

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Sean M. Blakely (SBN 264384)
sblakely@haineslawgroup.com
Joel M. Gordon (SBN 280721)
jgordon@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff

Electronically FILED by
Superior Court of California,
County of Los Angeles
11/20/2023 4:21 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By S. Ruiz, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

WENDY SUAREZ, as an individual and on
behalf of all other aggrieved employees,

Plaintiff,

vs.

EAH INC., a California nonprofit corporation;
and DOES 1 through 100,

Defendants.

Case No. 23STCV28439

**REPRESENTATIVE ACTION
COMPLAINT:**

**(1) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*)**

UNLIMITED CIVIL CASE

1 Plaintiff Wendy Suarez (“Plaintiff”), on behalf of herself and all other aggrieved
2 employees, hereby brings this Representative Action Complaint against Defendants EAH Inc., a
3 California nonprofit corporation; and DOES 1 through 100, inclusive (collectively “Defendants”),
4 and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of herself and all other aggrieved employees, hereby brings
7 this representative action for recovery of civil penalties under California Labor Code §§ 2698 *et*
8 *seq.*

9 2. This Court has jurisdiction over Defendants because, upon information and belief,
10 Defendants are citizens of California, Defendants have sufficient minimum contacts in
11 California, or otherwise intentionally avail themselves to the California market so as to render
12 the exercise of jurisdiction over them by the California courts consistent with the traditional
13 notions of fair play and substantial justice.

14 **VENUE**

15 3. Venue as to each Defendant is proper in this judicial district pursuant to California
16 Code of Civil Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions
17 complained of herein occurred in the County of Los Angeles. Further, at all times relevant herein
18 Plaintiff was employed by Defendants within the County of Los Angeles.

19 **PARTIES**

20 4. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
21 Plaintiff was, and currently is, a California resident, residing in the County of Los Angeles.
22 During the one year immediately preceding Plaintiff’s giving of the required notice under the
23 PAGA, and within the statute of limitations periods applicable to the cause of action pled herein,
24 Plaintiff was employed by Defendants as an hourly non-exempt employee.

25 5. Plaintiff is informed and believes, and based thereon alleges, that during the one
26 year preceding Plaintiff’s giving of the required notice under the PAGA and continuing to the
27 present, Defendants did (and do) business by developing affordable housing and managing
28 properties throughout California and Hawaii, and employed Plaintiff and other similarly-situated

1 hourly non-exempt employees within the County of Los Angeles and, therefore, were (and are)
2 doing business in the County of Los Angeles and the State of California.

3 6. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
4 herein, Defendants were licensed to do business in California and the County of Los Angeles, and
5 were the employers of Plaintiff and the Aggrieved Employees (as defined in Paragraph 19).

6 7. Plaintiff does not know the true names or capacities, whether individual, partner,
7 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
8 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
9 amend this Representative Action Complaint when such true names and capacities are
10 discovered. Plaintiff is informed, and believes, and thereon alleges, that each of said fictitious
11 defendants, whether individual, partners, or corporate, were responsible in some manner for the
12 acts and omissions alleged herein, and proximately caused Plaintiff and the Aggrieved
13 Employees (as defined in Paragraph 19) to be subject to the unlawful employment practices,
14 wrongs, injuries, and damages complained of herein.

15 8. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
16 herein, Defendants were and are the employers of Plaintiff and the Aggrieved Employees (as
17 defined in Paragraph 19).

18 9. At all times herein mentioned, each of said Defendants participated in the doing
19 of the acts hereinafter alleged to have been done by the named Defendant; and furthermore, the
20 Defendants, and each of them, were the agents, servants, and employees of each and every one
21 of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
22 were acting within the course and scope of said agency and employment. Defendants, and each
23 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
24 omissions complained of herein.

25 10. At all times mentioned herein, Defendants, and each of them, were members of
26 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
27 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
28 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and the

Aggrieved Employees (as defined in Paragraph 19).

REPRESENTATIVE ACTION ALLEGATIONS

11. Defendants employed Plaintiff in the non-exempt job position of “Resident Manager” (or similarly titled position). Plaintiff was employed by Defendants from approximately October 2019 until approximately July 2023. Her duties included running the on-site property office, answering residents’ requests, completing property reports, and staying on-call for emergencies. The “aggrieved employees” whom Plaintiff seeks to represent are all current and former non-exempt employees of Defendants who performed work for Defendants in the State of California during the one year immediately preceding the date of this letter through the present.

12. During Plaintiff’s employment with Defendants, Plaintiff and other non-exempt employees were required to respond to resident emergencies twenty-four hours per day, but Defendants failed to compensate Plaintiff and other non-exempt employees for all time spent carrying out assigned duties. During Plaintiff’s employment with Defendants, Defendants also failed to compensate Plaintiff and other non-exempt employees for travel time to alternate worksites or mandatory off-site meetings.

13. During a portion of the Class Period, Defendants also utilized a timekeeping system which resulted in Plaintiff and other non-exempt employees not being compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise. Upon information and belief, this timekeeping system used by Defendants recorded hours worked to the minute; however, Defendants rounded Plaintiff and other non-exempt employees’ hours, so that over a period of time they were deprived of all minimum and overtime wages. Defendants’ timekeeping policies/practices were not even-handed and have resulted in Plaintiff and other non-exempt employees not being compensated for all hours worked.

14. Defendants also failed to properly calculate Plaintiff and other non-exempt employees overtime rates of pay due to their receipt of non-discretionary bonuses, lodging credits, and/or other forms of pay not excludable as a matter of law when calculating an employee’s regular rate (hereinafter the aforementioned forms of pay are collectively referred to

as “Incentive Pay”). On those occasions when Plaintiff was not provided with a legally required meal period to which she was entitled and Defendants paid her a meal period premium as required under California law, the meal period premium was calculated during a portion of the Class Period at Plaintiff’s base rate of pay rather than her regular rate of pay. Defendants also calculated Plaintiff’s sick pay at her base rate of pay rather than her regular rate of pay.

15. During her employment with Defendants, Defendants failed to provide Plaintiff and other non-exempt employees with all legally compliant meal periods due to Defendants’ meal period policies/practices, which have resulted in late (commencing after the fifth hour of work), short (less than 30 minutes of uninterrupted net time), and missed meal periods. Plaintiff and other non-exempt employees were often interrupted during their meal periods and made to work off the clock. Plaintiff was often required to travel between work sites while clocked out during her meal periods. In addition, Defendants failed to provide Plaintiff and other non-exempt employees with second meal periods on shifts over 10.0 hours. On those occasions when Plaintiff was not provided with all legally required meal periods to which she was entitled, Defendants failed to compensate Plaintiff with the proper meal period premium for each workday in which she experienced a meal period violation as mandated by Labor Code § 226.7, calculated at the regular rate of pay.

16. Defendants have also failed to authorize and permit all required rest periods for Plaintiff and other non-exempt employees. Specifically, Defendants have often failed to authorize and permit a 10-minute rest period for every four hours worked or major fraction thereof due to work demands imposed by Defendants. On those occasions when Plaintiff was not authorized and permitted all legally required rest periods to which she was entitled, Defendants failed to compensate Plaintiff with the required rest period premium for each workday in which she experienced a rest period violation as mandated by Labor Code § 226.7. Upon information and belief, during at least a portion of the relevant time period, Defendants maintained no payroll code for paying rest period premiums under Labor Code § 226.7.

17. Defendants also failed to adequately reimburse Plaintiff and other non-exempt employees for all reasonable and necessary work expenditures, including, but not limited to, use

1 of their personal cellular phone and mileage for driving their personal vehicle between job sites.

2 18. As a result of Defendants' failure to compensate Plaintiff and other non-exempt
3 employees for all minimum wages, overtime wages, and all meal and rest period premium wages,
4 Defendants maintained inaccurate payroll records and failed to issue accurate, compliant,
5 itemized wage statements. As a further result of Defendants' failure to compensate Plaintiff and
6 other non-exempt employees for all minimum wages, overtime wages, and all meal and rest
7 period premium wages, Defendants failed to pay Plaintiff and other non-exempt employees all
8 wages owed at the time of their separation of employment with Defendants, including sick pay
9 at the regular rate of pay.

10 19. Based on the foregoing, Plaintiff seeks to represent herself and other aggrieved
11 employees, as defined by Labor Code § 2699(c), who have been aggrieved by the Labor Code
12 violations discussed herein.

13 **FIRST CAUSE OF ACTION**

14 **PRIVATE ATTORNEYS GENERAL ACT**

15 **(AGAINST ALL DEFENDANTS)**

16 20. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
17 fully set forth herein.

18 21. Defendants have committed several Labor Code violations against Plaintiff and
19 other aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor
20 Code § 2698 *et seq.*, acting on behalf of herself and other aggrieved employees, brings this
21 representative action against Defendants to recover the civil penalties due to Plaintiff, other
22 aggrieved employees, and the State of California according to proof, including, but not limited
23 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for
24 each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for
25 each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for
26 each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per
27 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
28 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each

1 initial violation; and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
2 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each
3 subsequent violation per employee per pay period for those violations of the Labor Code for
4 which no civil penalty is specifically provided, based on the following Labor Code violations:

- 5 a. Failing to pay minimum wages for all hours worked to Plaintiff and other
6 aggrieved employees in violation of Labor Code §§ 1182.12, 1194, 1194.2, and
7 1197;
- 8 b. Failing to pay Plaintiff and other aggrieved employees all earned overtime
9 compensation in violation of Labor Code §§ 204, 510, 1194, and 1198;
- 10 c. Failing to provide all legally required meal periods, or to pay premium pay in lieu
11 thereof, to Plaintiff and other aggrieved employees at the regular rate of pay in
12 violation of Labor Code §§ 226.7, 512, 558, and 1198;
- 13 d. Failing to authorize and permit all legally required rest periods, or to pay premium
14 pay in lieu thereof, to Plaintiff and other aggrieved employees at the regular rate
15 of pay in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- 16 e. Failing to furnish Plaintiff and other aggrieved employees with complete,
17 accurate, itemized wage statements in violation of Labor Code § 226;
- 18 f. Failure to reimburse Plaintiff and other aggrieved employees for all necessary
19 expenditures incurred in violation of Labor Code §§ 2802 and 2804;
- 20 g. Failing to timely pay all final wages due to Plaintiff and other aggrieved employees
21 in violation of Labor Code §§ 201, 202, and 203;
- 22 h. Failing to pay Plaintiff and other aggrieved employees all earned wages at least
23 twice during each calendar month in violation of Labor Code § 204; and
- 24 i. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved
25 employees in violation of Labor Code § 1174 and 1198.

26 22. On or about September 14, 2023, Plaintiff notified Defendant EAH Inc. via
27 certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via its
28 website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a

claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to violations of the California Labor Code identified in Paragraph 21 (a)-(i). Now that sixty-five days have passed from Plaintiff notifying Defendants of these violations, Plaintiff has exhausted her administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

23. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which she is entitled to receive under California Labor Code § 2699.

PRAYER

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

1. Upon the First Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the Labor Code violations identified in Paragraph 21 (a)-(i);

2. On all causes of action, for attorneys' fees and costs as provided by Labor Code § 2699(g) and Code of Civil Procedure § 1021.5; and

///

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

2
3 Dated: November 20, 2023

Respectfully submitted,
HAINES LAW GROUP, APC

4
5 By:

 

Paul K. Haines
Sean M. Blakely
Attorneys for Plaintiff