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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN JOAQUIN

STK-CV-W06-2024- 16340

Miriam Wilson, an individual, on behalf of herself
and all others similarly situated and as a private
attorney general pursuant to the Private Attorneys
General Act,

Plaintiff,

vs.

RO Health, LLC, and Does 1 through 10,

Defendants.

Case
CLASS ACTION

Complaint

Demand for Jury Trial

Plaintiff Miriam Wilson ("Plaintiff"), individually, on behalf of all other persons similarly
situated and as a private attorney general pursuant to the California Private Attorneys General Act (the

1 “PAGA”), alleges:

- 2 1. Plaintiff is a California resident and was employed in San Joaquin County by Defendants as a non-
- 3 exempt employee.
- 4 2. Defendant RO Health, LLC (“Defendant”) is a Delaware corporation with its principal place of
- 5 business located at 1900 W Nickerson Street, Suite 200, Seattle, WA 98119. Defendant operates
- 6 from locations throughout the United States, including in San Joaquin and Los Angeles Counties
- 7 in California.
- 8 3. Plaintiff does not presently know the true names and capacities of the defendants named as Does
- 9 1 through 10 and therefore sues such defendants by these fictitious names. Each of the defendants
- 10 has been or is an employer, co-employer, joint employer of Plaintiff, the class members and
- 11 aggrieved employee and/or is the principal, officer, director, agent, employer, employee,
- 12 representative, and/or co-conspirator of each of the other defendants and in such capacity or
- 13 capacities participated in the acts or conduct alleged herein and incurred liability therefor. At an
- 14 unknown time, some or all the defendants conspired with other defendants to commit the wrongful
- 15 acts described herein. These wrongful acts were committed in furtherance of such conspiracy. Each
- 16 of the defendants aided and abetted other defendants in committing the wrongful acts alleged
- 17 herein. Each of the defendants acted for personal gain or in furtherance of such defendant’s own
- 18 financial advantage in committing the wrongful acts alleged herein. Plaintiff will request leave of
- 19 the Court to amend this Complaint to set forth their true names, identities, and capacities when
- 20 Plaintiff ascertains them. The named defendants and the Doe defendants are hereinafter referred
- 21 to collectively as “Defendants.”

22 **CLASS ACTION ALLEGATIONS**

- 23
- 24 4. Plaintiff brings the first six causes of action for herself and on behalf of the following class:
- 25 All non-exempt employees of the Defendants who worked in California within the period
- 26 beginning four years prior to the filing of this action through the date set by the Court.
- 27 5. The term “class members” includes the Plaintiff and all class members.
- 28

- 1 6. During all or a portion of the class period, Plaintiff and class members were employed by
2 Defendants in California.
- 3 7. **Numerosity.** The number of class members is so numerous that joinder of all members is
4 impractical. The names and addresses of the class members are identifiable through documents
5 maintained by the Defendants, and the class members may be notified of the pendency of this
6 action by published and/or mailed notice. There are believed to be more than 50 class members.
- 7 8. **Existence and Predominance of Common Questions of Law and Fact.** Common questions of
8 law and fact exist as to all class members. These questions predominate over the questions
9 affecting only individual members. These common legal and factual questions include, among
10 other things:
- 11 a. Whether Defendants are employers or joint employers of the class members;
- 12 b. Whether Defendants paid class members for all hours worked as required by California
13 law for time spent waiting for and going through security processes;
- 14 c. Whether Defendants paid class members overtime and other compensation at the properly
15 calculated rate;
- 16 d. Whether Defendants provided the required meal periods to class members;
- 17 e. Whether Defendants provided the required rest periods to class members;
- 18 f. Whether Defendants willfully failed to timely pay all wages due to Plaintiff and class
19 members upon the termination of their employment;
- 20 g. Whether Defendants violated Labor Code Section 226 by failing to timely furnish Plaintiff
21 and class members accurate wage statements; and
- 22 h. Whether Defendants engaged in unfair competition in violation of California Business &
23 Professions Code Section 17200, *et seq.*
- 24 9. **Typicality.** Plaintiff's class claims are typical of the class members' claims. Plaintiff and all class
25 members sustained injuries and damages arising out of Defendants' common course of conduct in
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27
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violation of the law as alleged herein. Plaintiff is entitled to the same relief under the class action causes of action as the class members.

10. **Adequacy.** Plaintiff will adequately and fairly protect the interests of the class members. Defendants employed Plaintiff during the class period, and Plaintiff is an adequate representative for the class members because Plaintiff has no interest adverse to the interests of the class members and Plaintiff has retained legal counsel with substantial experience in civil litigation, employment law and class action litigation. Plaintiff and Plaintiff's counsel will fairly and adequately protect the class members' interests.

11. **Superiority.** A class action is superior to other available means of fair and efficient adjudication of the class members' claims. Joinder of all class members is impractical. Class action treatment will allow numerous similarly situated persons to prosecute their common claims in a single forum, simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would cause to such plaintiffs or to the court system. Further, the damages of many class members may be relatively small and the burden and expenses of individual litigation would make it difficult or impossible for individual class members to seek and obtain relief, while a class action will serve an important public interest. Furthermore, questions of law and fact common to the class members predominate over questions affecting only individual members, and a class action is superior to other available methods for fair and efficient adjudication of the controversy. Individual litigation would present the potential for inconsistent or contradictory judgments. By contrast, the class action device will result in substantial benefits to the litigants and the Court by allowing the Court to resolve numerous individual claims based upon a single set of proof in one case.

**First Cause of Action
Failure to Pay Wages for Hours Worked
(Against All Defendants)**

12. Plaintiff realleges all the preceding paragraphs.

- 1 13. Plaintiff is a travel nurse for Defendants. Defendants placed Plaintiff at a large prison in Stockton,
2 California. Plaintiff was required to arrive at her job early so that Plaintiff could get through
3 security and start work on time and fill in any personnel “gaps” if there was a shortage of nurses.
4 Plaintiff and other employees were required to undergo a security process before clocking in. It
5 was a long walk and people sometimes waited in line. The security check could take longer if the
6 Warden was present. When Plaintiff showed up for a shift, going through security involved going
7 through two “sallyports” that consisted of a series of doors and/or gates. She was subjected to a
8 bag check at the first sallyport and was required to present her ID at the second sallyport. She then
9 clocked in by signing an attendance sheet. Plaintiff and other aggrieved employees were not paid
10 for the security time prior to signing in. Plaintiff and other aggrieved employees were docked pay
11 if they were one minute late.
- 12 14. Plaintiff and class members were entitled to be paid for all hours worked, including waiting in line,
13 walking to and through the sallyports, passing through the various security procedures, and then
14 signing in on the attendance sheet.
- 15 15. Defendants did not accurately record and pay Plaintiff and other class members and aggrieved
16 employees for all hours worked, including sick pay, overtime, and meal and rest period premiums
17 to which they were entitled at the correct rate. Plaintiff and other aggrieved employees worked off
18 the clock and during their meal and rest periods. Defendants improperly rounded hours worked,
19 including meal periods, which resulted in the payment of less wages to which they were entitled.
20 Defendants paid overtime pay, sick pay, meal period premiums, and/or rest period premiums to
21 Plaintiff and other aggrieved employees without properly calculating the regular rate based on all
22 compensation received, including per diems and other compensation.
- 23 16. Because Plaintiff, class members, and aggrieved employees were required to undergo security
24 checks to leave the facilities for meal periods and to undergo security checks to re-enter the
25 premises, they were under Defendants’ control during meal periods and therefore the time of the
26 meal periods were hours worked under California for which they were entitled to be paid.
27
28

1 17. Plaintiff has incurred and is entitled to attorneys' fees, costs and interest.

2 **Second Cause of Action**
3 **Meal Period Violations**
4 **(Against All Defendants)**

5 18. Plaintiff realleges all the preceding paragraphs.

6 19. Plaintiff worked on the suicide watch and was required to always be watching the prisoners while
7 on shift. Plaintiff could not take a break unless and until Plaintiff was relieved by another nurse.
8 Although Plaintiff was allowed to go to the prison cafeteria for lunch breaks, it was difficult to
9 leave the prison because she had to undergo exit security processes, and she was therefore impeded
10 in taking control-free meal periods where she wished to take them.

11 20. Defendants did not provide Plaintiff, class members, and aggrieved employees with the requisite
12 duty-free, timely, and number of meal periods of the legally required duration. As a result of their
13 work schedules, aggrieved employees were on occasion unable to take duty-free meal periods and
14 did not receive all meal periods to which they were entitled. Defendants did not pay all meal
15 premiums due Plaintiff, class members, and aggrieved employees at the proper rate.

16 **Third Cause of Action**
17 **Rest Period Violations**
(Against All Defendants)

18 21. Plaintiff realleges all the preceding paragraphs.

19 22. Plaintiff worked on the suicide watch and was required to always be watching the prisoners while
20 on her shift. Plaintiff could not take a break unless and until she was relieved by another nurse.
21 Plaintiff was promised two 10-minute rest breaks. There were many days when Plaintiff received
22 late breaks and, on occasion, Plaintiff did not get all her breaks. Many people complained about
23 not getting their breaks on time. On some days when Plaintiff did not get any breaks, she would
24 get a single 50-minute break, which would combine the time she was supposed to get for her lunch
25 and rest breaks.

26 23. Defendants did not provide Plaintiff, class members, and aggrieved employees with the requisite
27 duty-free, timely, and number of rest periods of the legally required duration. As a result of their
28

work schedules, employees were on occasion unable to take duty-free rest periods and did not receive all rest periods to which they were entitled. Defendants did not pay all rest premiums due Plaintiff, class members, and aggrieved employees at the proper rate.

**Fourth Cause of Action
Failure to Pay Waiting Time Wages Pursuant to Labor Code Section 203
(Against All Defendants)**

24. Plaintiff realleges all the preceding paragraphs.

25. Labor Code Section 201 in relevant part provides:

(a) If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. . . .

26. Labor Code Section 202 in relevant part provides:

(a) If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting...

27. Labor Code Section 203 provides in relevant part:

(a) If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. . . .

(b) Suit may be filed for these penalties at any time before the expiration of the statute of limitations on an action for the wages from which the penalties arise.

28. The employment of Plaintiff and other class members and aggrieved employees with Defendants terminated. When their employment terminated, Defendants violated Labor Code Sections 201 or 202 by willfully failing to pay the wages earned and unpaid that were due them within the time required by Sections 201 or 202 and are liable for waiting time penalties pursuant to section 203.

29. Labor Code Section 218.5 provides in relevant part:

(a) In any action brought for the nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, the court shall award reasonable attorney's fees and costs to the prevailing party if any party to the action requests attorney's fees and costs upon the initiation of the action. . . .

1 30. Plaintiff has incurred attorneys' fees and costs in pursuing this claim.

2 **Fifth Cause of Action**
3 **Wage Statement and Record-Keeping Violations**
4 **(Against All Defendants)**

5 31. Plaintiff realleges all the preceding paragraphs.

6 32. Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to
7 maintain and furnish Plaintiff and class members with accurate and complete wage statements
8 reflecting all the information required under Section 226(a) and/or 1174.

9 33. Defendants violated section 226(a)(1) as to Plaintiff and other aggrieved employees by failing to
10 provide them statements of wages that accurately showed gross wages earned.

11 34. Defendants violated section 226(a)(5) by failing to provide Plaintiff and other aggrieved
12 employees with statements of wages that accurately showed net wages earned.

13 35. Defendants violated section 226(a)(9) by failing to provide Plaintiff and other aggrieved
14 employees with statements of wages that accurately showed the applicable hourly rates in effect
15 during the pay period and the corresponding number of hours worked at each hourly rate by failing
16 accurately to show the actual number of hours worked at the applicable hourly rate at which they
17 should have been paid.

18 36. Plaintiff and class members are deemed to have suffered injury because of Defendants' violations.
19 Moreover, Defendants' failure to furnish Plaintiff and class members with complete and accurate
20 itemized wage statements resulted in actual injury because such failures led to, among other things,
21 the non-payment of all the wages due them and deprived them of the information necessary to
22 identify the discrepancies in Defendants' reported data.

23 37. Plaintiff and the other class members are entitled to damages and/or penalties pursuant to Labor
24 Code section 226.

25 **Sixth Cause of Action**
26 **Violation of California Business and Professions Code Section 17200, *et seq.***
27 **(Against All Defendants)**

28 38. Plaintiff realleges all the preceding paragraphs.

39. Business & Professions Code section 17200 provides:

As used in this chapter, unfair competition shall mean and include any *unlawful, unfair* or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.) (Emphasis added.)

40. Defendants' violations of the Labor Code and Wage Order provisions set forth above constitute unlawful and/or unfair business acts or practices.

41. Business & Professions Code Section 17203 provides:

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition.

42. Defendants have been unjustly enriched because of Defendants' unlawful and/or unfair business acts and/or practices.

43. Plaintiff and the class members are entitled to restitution of the money and/or property by which Defendants were unjustly enriched.

44. Plaintiff and the class members are further entitled to and seek a declaration that the above-described business practices are unfair, unlawful and/or fraudulent and injunctive relief restraining Defendants, and each of them, from engaging in any of the above-described unfair, unlawful and/or fraudulent business practices in the future.

45. Plaintiff is entitled to an award of attorneys' fees pursuant to California Code of Civil Procedure Section 1021.5.

Seventh Cause of Action
For Recovery of Civil Penalties under the California Private Attorney General Act,
Labor Code Section 2698, *et seq.*
(Against All Defendants)

46. Plaintiff realleges all the preceding paragraphs.

- 1 47. The above violations set forth below were committed against Plaintiff, and Plaintiff is therefore an
2 “aggrieved employee” under Labor Code Section 2699(c)
3
4 48. Pursuant to the Private Attorneys General Act of 2004 (the “PAGA”), Plaintiff is entitled to recover
5 civil penalties on behalf of persons who are or were employed by the alleged violator and against
6 whom the alleged violations was committed (“aggrieved employees”). Plaintiff is pursuing civil
7 penalties for violations of the Labor Code sections alleged herein.
8
9 49. Defendants, as alleged above, have committed Labor Code violations against Plaintiff and
10 aggrieved employees.
11
12 50. Plaintiff seeks to recover all civil penalties recoverable under the PAGA against Defendants,
13 including without limitation penalties pursuant to Labor Code Sections 210, 226.3, 256, 558,
14 1174.5, 1197.1, and 2699(f).
15
16 51. On August 21, 2024, Plaintiff’s attorney gave written notice to the Labor and Workforce
17 Development Agency (“LWDA”) and to Defendants by certified mail identifying violations set
18 forth in this complaint and 65 days have passed from the date of the mailing of the notice.
19
20 52. Labor Code Section 2699(g) provides that any “employee who prevails in any action shall be
21 entitled to an award of reasonable attorney’s fees and costs.” Plaintiff has incurred attorney’s fees
22 and costs in pursuing this claim.
23

24 WHEREFORE, Plaintiff demands a jury trial and requests that judgment be entered against all
25 Defendants as follows:
26

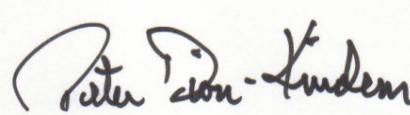
- 27 1. Certification of this action as a class action and the appointment of Plaintiff as the representative
28 of the class and Plaintiff’s counsel as lead counsel for the class;
2. Damages for unpaid wages;
3. Liquidated damages;
4. Compensatory damages according to proof;
5. Waiting time penalties due pursuant to Labor Code Section 203;
6. Statutory penalties pursuant to Labor Code Section 226(e);

7. Restitution pursuant to Business & Professions Code Sections 17200, *et seq.*;
8. Penalties recoverable under the PAGA;
9. Prejudgment interest;
10. Reasonable attorney's fees;
11. Costs as allowed by law;
12. A declaratory judgment that the practices complained of herein are unlawful under the Labor Code and/or the Unfair Competition Law; and
13. Such other relief as this Court shall deem just and proper.

Dated: November 18, 2024

THE DION-KINDEM LAW FIRM

BY:



PETER R. DION-KINDEM, P.C.
PETER R. DION-KINDEM
Attorney for Plaintiff Miriam Wilson

Demand for Jury Trial

Plaintiff demands a jury trial.

Dated: November 18, 2024

THE DION-KINDEM LAW FIRM

BY:



PETER R. DION-KINDEM, P.C.
PETER R. DION-KINDEM
Attorney for Plaintiff Miriam Wilson