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

RENEE FLORIANO, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

SYMONS EMERGENCY SPECIALTIES,
INC.; and DOES 1 through 50, inclusive,

Defendants.

Case No.: CIVSB2436507

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR DAMAGES FOR:**

**(1) VIOLATION OF LABOR CODE §§ 1194,
1197 and 1197.1;**

**(2) VIOLATION OF LABOR CODE §§ 510,
558 and 1194;**

(3) VIOLATION OF LABOR CODE § 226;

**(4) VIOLATION OF BUSINESS AND
PROFESSIONS CODE § 17200, *ET SEQ.*;
AND**

**(5) VIOLATION OF LABOR CODE § 2698, *et
seq.***

DEMAND OVER \$25,000.00

1 Plaintiff Renee Floriano (“Plaintiff”) hereby submits this class and representative action
2 complaint (“Complaint”) against Defendant Symons Emergency Specialties, Inc. (“Defendant”),
3 and Does 1 through 50 (collectively, “Defendants”), on behalf of herself and a class of all other
4 similarly situated current and former employees of Defendant for penalties, damages and/or
5 restitution, as follows:

6 **INTRODUCTION**

7 1. This class and representative action is within the Court’s jurisdiction under
8 California Labor Code sections 201, 202, 203, 226(a), 510, 558, 1194, 1197, 1197.1, and 2698,
9 *et seq.*, and California Business and Professions Code § 17200, *et seq.* (the “UCL”), and the
10 applicable Wage Orders of the California Industrial Welfare Commission (“IWC”).

11 2. This Complaint challenges systemic illegal employment practices resulting in
12 violations of the California Labor Code and the UCL against individuals who worked for
13 Defendant.

14 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
15 jointly and severally, have acted intentionally and with deliberate indifference and conscious
16 disregard to the rights of all employees by: (a) failing to pay for all hours worked, in violation of
17 Labor Code sections 510, 558, 1194, 1197 and 1197.1; (b) failing to provide accurate itemized
18 wage statements, in violation of Labor Code section 226(a); (c) failing to pay all earned wages at
19 the time of separation of employment, in violation of Labor Code sections 201, 202 and 203; and
20 (d) engaging in unfair business practices in violation of Business and Professions Code section
21 17200, *et seq.*, the California Labor Code, and the applicable IWC Wage Orders.

22 4. Plaintiff is informed and believes, and based thereon alleges, that Defendant has
23 engaged in, among other things a system of willful violations of the California Labor Code and
24 the applicable IWC Wage Orders by creating and maintaining policies, practices, and customs
25 that knowingly deny employees the above stated rights and benefits.

26 5. The policies, practices, and customs of Defendant described above and below
27 have resulted in unjust enrichment of Defendant and an unfair business advantage over
28 businesses that routinely adhere to the strictures of the California Labor Code and the California

1 Business and Professions Code.

2 **JURISDICTION AND VENUE**

3 6. The Court has jurisdiction over the violations of the California Labor Code
4 sections 201, 202, 203, 226(a), 510, 558, 1194, 1197, 1197.1, and 2698, *et seq.*, and the UCL,
5 and the applicable Wage Orders.

6 7. Venue is proper in San Bernardino County because Defendant maintains
7 operations in Ontario, California.

8 **PARTIES**

9 8. Plaintiff was employed by Defendant in the State of California, during the
10 approximate period of January 2024 through September 16, 2024. Plaintiff was an hourly, non-
11 exempt employee.

12 9. Plaintiff is informed and believes, and based thereon alleges, that Symons
13 Emergency Specialties, Inc. was and is a California corporation that maintains operations in the
14 State of California, including in San Bernardino County. Plaintiff is informed and believes, and
15 based thereon alleges, that Defendant provides emergency medical and ambulance services.

16 10. Plaintiff is informed and believes, and based thereon alleges, that at all times
17 herein mentioned Does 1 through 50, are and were corporations, business entities, individuals,
18 and partnerships, licensed to do business and actually doing business in the State of California.
19 As such, and based upon all the facts and circumstances incident to Defendants' business,
20 Defendants are subject to the California Labor Code and the UCL.

21 11. Plaintiff does not know the true names or capacities, whether individual, partner,
22 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
23 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
24 Complaint when the true names and capacities are known. Plaintiff is informed and believes and
25 based thereon alleges that each of said fictitious defendants was responsible in some way for the
26 matters alleged herein and proximately caused Plaintiff, the class, aggrieved employees, and
27 members of the general public to be subject to the illegal employment practices, wrongs and
28 injuries complained of herein.

1 12. At all times herein mentioned, each defendant participated in the doing of the acts
2 hereinafter alleged to have been done by the named Defendant; and furthermore, Defendants,
3 and each of them, were the agents, servants, and employees of each of the other defendants, as
4 well as the agents of all Defendants, and at all times herein mentioned, were acting within the
5 course and scope of said agency and employment.

6 13. Plaintiff is informed and believes, and based thereon alleges, that at all times
7 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
8 joint venturer of, or working in concert with each of the other co-Defendants and was acting
9 within the course and scope of such agency, employment, joint venture, or concerted activity. To
10 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
11 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
12 Defendants.

13 14. At all times herein mentioned, Defendants, and each of them, were members of,
14 and engaged in, a joint venture, partnership, and common enterprise, and acting within the course
15 and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

16 15. At all times herein mentioned, the acts and omissions of various Defendants, and
17 each of them, concurred and contributed to the various acts and omissions of each and all of the
18 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
19 herein mentioned, Defendants, and each of them, ratified each and every act or omission
20 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
21 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
22 damages as herein alleged.

23 **CLASS ACTION ALLEGATIONS**

24 16. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
25 California Code of Civil Procedure section 382. Plaintiff proposes the following class: All
26 current and former non-exempt employees of Defendant in the State of California during the
27 period of December 6, 2020 through the present (“Class” or “Class Members”).

28 17. **Numerosity and Ascertainability:** The members of the Class are so numerous

that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendant's records, including payroll records. Plaintiff is informed and believes, and based thereon alleges, that Defendant: (a) failed to pay for all hours worked, in violation of Labor Code sections 510, 558, 1194, 1197 and 1197.1; (b) failed to provide accurate itemized wage statements, in violation of Labor Code section 226(a); (c) failed to pay all earned wages at the time of separation of employment, in violation of Labor Code sections 201, 202 and 203; and (d) engaged in unfair business practices in violation of Business and Professions Code section 17200, *et seq.*, the California Labor Code, and the applicable IWC Wage Orders.

18. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the Class and the individual Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have a number of wage-and-hour class actions pending in California state and federal courts.

19. **Common Question of Law and Fact:** There are predominant common questions of law and fact and a community of interest amongst Plaintiff and the claims of the Class concerning Defendant's policy and practice of: (a) failing to pay for all hours worked, in violation of Labor Code sections 510, 558, 1194, 1197 and 1197.1; (b) failing to provide accurate itemized wage statements, in violation of Labor Code section 226(a); (c) failing to pay all earned wages at the time of separation of employment, in violation of Labor Code sections 201, 202 and 203; and (d) engaging in unfair business practices in violation of Business and Professions Code section 17200, *et seq.*, the California Labor Code, and the applicable IWC Wage Orders.

20. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the Class in that Plaintiff has suffered the harms alleged in this Complaint in a similar and typical manner as the Class Members. As with other non-exempt employees, Defendant required that Plaintiff wear a company issued uniform. Defendant required Plaintiff to clean and maintain her

1 work uniform at home without the payment of any wages for such work. To date, Plaintiff has
2 not received the underpaid and/or unpaid wages owed to her. Thus, Defendant is liable for
3 waiting time penalties under Labor Code section 203.

4 21. Due to the underpayment and/or nonpayment of wages alleged herein, the wage
5 statements provided to Plaintiff violated Labor Code section 226(a). More specifically, the wage
6 statements displayed inaccurate rates of pay, hours worked, and net/gross wages earned.

7 22. Therefore, Plaintiff is a member of the Class and has suffered the alleged
8 violations of California Labor Code sections 201, 202, 203, 226(a), 510, 558, 1194, 1197, and
9 1197.1, and the UCL.

10 23. The California Labor Code upon which Plaintiff bases these claims are broadly
11 remedial in nature. These laws and labor standards serve an important public interest in
12 establishing minimum working conditions and standards in California. These laws and labor
13 standards protect the average working employee from exploitation by employers who may seek
14 to take advantage of superior economic and bargaining power in setting onerous terms and
15 conditions of employment.

16 24. The nature of this action and the format of laws available to Plaintiff and
17 members of the Class identified herein make the class action format a particularly efficient and
18 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
19 file an individual lawsuit, the corporate defendants would necessarily gain an unconscionable
20 advantage since it would be able to exploit and overwhelm the limited resources of each
21 individual plaintiff with their vastly superior financial and legal resources. Requiring each Class
22 Member to pursue an individual remedy would also discourage the assertion of lawful claims by
23 employees who would be disinclined to file an action against their former and/or current
24 employer for real and justifiable fear of retaliation and permanent damage to their careers at
25 subsequent employment.

26 25. The prosecution of separate actions by the individual class members, even if
27 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
28 to individual Class Members against the Defendants and which would establish potentially

1 incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to
2 individual Class Members which would, as a practical matter, be dispositive of the interest of the
3 other Class Members not parties to the adjudications or which would substantially impair or
4 impede the ability of the Class Members to protect their interests. Further, the claims of the
5 individual members of the Class are not sufficiently large to warrant vigorous individual
6 prosecution considering all of the concomitant costs and expenses.

7 26. Such a pattern, practice, and uniform administration of corporate policy regarding
8 illegal employee compensation described herein is unlawful and creates an entitlement to
9 recovery by Plaintiff and the Class identified herein, in a civil action, for unpaid wages,
10 including interest thereon, applicable penalties, reasonable attorneys' fees, and costs of suit
11 according to the mandate of California Labor Code sections 218.5, 226, and 1194, the applicable
12 IWC Wage Orders, and Code of Civil Procedure section 1021.5.

13 27. Proof of a common business practice or factual pattern, which the named Plaintiff
14 experienced and is representative of, will establish the right of each of the members of the
15 Plaintiff Class to recovery on the causes of action alleged herein.

16 28. The Class is commonly entitled to a specific fund with respect to the
17 compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to
18 restitution of those funds being improperly withheld by Defendants. This action is brought for
19 the benefit of the entire class and will result in the creation of a common fund.

20 **FIRST CAUSE OF ACTION**

21 **VIOLATION OF LABOR CODE §§ 1194, 1197 and 1197.1**

22 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

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

25 30. This cause of action is brought pursuant to Labor Code sections 1194, 1197, and
26 1197.1, which require an employer to pay employees minimum wages for all hours worked less
27 than eight hours in a day and/or less than 40 hours in a workweek.

28 31. As a pattern and practice, Defendant suffered and permitted Plaintiff and Class

1 Members to work without payment of minimum wages for all hours worked in a workday and
2 workweek. Specifically, Defendant required that Class Members wear a company issued
3 uniform. Defendant required Class Members to clean and maintain their work uniform at home
4 without the payment of any wages for such work.

5 32. Plaintiff is informed and believes and based thereon alleges that, as a result of
6 Defendant's unlawful practice, Defendant willfully failed to pay Plaintiff and the Class wages
7 due and owing to them. Defendant's willful and intentional failure to provide wages due and
8 owing to separated Class Members resulted in continued payment of wages up to thirty (30) days
9 from the time the wages are due. Therefore, all members of the Class who have separated from
10 employment are entitled to compensation as per Labor Code section 203.

11 33. Such a pattern, practice and uniform administration of corporate policy as
12 described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class
13 identified herein, in a civil action, for unpaid minimum wage pursuant to Labor Code sections
14 201, 202, 203, 1194, 1197 and 1197.1, and the applicable IWC Wage Order, including interest
15 thereon, penalties, reasonable attorneys' fees, and costs of suit..

16 **SECOND CAUSE OF ACTION**

17 **VIOLATION OF LABOR CODE §§ 510, 558 AND 1194**

18 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

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

21 35. This cause of action is brought pursuant to Labor Code sections 510, 558 and
22 1194, which require an employer to pay employees overtime at a rate of one and one-half the
23 employee's regular rate of pay for any work in excess of eight hours in a workday or 40 hours in
24 a workweek.

25 36. As a pattern and practice, Defendant suffered and permitted Plaintiff and Class
26 Members to work in excess of eight hours in a workday and/or over forty hours in a workweek
27 without proper overtime pay. Specifically, Defendant required that Class Members wear a
28 company issued uniform. Defendant required Class Members to clean and maintain their work

uniform at home without the payment of any overtime wages for such work.

37. Plaintiff is informed and believes and based thereon alleges that, as a result of Defendant's unlawful practice, Defendant willfully failed to pay Plaintiff and the Class wages due and owing to them. Defendant's willful and intentional failure to provide wages due and owing to separated Class Members resulted in continued payment of wages up to thirty (30) days from the time the wages are due. Therefore, all members of the Class who have separated from employment are entitled to compensation as per Labor Code section 203.

38. Such a pattern, practice and uniform administration of corporate policy as described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class identified herein, in a civil action, for unpaid minimum wage pursuant to Labor Code sections 201, 202, 203, 510, 558, 1194, 1197, and 1197.1, and the applicable IWC Wage Order, including interest thereon, penalties, reasonable attorneys' fees, and costs of suit.

THIRD CAUSE OF ACTION

VIOLATION OF LABOR CODE § 226

(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)

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

40. Defendant failed in its affirmative obligation to provide accurate itemized wage statements, in violation of Labor Code section 226(a).

41. Plaintiff and the Class were paid hourly. As such, the wage statements should have reflected the applicable hourly rates of pay, total hours worked, and gross and net wages earned, pursuant to Labor Code section 226(a). However, as a result of the nonpayment and/or underpayment of wages alleged herein, Defendant issued inaccurate wage statements to employees. In this regard, the wage statements failed to accurately identify the number of hours worked, hourly rates of pay, gross wages earned, and net wages earned.

42. Such a pattern, practice, and uniform administration of corporate policy as described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class, in a civil action, for all damages or penalties pursuant to Labor Code section 226(a), including

1 interest thereon, attorneys' fees, and costs of suit according to the mandate of California Labor
2 Code section 226(a).

3 **FOURTH CAUSE OF ACTION**

4 **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, *ET SEQ.***

5 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

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

8 44. Defendant has engaged and continue to engage in unfair and unlawful business
9 practices in California by practicing, employing, and utilizing the employment practices outlined
10 above, including by failing to pay for all hours worked, in violation of Labor Code sections 510,
11 558, 1194, 1197 and 1197.1.

12 45. Defendant's utilization of such unfair and unlawful business practices constitutes
13 unfair and unlawful competition and provides an unfair advantage over Defendant's competitors.

14 46. Plaintiff seeks, individually and on behalf of other members of the Class similarly
15 situated, full restitution of monies, as necessary and according to proof, to restore any and all
16 monies withheld, acquired and/or converted by the Defendant by means of the unfair practices
17 complained of herein.

18 47. Plaintiff is informed and believes, and based thereon alleges, that at all times
19 herein mentioned Defendant has engaged in unlawful, deceptive and unfair business practices, as
20 proscribed by California Business & Professions Code section 17200, *et seq.*, including those set
21 forth herein above thereby depriving Plaintiff and other members of the Class the minimum
22 working condition standards and conditions due to them under the California laws as specifically
23 described therein.

24 **FIFTH CAUSE OF ACTION**

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

26 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

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

49. 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 October 2, 2023, through the present, for Defendants' violations of Labor Code sections 201, 202, 203, 226(a), 510, 558, 1194, 1197, 1197.1, and 2698, *et seq.*, as identified above, for: (a) failing to pay for all hours worked, in violation of Labor Code sections 510, 558, 1194, 1197 and 1197.1; (b) failing to provide accurate itemized wage statements, in violation of Labor Code section 226(a); (c) failing to pay all earned wages at the time of separation of employment, in violation of Labor Code sections 201, 202 and 203.

50. Defendant required that Plaintiff and other Aggrieved Employees wear a company issued uniform. Defendant required employees to clean and maintain her work uniform at home without the payment of any wages for such work. To date, Plaintiff and other Aggrieved Employees have not received the underpaid and/or unpaid wages owed to her.

51. On or about October 2, 2024, Plaintiff sent written notice to the California Labor & Workforce Development Agency (“LWDA”) of Defendants’ violation of Labor Code sections 201, 202, 203, 226(a), 510, 558, 1194, 1197, and 1197.1, pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys General Act (“PAGA”). Plaintiff also sent written notice of said Labor Code violations to Defendant via certified mail pursuant to Labor Code section 2699.3. As of the date of the filing of this Complaint, the LWDA has not provided written notice regarding whether it intends to investigate the Labor Code violations set forth in Plaintiff’s written notice.

52. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any and all applicable civil penalties for Defendants' violation of Labor Code sections 201, 202, 203, 226(a), 510, 558, 1194, 1197, 1197.1 and 2698 for the time period described above, on behalf of herself and other Aggrieved Employees.

PRAYER FOR RELIEF

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

1. For an order certifying the proposed class;

2. For an order appointing Plaintiff as the representative of the class as described herein;

3. For an order appointing counsel for Plaintiff as class counsel;

4. Upon the First Cause of Action, for damages and/or penalties pursuant to California Labor Code sections 201, 202, 203, 1194, 1197 and 1197.1, and for costs and attorneys' fees;

5. Upon the Second Cause of Action, for damages and/or penalties pursuant to California Labor Code sections 510, 558 and 1194, and for costs and attorneys' fees;

6. Upon the Third Cause of Action, for damages and/or penalties pursuant to California Labor Code section 226(a), and for costs and attorneys' fees;

7. Upon the Fourth Cause of Action, for restitution to Plaintiff and other similarly affected members of the general public of all funds unlawfully acquired by Defendant by means of any acts or practices declared by this Court to be in violation of Business & Professions Code section 17200, *et seq.*, and for costs and attorneys' fees;

8. Upon the Fifth Cause of Action, for civil penalties according to proof pursuant to the PAGA, Labor Code §§ 201-203, 246, and for costs and attorneys' fees

9. On all causes of action for attorneys' fees and costs as provided by California Labor Code sections 218.5, 226, and 1194, and Code of Civil Procedure section 1021.5; and

10. For such other and further relief the Court may deem just and proper.

DATED: December 6, 2024

DIVERSITY LAW GROUP, P.C.

By: _____

Kristen M. Agnew

Attorneys for Plaintiff and the Class