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Superior Court of California,
County of Placer

01/31/2024 at 11:01:57 AM

By: Breanne E Sanders
Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF PLACER**

MISTY BECK, SARAH CHRISTIAN, as
aggrieved employees pursuant to the
Private Attorneys General Act (PAGA),

Plaintiffs,

vs.

UCP OF SACRAMENTO AND
NORTHERN CALIFORNIA; and DOES
1 to 20, inclusive,

Defendants

Case No. S-CV-0052082

COMPLAINT:

**1. Civil Penalties Pursuant to Private
Attorney General Act, Labor Code §
2698 et seq.**

1 Plaintiffs MISTY BECK and SARAH CHRISTIAN (“Plaintiffs”) hereby file this
2 Complaint against Defendant UCP OF SACRAMENTO AND NORTHERN CALIFORNIA, and
3 DOES 1 to 20, inclusive, (hereinafter collectively referred to as “Defendants”). Plaintiffs allege
4 the following:

5 **PARTIES AND JURISDICTION**

6 1. This is an enforcement action under the Labor Code Private Attorneys General Act of
7 2004 (“PAGA”), California Labor Code section 2698, *et seq.* to recover civil penalties and any other
8 available relief on behalf of Plaintiffs, the State of California, and other current and former
9 employees who worked for Defendants in California and who suffered at least one violation of the
10 Labor Code as set forth in this complaint, at any time between January 17, 2023, and judgement.

11 2. Plaintiff MISTY BECK is an individual over the age of eighteen (18) and is now and/or
12 at all times mentioned in this Complaint was a resident of the State of California.

13 1. Plaintiff SARAH CHRISTIAN is an individual over the age of eighteen (18) and is now
14 and/or at all times mentioned in this Complaint was a resident of the State of California.

15 2. Plaintiffs worked as respite care workers for Defendants, providing services as a non-
16 exempt employee in California.

17 3. Plaintiff are informed and believe, and thereon allege, that Defendant UCP OF
18 SACRAMENTO AND NORTHERN CALIFORNIA is a California Corporation with its principal
19 place of business in Sacramento, California.

20 4. Plaintiffs are further informed and believe, and thereon allege, that each of the
21 Defendants herein was, at all times relevant to this action, the agent, employee, or joint employer or
22 joint venturer of the remaining defendants and was acting within the course and scope of that
23 relationship. Plaintiffs are further informed and believe, and thereon allege, that each of the
24 Defendants herein gave consent to, ratified and authorized the acts alleged herein to each of the
25 remaining defendants. The true names and capacities of the defendants named herein Does 1 through
26 20, inclusive, whether individual, corporate, associate, or otherwise are unknown to Plaintiffs, who
27 therefore sue such defendants by fictitious names pursuant to California Code of Civil Procedure
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1 section 474. Plaintiffs will amend this complaint to show such true names and capacities of Does 1
2 through 20, inclusive, when they have been determined.

3 5. The Placer County Superior Court has jurisdiction in this matter under the California
4 Constitution, Article VI, section 10. The statute under which this action is brought does not specify
5 any other basis for jurisdiction.

6 6. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that some of
7 the wrongful acts and violations of law asserted herein occurred within Placer County.

8 7. On January 17, 2024, Plaintiffs filed their Labor Code § 2699.3 Private Attorney General
9 Act (“PAGA”) notice with the California Labor & Workforce Development Agency (“LWDA”). If
10 the LWDA does not inform Plaintiffs that it intends to investigate Plaintiffs’ PAGA claims within
11 the statutory period, Plaintiffs may proceed in this Court to collect civil penalties.

12 **BACKGROUND**

13 8. Plaintiffs worked as non-exempt respite workers providing in-home care services to
14 Defendant’s clients. Plaintiffs received an hourly wage plus incentives when working specific types
15 of tasks. Similarly situated employees include all non-exempt employees working for Defendant in
16 California.

17 9. Defendant did not allow Plaintiffs and similarly situated employees to take their
18 statutorily required meal and rest periods. Defendant failed to provide Plaintiffs and other similarly
19 situated employees a 30-minute, duty-free meal period before the end of the fifth hour of work as
20 required under the law. Defendant also failed to provide a second meal period to Plaintiffs and
21 similarly situated employees who work ten hours or more in a given shift. Plaintiffs and similarly
22 situated employees regularly missed their meal and rest periods and/ or they were provided late. In
23 the event a meal period was provided, it was often interrupted or cut short.

24 10. Defendant also failed to provide rest periods to Plaintiffs and similarly situated
25 employees for every 4 hours worked or major fraction thereof. Defendant’s management staff were
26 aware this was occurring and did not ensure meal and/ or rest periods were provided to Plaintiffs and
27 similarly situated employees in compliance with California law. Defendant also failed to pay
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1 Plaintiffs and similarly situated employees the statutorily-required missed meal period or missed rest
2 period premiums when these breaks were not provided.

3 11. Defendant also failed to pay Plaintiffs and similarly situated employees all travel time
4 pay. Plaintiffs and similarly situated employees traveled between Defendant's offices and clients'
5 homes in order to provide care. Defendant failed to provide Plaintiffs and similarly-situated
6 employees all travel time pay for this time, instead paying an estimate of travel time.

7 12. Additionally, Defendant required Plaintiffs and similarly situated employees to answer
8 emails and engage in administrative work such as scheduling clients while not clocked in. Plaintiffs
9 and similarly scheduled employees were required to respond to emails during non-working time,
10 including while on vacation. If they failed to regularly check and respond to emails, they were
11 threatened with disciplinary action, including suspension. Plaintiffs and similarly situated
12 employees were not paid for this work performed off the clock.

13 13. These practices of Defendant have also resulted in unpaid minimum and overtime wages.
14 In addition, Defendant failed to pay overtime pay to Plaintiffs and similarly situated employees at
15 the correct regular rate of pay by failing to include all non-discretionary forms of pay, including but
16 not limited to incentive pay rates for providing care to more than one client in a home, into the
17 regular rate calculation. Plaintiffs and similarly aggrieved employees regularly worked over eight
18 (8) hours a day and/or forty (40) hours a week. However, as described, Defendant did not pay these
19 employees all overtime and double time wages earned during their employment by failing to
20 properly calculate the regular rate of pay. In addition, Plaintiffs and similarly situated employees
21 were not paid overtime (or double time if applicable) if scheduled work sessions exceeded the time
22 scheduled, causing Plaintiffs and similarly situated employees to work over 8 hours in a day or 40 in
23 a week.

24 14. Additionally, Defendant failed to reimburse Plaintiffs and similarly aggrieved employees
25 for all mileage when using their personal vehicles to travel to client's homes to provide services.
26 Plaintiffs and similarly situated employees were also required to use their personal cell phones for
27 work purposes, including clocking in and out, and to receive phone calls from Defendant and
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1 Defendant's clients. Defendant failed to reimburse Plaintiffs and similarly situated employees for
2 this business use of their personal cell phones.

3 15. As a result, Defendants did not provide Plaintiffs and similarly situated employees legally
4 compliant wage statements noting, among other things, total hours worked, gross wages earned, the
5 applicable hourly rates in effect during the pay period and the corresponding number of hours
6 worked at each hourly rate. Defendant also did not provide Plaintiffs and similarly situated
7 aggrieved employees all wages owed upon their termination or within seventy-two (72) hours of
8 their separation from employment.

9 16. Plaintiffs are informed and believe that Defendant committed other violations of the
10 California Labor Code, including but not limited to those identified in this letter. Pursuant to *Huff v.*
11 *Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745 (2018), Plaintiffs intend to seek civil penalties
12 for all violations of the California Labor Code, whether they experienced them personally or not.

13 17. Upon information and belief, all transactions regarding hiring, terminations, promotions,
14 pay increases, etc. relating to Defendant's California employees were submitted to and processed by
15 Defendant's HR department in its corporate headquarters. Additionally, on information and belief,
16 Defendants' corporate records, in particular HR and pay records pertaining to Defendant's California
17 employees, are also maintained at Defendant's corporate headquarters.

18 18. Upon information and belief, Defendant maintains a central Payroll department at its
19 corporate headquarters, which processes payroll for all Defendant's employees, including Plaintiffs
20 and similarly situated, aggrieved employees.

21 19. At all times herein set forth, PAGA provides that any provision of law under the Labor
22 Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and collected
23 by the LWDA for violations of the California Labor Code and applicable IWC Wage Order may, as
24 an alternative, be recovered by aggrieved employees in a civil action brought on behalf of
25 themselves and other current or former employees pursuant to procedures outlined in California
26 Labor Code section 2699.3.
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20. PAGA defines an aggrieved employee in Labor Code section 2699(c) as “any person who was employed by the alleged violator and against whom one or more of the alleged violation was committed.”

21. Plaintiffs and other current and former employees of Defendant are aggrieved employees as defined by the Labor Code in that they are all Defendant's current or former employees and one or more of the alleged violations was committed against them and each of them.

FIRST CAUSE OF ACTION
CIVIL PENALTIES PURSUANT TO PAGA § 2698 ET SEQ.

22. Plaintiffs incorporates by reference and re-alleges the paragraphs above as though fully set forth herein.

23. Plaintiffs bring this cause of action as proxies for the State of California and in this capacity, seek penalties on behalf of all Aggrieved Employees for Defendant's violations of the California Labor Code, including but not necessarily limited to, those Labor Code and Wage Order violations identified above.

24. On January 17, 2024, Plaintiffs, through counsel, sent written notice to the LWDA regarding Defendant's violations of the California Labor Code, pursuant to Labor Code section 2698, *et seq.*, PAGA. If the LWDA does not inform Plaintiff that it intends to investigate Plaintiff's PAGA claims within the statutory period, Plaintiff may proceed in this Court to collect civil penalties.

25. Plaintiffs are thus entitled to recover civil penalties on behalf of the State of California and all aggrieved employees for all violations of the Labor Code from January 17, 2023, through trial on this matter.

26. Defendant's conduct, as alleged herein, violated various sections of the California labor Code, including but not limited to, the following:

27. Labor Code section 226 requires employers to furnish to employees with “an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the

1 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on
2 written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6)
3 the inclusive dates of the period for which the employee is paid, (7) the name of the employee and
4 only the last four digits of his or her social security number or an employee identification number
5 other than a social security number, (8) the name and address of the legal entity that is the employer .
6 . . and (9) all applicable hourly rates in effect during the pay period and the corresponding number
7 of hours worked at each hourly rate by the employee . . .” For the reasons stated above, Defendant
8 failed to comply with these requirements with respect to Plaintiffs and similarly situated employees
9 in violation of the Labor Code.

10 28. Labor Code sections 510 and 1194 require employers to pay employees overtime for any
11 work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any
12 one workweek. Employers must also pay overtime for the first eight (8) hours worked on the
13 seventh day of work in any one workweek. Finally, employers must pay double time for all hours
14 worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8)
15 hours on the seventh day of work in any one workweek. As stated above, Plaintiff and similarly
16 situated employees worked over eight (8) hours per day and forty (40) hours per week and were not
17 paid correct overtime wages. Plaintiffs and all similarly situated employees are entitled to recover
18 all unpaid overtime wages. Failure to pay such wages is against the law.

19 29. Labor Code sections 201–203 require that all wages be paid to employees upon
20 separation and/or termination of employment. Here, for the reasons stated above, Defendant’s
21 employees did not receive all final wages due and owing to them at the time of termination or
22 seventy-two (72) hours thereafter as required by Labor Code sections 201–203. This is in violation
23 of the Labor Code.

24 30. Labor Code section 226.7 and IWC Wage Order No. 15-2001, section 11(A) require
25 employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked. For
26 the reasons stated above, Plaintiffs and similarly situated employees were not authorized and
27 permitted to take legally compliant meal periods pursuant to California law.
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31. Labor Code section 226.7 and IWC Wage Order No. 15-2001, section 12(A) require employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or major fraction thereof worked. For the reasons stated above, Plaintiffs and similarly situated employees were not authorized and permitted to take legally compliant rest periods pursuant to California law in violation of the Labor Code. Defendants also failed to pay rest period premiums for their failure to provide rest periods.

32. During the period Plaintiffs and similarly situated employees were employed by Defendant they were entitled to be paid at least the State's minimum wage rate for each hour that they worked. *See, e.g.*, IWC Wage Order MW-2014, MW-2017; IWC Wage Order No. 15-2001, section (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendant did not pay Plaintiffs and similarly situated employees at least minimum wage for all hours worked. Thus, Plaintiffs and similarly situated employees were not paid at least the applicable state minimum wage for all hours worked in violation of the Labor Code.

33. Labor Code section 1174(d) requires employers to keep “payroll records showing the hours worked daily by and the wages paid to . . . employees . . . These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years.” Defendant did not keep accurate information regarding all hours worked by Plaintiffs and similarly situated employees, largely by failing to accurately record all time worked on their time records. This was in violation of the Labor Code.

34. Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal. Rptr. 3d 502, 513 (2018), Plaintiffs seek civil penalties on behalf of the State of California and all aggrieved employees for all violations of the California Labor Code, whether they experienced them personally or not.

DAMAGES

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

1. For civil penalties under the California Labor Code according to proof allowed by law;
2. For an award to Plaintiffs of costs of suit incurred herein and reasonable attorney's

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fees;

3. For an award of prejudgment and post-judgment interest; and

4. For an award to Plaintiffs of such other and further relief as the Court deems just and proper.

Dated: January 30, 2024

Castle Law: California Employment Counsel, PC

By: 

Timothy B. Del Castillo
Kent L. Bradbury
Attorneys for Plaintiffs MISTY BECK and
SARAH CHRISTIAN