

Joseph Lavi, Esq. (SBN 209776)
Vincent C. Granberry, Esq. (SBN 276483)
Jovahn Wiggins, Esq. (SBN 349903)
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Boulevard, Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001
Email: jlavi@lelawfirm.com
vgranberry@lelawfirm.com
jwiggins@lelawfirm.com

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Executive Officer/Clerk of Court,
By Y. Ayala, Deputy Clerk

Attorneys for Plaintiff DIANA RIOS,
on behalf of herself and current and former aggrieved employees

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

DIANA RIOS, on behalf of herself and current
and former aggrieved employees

Plaintiff,

vs.

USP MISSION HILLS, INC.; and DOES 1 to
100, inclusive,

Defendants.

Case No.: **24STCV31871**

PAGA ACTION

**PLAINTIFF DIANA RIOS'S
COMPLAINT FOR:**

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

COMES NOW Plaintiff DIANA RIOS ("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 USP MISSION HILLS, 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.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, herself

1 and other current and former aggrieved employees of Defendants who worked as hourly non-exempt
2 employees in California during the relevant time period seeking civil penalties associated with
3 Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all hours
4 worked at the employees' minimum wage rate or overtime rate, failure to provide all legally required
5 and legally compliant meal and rest periods, failure to timely pay earned wages during employment,
6 failure to provide complete and accurate wage statements, failure to timely pay all unpaid wages
7 following separation of employment. Plaintiff seeks on a representative basis, following notice to
8 the Labor and Workforce Development Agency, civil penalties, reasonable attorneys' fees pursuant
9 to Labor Code section 2699(g)(1) and costs brought on behalf of Plaintiff, the State of California,
10 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 Los Angeles County, at 11550 Indian Hills Road Suite 160
20 Mission Hills, California 91345.

21 **III. PARTIES**

22 3. Plaintiff brings this action as a representative of the Labor and Workforce
23 Development Agency on behalf of herself and other current and former employees subject to
24 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
25 filed include current, former and/or future employees of Defendants who work, worked, or will work
26 for Defendants as direct employees as well as temporary employees employed through temp
27 agencies as hourly non-exempt employees in California. At all times mentioned herein, the currently
28 named 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 Los Angeles County from approximately
2 January 14, 2023, until on or about April 25, 2024.

3 4. Defendant USP MISSION HILLS, INC. is authorized to do business within the State
4 of California and is doing business in the State of California and/or that Defendants DOES 1-50 are,
5 and at all times relevant hereto were persons acting on behalf of Defendant USP MISSION HILLS,
6 INC. in the establishment of, or ratification of, the aforementioned illegal wage and hour practices
7 or policies. Defendant USP MISSION HILLS, INC. operates in Los Angeles County and employed
8 Plaintiff and aggrieved employees in Los Angeles County, including but not limited to, at 11550
9 Indian Hills Road Suite 160 Mission Hills, California 91345.

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

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

19 7. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
20 sues said defendants by said fictitious names and will amend this complaint when the true names
21 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
22 permitted by law or by the Court. Each fictitiously named defendant is in some manner responsible
23 for the events and allegations set forth in this complaint.

24 8. Plaintiff makes the allegations in this complaint without any admission that, as to
25 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff
26 reserves all of Plaintiff's right to plead in the alternative.

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1 **FIRST CAUSE OF ACTION**

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

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

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

8 10. During Plaintiff's employment and continuing through the present, Plaintiff alleges
9 Defendants violated Labor Code sections 201, 202, 203, 204, 223, 226, 226.7, 510, 512, 1194, 1197,
10 and the applicable Wage Orders.

11 11. Specifically, Defendants have committed the following violations of California
12 Labor Code:

13 12. **Failure to pay wages for all hours worked at the legal minimum wage:**
14 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
15 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
16 which includes all time that an employee is under control of the employer and all time the employee
17 is suffered and permitted to work. This includes the time an employee spends, either directly or
18 indirectly, performing services which inure to the benefit of the employer.

19 13. Labor Code sections 1194 and 1197 require an employer to compensate employees
20 for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the
21 Wage Orders.

22 14. In this case, Plaintiff and other current and former aggrieved California-based hourly
23 non-exempt employees worked more minutes per shift than Defendants credited them with having
24 worked. Specifically, Defendants failed to pay Plaintiff and other current and former aggrieved
25 California-based hourly non-exempt employees all wages at the applicable minimum wage for all
26 hours worked due to Defendants' policies, practices, and/or procedures including, but not limited
27 to,
28

1 (a) Failure to pay Plaintiff and other current and former aggrieved California-based
2 hourly non-exempt employees for all hours worked as a result of missing hours.

3 15. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
4 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
5 control without paying wages for that time. This resulted in Plaintiff and other current and former
6 aggrieved California-based hourly non-exempt employees working time for which they were not
7 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
8 Wage Order.

9 16. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
10 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
11 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
12 which includes all time that an employee is under control of the employer and all time the employee
13 is suffered and permitted to work. This includes the time an employee spends, either directly or
14 indirectly, performing services that inure to the benefit of the employer.

15 17. Labor Code sections 510 and 1194 require an employer to compensate employees a
16 higher rate of pay for hours worked in excess of eight (8) hours in a workday, in excess of forty (40)
17 hours in a workweek, and on any seventh consecutive day of work in a workweek:

18 Any work in excess of eight (8) hours in one workday, any work in excess of forty (40) hours
19 in any one (1) workweek, and the first eight (8) hours worked on the seventh day of work in
20 any one (1) workweek, shall be compensated at the rate of no less than one-and-one-half
21 (1.5) times the regular rate of pay for an employee. Any work in excess of twelve (12) hours
22 in one (1) day shall be compensated at the rate of no less than twice the regular rate of pay
23 for an employee. In addition, any work in excess of eight (8) hours on any seventh day of a
24 workweek shall be compensated at the rate of no less than twice the regular rate of pay of an
25 employee. Labor Code § 510.

26 18. In this case, Defendants failed to pay Plaintiff and other current and former aggrieved
27 California-based hourly non-exempt employees overtime wages for all overtime hours worked due
28 to Defendants' policies, practices, and/or procedures including, but not limited to,

(a) Failure to pay Plaintiff and other current and former aggrieved California-based
hourly non-exempt employees for all hours worked as a result of missing hours.

1 19. The foregoing policies, practices, and/or procedures resulted in time during each
2 workday that Plaintiff and other current and former aggrieved California-based hourly non-exempt
3 employees were under the control of Defendants but were not compensated. To the extent that the
4 foregoing uncompensated time occurred when Plaintiff and other current and former aggrieved
5 California-based hourly non-exempt employees worked more than eight (8) hours in a workday,
6 more than forty (40) hours in a workweek, and/or seven (7) days in a workweek, Defendants failed
7 to pay them at their overtime rate of pay for overtime hours worked, in violation of Labor Code
8 sections 510, 1194 and 1198, and the applicable Wage Order.

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

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

24 22. If an employer fails to provide an employee a meal period in accordance with the
25 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
26 for each workday that a legally required and compliant meal period was not provided. Labor Code
27 §§ 226.7 and 1198; Wage Order 4 at § 11.

28 23. In this case, Defendants failed to authorize or permit legally required and compliant

1 meal periods to Plaintiff and other current and former aggrieved California-based hourly non-
2 exempt employees due to Defendants' policies, practices, and/or procedures, including but not
3 limited to,

4 (a) Failing to provide Plaintiff and other current and former aggrieved California-based
5 hourly non-exempt employees timely, uninterrupted, duty-free meal breaks of at least 30 minutes
6 for every five hours worked due Plaintiff and other current and former aggrieved California-based
7 hourly non-exempt employees taking late and/or interrupted meal breaks.

8 (b) Failing to provide Plaintiff and other current and former aggrieved California-based
9 hourly non-exempt employees a second uninterrupted duty-free meal period of no less than thirty
10 (30) minutes for each workday that Plaintiff and other current and former aggrieved California-
11 based hourly non-exempt employees work shifts over ten (10) hours.

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

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

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

26 27. California law requires every employer to authorize and permit an employee a rest
27 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor Code
28 § 226.7; Wage Order 4 at § 12. Under California law, "[e]mployees are entitled to 10 minutes' rest

1 for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours
2 up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.” *Brinker*
3 *Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code § 226.7; Wage
4 Order 4 at § 12. Rest periods, insofar as practicable, shall be in the middle of each work period.
5 Wage Order 4 at § 12. Additionally, the rest period requirement “obligates employers to permit –
6 and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*,
7 (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all
8 duties and relinquish control over how employees spend their time. *Id.*

9
10 28. If the employer fails to authorize or permit a required rest period, the employer must
11 pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday the
12 employer did not authorize or permit a legally required rest period. Labor Code § 226.7; Wage Order
13 4 at § 12.

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

18 a) Failing to provide Plaintiff and other current and former aggrieved California-based
19 hourly non-exempt employees with net ten (10) minute rest breaks for every four (4) hours worked
20 or major fraction thereof.

21 30. Additionally, Plaintiff alleges that Defendants maintained a policy, practice, and/or
22 procedure of failing to compensate Plaintiff and other current and former aggrieved California-based
23 hourly non-exempt employees with one (1) hour of pay at their regular rate of pay for each workday
24 they did not receive legally required and compliant rest periods, in violation of Labor Code section
25 226.7.

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

1 **32. Failure to timely pay earned wages during employment:** In California, wages
2 must be paid at least twice during each calendar month on days designated in advance by the
3 employer as regular paydays, subject to some exceptions. Labor Code § 204(a). Wages earned
4 between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th and
5 the 26th day of that month and wages earned between the 16th and the last day, inclusive, of any
6 calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other payroll
7 periods such as those that are weekly, biweekly, or semimonthly, must be paid within seven (7)
8 calendar days following the close of the payroll period in which wages were earned. Labor Code §
9 204(d).

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

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

26 **35. Failure to provide complete and accurate wage statements:** Labor Code section
27 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an employee
28 his or her wages, the employer must "furnish each of his or her employees ... an itemized statement

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

11 36. As a derivative of Plaintiff’s allegations above, Defendants’ failure to pay Plaintiff
12 and other current and former aggrieved California-based hourly non-exempt employees all wages
13 earned (including minimum wages, overtime wages, meal period premium wages, and/or rest period
14 premium wages) rendered Plaintiff’s and other current and former aggrieved California-based
15 hourly non-exempt employees’ wage statements inaccurate, in violation of Labor Code section
16 226(a)(1, 2, 5 & 9).

17 37. **Failure to pay employees all wages due at time of termination/resignation:** An
18 employer is required to pay all unpaid wages timely after an employee’s employment ends. The
19 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
20 hours of resignation (Labor Code section 202).

21 38. As a derivative of Plaintiff’s allegations above, because Defendants failed to pay
22 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees all
23 of their earned wages (including minimum wages, overtime wages, meal period premium wages,
24 and/or rest period premium wages), Defendants failed to pay those employees timely after each
25 employee’s termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

26 39. Labor Code sections 2699, subdivisions (a) and (g), authorize an aggrieved
27 employee, on behalf of himself or herself and other current or former employees, to bring a civil
28 action to recover civil penalties against all Defendants pursuant to the procedures specified in Labor

Code section 2699.3.

40. Plaintiff has complied with the procedures for bringing suit specified in Labor Code section 2699.3. On September 27, 2024, Plaintiff filed a PAGA Claim Notice with the LWDA and provided notice to Defendants by certified mail which provided notice of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the violations alleged.

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

42. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7, 510, 512, and 1194, During Plaintiff's employment and continuing through the present, preceding Plaintiff sending the initial PAGA Claim Notice to the LWDA to the present, in the following amounts:

a. For violations of Labor Code sections 201, 202, 203, 226(a), and 226.7; 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 [penalty amounts established by Labor Code section 2699(f)(2)].

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

c. For violations of Labor Code section 510 and 512, fifty dollars (\$50) for each employee for each pay period for the initial violation, and one hundred dollars (\$100) for each subsequent violation, for each underpaid employee for each pay period [penalty amounts established by Labor Code section 558].

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

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

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

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF, ON BEHALF OF HERSELF AND ON OTHER 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.

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Dated: December 2, 2024

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

By: 

Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Jovahn Wiggins, Esq.
Attorneys for Plaintiff DIANA RIOS, on behalf of
herself and current and former aggrieved employees