Cause of Action
7 1. All applicable PAGA penalties
8 2. Attorney fees and costs
9 3. Other relief the court deems proper
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11 Date: November 5, 2023

FRONTIER LAW CENTER

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Adam Rose

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Adam Rose
Attorney for Plaintiff
Lashaunte Heads

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