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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

AUG 19 2024

BY: 
Rylee Grant, Deputy

Attorneys for Plaintiff BRANDIE B. ALARRABIYYAT,
on behalf of herself and current and former aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

BRANDIE B. ALARRABIYYAT, on behalf of
herself and current and former aggrieved
employees

Plaintiff,

vs.

DESERT VALLEY HOSPITAL, INC.; and
DOES 1 to 100, inclusive,
Defendants.

Case No.: **CIVVS 24 00 33 0**

PAGA ACTION

**PLAINTIFF BRANDIE B.
ALARRABIYYAT'S COMPLAINT
FOR:**

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

COMES NOW Plaintiff BRANDIE B. ALARRABIYYAT ("Plaintiff"), who alleges and
complains on information and belief except as to those allegations relating to plaintiff herself,
which are asserted on personal knowledge, against Defendants DESERT VALLEY HOSPITAL,
INC.; 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.*

1 (“PAGA”) representative action brought by Plaintiff on behalf of the State of California, herself
2 and other current and former aggrieved employees of Defendants who worked as hourly non-
3 exempt employees in California during the relevant time period seeking civil penalties associated
4 with Defendants’ violation of the Labor Code based on Defendants’ failure to provide all legally
5 required and legally compliant meal and rest periods, failure to pay wages for accrued paid sick
6 time at the regular rate of pay, failure to timely pay earned wages during employment, failure to
7 produce requested employment records, failure to provide complete and accurate wage statements.
8 Plaintiff seeks on a representative basis, following notice to the Labor and Workforce
9 Development Agency, civil penalties, reasonable attorneys’ fees pursuant to Labor Code section
10 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California, and others aggrieved.

11 **II. JURISDICTION AND VENUE**

12 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
13 former aggrieved California-based hourly non-exempt employees because Plaintiff’s lawsuit seeks
14 civil penalties on behalf of herself, all other current and former aggrieved California-based hourly
15 non-exempt employees, and the State of California in excess of thirty-five thousand dollars
16 (\$35,000); Defendants employed Plaintiff and all other current and former aggrieved California-
17 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
18 aggrieved California-based hourly non-exempt employees occurred in locations throughout
19 California, including but not limited to San Bernardino County at 16850 Bear Valley Road,
20 Victorville, CA 92395.

21 **III. PARTIES**

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

1 Defendants in an hourly position at Defendants' location in San Bernardino from approximately
2 April 25, 2021 until on or about currently.

3 1. Defendant DESERT VALLEY HOSPITAL, INC. is authorized to do business
4 within the State of California and is doing business in the State of California and/or that
5 Defendants DOES 1-50 are, and at all times relevant hereto were persons acting on behalf of
6 Defendant DESERT VALLEY HOSPITAL, INC. in the establishment of, or ratification of, the
7 aforementioned illegal wage and hour practices or policies. Defendant DESERT VALLEY
8 HOSPITAL, INC. operates in San Bernardino County and employed Plaintiff and aggrieved
9 employees in San Bernardino County, including but not limited to, at 16850 Bear Valley Road,
10 Victorville, CA 92395.

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

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

22 4. 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. Each fictitiously named defendant is in some manner
26 responsible for the events and allegations set forth in this complaint.

27 5. Plaintiff makes the allegations in this complaint without any admission that, as to
28 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and

1 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

2 **FIRST CAUSE OF ACTION**

3 **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF**
4 **2004, LABOR CODE SECTIONS 2698, ET SEQ.**

5 **(Against all Defendants by Plaintiff on behalf of Themselves, the State of California, and**
6 **Other Current and Former Aggrieved Employees)**

7
8 6. Plaintiff incorporates by reference and re-alleges each and every allegation
9 contained in this pleading as though fully set forth herein.

10 7. During Plaintiff's employment and continuing through the present, Plaintiff alleges
11 Defendants violated Labor Code sections 204, 223, 226, 226.7, 246, 512, and the applicable Wage
12 Orders.

13 8. Specifically, Defendants have committed the following violations of California
14 Labor Code:

15 9. **Failure to pay wages to hourly non-exempt employees for workdays that**
16 **Defendants failed to provide legally required and compliant meal periods:** Plaintiff and other
17 current and former aggrieved California-based hourly non-exempt employees regularly worked
18 shifts of more than five (5) hours in length and shifts of more than ten (10) hours in length.

19 10. California law requires an employer to authorize or permit an employee an
20 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
21 all duties and the employer relinquishes control over the employee's activities prior to the
22 employee's sixth hour of work. Labor Code §§ 226.7, 512, and 1198; Wage Order 5 at § 11;
23 *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not
24 employ an employee for a work period of more than ten (10) hours per day without providing the
25 employee with a second such meal period of not less than thirty (30) minutes prior to the start of
26 the eleventh hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the
27 meal period shall be considered an "on duty" meal period and counted as time worked. A paid "on
28 duty" meal period is only permitted when: (1) the nature of the work prevents an employee from
being relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal

1 periods.

2 11. If an employer fails to provide an employee a meal period in accordance with the
3 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
4 for each workday that a legally required and compliant meal period was not provided. Labor Code
5 §§ 226.7 and 1198; Wage Order 5 at § 11.

6 12. In this case, Defendants failed to authorize or permit legally required and compliant
7 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
8 exempt employees due to Defendants' policies, practices, and/or procedures, including but not
9 limited to,

10 (a) failing to provide Plaintiff and other current and former aggrieved California-based
11 hourly non-exempt employees timely, uninterrupted, duty-free meal breaks due to chronic
12 understaffing.

13 13. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
14 procedure of failing to compensate Plaintiff and other current and former aggrieved California-
15 based hourly non-exempt employees one (1) hour of pay at their regular rate of pay for each
16 workday that Plaintiff and/or other current and former aggrieved California-based hourly non-
17 exempt employees did not receive legally required and compliant meal periods, in violation of
18 Labor Code section 226.7.

19 14. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiff
20 and/or other current and former aggrieved California-based hourly non-exempt employees not
21 receiving wages to compensate them for workdays during which Defendants did not provide them
22 with meal periods in compliance with California law.

23 15. **Failure to pay wages to hourly non-exempt employees for workdays that**
24 **Defendants failed to provide legally required and compliant rest periods:** Plaintiff and other
25 current and former aggrieved California-based hourly non-exempt employees regularly worked
26 shifts of more than three-and-a-half (3.5) hours.

27 16. California law requires every employer to authorize and permit an employee a rest
28 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor

Code § 226.7; Wage Order 5 at § 12. Under California law, “[e]mployees are entitled to 10 minutes’ rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code § 226.7; Wage Order 5 at § 12. Rest periods, insofar as practicable, shall be in the middle of each work period. Wage Order 5 at § 12. Additionally, the rest period requirement “obligates employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

17. If the employer fails to authorize or permit a required rest period, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday the employer did not authorize or permit a legally required rest period. Labor Code § 226.7; Wage Order 5 at § 12.

18. In this case, Defendants failed to authorize or permit all legally required and compliant rest periods to Plaintiff and other current and former aggrieved California-based hourly non-exempt employees due to Defendants’ policies, practices, and/or procedures including, but not limited to,

(a) failing to provide Plaintiff and other current and former aggrieved California-based hourly non-exempt employees with net ten (10) minute rest breaks due to chronic understaffing.

19. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or procedure of failing to compensate Plaintiff and other current and former aggrieved California-based hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each workday they did not receive legally required and compliant rest periods, in violation of Labor Code section 226.7.

20. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiff and other current and former aggrieved California-based hourly non-exempt employees not receiving wages to compensate them for workdays in which Defendants did not provide them with rest periods in compliance with California law.

1 21. **Failure to provide sick pay wages:** Defendants had a policy and/or procedure
2 where Plaintiff and other current and former aggrieved California-based hourly non-exempt
3 employees accrued paid sick time.

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

9 23. Here, Plaintiff and other current and former aggrieved California-based hourly non-
10 exempt employees were employed by Defendants for 30 or more days and were entitled to paid
11 sick days. Defendants, however, lacked a policy, practice, and/or procedure whereby Plaintiffs and
12 other current and former aggrieved California-based hourly non-exempt employees who were
13 employed by Defendants for 30 days or more could accrue paid sick days at the rate of no-less-
14 than one (1) hour per every thirty (30) hours worked, beginning at the commencement of
15 employment as required by Labor Code section 246(b).

16 24. In this case, Plaintiff alleges that when she and other current and former aggrieved
17 California-based hourly non-exempt employees elected to use paid sick time, Defendants failed to
18 pay them sick time wages at the proper sick time rate of pay due to Defendants’ failure to include
19 all remuneration when calculating the sick time rate of pay. Specifically, Defendants maintained a
20 policy, practice, and/or procedure of failing to include all remuneration including but not limited
21 to “weekend differential pay”, for example, when calculating Plaintiff and other current and
22 former aggrieved California-based hourly non-exempt employees’ regular rate of pay for the
23 purpose of paying sick time.

24 25. Defendants’ foregoing policy, practice, and/or procedure resulted in Defendants
25 failing to provide Plaintiff and other current and former aggrieved California-based hourly non-
26 exempt employees paid sick days, in violation of Labor Code section 246.

27 26. **Failure to timely pay earned wages during employment:** In California, wages
28 must be paid at least twice during each calendar month on days designated in advance by the

1 employer as regular paydays, subject to some exceptions. Labor Code § 204(a). Wages earned
2 between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th
3 and the 26th day of that month and wages earned between the 16th and the last day, inclusive, of
4 any calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other
5 payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid within
6 seven (7) calendar days following the close of the payroll period in which wages were earned.
7 Labor Code § 204(d).

8
9 27. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
10 to timely pay Plaintiff and other current and former aggrieved California-based hourly non-exempt
11 employees their earned wages (including meal period premium wages and/or rest period premium
12 wages), in violation of Labor Code section 204. Defendants' aforementioned policies, practices,
13 and/or procedures resulted in their failure to pay Plaintiff and other current and former aggrieved
14 California-based hourly non-exempt employees their earned wages within the applicable time
15 frames outlined in Labor Code section 204.

16 28. **Secret payment of lower wages than designated by statute:** Labor Code section
17 223 provides that, where any statute or contract requires an employer to maintain the designated
18 wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage
19 designated by statute or contract. By engaging in the unlawful conduct alleged herein, including
20 by failing to: pay overtime wages at the applicable legal overtime rate, meal break premiums and
21 lawful sick pay at the employees' regular rate of pay, as established by Labor Code sections 226.7,
22 246, 510, 1194 and sections 11 and 12 of the applicable IWC Wage Orders, as incorporated by
23 Labor Code section 1198, Defendants secretly paid a lower wage than designated by statute while
24 purporting to pay the wages designated by statute, in violation of Labor Code section 223.

25 29. **Failure to provide complete and accurate wage statements:** Labor Code section
26 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
27 employee his or her wages, the employer must "furnish each of his or her employees ... an
28 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
employee, except for any employee whose compensation is solely based on a salary and who is

1 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
2 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
3 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
4 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
5 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
6 name of the employee and his or her social security number, (8) the name and address of the legal
7 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
8 the corresponding number of hours worked at each hourly rate by the employee.”

9
10 30. As a derivative of Plaintiff’s allegations above, Defendants’ failure to pay Plaintiff
11 and other current and former aggrieved California-based hourly non-exempt employees all wages
12 earned (including meal period premium wages and/or rest period premium wages), rendered
13 Plaintiff’s and other current and former aggrieved California-based hourly non-exempt employees’
14 wage statements inaccurate, in violation of Labor Code section 226(a)(1, 2, 5 & 9).

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

19 32. Plaintiff has complied with the procedures for bringing suit specified in Labor
20 Code section 2699.3. On May 23, 2024, Plaintiff filed a PAGA Claim Notice with the LWDA and
21 provided notice to Defendants by certified mail which provided notice of the specific provisions of
22 the Labor Code alleged to have been violated, including the facts and theories to support the
23 violations alleged.

24 33. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
25 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
26 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
27 parties notice within 65 days of the date of Plaintiff’s PAGA Claim Notice that the LWDA intends
28 to investigate Plaintiff’s claims.

1 34. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
2 penalties for Defendants' violations of Labor Code sections 204, 223, 226(a), 226.7, 246, and 512,
3 During Plaintiff's employment and continuing through the present, preceding Plaintiff sending the
4 initial PAGA Claim Notice to the LWDA to the present, in the following amounts:

5 a. For violations of Labor Code sections 226(a), and 226.7; one hundred
6 dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two
7 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation
8 [penalty amounts established by Labor Code section 2699(f)(2)].

9 b. For violations of Labor Code section 226(a), alternatively, two hundred
10 fifty dollars (\$250) for each employee for each pay period for the initial violation, and one
11 thousand dollars (\$1,000) for each subsequent violation, for each underpaid employee for each pay
12 period [penalty amounts established by Labor Code section 226.3].

13 c. For violations of Labor Code section 512, fifty dollars (\$50) for each
14 employee for each pay period for the initial violation, and one hundred dollars (\$100) for each
15 subsequent violation, for each underpaid employee for each pay period [penalty amounts
16 established by Labor Code section 558].

17 d. For violations of Labor Code section 204, one hundred dollars (\$100) for
18 each failure to pay each employee in any initial violation, and two hundred dollars (\$200) for each
19 subsequent violation, or any willful or intentional violation, for each failure to pay each employee,
20 plus 25 percent of the amount unlawfully withheld [penalty amounts established by Labor Code
21 section 210].

22 e. For violations of Labor Code section 223, one hundred dollars (\$100) for
23 each failure to pay each employee in any initial violation, and two hundred dollars (\$200) for each
24 subsequent violation, or any willful or intentional violation, for each failure to pay each employee,
25 plus 25 percent of the amount unlawfully withheld [penalty amounts established by Labor Code
26 section 225.5].

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

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PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF, ON BEHALF OF HERSELF AND OTHER CURRENT AND FORMER 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 sections 210, 225.5, 226.3, 558, 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: August 16, 2024

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP



By:

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