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Superior Court of California,
County of Monterey
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By: Agnes Nazarian, Deputy

6 Attorneys for Plaintiff Ana Tapia, on behalf of herself and all “aggrieved employees” pursuant to
7 Labor Code § 2698 *et seq.*

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF MONTEREY**

10 ANA TAPIA, on behalf of herself and all
11 “aggrieved employees” pursuant to Labor
12 Code § 2698 *et seq.*,

13 Plaintiff,

14 v.

15 WELLPATH COMMUNITY CARE,
16 LLC, a Delaware limited liability company,
17 CALIFORNIA HEALTH AND
18 RECOVERY SOLUTIONS, P.C., a California
corporation, and DOES 1 through 10,
inclusive,

19 Defendants.

CASE NO: 23CV003594

**REPRESENTATIVE ACTION
COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201, 202, 226(a), 226.7, 227.3, 246, 510,
512, AND 1194 AND PURSUANT TO
LABOR CODE § 2699(a) FOR
VIOLATIONS OF LABOR CODE §§ 226.3
AND 558**

1 Plaintiff ANA TAPIA (“Plaintiff”), on behalf of herself and others as an “aggrieved
2 employee” under the Labor Code Private Attorneys General Act of 2004, complains of WELLPATH
3 COMMUNITY CARE, LLC, a Delaware limited liability company, CALIFORNIA HEALTH AND
4 RECOVERY SOLUTIONS, P.C., a California corporation, and any subsidiaries or affiliated
5 companies (hereinafter referred to as “Defendants”) as follows:

6 **I.**

7 **INTRODUCTION AND FACTUAL BACKGROUND**

8 1. This is a Representative Action, pursuant to Labor Code § 2698 *et seq.*, on behalf of
9 Plaintiff and other non-exempt California employees (“Aggrieved Employees”).

10 2. For at least one (1) year prior to the filing of this action and at least one (1) year prior
11 to the date Plaintiff began the process of exhausting the administrative requirements, pursuant to
12 Labor Code § 2698 *et seq.*, and continuing to the present (the “liability period”), Defendants have had
13 consistent policies of:

14 a. Failing to pay all minimum and overtime wages earned during the course of
15 employment to Plaintiff and other Aggrieved Employees, in violation of Labor Code §§ 510,
16 558, and 1194. Plaintiff and other Aggrieved Employees worked off-the-clock, without
17 compensation: they were not paid for time spent going through security and walking through
18 the work facility before being allowed to clock in and after being allowed to clock out;

19 b. Failing to properly compute bonuses, commission wages, and/or other non-
20 base hourly wages earned by her and other Aggrieved Employees into their regular rate of pay
21 for purposes of paying them meal and rest period premiums, overtime wages, vacation wages,
22 and sick pay wages at the correct rates, in violation of Labor Code §§ 226.7, 246, 510, 512,
23 558, and 1194. This deprived Plaintiff and other Aggrieved Employees of all meal and rest
24 period premiums, overtime wages, vacation wages, and sick pay wages earned. This violates
25 Labor Code §§ 226.7, 246, 510, 512, 558, and 1194;

26 c. Failing to pay premium wages to Plaintiff and other Aggrieved Employees who
27 were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order No. 4-
28

1 2001. Plaintiff and other Aggrieved Employees were routinely unable to take an off-duty 10-
2 minute rest period for every four (4) hours of work or major fraction thereof, but were not
3 paid premium wages of one hour's pay for each missed rest period. Plaintiff was simply denied
4 and not authorized to take her legally entitled rest periods and was never paid premium wages
5 for missed rest periods. And rest breaks taken were improperly on-duty. This violates Labor
6 Code § 226.7 and IWC Wage Order No. 4-2001;

7
8 d. Failing to pay premium wages to Plaintiff and other Aggrieved Employees who
9 were denied proper meal periods, in violation of Labor Code §§ 226.7, 510, 558, 1194 and
10 IWC Wage Order 4-2001. Plaintiff and other Aggrieved Employees were routinely denied,
11 and not authorized to take, a timely, uninterrupted, 30-minute meal period for every shift
12 worked that exceeded five hours, or a second timely, uninterrupted, 30-minute meal period
13 for every shift worked that exceeded ten hours, but were not paid premium wages of one
14 hour's pay for each missed first or second meal period. When Plaintiff and Aggrieved
15 Employees were able to take a meal period, they were oftentimes late, cut short, or they would
16 be required to work through them. This violates Labor Code §§ 226.7, 510, 512, 558, 1194,
17 and IWC Wage Order 4-2001;

18
19 e. Failing to provide Plaintiff and all other Aggrieved Employees with wage
20 statements that fully and accurately itemized the requirements set forth in Labor Code §
21 226(a). As Plaintiff and other Aggrieved Employees are not paid all wages due, as stated
22 above, the wage statements provided by Defendants fail to accurately state all gross wages
23 earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of
24 Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5)
25 and 226.3, and all applicable hourly rates in effect during the pay period and the corresponding
26 numbers of hours worked at each rate, in violation of Labor Code §§ 226(a)(9) and 226.3; and

27 f. Failing to pay Plaintiff and certain Aggrieved Employees all wages due,
28 including all accrued, but unused vacation wages, at the separation of their employment based

1 on the time frames required by Labor Code §§ 201-202 and 227.3. As stated above, Plaintiff
2 and Aggrieved Employees are not paid all wages due during the course of their employment
3 and, as a result of this failure, they are not timely paid all wages due at the separation of their
4 employment. Furthermore, when Plaintiff resigned her employment, she was not issued her
5 final wages within seventy-two (72) hours of her resignation—rather, Plaintiff was issued her
6 final wages a week later. Plaintiff alleges that Defendants maintain a policy to untimely pay
7 final wages to formerly employed Aggrieved Employees. This violates Labor Code §§ 201-
8 202 and is alleged on behalf of Plaintiff and Aggrieved Employees no longer employed by
9 Defendants.
10

11 3. Plaintiff, on behalf of herself and all Aggrieved Employees pursuant to Labor Code §
12 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

13 4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395
14 because Defendants employed Plaintiff in Monterey County, California.

15 III.

16 PARTIES

17 A. Plaintiff

18 5. Plaintiff ANA TAPIA was employed by Defendants in 2023 as a non-exempt
19 employee in Monterey County, California.

20 B. Defendant

21 6. Defendant WELLPATH COMMUNITY CARE, LLC is a Delaware limited liability
22 company that employed Plaintiff and Aggrieved Employees in Monterey County, California.

23 7. Defendant CALIFORNIA HEALTH AND RECOVERY SOLUTIONS, P.C., is a
24 California corporation that employed Plaintiff and Aggrieved Employees in Monterey County,
25 California.

26 8. The true names and capacities, whether individual, corporate, associate, or otherwise,
27 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who
28 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is

1 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
2 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
3 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
4 designated hereinafter as DOES when such identities become known.

5 9. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
6 in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme,
7 business plan or policy in all respects pertinent hereto, and the acts of each Defendants is legally
8 attributable to the other Defendants.

9 10. The Defendants named herein as DOE 1 through DOE 10 are and are persons acting
10 on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more
11 provisions of the California Labor Code as alleged herein.

12 IV.

13 CAUSES OF ACTION

14 FIRST CAUSE OF ACTION

15 PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS 16 CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF 17 LABOR CODE §§ 201, 202, 226(a), 226.7, 227.3, 246, 510, 512, AND 1194 AND PURSUANT 18 TO LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3 AND 558

19 11. Plaintiff incorporates paragraphs 1 through 10 of this Complaint as though fully set
20 forth herein.

21 12. As a result of the acts alleged above, including the Labor Code violations set forth in
22 paragraph 2 above, Plaintiff seeks civil penalties pursuant to Labor Code §§ 2698 *et seq.*

23 13. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to
24 civil penalties subject to the following formula:

- 25 a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for
26 each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 227.3,
27 246, 510, 512, and 1194; and
28

b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 226.3 and 558.

14. Civil penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

15. On August 25, 2023, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of August 25, 2023. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiff and the Aggrieved Employees she seeks to represent request relief as described below.

V.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other Aggrieved Employees;

2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1) and other applicable law;

3. An award of attorneys' fees pursuant to Labor Code §§ 2699(g)(1) and other applicable law; and

4. Such other and further relief as this Court may deem just and proper.

Dated: November 3, 2023

Respectfully submitted,

GAINES & GAINES
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