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Attorneys for Plaintiff and the Aggrieved Employees

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

BERENISE CABALLERO, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

NATIONAL LABS INC., a Nevada
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: **24CV083753**

**REPRESENTATIVE ACTION COMPLAINT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

DEMAND OVER \$25,000.00

1 Plaintiff Berenise Caballero (“Plaintiff”) hereby submits this representative action
2 complaint (“Complaint”) against Defendant National Labs Inc. (“Defendant”) and Does 1
3 through 50 (collectively, “Defendants”) on behalf of the State of California and other aggrieved
4 employees of Defendants, for penalties pursuant to the Private Attorneys General Act (“PAGA”)
5 for Defendants’ violation of the California Labor Code, as follows:

6 **INTRODUCTION**

7 1. This representative action is within the Court’s jurisdiction under California
8 Labor Code sections 226 and 2698, *et seq.*, and the applicable Wage Orders of the California
9 Industrial Welfare Commission (“IWC”).

10 2. This Complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against individuals who worked for Defendants.

12 3. Plaintiff is informed and believes and based thereon alleges that Defendants
13 jointly and severally have acted intentionally and with deliberate indifference and conscious
14 disregard to the rights of all employees by failing to provide accurate and complete wage
15 statements to these employees.

16 **JURISDICTION AND VENUE**

17 4. The Court has jurisdiction over the violations of the California Labor Code
18 sections 226 and 2698, *et seq.*

19 5. Venue is proper in Alameda County because Plaintiff worked for Defendants in
20 Alameda County, California.

21 **PARTIES**

22 6. Plaintiff was employed by Defendants from about August 19, 2019, to about April
23 3, 2024. Plaintiff worked as a Worker’s Compensation Specialist/Billing Specialist in Hayward,
24 California. Throughout her employment, Plaintiff worked as an hourly, non-exempt employee.

25 7. Plaintiff was and is the victims of the policies, practices, and customs of
26 Defendants complained of in this action in ways that have deprived her of the rights guaranteed
27 by California Labor Code sections 226 and 2698, *et seq.*

28 8. Plaintiff is informed and believes, and based thereon alleges, that National Labs

1 Inc. was and is a Nevada corporation providing healthcare and drug testing services throughout
2 the State of California.

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

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

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

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

28 13. At all times herein mentioned, Defendants, and each of them, were members of,

and engaged in, a joint venture, partnership, and common enterprise, and acting within the course and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

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

FIRST CAUSE OF ACTION

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

(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)

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

16. Plaintiff brings this cause of action as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees from May 13, 2023, through the present, for Defendants' violations of Labor Code sections 226.

17. Defendants violated Labor Code section 226 by failing to provide accurate wage statements to employees. As with other non-exempt employees, Plaintiff received itemized wage statements concurrent with the payment of wages. During pay periods when regular wages are paid, the wage statements furnished to Plaintiff and Aggrieved Employees fail to identify the applicable rate of pay and number of hours worked for said wages. Moreover, as a result of the missing number of hours worked for regular wages, the wage statements issued to Plaintiff and Aggrieved Employees display inaccurate total hours worked.

18. On or about May 13, 2024, Plaintiff sent written notice to the California Labor & Workforce Development Agency (the "LWDA") of Defendants' violation of Labor Code section 226, pursuant to Labor Code section 2698, *et seq.*, the Private Attorneys General Act. Plaintiff also sent written notice of said Labor Code violations to Defendant via certified mail pursuant to

1 Labor Code section 2699.3. On or about June 14, 2024, an amendment to Plaintiff's written
2 notice was sent to the LWDA and Defendant. As of the date of the filing of this Complaint, the
3 LWDA has not provided written notice regarding whether it intends to investigate the Labor
4 Code violations set forth in Plaintiff's written notice.

5 19. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any
6 and all applicable civil penalties for Defendants' violation of Labor Code section 226, for the
7 time period described above, on behalf of herself and other Aggrieved Employees.

8 **PRAYER FOR RELIEF**

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

11 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
12 Labor Code section 2698, *et seq.*, and for costs and attorneys' fees;

13 2. On all causes of action for attorneys' fees and costs as provided by Labor Code
14 sections 226 and 2699, and California Code of Civil Procedure section 1021.5; and

15 3. For such other and further relief as the Court may deem just and proper.

16
17 DATED: July 17, 2024

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18
19
20 By: 

Larry W. Lee

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Attorneys for Plaintiff and the Aggrieved
Employees