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Assigned for All Purposes

Judge Layne H. Melzer

CX-102

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ORANGE

JENNIFER CLESCERI, on behalf of the State
of California, as a private attorney general,

Plaintiff,

vs.

CHILDREN'S HOSPITAL OF ORANGE
COUNTY, a Corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. **30-2026-01551403-CU-OE-CXC**

REPRESENTATIVE ACTION
COMPLAINT FOR:

1. Civil Penalties Pursuant to Labor Code
§ 2699 for violations of Labor Code
§§ 204, 210, 226(a), 226.7, 246, 510, 512,
558(a)(1)(2), 1194, 1197, 1197.1, 1198,
California Code of Regulations, Title 8,
Section 11040, Subdivision 5(A)-(B), and
the applicable Wage Order(s).

1 Plaintiff Jennifer Clesceri (“PLAINTIFF”), on behalf of the people of the State of
2 California and as an “aggrieved employee” acting as a private attorney general under the
3 Labor Code Private Attorney General Act of 2004, § 2699, (“PAGA”) only, alleges on
4 information and belief, except for her own acts and knowledge which are based on personal
5 knowledge, the following:

6 INTRODUCTION

7 1. PLAINTIFF brings this action against defendant Children’s Hospital of Orange
8 County (referred to as “DEFENDANT”) seeking only to recover PAGA civil penalties on behalf
9 of all current and former aggrieved employees that worked for DEFENDANT. PLAINTIFF
10 does **not seek to recover anything other than penalties as permitted by California Labor**
11 **Code § 2699**. To the extent that statutory violations are mentioned for wage violations,
12 PLAINTIFF does not seek underlying general and/or special damages for those violations, but
13 simply the civil penalties permitted by California Labor Code § 2699.

14 2. California has enacted the PAGA which permits PLAINTIFF to bring an action
15 for PAGA penalties *only*, which is the precise and sole nature of this action.

16 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for
17 DEFENDANT’s violations under PAGA and solely for the relief as permitted by PAGA – that
18 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this
19 complaint should be construed as attempting to obtain any relief that would not be available in
20 a PAGA-only action.

21 4. PLAINTIFF is not suing in her individual capacity; she is proceeding
22 herein solely under the PAGA, on behalf of the State of California for all aggrieved employees.
23 Nothing in this complaint should be construed as PLAINTIFF suing in her individual capacity.

24 THE PARTIES

25 5. Children’s Hospital of Orange County (“DEFENDANT”) is a corporation that at
26 all relevant times mentioned herein conducted and continues to conduct substantial business in
27 California.
28

1 6. DEFENDANT owns and operates a hospital in Orange County, California.

2 7. PLAINTIFF is currently employed by DEFENDANT in California. PLAINTIFF's
3 employment with DEFENDANT started in November of 2022. PLAINTIFF has been at all
4 times classified by DEFENDANT as a non-exempt employee, paid on an hourly basis, and
5 entitled to the legally required meal and rest periods and payment of minimum and overtime
6 wages due for all time worked.

7 8. PLAINTIFF, and such persons that may be added from time to time who satisfy
8 the requirements and exhaust the administrative procedures under the Private Attorney General
9 Act, brings this Representative Action on behalf of the State of California with respect to all
10 individuals who are or previously were employed by DEFENDANT in California, including any
11 employees staffed with DEFENDANT by a third party, and classified as non-exempt employees
12 ("AGGRIEVED EMPLOYEES") during the time period of December 9, 2024 until a date as
13 determined by the Court (the "PAGA PERIOD").

14 9. PLAINTIFF, on behalf of all AGGRIEVED EMPLOYEES presently or
15 formerly employed by DEFENDANT during the PAGA PERIOD, brings this representative
16 action pursuant to Labor Code § 2699 seeking fixed civil penalties for DEFENDANT's
17 violation of California Labor Code §§ 204, 210, 226(a), 226.7, 246, 510, 512, 558(a)(1)(2),
18 1194, 1197, 1197.1, 1198, California Code of Regulations, Title 8, Section 11040,
19 Subdivision 5(A)-(B), and the applicable Wage Order(s). Based upon the foregoing,
20 PLAINTIFF and all AGGRIEVED EMPLOYEES are aggrieved employees within the
21 meaning of Labor Code § 2699.

22 10. The true names and capacities, whether individual, corporate, subsidiary,
23 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are
24 presently unknown to PLAINTIFF who therefore sues these Defendants by such fictitious
25 names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this
26 Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when
27 they are ascertained. PLAINTIFF is informed and believes, and based upon that information
28 and belief alleges, that the Defendants named in this Complaint, including DOES 1 through

1 50, inclusive, are responsible in some manner for one or more of the events and happenings
2 that proximately caused the injuries and damages hereinafter alleged.

3 11. The agents, servants and/or employees of the Defendants and each of them
4 acting on behalf of the Defendants acted within the course and scope of his, her or its
5 authority as the agent, servant and/or employee of the Defendants, and personally
6 participated in the conduct alleged herein on behalf of the Defendants with respect to the
7 conduct alleged herein. Consequently, the acts of each Defendant are legally attributable to
8 the other Defendants and all Defendants are jointly and severally liable to PLAINTIFF and
9 all the AGGRIEVED EMPLOYEES, for the loss sustained as a proximate result of the
10 conduct of the Defendants' agents, servants and/or employees.

11 12 THE CONDUCT

13 12. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT
14 is required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all their time
15 worked, meaning the time during which an employee is subject to the control of an
16 employer, including all the time the employee is suffered or permitted to work.
17 DEFENDANT requires PLAINTIFF and the AGGRIEVED EMPLOYEES to work without
18 paying them for all the time they are under DEFENDANT's control. Among other things,
19 DEFENDANT requires PLAINTIFF to work while clocked out during what is supposed to
20 be PLAINTIFF's off-duty meal break. PLAINTIFF is from time to time interrupted by work
21 assignments while clocked out for what should be PLAINTIFF's off-duty meal break.
22 DEFENDANT, as a matter of established company policy and procedure, administers a
23 uniform practice of rounding the actual time worked and recorded by PLAINTIFF and the
24 AGGRIEVED EMPLOYEES, always to the benefit of DEFENDANT, so that during the
25 course of their employment, PLAINTIFF and the AGGRIEVED EMPLOYEES are paid less
26 than they would have been paid had they been paid for actual recorded time rather than
27 "rounded" time. As a result, PLAINTIFF and the AGGRIEVED EMPLOYEES forfeit
28 minimum wage, overtime wage compensation, and off-duty meal breaks by working without

1 their time being correctly recorded and without compensation at the applicable rates.

2 DEFENDANT's policy and practice not to pay PLAINTIFF and the AGGRIEVED

3 EMPLOYEES for all time worked, is evidenced by DEFENDANT's business records.

4 13. As a result of their rigorous work schedules, PLAINTIFF and the
5 AGGRIEVED EMPLOYEES are from time to time unable to take thirty (30) minute off
6 duty meal breaks and were not fully relieved of duty for their meal periods. PLAINTIFF
7 and the AGGRIEVED EMPLOYEES are required from time to time to perform work as
8 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving
9 a meal break. Further, DEFENDANT from time to time fails to provide PLAINTIFF and
10 AGGRIEVED EMPLOYEES with a second off-duty meal period for some workdays in
11 which these employees were required by DEFENDANT to work ten (10) hours of work.
12 DEFENDANT also engages in the practice of rounding the meal period times to avoid
13 paying penalties to PLAINTIFF and the AGGRIEVED EMPLOYEES. PLAINTIFF and the
14 AGGRIEVED EMPLOYEES therefore forfeit meal breaks without additional compensation
15 and in accordance with DEFENDANT's corporate policy and practice.

16 14. During the PAGA PERIOD, PLAINTIFF and the AGGRIEVED
17 EMPLOYEES are also required from time to time to work in excess of four (4) hours
18 without being provided ten (10) minute rest periods. Further, these employees are denied
19 their first rest periods of at least ten (10) minutes for some shifts worked of at least two (2)
20 to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes
21 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,
22 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10)
23 hours or more from time to time. PLAINTIFF and the AGGRIEVED EMPLOYEES are also
24 not provided with one hour wages in lieu thereof. Additionally, the applicable California
25 Wage Order requires employers to provide employees with off-duty rest periods, which the
26 California Supreme Court defined as time during which an employee is relieved from all
27 work related duties and free from employer control. In so doing, the Court held that the
28 requirement under California law that employers authorize and permit all employees to take

1 rest period means that employers must relieve employees of all duties and relinquish control
2 over how employees spend their time which includes control over the locations where
3 employees may take their rest period. Employers cannot impose controls that prohibit an
4 employee from taking a brief walk - five minutes out, five minutes back. Here,
5 DEFENDANT's policy restricted PLAINTIFF and the AGGRIEVED EMPLOYEES from
6 unconstrained walks and is unlawful based on DEFENDANT's rule which states
7 PLAINTIFF and the AGGRIEVED EMPLOYEES cannot leave the work premises during
8 their rest period.

9 15. During the PAGA PERIOD, DEFENDANT fails to accurately record and pay
10 PLAINTIFF and the AGGRIEVED EMPLOYEES for the actual amount of time these
11 employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,
12 DEFENDANT is required to pay PLAINTIFF and the AGGRIEVED EMPLOYEES for all
13 time worked, meaning the time during which an employee was subject to the control of an
14 employer, including all the time the employee was permitted or suffered to permit this work.
15 DEFENDANT requires these employees to work off the clock without paying them for all
16 the time they were under DEFENDANT's control. As such, DEFENDANT knew or should
17 have known that PLAINTIFF and the AGGRIEVED EMPLOYEES were under
18 compensated for all time worked. As a result, PLAINTIFF and the AGGRIEVED
19 EMPLOYEES forfeited time worked by working without their time being accurately
20 recorded and without compensation at the applicable minimum wage and overtime wage
21 rates. To the extent that the time worked off the clock does not qualify for overtime
22 premium payment, DEFENDANT failed to pay minimum wages for the time worked off-
23 the-clock in violation of Cal. Lab. Code §§ 1194, 1197, and 1197.1.

24 16. From time to time, DEFENDANT also fails to provide PLAINTIFF and the
25 AGGRIEVED EMPLOYEES with complete and accurate wage statements which fail to
26 show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226
27 provides that every employer shall furnish each of his or her employees with an accurate
28 itemized wage statement in writing showing, among other things, gross wages earned and all

1 applicable hourly rates in effect during the pay period and the corresponding amount of time
2 worked at each hourly rate. PLAINTIFF and the AGGRIEVED EMPLOYEES are paid on
3 an hourly basis. As such, the wage statements should reflect all applicable hourly rates
4 during the pay period and the total hours worked, and the applicable pay period in which the
5 wages were earned pursuant to California Labor Code Section 226(a). The wage statements
6 DEFENDANT provided to PLAINTIFF and the AGGRIEVED EMPLOYEES fail to
7 identify such information. More specifically, the wage statements fail to identify the accurate
8 total hours worked each pay period. When the hours shown on the wage statements are
9 added up, they do not equal the actual total hours worked during the pay period in violation
10 of Cal. Lab. Code 226(a)(2). Aside, from the violations listed above in this paragraph,
11 DEFENDANT failed to issue to PLAINTIFF an itemized wage statement that lists all the
12 requirements under California Labor Code 226. As a result, DEFENDANT from time to
13 time provides PLAINTIFF and the AGGRIEVED EMPLOYEES with wage statements
14 which violated Cal. Lab. Code § 226.

15 17. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be
16 deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
17 the wages are paid not more than seven (7) calendar days following the close of the payroll
18 period. Cal. Lab. Code § 210 provides:

19 in [I]n addition to, and entirely independent and apart from, any other penalty provided
20 this article, every person who fails to pay the wages of each employee as provided in
21 Sections. . . .204. . . shall be subject to a civil penalty as follows: (1) For any initial
22 violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For
each subsequent violation, or any willful or intentional violation, two hundred dollars
(\$200) for each failure to pay each employee, plus 25 percent of the amount
unlawfully withheld.

23 18. DEFENDANT from time to time fails to pay PLAINTIFF and the
24 AGGRIEVED EMPLOYEES within seven (7) days of the close of the payroll period in
25 accordance with Cal. Lab. Code § 204(d), including but not limited to the “Hourly” regular
26 wage payments.

27 19. DEFENDANT unilaterally altered PLAINTIFF’s time card and payroll records
28 by taking PTO and sick pay wages and allocating these wages to days in the future and as a

1 result, PLAINTIFF forfeited wages and DEFENDANT violated Cal. Lab. Code Section 246.

2
3 **JURISDICTION AND VENUE**

4 20. This Court has jurisdiction over this Action pursuant to California Code of
5 Civil Procedure, Section 410.10.

6 21. Venue is proper in this Court pursuant to California Code of Civil Procedure,
7 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and
8 DEFENDANT (i) currently maintains and at all relevant times maintained offices and
9 facilities in this County and/or conducts substantial business in this County, and (ii)
10 committed the wrongful conduct herein alleged in this County against PLAINTIFF and other
11 AGGRIEVED EMPLOYEES.

12
13 **FIRST CAUSE OF ACTION**

14 **For Violation of the Private Attorneys General Act**

15 **[Cal. Lab. Code §§ 2698]**

16 **(By PLAINTIFF and Against All Defendants)**

17 22. PLAINTIFF realleges and incorporates by this reference, as though fully set
18 forth herein, the prior paragraphs of this Complaint.

19 23. PAGA is a mechanism by which the State of California itself can enforce state
20 labor laws through the employee suing under the PAGA who do so as the proxy or agent of
21 the state's labor law enforcement agencies. An action to recover civil penalties under
22 PAGA is fundamentally a law enforcement action designed to protect the public and not to
23 benefit private parties. The purpose of the PAGA is not to recover damages or restitution,
24 but to create a means of "deputizing" citizens as private attorneys general to enforce the
25 Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the
26 public interest to allow aggrieved employees, acting as private attorneys general to recover
27 civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA
28 claims cannot be subject to arbitration.

1 24. PLAINTIFF, and such persons that may be added from time to time who
2 satisfy the requirements and exhaust the administrative procedures under the Private
3 Attorney General Act, brings this Representative Action on behalf of the State of California
4 with respect to all individuals who are or previously were employed by DEFENDANT in
5 California, including any employees staffed with DEFENDANT by a third party, and
6 classified as non-exempt employees (“AGGRIEVED EMPLOYEES”) during the time
7 period of December 9, 2024 until a date as determined by the Court (the "PAGA PERIOD").

8 25. On December 9, 2025, PLAINTIFF gave written notice by electronic mail to
9 the Labor and Workforce Development Agency (the "Agency") and by certified mail to the
10 employer of the specific provisions of this code alleged to have been violated as required by
11 Labor Code § 2699.3. *See Exhibit #1*, attached hereto and incorporated by this reference
12 herein. The statutory waiting period for PLAINTIFF to add these allegations to the
13 Complaint has expired. As a result, pursuant to Section 2699.3, PLAINTIFF may now
14 commence a representative civil action under PAGA pursuant to Section 2699 as the proxy
15 of the State of California with respect to all AGGRIEVED EMPLOYEES as herein defined.

16 26. The policies, acts and practices heretofore described were and are an unlawful
17 business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the
18 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly
19 record and provide legally required meal and rest periods, (c) failed to pay minimum wages,
20 and (d) failed to pay overtime wages and sick pay wages, all in violation of the applicable
21 Labor Code sections listed in Labor Code §§ 204, 210, 226(a), 226.7, 246, 510, 512,
22 558(a)(1)(2), 1194, 1197, 1197.1, 1198, California Code of Regulations, Title 8, Section
23 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s), and thereby gives rise to
24 civil penalties as a result of such conduct.¹ PLAINTIFF hereby seeks recovery of only civil
25 penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the
26 representative of the State of California for the illegal conduct perpetrated on PLAINTIFF

27 ¹Plaintiff specifically excludes and/or does not allege any claims under California Labor
28 Code §558(a)(3).

1 and the AGGRIEVED EMPLOYEES.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
4 severally, as follows:

5 1. On behalf of the State of California and with respect to all AGGRIEVED
6 EMPLOYEES:

7 A) Recovery of civil penalties as prescribed by the Labor Code Private
8 Attorneys General Act of 2004; and,

9 B) An award of attorneys' fees and cost of suit, as allowable under the
10 law, including, but not limited to, pursuant to Labor Code §2699.

11 Dated: March 2, 2026 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW
12 LLP

13
14 By: /s/ Norman Blumenthal
15 Norman B. Blumenthal
16 Kyle R. Nordrehaug
17 Nicholas J. De Blouw

18 **CENTURION TRIAL ATTORNEYS**
19 Ryan Stygar (State Bar No. 332764)
20 8880 Rio San Diego Dr Ste 800
21 San Diego, CA 92108

22 *Attorneys for Plaintiff*
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EXHIBIT 1

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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**WRITERS EXT:
1004**

**December 9, 2025
CA3797**

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

**Labor and Workforce Development Agency
Online Filing**

**Children's Hospital of Orange County
Certified Mail #9589071052702856215369
MARIA ELENA SMITH
1201 W LA VETA AVE
ORANGE, CA 92868**

RE: Notice Of Violations Of California Labor Code Sections §§ 204, 210, 226(a), 226.7, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198 California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California, and Violation of Applicable Industrial Welfare Commission Wage Order(s) brought Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Children’s Hospital of Orange County (“Defendant”) in California, including any employees staffed with Children’s Hospital of Orange County by a third party, and classified as non-exempt employees during the time period of December 9, 2024 until a date as determined by the Court (“PAGA Period”). Our offices represent Jennifer Clesceri (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Defendant. Plaintiff has been employed by Defendant in California since November of 2022. Plaintiff works for Defendant as a Medical Assistant at Defendant’s hospital located at 550 S. Main Street, Suite 350 in Orange County, California.

Plaintiff has been at all times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, for all of their time spent working off the clock as described further below.

During the PAGA period Plaintiff and other Aggrieved Employees were not able to always take the legally required meal and rest periods which is in violation of Cal. Labor Codes Sections 226.7 and 512. Specifically, Plaintiff works in the epilepsy subsection of

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Defendant's neurology department. There are many phone calls coming into this department constantly and Defendant's policy requires Plaintiff to complete and close these phone calls within twenty-four (24) hours. Plaintiff would hustle to complete her work for Defendant's "Message Box" on a daily basis. During the PAGA Period, Defendant's neurology department has been chronically understaffed. Plaintiff and other medical assistants must pick up this extra work, which includes, but is not limited to, clinic setting tasks, such as, discharging patients, taking vitals, patient intake, going over discharge instructions with patients (including lab orders, future appointments, and validating parking), and all other patient care tasks. When the department is busy, there are many times Plaintiff simply did not take meal and rest breaks, or was taking a meal or rest break and had to cut the break short due to workplace tasks and patient care needs. Plaintiff has also frequently been interrupted when on her off duty meal and rest breaks by Defendant's Dr.'s who have questions regarding patient care and/or having to perform patient intake, patient discharge, and phone calls regarding medication refills from parents, patients and the pharmacy. A review of Plaintiff's pay stubs reveals that ***Defendant paid ZERO meal and rest break penalties*** to Plaintiff. As a result of the above, Defendant violated Cal. Labor Code Sections 226.7, 510, 512, 1194, 1197, and 1197.1.

Additionally, Defendant's employees, including Defendant's Assistant Nurse Case Manager (Shelly Walters), unilaterally altered Plaintiff's time card and payroll records by taking PTO and sick pay wages and allocating these wages to days in the future and as a result, Plaintiff forfeited wages and Defendant violated Cal. Lab. Code Section 246.

During the PAGA Period Defendant has also committed minimum wage and overtime violations. Defendant's and its managers are strict about Plaintiff and other aggrieved employees not working additional overtime. As a result, there have been times during the PAGA period in which Plaintiff was required to clock out and continue to work to avoid incurring additional overtime hours. Plaintiff would clock out of Defendant's timekeeping system and complete urgent tasks that included, but were not limited to, calls to parents, calls to school nurses, calls to pharmacies, medication refills, confirming with patients medication doses and strength. As a result of this conduct, Plaintiff was not paid the proper minimum and overtime wages in violations of Cal. Lab. Code Sections 510, 1194, 1197, and 1197.1

Pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages, including the minimum, overtime and meal and rest break penalties described above. Plaintiff further contends that Defendant failed to provide her and other Aggrieved Employees with accurate wage statements in violation of California Labor Code section 226(a). Plaintiff and the Aggrieved Employees were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a) (2). The wage statements Defendant provided to Plaintiff and the

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Aggrieved employees failed to identify the correct number of hours worked and wages earned as a result of the above conduct.

This notice is provided to enable Plaintiff to proceed with a Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit will consist of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiff and all Aggrieved Employees.

If you have any questions or concerns, please do not hesitate to contact me at the above number and email address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw Esq.