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FILED
Superior Court of California
County of Los Angeles

08/05/2024

David W. Slayton, Executive Officer / Clerk of Court

By: R. Lozano Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

ZION JACKSON, on behalf of others similarly
situated and the State of California under the
Private Attorneys General Act,

Plaintiffs,

vs.

LOYOLA MARYMOUNT UNIVERSITY and
DOES 1 through 50, inclusive,

Defendants.

Case No. 24STCV14085

CLASS ACTION

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

1. Meal Period Violations
2. Rest Period Violations
3. Paid Sick Leave Violations
4. Untimely Payment of Wages
5. Wage Statement Violations
6. Waiting Time Penalties
7. Unfair Competition
8. Civil Penalties under the Private Attorneys
General Act (Labor Code §§ 2698 *et seq.*)

1 Plaintiff ZION JACKSON (Plaintiff”), individually and on behalf of all others similarly
2 situated and the State of California under the Private Attorneys General Act brings this FIRST
3 AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT against Defendants
4 LOYOLA MARYMOUNT UNIVERSITY and DOES 1 through 50, inclusive (collectively
5 “Defendants”), alleging as follows:

6 **INTRODUCTION**

7 1. This is a class action brought under the California Code of Civil Procedure section 382
8 for Defendants’ violations of the California Labor Code and Business Professions Code.

9 2. Defendants underpaid Plaintiff’s and the class members’ wages by failing to include
10 all forms of remuneration including shift differentials into the regular rate of pay calculation for sick
11 leave and meal and rest period premiums.

12 3. Defendants failed to provide, authorize, and/or permit Plaintiff and the class members
13 to take all meal and rest periods to which they were entitled.

14 4. Defendants’ employment policies, practices, and payroll administration systems
15 enabled and facilitated these violations on a company-wide basis with respect to the class members.

16 **JURISDICTION & VENUE**

17 5. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the
18 California Constitution as the causes of action are premised upon violations of California law.

19 6. The monetary damages and restitution sought exceed the minimal jurisdiction limits of
20 the Superior Court.

21 7. This Court has jurisdiction over Defendants because, upon information and belief,
22 Defendants have sufficient minimum contacts in California, or otherwise intentionally avail
23 themselves to the California economy so as to render the exercise of jurisdiction over them by the
24 California courts consistent with traditional notions of fair play and substantial justice.

25 8. Venue is proper in this Court under Code of Civil Procedure sections 393(a), 395,
26 and/or 395.5 because, upon information and belief, Defendants conducted business and committed
27 some of the alleged violations in this County.

PARTIES

A. Plaintiff Zion Jackson

9. Plaintiff Jackson is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about March 2023 to April 2024. Plaintiff worked as a Patrol Officer.

10. The State of California, via the Labor and Workforce Development Agency (“LWDA”), is the real party in interest in this action. (*Kim v. Reins Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”]) To the extent permitted by law, including pursuant *Balderas v. Fresh Start Harvesting, Inc.*, Court of Appeals Case No. B326759 (2nd App. Dist.) ____ Cal. App. 5th ____ (Mar. 20, 2024, *as modified* Apr. 18, 2024), the PAGA claim is brought exclusively as a representative action and does not include arbitrable claims.

B. Defendants

11. Defendant Loyola Marymount University is a California corporation that maintains operations and conducts business throughout the State of California, including in this county.

12. The true names and capacities, whether individual, corporate, or otherwise, of the parties sued as DOES 1 through 50, are presently unknown, unascertainable, or uncertain, and are sued by such fictitious names under Code of Civil Procedure section 474. Upon information and belief, each of DOES 1 through 50 constitutes a legal employer or is otherwise legally responsible in some manner for the acts and omissions alleged herein. This Complaint may be amended to reflect their true names and capacities once ascertained.

13. Upon information and belief, Defendants in this action are employers, co-employers, joint employers, and/or part of an integrated employer enterprise, as each of the Defendants exercised control over the wages, hours, and working conditions of the employees, suffered and permitted them to work, and otherwise engaged them as employees under California law.

14. Upon information and belief, at least some of the Defendants have common ownership, common management, interrelationship of operations, and centralized control over labor relations and

are therefore part of an integrated enterprise and thus jointly and severally responsible for the acts and omissions alleged herein, including pursuant to Labor Code sections 558, 558.1, and 1197.1.

15. Upon information and belief, Defendants acted in all respects pertinent to this action as an alter-ego, agent, servant, joint employer, joint venturer, co-conspirator, partner, in an integrated enterprise, or in some other capacity on behalf of all other co-defendants, such that the acts and omissions of each defendant may be legally attributable to all others.

CLASS ALLEGATIONS

16. This action is brought individually and on behalf of the following class pursuant to Code of Civil Procedure section 382:

- a. All current and former non-exempt employees who worked for Defendants in California at any time from four years (plus the additional 178-day statutory tolling period under Emergency Rule 9) prior to the filing of this action through date of class certification.

17. Plaintiff reserves the right to establish various subclass definitions as appropriate at the class certification stage, according to proof.

18. The class is ascertainable and shares a well-defined community of interest in this litigation:

- a. Numerosity: The class is estimated to exceed 50 individuals, although the precise membership of the entire class is unknown at this time. The class is so numerous that joinder of all class members is impracticable. The identities of class members are ascertainable by inspection of Defendants' employment and payroll records.
- b. Typicality: Plaintiff's claims are typical of the claims of the other class members. They were subject to the same policies and practices of Defendants, which resulted in losses to the class. Proof of common unlawful business practices, which Plaintiff experienced, will establish the right of the class to recover on the causes of action alleged herein.

- c. Adequacy: Plaintiff is an adequate class representative; will take all necessary steps to protect the class members' interests adequately and fairly; has no interest antagonistic to other class members; and is represented by attorneys who have substantial experience prosecuting, defending, resolving, and litigating wage and hour class, collective, and representative actions in California state and federal courts.
- d. Superiority: A class action is superior to other means for adjudicating this dispute. Individual joinder is impractical. Class treatment will allow for common issues to be resolved in a single forum, simultaneously, and without duplication of effort and expense.
- e. Public Policy Considerations: Certification of this lawsuit as a class action advances the State of California's strong public interest in ensuring its approximately millions of employed residents are properly paid the wages they earned for the hours they worked. Class actions provide a mechanism for enforcement of labor laws and allow for vindication of employee rights by unnamed class members.

19. Common questions of law and fact as to the class members predominate over questions affecting only individual members. The common questions of law and fact exist as to whether the employment policies and practices formulated by Defendants and applied to the class members constitute violations of California law.

GENERAL ALLEGATIONS

20. Defendants failed to pay all owed meal period premiums at the regular rate of compensation.

21. Plaintiff and class members earned shift differentials for working overnight shifts.

22. Defendants failed to factor in all shift differentials and other additional payments into the regular rate of compensations into the meal period premium rate.

23. An illustrative example of this violation is shown on Plaintiff's wage statement with a pay date of March 22, 2024. In this pay period, Plaintiff earned both a shift differential and a meal

1 period premium. However, Defendants improperly paid this premium at Plaintiff's base rate of
2 \$21.63, rather than the regular rate of compensation which would have factored in the shift differential
3 earned in that pay period, overall increasing the rate.

4 24. As a matter of common policy and practice, Defendants paid meal period premiums at
5 Plaintiffs and the class members' base rate rather than the regular rate of compensation.

6 25. Similarly, to the extent Defendants paid rest period premiums Plaintiff on information
7 and belief alleges Defendants additionally failed to pay all owed rest period premiums at the regular
8 rate of compensation.

9 26. Further, Defendants failed to pay sick pay at the lawful statutory rate, inclusive of all
10 earnings, in accordance with one of the permissible methods in Labor Code Labor Code §246(l)(1)-
11 (3).

12 27. An illustrative example of this violation is shown on Plaintiff's wage statement with
13 the pay date April 5, 2024. In this pay period, Plaintiff earned a shift differential and 10 hours of paid
14 sick leave. However, Defendants improperly paid Plaintiff these hours at his base rate, rather than the
15 statutory rate, inclusive of the shift differential.

16 28. The failure to calculate and pay paid sick leave at one of the lawful statutory rates set
17 forth in Labor Code § 246(l)(1)-(3) and 247 *et seq.* was applied as a matter of common policy and
18 practice to class members in those periods where they earned additional payments such as shift
19 differentials or other forms of non-excludable remuneration and also received paid sick leave.

20 29. Because of these violations, Defendants failed to provide accurate itemized wage
21 statement to class members that included the accurate gross and net wages earned, as the employees
22 earned sick leave wages, overtime, and premiums, which were not paid at the lawful rate in light of
23 the regular rate of pay violations.

24 30. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on
25 employee wage statements each pay period the applicable hourly rates in effect and the number of
26 hours worked at that rate, as Defendant failed to pay all wages and premiums owed to employees. The
27 amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay
28 stub.

31. These violations create derivative liability for failure to pay all wages owed each pay day or upon separation of employment.

FIRST CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 512

32. All outside paragraphs of this Complaint are incorporated into this section.

33. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 226.7, 558 and 512, which require non-exempt employees be provided complaint meal periods (or meal period premiums in lieu thereof), and which further provide a private right of action for an employer's failure to lawfully provide all meal periods and/or pay meal period premiums at the lawful regular rate of compensation.

34. Defendants willfully failed in their affirmative obligation to consistently provide Plaintiff and class members compliant, duty-free meal periods of not less than 30 minutes beginning before the fifth hour of hour for each work period of more than five hours per day and a second duty-free meal period of not less than 30 minutes beginning before the tenth hour of hour of work in violation of Labor Code sections 226.7, 512, 558, 1198 and the IWC Wage Orders (the "Meal Periods" sections of the applicable orders).

35. Further, Defendants willfully failed in their affirmative obligation to consistently pay Plaintiff and class members one additional hour of pay at the respective regular rate of compensation for each workday that a fully compliant meal period was not provided, in violation of Labor Code sections 226.7, 512, 558, and 1198 and the IWC Wage Orders (the "Meal Periods" sections of the applicable orders).

36. Plaintiff and class members are entitled to recover the full amount of the meal period premiums owed, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

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43. Labor Code section 246(l), in conjunction with Labor Code section 248 *et seq.*, 248.1, 248.2, and 248.6, in addition to the applicable County sick pay ordinances in locales worked by class members, govern how Defendants were required to calculate paid sick leave.

44. Defendants failed to pay Plaintiff and class members their paid sick leave wages at one of the lawful rates set forth in the statute or ordinance because Defendants failed to include in their sick leave calculation the additional remuneration received by Plaintiff and class members (i.e., at the regular rate of pay and/or calculated based on total wages earned).

45. Furthermore, to the extent the paid sick leave paid constitutes Covid-related paid sick leave, Defendants knowingly and intentionally failed in their affirmative obligation to pay Covid-19 Supplemental Sick Leave wages to class members at the correct accrual rate or hourly pay rate in violation of Labor Code sections 246, 248.1, 248.2, and 248 *et seq.*

46. As a result, Defendants violated the Labor Code and are liable to Plaintiff and class members for underpaid sick leave wages, in addition to interest, attorneys' fees, and costs.

FOURTH CAUSE OF ACTION

UNTIMELY PAYMENT OF WAGES

Violation of Labor Code §§ 204, 210, 218

47. All outside paragraphs of this Complaint are incorporated into this section.

48. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 204, 204b, and 210 which require non-exempt employees be timely paid all wages owed each pay period, and which further provide a private right of action for an employer's failure to comply with this obligation. Labor Code § 218 authorizes individuals to sue directly for wages and penalties due under these sections, including Labor Code § 210(c)'s statutory late payment penalties.

49. Defendants willfully failed in their affirmative obligation to timely pay all wages, including paid sick leave and meal and rest premiums, earned by Plaintiff and class members twice during each calendar month on days designated in advance by the employer as regular paydays (for employees paid on a non-weekly basis) and on the regularly-scheduled weekly payday for weekly employees, if any, in violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the "Minimum Wages" sections of the applicable orders).

50. Plaintiff and class members are entitled to recover the full amount of the unpaid wages, in addition to a statutory penalty in the amount of \$100 for the initial violation for each failure to pay each employee and \$200 for all subsequent violations and for all willful or intentional violations for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld under provided in Labor Code § 210, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

FIFTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

Violation of Labor Code § 226

51. All outside paragraphs of this Complaint are incorporated into this section.

52. This cause of action is brought by a wage statement subclass pursuant to Labor Code § 226(a) which requires non-exempt employees be provided accurate itemized wage statements each pay period, and which further provide a private right of action for an employer's failure to comply with this obligation.

53. Defendants knowingly and intentionally failed in their affirmative obligation to provide accurate itemized wage statements to Plaintiff and class members resulting in injury to Plaintiff and class members. Specifically, the wage statements issued to Plaintiff and class members did not accurately state each pay period all of the information required by Labor Code § 226(a)(1)-(9).

54. Defendants' unlawful acts and omissions deprived Plaintiff and class members of accurate itemized wage statements, causing confusion and concealing wage and premium underpayments.

55. As a result, Plaintiff and class members are entitled to recover the statutory penalty of \$50 per employee for the initial pay period in which a violation occurred and \$100 per employee for each violation in a subsequent pay period, up to an aggregate penalty of \$4,000 per employee, in addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor Code section 226(e).

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1 with California's wage and hour laws. These failures constitute unlawful, deceptive, and unfair
2 business acts and practices in violation of Business and Professions Code section 17200 *et seq.*

3 63. Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged in this
4 Complaint, and Plaintiff, as an individual and on behalf of others similarly situated, seeks full
5 restitution of the moneys as necessary and according to proof to restore all monies withheld, acquired,
6 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

7 64. Plaintiff does not have an adequate remedy at law for past or future violations, to the
8 extent the statute of limitations on each of the alleged causes of action do not extend to the four year
9 limitation provided under the UCL or to the extent the underlying Labor Code and IWC Wage Order
10 violations do not provide a private right of action.

11 65. Plaintiff and class members are entitled to injunctive relief against Defendants,
12 restitution, and other equitable relief to return all funds over which Plaintiff and class members have
13 an ownership interest and to prevent future damage and the public interest under Business and
14 Professions Code § 17200 *et seq.* Plaintiff and class members are further entitled to recover interest,
15 attorneys' fees, and costs to the extent permitted by law, including under Code of Civil Procedure
16 § 1021.5.

17 **EIGHTH CAUSE OF ACTION**

18 **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT**

19 **Violation of Labor Code §§ 2698 *et seq.***

20 **(By Plaintiff on Behalf of the State and the Aggrieved Employees Against All Defendants)**

21 66. All outside paragraphs of this Complaint are incorporated into this section.

22 67. Plaintiff brings this cause of action as a proxy for the State of California on behalf of
23 the following "aggrieved employees" pursuant to the Private Attorneys General Act ("PAGA"),
24 codified as Labor Code section 2698 *et seq.*:

- 25 a. All current and former non-exempt employees who worked for Defendants in
26 California at any time from one year prior to the postmark date of the initial
27 PAGA notice through date of trial.

68. Plaintiff reserves the right to amend, supplement, or add to this description of the aggrieved employees, according to proof.

69. The State of California, via the Labor and Workforce Development Agency (“LWDA”), is the real party in interest in this action with respect to this cause of action. (*Kim v. Reins Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”])

70. Labor Code section 2699(a) provides: “Notwithstanding any other provision of law,, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3. “

71. Labor Code section 2699(f) provides: “For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.”

72. Any allegations regarding violations of the IWC Wage Orders are enforceable as violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

73. Labor Code section 2699.3 sets forth the procedure for commencing an action for civil penalties under the PAGA.

74. Plaintiff seeks to collect all recoverable civil penalties for the Labor Code violations alleged in this Complaint and the PAGA notice (including amendments thereto) against Defendants pursuant to Labor Code section 2699(a) and (f), in addition to attorneys’ fees, costs, and interest to the extent permitted by law, including under Labor Code section 2699(g).

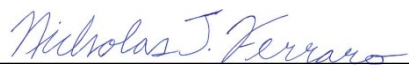
PRAYER

Plaintiff prays for judgment as follows:

- a. For certification of this action as a class action;
- b. For appointment of Plaintiff as the class representative;
- c. For appointment of above-captioned counsel for Plaintiff as Class Counsel;
- d. For division of class members into appropriate classes and/or subclasses according to proof;
- e. For recovery of all statutory penalties and liquidated damages;
- f. For disgorgement of all amounts wrongfully obtained to the extent permitted by law;
- g. For restitution and injunctive relief;
- h. For attorneys' fees and costs of suit, including expert fees, to the extent permitted by law, including (without limitation) under Labor Code §§ 218.5, 226, 1194, 2699, 2802 and Code of Civil Procedure § 1021.5;
- i. For recovery of damages in amount according to proof;
- j. For all recoverable pre- and post-judgment interest;
- k. For this action to be maintained as a representative action under the PAGA;
- l. For Plaintiff and counsel of record to be provided with all enforcement capability as if the action were brought by the State of California or DLSE.
- m. For recovery of all civil penalties and other recoverable amounts under the PAGA; and
- n. For such other relief the Court deems just and proper.

Dated: August 5, 2024

Ferraro Vega Employment Lawyers, Inc.



Nicholas J. Ferraro
Attorneys for Plaintiff Zion Jackson