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Attorneys for Plaintiff and the Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN**

VERONICA CORREIA, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

OMNI FAMILY HEALTH, a California non-
profit corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.BCV-24-100740

**REPRESENTATIVE ACTION COMPLAINT
FOR VIOLATION OF LABOR CODE § 2698,
ET SEQ., THE PRIVATE ATTORNEYS
GENERAL ACT**

DEMAND OVER \$25,000.00

1 On behalf of herself and other similarly situated current and former employees, Plaintiff
2 Veronica Correia (“Plaintiff”) submits this Representative Action Complaint against Defendant Omni
3 Family Health (“Defendant”), and Does 1 through 50 (collectively, “Defendants”).

4 INTRODUCTION

5 1. This representative action concerns systemic employment practices that violate the
6 California Labor Code. The Complaint seeks penalties, damages, and other relief pursuant to Labor
7 Code sections 201, 202, 203, 226(a), 246, 510, 558, 1194, 1197, 1197.1 and 2698 *et. seq.*

8 2. Plaintiff is informed and believes, and based thereon alleges, that Defendants, jointly and
9 severally, have acted intentionally and with deliberate indifference and conscious disregard to the rights
10 of all employees by: (a) failing to pay overtime wages at the correct regular rate of pay, in violation of
11 Labor Code sections 510, 558, 1194, 1197, and 1197.1; (b) failing to pay sick pay wages at the correct
12 regular rate of pay, in violation of Labor Code sections 201, 202, 203 and 246; (c) failing to pay
13 employees all earned wages at separation of employment due to the underpayment of overtime and/or
14 sick pay wages, in violation of Labor Code sections 201, 202, 203; and (d) failing to provide accurate
15 itemized wage statements, in violation of Labor Code section 226.

16 3. Plaintiff is informed and believes that Defendants have engaged in, among other things, a
17 system of willful violations of the Labor Code by creating and maintaining policies, practices, and
18 customs that knowingly deny its employees the above stated rights and benefits.

19 JURISDICTION AND VENUE

20 4. The Court has jurisdiction over the violations of the California Labor Code sections 201,
21 202, 203, 226(a), 246, 510, 558, 1194, 1197, 1197.1 and 2698 *et. seq.*, and the applicable Wage Orders.

22 5. Venue is proper in Kern County because Defendant maintains operations in Bakersfield,
23 California.

24 PARTIES

25 6. Plaintiff was employed by Defendant as a medical assistant during the approximate
26 period of January 23, 2021 to or about July 7, 2023. Throughout her employment Plaintiff worked as an
27 hourly, non-exempt employee.

28 7. Plaintiff was and is the victim of the policies, practices, and customs of Defendant

1 complained of in this action in ways that have deprived her of the rights guaranteed by California Labor
2 Code sections 201, 202, 203, 226(a), 246, 510, 558, 1194, 1197, 1197.1 and 2698 *et. seq.*, and the
3 applicable Wage Orders.

4 8. Plaintiff is informed and believes, and based thereon alleges, that Defendant Omni
5 Family Health was and is a California non-profit corporation that provides medical services in the State
6 of California, including in Kern County, California.

7 9. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
8 mentioned Does 1 through 50, are and were corporations, business entities, individuals, and partnerships,
9 licensed to do business and actually doing business in the State of California. As such and based upon all
10 the facts and circumstances incident to Defendants' business, Defendants are subject to the California
11 Labor Code and the IWC Wage Orders.

12 10. Plaintiff does not know the true names or capacities, whether individual, partner or
13 corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason, said
14 defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this Complaint
15 when the true names and capacities are known. Plaintiff is informed and believes and based thereon
16 alleges that each of said fictitious defendants was responsible in some way for the matters alleged herein
17 and proximately caused Plaintiff and aggrieved employees to be subject to the illegal employment
18 practices, wrongs and injuries complained of herein.

19 11. At all times herein mentioned, each of said Defendants participated in the doing of the
20 acts hereinafter alleged to have been done by the named Defendant; and furthermore, Defendants, and
21 each of them, were the agents, servants, and employees of each of the other defendants, as well as the
22 agents of all Defendants, and at all times herein mentioned, were acting within the course and scope of
23 said agency and employment.

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

ratified said acts, conduct, and omissions of the acting Defendants.

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

14. At all times herein mentioned, the acts and omissions of various Defendants, and each of them, concurred and contributed to the various acts and omissions of each and all of the other Defendants in proximately causing the injuries and damages as herein alleged. At all times herein mentioned, Defendants, and each of them, ratified each and every act or omission complained of herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing the damages as herein alleged.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE § 2698, *ET SEQ.*

(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)

15. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

16. Plaintiff brings this cause of action as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees in the State of California from October 26, 2022, through the present, for Defendant's violations of the Labor Code, arising from Defendant's policy and practice of: (a) failing to pay overtime wages at the correct regular rate of pay, in violation of Labor Code sections 510, 558, 1194, 1197, and 1197.1; (b) failing to pay sick pay wages at the correct regular rate of pay, in violation of Labor Code sections 201, 202, 203 and 246; (c) failing to pay employees all earned wages at separation of employment due to the underpayment of overtime and/or sick pay wages, in violation of Labor Code sections 201, 202, 203; and (d) failing to provide accurate itemized wage statements, in violation of Labor Code section 226.

17. As a pattern and practice, Defendant paid Plaintiff and Aggrieved Employees overtime wages based on the incorrect regular rate of pay. During workweeks when employees worked overtime and earned non-discretionary incentive pay, Defendant failed to properly calculate the regular rate of pay for purposes of paying overtime. Specifically, Defendant failed to incorporate the non-discretionary

1 incentives into the calculation of the regular rate of pay. As a result of such policy and practice,
2 Defendant underpaid overtime wages to Plaintiff and Aggrieved Employees and thus owe additional
3 overtime wages.

4 18. Relatedly, whenever Defendant paid Plaintiff and Aggrieved Employees sick pay
5 pursuant to California Labor Code section 246, Defendant did so at the incorrect rate of pay. Plaintiff
6 and Aggrieved Employees earned non-discretionary incentive compensation, thereby increasing their
7 regular rates of pay to amounts that were higher than their base rates of pay. However, whenever sick
8 pay was paid to Plaintiff and Aggrieved Employees, it was paid only at their base rates of pay, rather
9 than the higher regular rates of pay, as required under Labor Code section 246.

10 19. Plaintiff and Aggrieved Employees were paid hourly. As such, the wage statements
11 should have reflected all hours worked, the applicable hourly rates of pay for all payments and gross and
12 net wages earned, pursuant to Labor Code section 226(a). However, the wage statements provided to
13 Plaintiff and Aggrieved Employees failed to identify such information. More specifically, as a result of
14 the underpayment and/or nonpayment of overtime wages, the wage statements issued to Plaintiff and
15 Aggrieved Employees failed to identify the correct gross wages earned, net wages earned, and correct
16 hourly rates of pay, in violation of Labor Code section 226(a).

17 20. On or about October 26, 2023, Plaintiff sent written notice to the California Labor &
18 Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code sections 201,
19 202, 203, 226(a), 246, 510, 558, 1194, 1197 and 1197.1, pursuant to the PAGA. In addition to the
20 LWDA, Plaintiff also sent her notice to Defendant via certified mail pursuant to Labor Code § 2699.3.

21 21. As of the date of the filing of this Complaint, the LWDA has not responded to Plaintiff's
22 written notice nor indicated that it intends to investigate the Labor Code violations provided for in the
23 written notice.

24 22. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
25 applicable civil penalties for Defendant's violations of Labor Code sections 201, 202, 203, 226(a), 246,
26 510, 558, 1194, 1197 and 1197.1 for the time period described above, on behalf of herself and other
27 Aggrieved Employees.

1 **PRAYER FOR RELIEF**

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

- 4 1. Upon the First Cause of Action, for the full amount of penalties pursuant to California
5 Labor Code 201, 202, 203, 226(a), 246, 510, 558, 1194, 1197, 1197.1 and 2698, *et seq.*,
6 and for costs and attorneys' fees;
- 7 2. For such other and further relief that the Court may deem just and proper.

8
9 DATED: March 1, 2024

DIVERSITY LAW GROUP, P.C.

10 By: _____

11 Larry W. Lee
12 Kristen M. Agnew
13 Nick Rosenthal

14 Attorneys for Plaintiff and the Aggrieved Employees
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