

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION

MAY 10 2024

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BY *[Signature]*
SYLVIA C. GARCIA, DEPUTY

Attorneys for Plaintiff,
HANAKA HENRY on behalf of
herself, all aggrieved employees, and the State
of California as a Private Attorneys General

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

HANAKA HENRY, individuals, on behalf of
herself, all aggrieved employees, and the State
of California as a Private Attorneys General,

Case No.:

CIV SB 2414272

Plaintiff,

vs.

REPRESENTATIVE ACTION

SPRING VALLEY POST ACUTE LLC, a
California limited liability company, and
DOES 1-50, inclusive,

**Violation of the Private Attorneys General
Act of 2004, Cal. Labor Code §2698 et seq.**

Defendant.

Plaintiff HANAKA HENRY brings this PAGA representative action complaint on behalf
of herself, all aggrieved employees, and the State of California as a Private Attorneys General, and
alleges as follows:

NATURE OF THE ACTION

1. Plaintiff HANAKA HENRY worked as an employee for Defendant SPRING VALLEY
POST ACUTE LLC and Does 1-50 (collectively "Defendant"). Defendant operates acute care

1 facilities employing over 50 aggrieved employees. Plaintiff HANAKA HENRY worked for
2 Defendant during the statutory period, earning minimum wage. Plaintiff brings this action pursuant
3 to the Private Attorneys General Act of 2004 (“PAGA”), Cal. Labor Code §2698 *et seq.*, on a
4 representative basis. All current and former hourly, nonexempt employees of Defendant within
5 one year of serving notice on the LWDA to the present are aggrieved employees.

6 2. Defendant failed to comply with California Labor Code requirements due to erroneous,
7 willful and intentional employment practices and policies. Plaintiff brings this representative
8 action on behalf of herself, all other similarly situated aggrieved employees, and the State of
9 California, based upon the claims articulated below. Plaintiff provided notice of her claims
10 pursuant to §2698 *et seq.*, to the Labor and Workforce and Development Agency (“LWDA”) as
11 illustrated by the attached Exhibit, the content of which is expressly incorporated herein. The
12 LWDA has not provided any notice to Plaintiff following the exhaustion of the 65-day notice
13 period required by 2699.3(a)(2)(B). Accordingly, Plaintiff now brings this Complaint for civil
14 penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.*

15 3. Defendant has had a consistent policy and/or practice of: (1) failing to pay for all hours
16 worked, including overtime hours worked; (2) failing to pay all wages owed twice per month; (3)
17 failing to pay wages due upon termination; (4) failing to provide rest breaks; (5) failing to provide
18 uninterrupted meal breaks; (6) failing to reimburse for required business expenses; (7) failing to
19 provide accurate itemized wage statements. Defendant is therefore liable for civil penalties under
20 the Cal. Labor Code, including the Private Attorney General Act (“PAGA”), Labor Code §2698
21 *et seq.*, as described more fully herein.

22 4. Plaintiff alleges that Defendant has violated numerous California Labor Code
23 provisions, including but not limited to sections 201-203, 204, 208, 210, 216, 221-223, 226, 226.2,
24 226.7, 245-248.6, 432, 432.5, 432.6, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197,
25 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and applicable Wage Orders.

1 **THE PARTIES**

2 5. Plaintiff HANAKA HENRY is a resident of the State of California and worked for
3 Defendant during the statutory period until February 9, 2023, in Defendant's Victorville,
4 California, facility.

5 6. Defendant SPRING VALLEY POST ACUTE LLC is a California limited liability
6 company authorized to do business and doing business in California with the capacity to sue and
7 to be sued, and doing business, in the county of San Bernardino, State of California.

8 7. Plaintiff is unaware of the true names, capacities, relationships, and extent of
9 participation in the conduct alleged herein, of the Defendant sued as DOES 1 through 50, but is
10 informed and believes and thereon alleges that said Defendant is legally responsible for the
11 wrongful conduct alleged herein and therefore sues Defendant by such fictitious names, Plaintiff
12 will amend this complaint when their true names and capabilities are ascertained.

13 8. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or
14 indirectly, or through agents or other persons, employed Plaintiff and other aggrieved employees
15 of the representative class, and exercised control over their wages, hours, and working conditions.
16 Plaintiff is informed and believes and thereon alleges that each Defendant acted in all respects
17 pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business
18 plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable
19 to the other Defendants.

20 **JURISDICTION AND VENUE**

21 9. Venue is proper in this judicial district because Defendant conducts business in this
22 county and each Defendant has legal obligations to Plaintiff and many of the aggrieved employees
23 in this case that arose in this county.

24 10. The statutory penalties sought by Plaintiff exceed the minimal jurisdictional limits of
25 the Superior Court and will be established according to proof at trial. Based on information,
26 investigation and analysis, Plaintiff alleges that the amount in controversy, including claims for
27 monetary damages, penalties and attorney's fees is more than twenty-five thousand dollars
28 (\$25,000).

1 11. The California Superior Court has jurisdiction in this matter because Plaintiff is a
2 resident of California and Defendant is qualified to do business in California and regularly conduct
3 business in California. Further, there is no federal question at issue as the claims herein are based
4 solely on California law.

5 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

6 12. During the relevant time-period, Defendant committed various violations of the
7 California Labor Code as alleged below in more detail. Defendant enforces multiple policies that
8 violate state law, which are intended to increase profits to the detriment of aggrieved employees.

9 13. This representative action represents over one hundred current and former aggrieved
10 employees.

11 14. For at least one (1) year prior to the date of service notice on the LWDA, and continuing
12 to the present, Defendant engaged in unlawful employment practices that resulted in violations of
13 numerous Labor Code sections, as set forth more fully below.

14 15. Plaintiff and all current and former hourly, nonexempt employees within one year of
15 filing this action to the present are aggrieved employees within the meaning of Labor Code 2699,
16 *et seq.* (See Labor code §2699(c).)

17 16. Defendant, and each of them, have committed the following violations of the California
18 Labor Code:

19 **Failure to Pay For All Hours Worked, Including Overtime Hours Worked**

20 (Cal. Labor Code §§218, 246, 510, 558, 1194, 1197, 1198, 1199, 2698 *et seq.*, Wage Order 5)

21 17. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
22 incorporate said paragraphs herein by reference.

23 18. Off the Clock Hours Worked and Unpaid Overtime. Section 2(K) of Wage Order 5
24 defines “hours worked” as “the time during which an employee is subject to the control of an
25 including all the time the employee is suffered or permitted to work, whether or not required to do
26 so.”

27 19. Defendant would require Plaintiff and her coworkers to work off the clock after
28 clocking out in order to complete all assigned tasks but would not permit employees to remain on

1 the clock and earn overtime compensation. Plaintiff and aggrieved employees were also frequently
2 interrupted with work during their unpaid meal periods. Defendant also failed to pay overtime,
3 sick wages and the required regular rate of pay.

4 20. Failure to Pay Wages- Required Minimum Wage. Defendant failed to pay Plaintiff and
5 aggrieved employees for all hours worked as a result of Defendant's practice of requiring off the
6 clock work before and after shifts and during meal breaks. Based on Defendant's unlawful conduct
7 described above, and because Plaintiff and the aggrieved employees were paid at or near minimum
8 wage, Defendant's failure to pay for all hours worked, including overtime, resulted in a payment
9 of less than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1,
10 1199 and Wage Order 5-2001 4(B). Defendant is liable for civil penalties pursuant to Labor Code
11 §§558 and 2698 *et seq.*

12 **Failure to Pay All Wages Owed Twice Per Month**

13 (Cal. Lab. Code §§204, 210, and 2698 *et seq.*)

14 21. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
15 incorporate said paragraphs herein by reference.

16 22. Defendant was required to pay Plaintiff and aggrieved employees all wages earned
17 twice during each calendar month pursuant to Labor Code §204(a). Defendant failed to pay all
18 wages earned to employees as a result of the unlawful employment policies and practices discussed
19 herein. As a result of these practices, Plaintiff and aggrieved employees were underpaid for hours
20 worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay
21 all wages owed twice per month. Due to these failures, Defendant is liable under Labor Code §204,
22 210 and 2698 *et seq.* for failure to pay wages as required by law.

23 **Failure to Pay Wages Due Upon Termination**

24 (Cal. Lab. Code §§201, 202, 203, 256 and 2698 *et seq.*)

25 23. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
26 incorporate said paragraphs herein by reference.

27 24. An employee who is discharged must be paid all of his or her wages, including vacation
28 wages, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set forth

1 above, Defendant knowingly and willfully failed to pay all compensation due and owing to
2 Plaintiff at the time employment terminated. Defendant willfully failed to pay employees who are
3 no longer employed by it all compensation due upon termination of employment as required by
4 Cal. Lab. Code §§201 and 202. Plaintiff and similarly situated individuals are now entitled to
5 recover up to thirty (30) days of pay as waiting time under the terms of §203. Moreover, Defendant
6 is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. Seq.*

7 **Failure to Provide Rest Breaks**

8 (Cal. Lab. Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*)

9 25. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
10 incorporate said paragraphs herein by reference.

11 26. Defendant has failed to maintain a compliant rest period policy and practice that
12 provides its employees with off-duty rest periods as required by California law.

13 27. Plaintiff reports that she and her co-workers frequently missed rest periods as a result
14 of Defendant's staffing and business practices, requiring that they work straight through their
15 shifts.

16 28. Rest periods were either less than ten minutes, not provided, interrupted or late, "on
17 duty", or not scheduled before and after a meal period for shifts greater than six hours, as
18 prescribed by California law because Defendant: (1) did not account for all hours worked that were
19 unaccounted for on their timecard; (2) did not adequately inform and train employees about their
20 rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not adequately
21 inform and train employees about when, where and how to take timely and uninterrupted ten-
22 minute rest breaks; (4) because Defendant did not staff enough people to schedule all timely and
23 uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting
24 all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest
25 break policy.

26 29. Defendant chronically understaffed its facilities, failing to schedule a sufficient number
27 of employees to allow Plaintiff and her coworkers to take rest breaks. Paying only minimum wage,
28 for a small cost Defendant could have provided sufficient relief workers but chose instead to

1 require employees to forego their breaks, not permitting them to leave or take a much needed break
2 from their duties.

3 30. Defendant did not authorize or permit all of its hourly employees to take at least a ten
4 minute rest period in which they were relieved of all duties, for every 4 hours of work, or major
5 fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Order. When breaks
6 were missed Defendant failed to pay the 1-hour penalty, as required at the regular rate of pay.
7 Because Defendant violated the Wage Order, Defendant is liable under Labor Code §1198. As a
8 result of these violations, Defendant is liable for civil penalties pursuant to Cal. Labor Code §2698
9 *et. Seq.*

10 **Failure to Provide Uninterrupted Meal Breaks**

11 (Cal. Lab. Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*)

12 31. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
13 incorporate said paragraphs herein by reference.

14 32. During Plaintiff's employment, Defendant failed to maintain a compliant meal period
15 policy and practice. Defendant failed to provide all of its hourly employees with their right to take
16 an off-duty unpaid 30-minute meal period. Labor Code §512 provides, "[a]n employer may not
17 employ an employee for a work period of more than five hours per day without providing the
18 employee with a meal period of not less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o
19 employer shall require an employee to work during any meal... period mandated by an applicable
20 order of the Industrial Welfare Commission." Paragraph 11(A) of the Wage Orders provides, in
21 pertinent part, "[u]nless an employee is relieved of all duty during a 30-minute meal period, the
22 meal period shall be considered an 'on duty' meal period and counted as time worked." Labor
23 Code 1198 states that any violation of a wage order is a violation of the Labor Code.

24 33. Although the meal period was often the only break in the shift Plaintiff and aggrieved
25 employees received, it was frequently interrupted, cut short, or missed altogether.

26 34. Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because
27 Defendant: (1) did not account for all hours worked that were unaccounted for on their timecard;
28 (2) did not adequately inform and train employees about their rights to meal periods and premium

1 payments for non-compliant meal periods; (3) did not adequately inform and train employees about
2 when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because
3 Defendant did not staff enough people to schedule all timely and uninterrupted thirty-minute meal
4 periods; (5) because management at various levels, affecting all hourly, non-exempt employees,
5 refused to offer, permit, or enforce a lawfully compliant meal period policy, and/or (6) because
6 Defendant used invalid meal period waivers. Plaintiff and aggrieved employees were not paid a
7 premium payment, paid as an hour's wage at the employee's regular rate when meal periods were
8 not given to them in compliance with California law. Defendant is liable for civil penalties
9 pursuant to Cal. Labor Code §2698 *et. Seq.*

10 **Failure to Reimburse For Required Business Expenses**

11 (Cal. Labor Code §§ 1198, 2802, 2699)

12 35. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
13 incorporate said paragraphs herein by reference.

14 36. Labor Code §2802 requires employers to indemnify employees for necessary
15 expenditures or losses incurred by employees in direct consequence of discharge of duties. Here,
16 Plaintiff and aggrieved employees used personal cell phone for work.

17 37. Defendant failed to pay any amount for the required use of Plaintiff and aggrieved
18 employees' personal phones. Defendant is liable for civil penalties pursuant to Cal. Labor Code
19 §2698 *et. seq.*

20 **Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping**
21 **Requirements**

22 (Cal. Labor Code §§ 226, 246, 248, 1174, 1174.5, 2699 *et seq*)

23 38. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
24 incorporate said paragraphs herein by reference.

25 39. Defendant knowingly and intentionally failed to provide timely, accurate, itemized
26 wage statements to Plaintiff and the aggrieved employees in accordance with Labor Code §§ 226
27 and keep accurate records as required by §1174(d). Wage statements issued to Plaintiff and
28 aggrieved employees fail to reflect the actual hours, including overtime hours, worked by

employees. Wage statements also fail to state meal and rest penalty wages, and reimbursements for business expenses.

40. Such failures caused injury to Plaintiff and others, by, among other things, impeding them from knowing the total hours worked and the amount of wages to which they are and were entitled. Defendant knowingly and intentionally failed to list all the items described above. Defendant is liable for civil penalties pursuant to Labor Code § 2698 *et seq.*

FIRST CAUSE OF ACTION

Against Defendant for Violation of the Private Attorneys General Act (“PAGA”) (California Labor Code §2698 *et seq.*)

41. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporate said paragraphs herein by reference.

42. Plaintiff is an “aggrieved employee” under PAGA, as she was employed by Defendant during the applicable statutory period and suffered one or more of the Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of herself and all other current and former aggrieved employees of Defendant, the civil penalties provided by PAGA, plus reasonable attorneys’ fees and costs.

43. Plaintiff seeks to recover the PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

44. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor Code provisions:

- a. Failure to Pay For All Hours Worked, Including Overtime Hours Worked (Cal. Labor Code §§218, 246, 510, 558, 1194, 1197, 1198, 1199, 2698 *et seq.*);
- b. Failure to Pay All Wages Owed Twice Per Month (Cal. Lab. Code §§2204, 210, and 2698 *et seq.*)
- c. Failure to Pay Wages Due Upon Termination (Cal. Lab. Code §§201, 202, 203, 256 and 2698 *et seq.*)

- d. Failure to Provide Rest Breaks (Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*)
- e. Failure to Provide Timely Meal Breaks (Cal. Labor Code §§2226, 226.7, 512, 558, 1198, 2698 *et seq.*)
- f. Failure to Reimburse For Required Business Expenses (Cal. Labor Code §§1198, 2802, 2699)
- g. Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping Requirements (Cal. Labor Code §§ 226, 246, 248, 1174, 1174.5, 2699 *et seq.*).

45. With respect to violations of Labor Code §226(a), Labor Code §226.3 imposes a civil penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved employee for each subsequent violation of Labor Code §226(a).

46. With respect to violations of Labor Code §512, Labor Code §558 imposes a civil penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial violations for each underpaid employee for each pay period for which the employee was underpaid, and one hundred dollars (\$100) for subsequent violations for each underpaid employee for each pay period for which the employee was underpaid.

47. Labor Code §2698 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided.

48. Plaintiff and the other current and former employees of Defendant are aggrieved employees. They were or are employed by Defendant, and each of them, and the violations alleged herein were committed against them. Plaintiff brings this action on behalf of herself and all other current and former aggrieved employees.

49. At the time of each violation, Defendant employed one or more employees.

50. As a result of the aforesaid wrongful and illegal conduct of Defendant, and each of them, Plaintiff and aggrieved employees are entitled to civil penalties in an amount to be determined at trial, pre-judgment interest, costs and attorneys' fees.

51. Plaintiff has complied with all procedural requirements of Labor Code §2699.3 prior to filing this Complaint. By the Notice attached as Exhibit 1, submitted online to the Labor and Workforce Development Agency (“LWDA”) and served by certified mail upon Defendant, Plaintiff through counsel notified the LWDA and Defendant of the specific Labor Code provisions that Defendant has violated. The LWDA did not respond to Plaintiff’s Notice within the statutory timeframe, and Plaintiff has therefore exhausted administrative remedies. Pursuant to Labor Code §2699.3, Plaintiff may now pursue their PAGA claims in this action on behalf of aggrieved employees and the State of California.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the aggrieved employees, prays for judgment against Defendant as follows:

1. An award of civil penalties pursuant to PAGA and the Cal. Labor Code in an amount to be determined at trial, but at least the jurisdictional amount of this Court;
2. An award of reasonable attorneys' fees and costs pursuant to California Labor Code §2699(g) and/or other applicable law;
3. For civil penalties as provided under Labor Code §§226.3 and 558, and/or other applicable law;
4. Pre-judgment and post-judgment interest as provided by law; and
5. Such other and further relief that the Court may deem just and proper.

DATED: April 17, 2024

KOUL LAW FIRM, APC

BY: Nazo Koulloukian, Esq.

BY: Nazo Koulloukian, Esq.
Attorneys for Plaintiff HANAKA HENRY, and all
aggrieved employees

EXHIBIT 1



Nazo@Koullaw.com

P (213) 761 – 5484

F (818) 561 – 3938

3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

www.koullaw.com

February 9, 2024

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

Spring Valley Post Acute LLC
14973 Hesperia Rd
Victorville, CA 92395

Spring Valley Post Acute LLC
c/o Thomas Chambers
260 North Palm Street, Suite 104
Brea, CA 92821

Re: PAGA Notice Pursuant to California Labor Code §2699
Claimants: Hanaka Henry
Employer: Spring Valley Post Acute LLC

Dear Sir or Madam:

Claimant Hanaka Henry has retained Nazo Koulloukian, Esq. of the Koul Law Firm to represent her, and all other aggrieved employees, for wage and hour claims against her former employer, Spring Valley Post Acute LLC (hereafter “Employer”). Claimant worked for Employer as a CNA on an hourly, non-exempt basis until February 9, 2023.

Employer operates an acute care facility employing over 50 aggrieved employees. Claimant alleges herein the specific provisions of California law that Employer has violated, requiring this Notice, including but not limited to: California Labor Code sections 201-203, 204, 208, 210, 216, 221-223, 226, 226.2, 226.7, 245-248.6, 432, 432.5, 432.6, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and all applicable Wage Orders.

Because employer has violated, and/or has caused to be violated, several Labor Code provisions, Employer and is therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency investigate the claims alleged below or permit Claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of

California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3.

Failure to Pay For All Hours Worked, Including Overtime Hours Worked

(Cal. Labor Code §§218, 510, 558, 1194, 1197, 1198, 1199, 2698 *et seq.*, Wage Order 5)

Off the Clock Hours Worked and Unpaid Overtime. Section 2(K) of Wage Order 5 defines “hours worked” as “the time during which an employee is subject to the control of an including all the time the employee is suffered or permitted to work, whether or not required to do so.”

Employer would require Claimant and her coworkers to work off the clock after clocking out in order to complete all assigned tasks but would not permit employees to remain on the clock and earn overtime compensation. Employees were also frequently interrupted with work during their unpaid meal periods. Employer also failed to pay overtime, sick wages and the required regular rate of pay.

Failure to Pay Wages- Required Minimum Wage. Employer failed to pay Claimant and aggrieved employees for all hours worked as a result of Employer’s practice of requiring off the clock work before and after shifts and during meal breaks. Based on Employer’s unlawful conduct described above, and because Claimant and the aggrieved employees were paid at or near minimum wage, Employer’s failure to pay for all hours worked, including overtime, resulted in a payment of less than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and Wage Order 5-2001 4(B). Employer is liable for civil penalties pursuant to Labor Code §§558 and 2698 *et seq.*

Failure to Pay All Wages Owed Twice Per Month

(Cal. Lab. Code §§204, 210, and 2698 *et seq.*)

Employer was required to pay Claimant and aggrieved employees all wages earned twice during each calendar month pursuant to Labor Code §204(a). Employer failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, Employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month. Due to these failures, Employer is liable under Labor Code §204, 210 and 2698 *et seq.* for failure to pay wages as required by law.

Failure to Pay Wages Due Upon Termination

(Cal. Lab. Code §§201, 202, 203, 256 and 2698 *et seq.*)

An employee who is discharged must be paid all of his or her wages, including vacation wages, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set forth above, Employer knowingly and willfully failed to pay all compensation due and owing to Claimant at the time employment terminated. Employer willfully failed to pay employees who are

no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202. Claimant and similarly situated individuals are now entitled to recover up to thirty (30) days of pay as waiting time under the terms of §203. Moreover, Employer is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*

Failure to Provide Rest Breaks

(Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*)

Employer has failed to maintain a compliant rest period policy and practice that provides its employees with off-duty rest periods as required by California law.

Claimant reports that she and her co-workers frequently missed rest periods as a result of Employer's staffing and business practices, requiring that they work straight through their shifts.

Rest periods were either less than ten minutes, not provided, interrupted or late, "on duty", or not scheduled before and after a meal period for shifts greater than six hours, as prescribed by California law because Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted ten-minute rest breaks; (4) because Employer did not staff enough people to schedule all timely and uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest break policy.

Employer chronically understaffed its facilities, failing to schedule a sufficient number of employees to allow Claimant and her coworkers to take rest breaks. Paying only minimum wage, for a small cost Employer could have provided sufficient relief workers but chose instead to require employees to forego their breaks, not permitting them to leave or take a much needed break from their duties.

Employer did not authorize or permit all of its hourly employees to take at least a ten minute rest period in which they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Order. When breaks were missed Employer failed to pay the 1-hour penalty, as required at the regular rate of pay. Because Employer violated the Wage Order, Employer is liable under Labor Code §1198. As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Failure to Provide Uninterrupted Meal Breaks

(Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*)

During Claimant's employment, Employer failed to maintain a compliant meal period policy and practice. Employer failed to provide all of its hourly employees with their right to take an off-duty unpaid 30-minute meal period. Labor Code §512 provides, "[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o

employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission.” Paragraph 11(A) of the Wage Orders provides, in pertinent part, “[u]nless an employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked.” Labor Code 1198 states that any violation of a wage order is a violation of the Labor Code.

Although the meal period was often the only break in the shift Claimant and aggrieved employees received, it was frequently interrupted, cut short, or missed altogether.

Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because Employer: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to meal periods and premium payments for non-compliant meal periods; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because Employer did not staff enough people to schedule all timely and uninterrupted thirty-minute meal periods; (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant meal period policy, and/or (6) because Employer used invalid meal period waivers. Employees were not paid a premium payment, paid as an hour’s wage at the employee’s regular rate when meal periods were not given to them in compliance with California law. Employer is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Failure to Reimburse For Required Business Expenses

(Cal. Labor Code §§1198, 2802, 2699 *et seq.*)

Labor Code §2802 requires employers to indemnify employees for necessary expenditures or losses incurred by employees in direct consequence of discharge of duties. Here, Claimant used her personal cell phone for work. Employer failed to pay any amount for the required use of Claimant and aggrieved employees’ personal phones. Employer is liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping Requirements

(Cal. Labor Code §§ 226, 246, 248, 1174, 1174.5, 2699 *et seq*)

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimant and the aggrieved employees in accordance with Labor Code §§ 226 and keep accurate records as required by §1174(d). Wage statements issued to Claimant and aggrieved employees fail to reflect the actual hours, including overtime hours, worked by employees. Wage statements also fail to state meal and rest penalty wages, and reimbursements for business expenses.

Such failures caused injury to Claimant and others, by, among other things, impeding them from knowing the total hours worked and the amount of wages to which they are and were entitled.

Employer knowingly and intentionally failed to list all the items described above. Employer is liable for civil penalties pursuant to Labor Code § 2698 *et seq.*

Conclusion

Employer has violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform her if it does not intend to investigate these violations so that she may pursue her claims as a representative action in civil court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'N. Koulloukian', with a long horizontal flourish extending to the right.

Nazo Koulloukian, Esq.
Attorneys for Claimant