

Joseph Lavi, Esq. (SBN 209776)
Vincent C. Granberry, Esq. (SBN 276483)
Elizabeth L. Harrier, Esq. (SBN 319550)
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Boulevard, Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001
Email: jlavi@lelawfirm.com
vgranberry@lelawfirm.com
eharrier@lelawfirm.com
WHT1@lelawfirm.com

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23CV425687
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Attorneys for Plaintiff DAWN KNOWLES,
on behalf of herself and current and former aggrieved employees,

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

DAWN KNOWLES, on behalf of herself and
current and former aggrieved employees,

Plaintiff,

vs.

EL CAMINO HOSPITAL; and DOES 1 to 100,
inclusive,

Defendants.

Case No.: **23CV425687**

PAGA ACTION

**PLAINTIFF DAWN KNOWLES'S
COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff DAWN KNOWLES ("Plaintiff"), who alleges and complains
against Defendants EL CAMINO HOSPITAL; and DOES 1 to 100, inclusive (collectively
"Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, herself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for
accrued paid sick time at the regular rate of pay; failure to timely pay earned wages during

1 employment, failure to provide complete and accurate wage statements, failure to timely pay all
2 unpaid wages following separation of employment, failure to maintain temperatures providing
3 reasonable comfort, and failure to provide suitable seating. Plaintiff seeks on a representative
4 basis, following notice to the Labor and Workforce Development Agency, civil penalties,
5 reasonable attorneys' fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf
6 of Plaintiff, the State of California, and others aggrieved.

7 **II. JURISDICTION AND VENUE**

8 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
9 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
10 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
11 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
12 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
13 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
14 aggrieved California-based hourly non-exempt employees occurred in locations throughout
15 California, including but not limited to Santa Clara County, at 815 Pollard Road, Los Gatos,
16 California 95932.

17 3. In response to the COVID-19 pandemic, the Judicial Council of California enacted
18 Emergency Rule 9 to the California Rules of Court, which provided that, notwithstanding any
19 other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are
20 tolled from April 6, 2020, until October 1, 2020.

21 **III. PARTIES**

22 4. Plaintiff brings this action as a representative of the Labor and Workforce
23 Development Agency on behalf of herself and other current and former employees subject to
24 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
25 filed include current, former and/or future employees of Defendants who work, worked, or will
26 work for Defendants as direct employees as well as temporary employees employed through temp
27 agencies as hourly non-exempt employees in California. At all times mentioned herein, the
28 currently named Plaintiff is and was domiciled and a resident and citizen of California and was

1 employed by Defendants in an hourly position at Defendants' location in Los Gatos from
2 approximately February 6, 2023, until on or about May 17, 2023.

3 5. Plaintiff is informed and believes and thereon alleges that Defendant EL CAMINO
4 HOSPITAL is authorized to do business within the State of California and is doing business in the
5 State of California and/or that Defendants DOES 1-50 are, and at all times relevant hereto were
6 persons acting on behalf of Defendant EL CAMINO HOSPITAL in the establishment of, or
7 ratification of, the aforementioned illegal wage and hour practices or policies. Defendant EL
8 CAMINO HOSPITAL operates in Santa Clara County and employed Plaintiff and aggrieved
9 employees in Santa Clara County, including but not limited to, at 815 Pollard Road, Los Gatos,
10 California 95932.

11 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
12 through 50 are corporations, or are other business entities or organizations of a nature unknown to
13 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
14 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
15 working conditions of employment of Plaintiff and aggrieved employees.

16 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
17 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
18 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
19 supervisor, independent contractor and/or employee of each defendant who violated or caused to
20 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
21 the Industrial Welfare Commission's wage orders regulating hours and days of work.

22 8. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
23 sues said defendants by said fictitious names, and will amend this complaint when the true names
24 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
25 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
26 named defendants is in some manner responsible for the events and allegations set forth in this
27 complaint.

28 9. Plaintiff makes the allegations in this complaint without any admission that, as to

any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff reserves all of Plaintiff's right to plead in the alternative.

FIRST CAUSE OF ACTION

**CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF
2004, LABOR CODE SECTIONS 2698, ET SEQ.**

(Against all Defendants by Plaintiff)

10. Plaintiff incorporates all paragraphs above as though fully set forth herein.

11. During Plaintiff's employment and continuing through the present, Plaintiff alleges Defendants violated Labor Code sections 201, 202, 203, 204, 226, 246 and the applicable Wage Orders.

12. Specifically, Defendants have committed the following violations of California Labor Code:

13. **Failure to pay wages for accrued paid sick days at the regular rate of pay: Defendants had a policy and/or procedure where Plaintiff and other current and former aggrieved California-based hourly non-exempt employees accrued paid sick time.**

14. Labor Code section 246, subdivision (a), states in relevant part "[a]n employee who...works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days." Additionally, an employee accrues paid sick days at the rate of no-less-than one (1) hour per every thirty (30) hours worked, beginning at the commencement of employment. Labor Code section 246(b).

15. Here, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees were employed by Defendants for 30 or more days and were entitled to paid sick days. Also, Plaintiff and other current and former aggrieved California-based hourly non-exempt employees began accruing paid sick days since the beginning of each of their respective employment with Defendants.

16. Labor Code section 246, subdivision (l), provides that an employer shall calculate the paid sick time for non-exempt employees in the same manner as the regular rate of pay for the workweek in which the employee elected to use paid sick time. "The regular rate at which an

1 employee is employed shall be deemed to include all remuneration for employment paid to, or on
2 behalf, of the employee.” See Division of Labor Standards Enforcement – Enforcement Policies
3 and Interpretations Manual, Section 49.1.2.

4 17. In this case, Plaintiff alleges that when she and other current and former aggrieved
5 California-based hourly non-exempt employees elected to use paid sick time, Defendants failed to
6 pay them sick time wages at the proper sick time rate of pay due to Defendants’ failure to include
7 all remuneration when calculating the sick time rate of pay. Specifically, Defendants maintained a
8 policy, practice, and/or procedure of failing to include all remuneration including, but not limited
9 to, differential pay, for example, when calculating Plaintiff’s and other current and former
10 aggrieved California-based hourly non-exempt employees’ regular rate of pay for the purpose of
11 paying sick time.

12 18. Defendants’ foregoing policy, practice, and/or procedure resulted in Defendants
13 failing to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt
14 employees at their sick time regular rate of pay for all sick time accrued, in violation of Labor
15 Code section 246.

16 19. **Failure to timely pay earned wages during employment:** In California, wages
17 must be paid at least twice during each calendar month on days designated in advance by the
18 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
19 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
20 16th and the 26th day of that month and wages earned between the 16th and the last day,
21 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
22 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
23 paid within seven (7) calendar days following the close of the payroll period in which wages were
24 earned. Labor Code section 204(d).

25 20. As a derivative of Plaintiff’s claims above, Plaintiff alleges that Defendants failed
26 to timely pay Plaintiff’s and other current and former aggrieved California-based hourly non-
27 exempt employees’ earned wages (including sick pay at the regular rate of pay), in violation of
28 Labor Code section 204. Defendants’ aforementioned policies, practices, and/or procedures

1 resulted in their failure to pay Plaintiff's and other current and former aggrieved California-based
2 hourly non-exempt employees' their earned wages within the applicable time frames outlined in
3 Labor Code section 204.

4 21. **Failure to provide complete and accurate wage statements:** Labor Code section
5 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
6 employee his or her wages, the employer must "furnish each of his or her employees ... an
7 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
8 employee, except for any employee whose compensation is solely based on a salary and who is
9 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
10 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
11 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
12 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
13 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
14 name of the employee and his or her social security number, (8) the name and address of the legal
15 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
16 the corresponding number of hours worked at each hourly rate by the employee."

17 22. As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff
18 and other current and former aggrieved California-based hourly non-exempt employees all wages
19 earned (including sick pay at the regular rate of pay) rendered Plaintiff's and other current and
20 former aggrieved California-based hourly non-exempt employees' wage statements inaccurate, in
21 violation of Labor Code section 226.

22 23. **Failure to pay employees all wages due at time of termination/resignation:** An
23 employer is required to pay all unpaid wages timely after an employee's employment ends. The
24 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
25 hours of resignation (Labor Code section 202).

26 24. As a derivative of Plaintiff's allegations above, because Defendants failed to pay
27 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees
28 all their earned wages (including sick pay at the regular rate of pay), Defendants failed to pay

1 those employees timely after each employee's termination and/or resignation, in violation of
2 Labor Code sections 201, 202, and 203.

3 25. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
4 employee, on behalf of himself or herself and other current or former employees, to bring a civil
5 action to recover civil penalties against all Defendants pursuant to the procedures specified in
6 Labor Code section 2699.3.

7 26. Plaintiff has complied with the procedures for bringing suit specified in Labor
8 Code section 2699.3. On September 1, 2023, Plaintiff filed a PAGA Claim Notice with the LWDA
9 and provided notice to Defendants by certified mail which provided notice of the specific
10 provisions of the Labor Code alleged to have been violated, including the facts and theories to
11 support the violations alleged.

12 27. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
13 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
14 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
15 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
16 to investigate Plaintiff's claims.

17 28. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
18 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, and 246,
19 During Plaintiff's employment and continuing through the present, preceding Plaintiff sending the
20 initial PAGA Claim Notice to the LWDA to the present, in the following amounts:

21 a. For violations of Labor Code sections 201, 202, 203, and 204; one hundred
22 dollars (\$100) for each aggrieved employee per pay period for the initial violation and two
23 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation
24 [penalty amounts established by Labor Code section 2699(f)(2)].

25 b. For violations of Labor Code section 226, two hundred fifty dollars (\$250)
26 for each employee for each pay period for the initial violation, and for each subsequent violation,
27 one thousand dollars (\$1000) for each underpaid employee for each pay period [penalty amounts
28 established by Labor Code section 226.3].

29. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of reasonable attorneys' fees and costs in connection with her claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF, ON BEHALF OF HERSELF AND ON OTHER AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:

ON THE FIRST CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

2. For any and all legally applicable penalties during the relevant statute of limitations subject to any permissible tolling, including but not limited to those recoverable under the California Labor Code, including but not limited to section 2699(f);

3. For attorneys' fees and costs of suit, including but not limited to those recoverable under California Labor Code section 2699(g); and

4. For such and other further relief, in law and/or equity, as the Court deems just or appropriate

Dated: November 9, 2023

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

By:



Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Elizabeth L. Harrier, Esq.
Attorneys for Plaintiff
DAWN KNOWLES
on behalf of herself and current and former aggrieved employees