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Attorneys for PLAINTIFF
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Electronically
FILED
by Superior Court of California, County of San Mateo
ON 7/22/2024
By /s/ Una Finau
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO
UNLIMITED JURISDICTION

Jana Garcia,

Plaintiff,

vs.

Lakeview Lodge, Inc. dba Lakeview Lodge of
Redwood City, Inc., and DOES 1 through 50,

Defendants.

Case Number: 24-CIV-04478

COMPLAINT

- (1) **FAILURE TO PAY ALL HOURS WORKED**
- (2) **FAILURE TO PAY OVERTIME**
- (3) **FAILURE TO PERMIT AND PROVIDE MEAL PERIODS**
- (4) **FAILURE TO PERMIT AND PROVIDE REST BREAKS**
- (5) **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**
- (6) **WAITING TIME PENALTIES**
- (7) **WRONGFUL TERMINATION**
- (8) **CIVIL PENALTIES – PRIVATE ATTORNEYS GENERAL ACT (PAGA)**
- (9) **UNFAIR COMPETITION IN VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE §§ 17200 ET. SEQ**

JURY TRIAL REQUESTED

1 1. PLAINTIFF Jana Garcia (hereinafter “PLAINTIFF”), hereby alleges as follows:

2 **I. JURISDICTION & VENUE**

3 2. PLAINTIFF brings this action against Lakeview Lodge, Inc. dba Lakeview Lodge of
4 Redwood City, Inc., and DOES 1 through 50, inclusive (collectively “DEFENDANTS”) for
5 compensatory and statutory damages, waiting time penalties, prejudgment interest, attorneys’ fees and
6 costs, and other appropriate and just relief.

7 3. Jurisdiction is proper in this Court because the alleged damages exceed thirty-five
8 thousand dollars (\$35,000.00).

9 4. Venue is proper in this court because, at all relevant times, DEFENDANTS’ principal
10 business address is in the county of San Mateo.

11 **II. PARTIES**

12 5. PLAINTIFF Jana Garcia is an individual and a former employee of DEFENDANTS.

13 6. Defendant Lakeview Lodge, Inc. dba Lakeview Lodge of Redwood City, Inc. is a
14 California Corporation which maintains offices and transacts business in the state of California and the
15 county of San Mateo.

16 7. DEFENDANTS were at all relevant times PLAINTIFF’S employer covered by
17 California’s Labor Code and the Industrial Welfare Commission Wage Order No. 5-2001 (hereinafter
18 “IWC Wage Order No. 5). DEFENDANTS exercised direct control over the wages, hours, and
19 working conditions of PLAINTIFF.

20 8. PLAINTIFF asserts that the fictitiously named defendants referenced herein may, in
21 some manner, be liable for the claims pled in this complaint. PLAINTIFF does not know the true
22 names or capacities, whether individual, partner or corporate, of the DEFENDANTS sued herein as
23 DOES 1 through 50, inclusive, and for that reason, said DEFENDANTS are sued under fictitious
24 names. PLAINTIFF will amend this complaint to allege their true names and capacities if/when
25 ascertained.

26 9. DEFENDANTS were at all relevant times PLAINTIFF’S employer covered by
27 California’s Labor Code and IWC Wage Order No. 5. DEFENDANTS exercised direct control over
28 the wages, hours, and working conditions of PLAINTIFF.

10. PLAINTIFF is informed, believes, and thereon alleges that at all times herein mentioned, the owners, officers, directors, managers, supervisors, and/or employees of DEFENDANTS were acting within the course and scope of their agency and/or employment with DEFENDANTS. As such, the actions or inactions committed against PLAINTIFF by DEFENDANTS' owners, officers, directors, managers, supervisors, and other employees were ratified by Defendant Lakeview Lodge, Inc. dba Lakeview Lodge of Redwood City, Inc.

III. STATEMENT OF FACTS

11. PLAINTIFF was employed by DEFENDANTS from July 2021 until November 9, 2023, as medical technician; she should have been classified as a non-exempt employee but was instead misclassified as exempt.

12. PLAINTIFF typically began working at 6:30 a.m., but was instructed to clock in at 7:00 a.m. by DEFENDANTS. She then worked until 6:30 p.m. to 7:00 p.m. typically. Her principal tasks were preparing and administering medication for all twenty-seven (27) residents at DEFENDANTS' care facility.

13. DEFENDANTS failed to pay PLAINTIFF for all of her hours worked (at overtime rates where applicable). DEFENDANTS did not accurately record the hours worked of PLAINTIFF which led to her underpayment.

14. DEFENDANTS failed to provide adequate meal periods to PLAINTIFF. DEFENDANTS often provided PLAINTIFF meal periods too late, after her sixth hour of work, and/or meal periods that were too short or less than thirty minutes.

15. DEFENDANTS failed to provide adequate rest periods to PLAINTIFF because DEFENDANTS did not have a practice to provide rest periods to its employees. PLAINTIFF was unable to take rest periods on her own accord because of heavy work assignments and understaffing.

16. Despite the aforementioned meal and rest period failures, DEFENDANTS never paid any meal or rest period premiums to PLAINTIFF. DEFENDANTS had no policy or practice to pay such premiums to PLAINTIFF.

17. DEFENDANTS' failure to accurately pay PLAINTIFF for all hours worked and their failure to provide meal and rest period premiums when required led DEFENDANTS to knowingly and willingly issue PLAINTIFF inaccurate wage statements.

18. PLAINTIFF complained to DEFENDANTS that she was underpaid, which was due to the wage and hour violations referenced above. In response, DEFENDANTS terminated her employment on or around November 9, 2023.

19. PLAINTIFF is owed waiting time penalties because upon her separation, she was not paid all the money and compensations owed to her by DEFENDANTS. DEFENDANTS' failure here also occurred knowingly and willingly.

FIRST CAUSE OF ACTION

(Failure to Pay All Hours Worked)

20. PLAINTIFF realleges and incorporates by reference the allegations of the above paragraphs.

21. Pursuant to the IWC Wage Order No. 5 and Labor Code §§ 201 to 204 and 210, DEFENDANTS are required to compensate PLAINTIFF for all hours worked. DEFENDANTS failed to do this as described herein.

22. As a result of DEFENDANTS' unlawful acts, PLAINTIFF has been deprived of compensation for all hours worked in an amount to be determined at trial and is entitled to recovery of such amounts plus interest thereon.

23. PLAINTIFF, who has retained the services of legal counsel in order to enforce her rights in this regard, requests an award of attorney`s fees and costs plus interest pursuant to Labor Code §§ 1194(a) and 218.5.

24. PLAINTIFF requests relief as described below.

SECOND CAUSE OF ACTION

(Failure to Pay Overtime Compensation)

25. PLAINTIFF realleges and incorporates by reference the allegations of the above paragraphs.

1 **FOURTH CAUSE OF ACTION**

2 *(Failure to Authorize and Permit Rest Breaks)*

3 35. PLAINTIFF realleges and incorporates by reference the allegations of the above
4 Paragraphs.

5 36. Pursuant to Labor Code § 226.7(a) and IWC Wage Order No. 5 §11, DEFENDANTS
6 are required to authorize and permit PLAINTIFF the opportunity to take rest period based upon the
7 total hours worked at a rate of ten (10) minutes net per four (4) hours or major fraction thereof, lasting
8 at least ten (10) minutes.

9 37. DEFENDANTS failed and refused to authorize and permit PLAINTIFF ten (10) minute
10 rest periods for every four (4) hours worked, or major fraction thereof, in violation of Labor Code
11 §226.7(a) and IWC Wage Order No. 5 §11.

12 38. DEFENDANTS have violated Labor Code § 226.7 and IWC Wage Order No. 5 §11 by
13 failing to pay PLAINTIFF, one (1) hour of pay at PLAINTIFF'S regular rate of pay for each workday
14 rest breaks were required but neither authorized nor provided.

15 39. PLAINTIFF requests relief as described below.

16 **FIFTH CAUSE OF ACTION**

17 *(Failure to Provide Accurate/Itemized Wage Statements)*

18 40. PLAINTIFF realleges and incorporates by reference the allegations of the above
19 paragraphs.

20 41. DEFENDANTS failed to provide PLAINTIFF accurate, itemized statements in writing
21 showing all required information like all hours worked and gross wages earned, premium pay for each
22 unauthorized and missed and/or improperly provided meal period and rest period, for every required
23 pay period.

24 42. DEFENDANTS knowingly and intentionally failed to comply with Labor Code
25 §§226(a), 226.2 and IWC Wage Order No. 5 §6, causing damages to PLAINTIFF. These damages,
26 including but not limited to costs expended calculating her true hours worked and the amount of
27 employment taxes which were not properly paid to state and federal tax authorities, are difficult to
28 estimate. Therefore, PLAINTIFF elects to recover liquidated damages of fifty dollars (\$50.00) for the

1 initial pay period in which the violation occurred, and one hundred dollars (\$100.00) for each violation
2 in subsequent pay periods pursuant to Labor Code §226(e), up to the statutory maximum amount of
3 four thousand dollars (\$4,000.00), plus reasonable attorneys' fees and costs.

4 **SIXTH CAUSE OF ACTION**

5 *(Labor Code §§ 201-203 - Waiting Time Penalties)*

6 43. PLAINTIFF realleges and incorporates by reference the allegations of the above
7 paragraphs.

8 44. California Labor Code § 201 requires and employer who discharges and employee to
9 pay all compensation due to that employee immediately upon discharge.

10 45. California Labor Code § 202 requires and employer to pay all compensation due to
11 employees who quit within 72 hours of that employee quitting, unless the employee proved at least 72
12 hours of notice of quitting, in which case all compensation is due at the end of the employee's final
13 day of work.

14 46. Labor Code § 203 provides that if an employer willfully fails to pay compensation as
15 required by § 201 or § 202, then the employer is liable for waiting time penalties in the form of
16 continued compensation of up to thirty workdays.

17 47. DEFENDANTS willfully failed and refused to timely pay compensation and wages,
18 including unpaid wages and overtime compensation to PLAINTIFF at the end of his employment. As a
19 result, DEFENDANTS are liable to PLAINTIFF for waiting time penalties pursuant to Labor Code §
20 203.

21 **SEVENTH CAUSE OF ACTION**

22 *(Wrongful Termination Against Public Policy)*

23 48. PLAINTIFF realleges and incorporates by reference the allegations of paragraphs
24 above.

25 49. PLAINTIFF was subjected by DEFENDANTS to unlawful working conditions; more
26 specifically, she was not adequately paid for all hours worked or provided adequate meal and rest
27 periods. PLAINTIFF complained to DEFENDANTS about these unlawful working conditions. In
28 response, DEFENDANTS terminated her employment in violation of public policy.

1 **NINTH CAUSE OF ACTION**

2 *(Unfair Competition in Violation of California Business and Professions Code §§ 17200 et. seq.)*

3 58. PLAINTIFF realleges and incorporates by reference the allegations of paragraphs
4 above.

5 59. California Business and Professions Code (“Cal Bus & Prof Code”) §§ 17200 et. seq.
6 prohibits acts of unfair competition, which shall mean and include any “unlawful and unfair business
7 practices.”

8 60. The conduct of DEFENDANTS has been and continues to be unfair, unlawful, and
9 deleterious to PLAINTIFF and to the public. PLAINTIFF hereby seeks to enforce important rights
10 affecting the public interest within the meaning of California Code of Civil Procedure § 1021.5.
11 PLAINTIFF is one of the “individuals” within the meaning of Cal Bus & Prof Code §17204, and
12 therefore have standing to bring this suit for restitution.

13 61. The prompt and proper payment of wages is a fundamental public policy of the State of
14 California. It is also the public policy of the State to enforce minimum labor standards, to ensure that
15 employees are not required or permitted to work under substandard and unlawful conditions, and to
16 protect those employers who comply with the law from losing competitive advantage to other
17 employers who fail to comply with labor standards and requirements.

18 62. Through the conduct alleged herein, DEFENDANTS acted contrary to these public
19 policies and have thus engaged in unlawful and/or unfair business practices in violation of Cal Bus &
20 Prof Code §§17200 et. seq., depriving PLAINTIFF and other employees working for DEFENDANTS
21 the rights, benefits, and privileges guaranteed to employees under California law.

22 63. DEFENDANTS regularly and routinely violated the statutes and regulations referenced
23 above with respect to PLAINTIFF. By engaging in unfair and unlawful business practices,
24 DEFENDANTS have harmed PLAINTIFF and the general public, the latter because the violations
25 referenced herein have allowed DEFENDANTS to gain an unfair advantage of other businesses.
26
27
28

64. Under Cal Bus & Prof Code § 17203, PLAINTIFF is entitled to obtain restitution on behalf of other employees working for DEFENDANTS who are similarly affected by DEFENDANTS' unfair and/or unlawful business practices as set forth herein.

65. Pursuant to Cal Bus & Prof Code § 17202, PLAINTIFF is entitled to specific relief enforcing the penalty provisions of various Cal Lab Code sections in amounts to be proven at trial. Failure to enforce the penalties due would result in the unlawful enrichment of DEFENDANTS and would promote unfair competition.

66. PLAINTIFF' success in this action will result in the enforcement of important rights affecting the public and will confer a significant benefit upon the public. Private enforcement of the rights enumerated in this Complaint is necessary, as public agencies have only sought limited enforcement of those rights, if any. PLAINTIFF is incurring a financial burden in pursuing this action on behalf of the public. PLAINTIFF further seek to enjoin the above-referenced unlawful actions under the Labor Code and Wage Order.

V. PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF respectfully prays that this Court enter judgment in her favor and against DEFENDANTS as follows:

1. Compensatory, consequential, and statutory damages according to proof;
2. Prejudgment interest pursuant to Labor Code §218.6 and the other authorities cited herein accrued on all due and unpaid wages from the date that wages were due and payable, according to proof;
3. Meal period compensation for every meal period violation, according to proof;
4. Rest period compensation for every rest period violation, according to proof;
5. Attorneys' fees and costs made payable to Liberation Law Group, P.C., pursuant to Labor Code §§ 218.5, 1194(a) and other applicable laws cited herein;
6. Waiting times penalties pursuant to Labor Code § 201 and 203;
7. Pursuant to Labor Code § 1194.2(a), liquidated damages in an amount equal to the wages unlawfully unpaid;

1 8. Pursuant to Business & Professions Code §17203, an award of restitution for the
2 unjustly amounts earned or retained by DEFENDANTS by virtue of her engaging in
3 unlawful conduct, according to proof; and

4 9. Such other and further relief as the Court deems just and proper.
5

6 Dated: July 19, 2024

LIBERATION LAW GROUP, P.C.

7
8 

9 By: _____
10 Arlo Garcia Uriarte
11 Attorneys for PLAINTIFF
12

13 **VI. JURY REQUEST**

14 PLAINTIFF requests a trial by jury.
15

16 Dated: July 19, 2024

LIBERATION LAW GROUP, P.C.

17
18 

19 By: _____
20 Arlo Garcia Uriarte
21 Attorneys for PLAINTIFF
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2760 Mission Street · San Francisco, CA 94110 · 415 695-1000

May 3, 2024

Via Online Submission

Labor & Workforce Development Agency
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail

Lakeview Lodge, Inc. dba Lakeview Lodge of Redwood City, Inc.
Attn. Rosalinda Campbell
Principal/Agent for Service of Process
530 Lakeview Way
Emerald Hills, CA 94062

Re: *Jana Garcia, on behalf of herself and all similarly aggrieved employees vs.
Lakeview Lodge, Inc. dba Lakeview Lodge of Redwood City, Inc.*

Dear PAGA Administrator:

Ms. Jana Garcia (“Plaintiff”) submits this notice of Labor Code and Industrial Welfare Commission Wage Order violations committed by Lakeview Lodge, Inc. dba Lakeview Lodge of Redwood City, Inc. (“Defendant”). Plaintiff seeks to represent herself and other similarly aggrieved employees of Defendant in a Private Attorneys General Act (“PAGA”) action [Labor Code §§ 2698, *et seq.*]. For purposes of this notice, “similarly aggrieved employees” includes all of Defendant’s current and former non-exempt employees in California.

I. Factual Statement

Defendant operates caregiving facilities in California. In or around July 2021, Plaintiff was hired by Defendant as an exempt medical technician. As further detailed below, Defendant has failed to compensate Plaintiff and similarly aggrieved employees for all work performed, at overtime rates where applicable, and provide them adequate meal periods and rest periods. These principal violations have also led Defendant to: (1) provide inaccurate wage statements; (2) fail to pay all final wages; and (3) fail to accurately track the worked hours, meal periods taken and proper pay of Plaintiff and similarly aggrieved employees.

Labor Code §§ 510, 1194 and Wage Order 5-2001 (Unpaid Wages, Unpaid Overtime, Off-the-Clock, Improper Rounding)

Labor Code sections 500, 510(a), 515, 1194, and Industrial Welfare Commission Order No. 5-2001 (“Wage Order 5”) require employers to pay overtime wages for hours worked over eight (8) hours per day or over forty (40) hours per week. Also, Labor Code section 1454 states, “[a] domestic work employee who is a personal attendant shall not be employed more than nine hours in any workday or more than 45 hours in any workweek unless the employee receives one and one-half times the employee’s regular rate of pay for all hours worked over nine hours in any workday and for all hours worked more than 45 hours in the workweek.” Here, Defendant has failed to compensate overtime work at the required overtime rates. More specifically, Defendant was in the practice of paying Plaintiffs and similarly aggrieved employees a fixed amount regardless of actual hours worked including overtime hours worked.

Defendant has violated the following civil penalty provisions: Labor Code Sections 558, 2699(f), 1454 and Wage Order 5, Section 20. Please note that other civil penalty provisions may additionally apply.

Labor Code §§ 226.7, 512 and Wage Order 5 (Meal and Rest Periods Violations)

Defendant is required to provide employees a 30-minute, uninterrupted meal period “after no more than five hours of work,” and “a second meal period after no more than 10 hours work.” [*Id.* at 1049]. If rest or meal breaks are late, missed, or too short, the employer is liable for an hour of pay at the employee’s regular rate (“premium wages”). [Labor Code § 226.7; Wage Order 5]. Defendant must also authorize and permit employees “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.” [*Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004, 1029 (2012)]. Here, Defendant failed to provide, authorize, and permit Plaintiff and similarly aggrieved employees with proper meal and rest periods.

Defendant often provided Plaintiff and similarly aggrieved employees meal periods too late, after their sixth hour of work, and/or meal periods that were too short or less than thirty minutes.

Defendant failed to provide lawful rest breaks to Plaintiff and similarly aggrieved employees. Defendant did not have a practice to provide consistent rest periods for its employees. Employees were unable to take rest periods on their own accord because of heavy work assignments and understaffing.

Defendant has violated the following civil penalty provisions: Labor Code Sections 558, 2699(f) and Wage Order 5, Section 20. Please note that other civil penalty provisions may additionally apply.

Labor Code § 226 (Wage Statements)

California employers are required to provide itemized wage statements showing, among other things, “total hours worked by the employee” and “all applicable hourly rates in effect

during the pay period and the corresponding number of hours worked at each hourly rate by the employee.” [Cal. Labor Code § 226(a)(2)(9)]. Here, Defendant failed to provide Plaintiff and similarly aggrieved employees with accurate, itemized wage statements that noted their actual hours work and correct corresponding pay, including owed meal and rest period premiums. Defendant has violated the following civil penalty provisions: Labor Code Sections 226.3 and 2699(f). Please note that other civil penalty provisions may additionally apply.

Labor Code §§ 201-203 (Final Wages)

An employer must pay all wages due to involuntarily terminated employees at the time of termination, or within 72 hours to employees voluntarily terminating. [Cal. Labor Code § 201-202]. If an employer willfully fails to timely pay all wages to separated employees, the wages continue at the same rate for up to 30 days until paid. [Cal. Labor Code § 203]. As a result of its failure to pay all wages earned, including break premiums, Defendant has failed to pay all final wages due to Plaintiff and other separated similarly aggrieved employees and has violated Sections 201-203 of the Labor Code.

Defendant has violated the following civil penalty provisions: Labor Code Section 2699(f). Please note that other civil penalty provisions may additionally apply.

Labor Code § 1174 and Wage Order 5 (Payroll Records)

Labor Code section 1174 requires employers to keep “payroll records showing the hours worked daily by and the wages paid to the employee.” An employer may be liable under Section 1174 if it fails to record when employees report to work, the start and end time of their shifts, and the total hours worked or meal periods. [See, *Carrillo v. Schneider Logistics, L.P.*, 823 F. Supp.2d 1040, 1044 (2011)]. Wage Order 5, Section 7, requires employers to keep accurate information regarding employee shift beginning and end times, meal periods, total daily hours worked, total hours worked during the pay period and applicable rates of pay, and total wages paid each pay period, among other items. Defendant failed to keep proper timekeeping records and failed to provide Plaintiff and similarly aggrieved employees with accurate accounting of actual hours worked, with corresponding wage rates.

Defendant has violated the following civil penalty provisions: Labor Code Sections 1174.5, 2699(f) and Wage Order 5, Section 20. Please note that other civil penalty provisions may additionally apply.

Very truly yours,

LIBERATION LAW GROUP, P.C.



Arlo Uriarte, Esq.