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ORIGINAL FILED
Superior Court of California
County of Los Angeles

JUL 20 2016

Sherri R. [Signature], Executive Office/Clerk
By: [Signature], Deputy
Ishayla Chambers

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

10 RAYMOND CAMPOS, an individual

11 Plaintiff,

12 vs.

13 EAST LOS ANGELES ALCOHOLISM
14 COUNCIL, a California corporation., and
15 DOES 1 through 50, inclusive,

16 Defendants.

CASE NO.: BC 027665

COMPLAINT FOR:

1. FAILURE TO PAY COMPENSATION FOR ALL HOURS WORKED AND MINIMUM WAGE VIOLATIONS (LABOR CODE §§ 216, 1194, 1194.2 AND 1197)
2. FAILURE TO PAY OVERTIME COMPENSATION (LABOR CODE §§ 510 and 1194);
3. FAILURE TO PROVIDE MEAL AND REST PERIODS (LABOR CODE §§ 226.7, 512)
4. FAILURE TO FURNISH ACCURATE WAGE AND HOUR STATEMENTS (LABOR CODE § 226);
5. UNFAIR COMPETITION (BUSINESS AND PROFESSIONS CODE § 17200, *et seq.*); and

JURY TRIAL DEMANDED

17 Plaintiff RAYMOND CAMPOS ("Plaintiff") alleges as follows:

18 **GENERAL ALLEGATIONS**

- 19 1. Defendant EAST LOS ANGELES ALCOHOLISM COUNCIL and DOES 1-50, inclusive

1 (collectively, "Defendants" or "ELAAC") denied Plaintiff RAYMOND CAMPOS ("Plaintiff" or
2 "CAMPOS") the benefits and protections required under the California Labor Code and other
3 statutes and regulations applicable to employees in the State of California. Although CAMPOS
4 performs non-exempt functions, he is subjected to an illegal piece-rate compensation scheme
5 which does not pay him for all hours worked, including overtime premium compensation to
6 which he is entitled to under California law.

7 2. ELAAC, in conjunction with other Defendants:

- 8 a. failed to pay wages for all hours worked by the Plaintiff, including for hours
9 worked in excess of eight hours a day or forty hours a week;
- 10 b. failed to pay minimum wages due to the Plaintiff;
- 11 c. failed to pay overtime wages due to the Plaintiff;
- 12 d. failed to pay contract time due to the Plaintiff;
- 13 e. failed to provide the Plaintiff with timely and accurate wage and hour statements;
- 14 f. failed to provide Plaintiff with meal and rest breaks to which he was entitled by
15 law and failed to compensate Plaintiff for missed meal and rest breaks;
- 16 g. failed to maintain complete and accurate payroll records for the Plaintiff;
- 17 h. wrongfully withheld wages and compensation due to the Plaintiff; and
- 18 i. committed unfair business practices in an effort to increase profits and to gain an
19 unfair business advantage at the expense of the Plaintiff and the public.

20 3. The foregoing acts and other acts by Defendants - committed throughout California and
21 Los Angeles County - violated numerous provisions of California law, including California
22 Labor Code sections 201, 202, 203, 204, 210, 216, 225.5, 226, 226.3, 226.7, 510, 512, 558, 1174,
23 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1199 and the applicable Wage Orders issued by
24 California's Industrial Welfare Commission (collectively, "Employment Laws and
25 Regulations"), Business & Professions Code sections 17200 *et seq.*, Private Attorneys General
26 Act of 2004 (California Labor Code section 2698, *et seq.*) and violated Plaintiff's rights.

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1 **JURISDICTION AND VENUE**

2 4. Venue is proper in this Judicial District and the County of Los Angeles because work was
3 performed by Plaintiff for Defendants in the County of Los Angeles, California, and Defendants'
4 legal obligations to pay overtime wages and to provide accurate wage statements to Plaintiff
5 according to the Employment Laws and Regulations arose and were breached in the County of
6 Los Angeles.

7 5. The California Superior Court has jurisdiction in this matter because Plaintiff
8 RAYMOND CAMPOS is a resident of California, and Defendant ELAAC is qualified to do
9 business in California and regularly conducts business in California. Further, no federal question
10 is at issue as the claims are based solely on California law.

11 **THE PARTIES**

12 6. Plaintiff RAYMOND CAMPOS is, and at all relevant times was, a competent adult
13 residing in California. Plaintiff worked, and continues to work, for ELAAC as a certified and
14 registered counselor in Los Angeles County, California for over fifteen years.

15 7. Defendant ELAAC is, and at all relevant times was, a state licensed and DMV approved
16 DUI Program. Defendants have engaged in unlawful employment practices addressed in this
17 complaint throughout Los Angeles County.

18 8. Plaintiff is currently unaware of the true names and capacities of the defendants sued in
19 this action by the fictitious names DOES 1 through 50, inclusive, and therefore sues those
20 defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names
21 and capacities of such fictitiously named defendants when they are ascertained. Plaintiff is
22 informed and believes and based thereon states that the persons sued herein as DOES are in some
23 manner responsible for the conduct, injuries and damages herein alleged.

24 9. Plaintiff is informed and believes and based thereon alleges that each defendant sued in
25 this action, including each defendant sued by the fictitious names DOES 1 through 50, inclusive,
26 is responsible in some manner for the occurrences, controversies and damages alleged below.

27 10. Plaintiff is informed and believes and based thereon alleges that DOES 1 through 50,
28 inclusive, were the agents, servants and/or employees of Defendants and, in doing the things

1 hereinafter alleged and at all times, were acting within the scope of their authority as such agents,
2 servants and employees, and with the permission and consent of Defendants.

3 11. Plaintiff is informed and believes and based thereon alleges that Defendants ratified,
4 authorized, and consented to each and all of the acts and conduct of each other as alleged herein.
5 Each of the defendants was the agent and/or employee of the others, and the conduct of each
6 defendant herein alleged was authorized and/or ratified by the others. The conduct of ELAAC
7 was carried on by and through its authorized agents, including owners, officers, directors,
8 managers and supervisors.

9 **FACTS**

10 12. During the four years preceding the filing of this action, Plaintiff was employed - and
11 continues to be employed - as a certified and licensed counselor for ELAAC.

12 13. According to its own website, ELAAC is "is a state licensed and DMV approved DUI
13 Program" serving the greater Los Angeles area for "over 35 years." Its mission statement is "to
14 increase, promote, and educate the public's understanding of alcoholism, its nature and treatment
15 and to "encourage a life of sobriety." (www.eastlaalcoholcouncil.com)

16 14. Mr. Campos is one of three certified and registered counselors currently working at
17 ELAAC. ELAAC pays Mr. Campos on a commission-based piece rate which violates the
18 applicable Employment Laws and Regulations.

19 15. ELAAC *only* pays a set fixed amount of money when Plaintiff is either (1) having a one-
20 on-one counseling session with an ELAAC client or (2) conducts a "classroom" type counseling
21 session with multiple ELAAC clients. For example, based on information and belief, during the
22 relevant time period, ELAAC paid Counselors, including Plaintiff, a fixed wage for every three
23 (3) one-on-one client meetings completed. Similarly, for every two "classroom" type counseling
24 sessions completed, Counselors, including Plaintiff, receive a set fee or credit for fulfilling that
25 particular activity. In other words, ELAAC only compensated Plaintiff when he engages in or
26 engaged in direct interactions with ELAAC's clients.

27 16. Throughout his employment with Defendants, Plaintiff did not receive the appropriate
28 amount of overtime hours, nor did he receive the appropriate overtime rate. Further, Plaintiff did

1 not receive the appropriate amount of minimum wage on all occasions that the wage order
2 mandates. Specifically, Defendants failed to pay Plaintiff a minimum wage during his wait time
3 between meetings sessions and clients, or when he performed other non-client tasks, such as
4 completing the daily, inordinate and substantial paperwork and documentation associated with
5 individual and group meetings. These non-client activities are not factored in or accounted for in
6 ELAAC's unlawful commission-based piece rate scheme and ELAAC does not separately
7 compensate Counselors, including Plaintiff, for these non-client activities.

8 17. Defendants compensated Plaintiff - and as a matter of uniform company policy all of its
9 Counselors - on an unlawful piece-rate basis, in which Plaintiff is paid on the basis of the clients
10 meetings or class room sessions completed. Plaintiff was paid a flat rate for each meeting or
11 session he accrued. Plaintiff only accrued credits for pay while conducting these one-on-one
12 client meetings or classroom sessions. This compensation scheme is illegal and is in violation of
13 the Employment Laws and Regulations. This illegal wage device was implemented by Charles
14 Garcia, ELAAC's Chief Executive Officer, who controlled the wages, hours, and working
15 conditions for Counselors at ELAAC, including Plaintiff.¹

16 18. During Plaintiff's employment with ELAAC, ELAAC regularly failed to provide Plaintiff
17 with uninterrupted, work-free 30-minute meal periods for shifts in excess of five (5) hours and
18 was not compensated for missed meal periods. ELAAC also failed to provide Plaintiff with rest
19 periods for shifts in excess of four (4) hours throughout his employment with Defendants. There
20 was no mechanism or system in place for Plaintiff to record meal and rest periods, and in fact, he
21 was not provided with compliant meal and rest periods. Just recently and in or around 2016,
22 Defendants implemented a "break log" to record supposed meal and rest periods. Further, there
23

24 ¹ Plaintiff alleges that on or about July 6, 2016, Plaintiff provided written notice by e-mail
25 to the Labor and Workforce Development Agency ("LWDA"), Defendants, and Mr. Garcia of the
26 facts and theories regarding the violations of the Employment Laws and Regulations. Upon the
27 expiration of the applicable period of time and/or when the LWDA advises Plaintiff that it does
28 not intend to investigate Plaintiff's claims, Plaintiff will amend his complaint as a matter of right
to add a cause of action for penalties under the Private Attorneys General Act of 2004 ("PAGA")
pursuant to Labor Code Section 2698, *et seq.*, and to also add Charles Garcia as an individual
defendant for penalties under PAGA pursuant to Labor Code Section 558.

1 was no mechanism available to Plaintiff to seek compensation for missed meal or rest periods
2 during the applicable time period.

3 19. During Plaintiff's employment with ELAAC, ELAAC failed and refused to provide
4 Plaintiff with timely and accurate wage and hour statements in violation of the Employment
5 Laws and Regulations.

6 20. During Plaintiff's employment with ELAAC, ELAAC wrongfully withheld from Plaintiff
7 and failed to pay wages and other compensation which was due for all of the hours he worked,
8 for overtime work, and as otherwise required per Employment Laws and Regulations.

9 21. Plaintiff seeks payment of unpaid wages, overtime premium pay and other compensation,
10 all benefits required pursuant to the Employment Laws and Regulations, plus penalties and
11 interest, owed to him.

12 22. Defendants' conduct violated the Employment Laws and Regulations. ELAAC's
13 systematic acts and practices also violated, *inter alia*, California Business & Professions Code
14 section 17200, *et seq.*

15 23. Plaintiff seeks restitution and disgorgement of all sums wrongfully obtained by
16 Defendants through unfair business practices in violation of California's Business & Professions
17 Code sections 17200, *et seq.*, to prevent ELAAC from benefitting from violations of law and/or
18 unfair acts. Such sums recovered under the Unfair Competition Act and Unfair Businesses Act
19 are equitable in nature and are not to be considered damages.

20 24. To the extent that Plaintiff entered into any arbitration agreement with any defendant and
21 such agreement purports to require arbitration, such agreement is void and unenforceable. Any
22 such agreement was one of adhesion, executed under duress, lacked consideration and mutuality,
23 and was otherwise void under both California Labor Code section 229 and the California
24 Supreme Court case of *Armendariz v. Foundation Health Psychare Services, Inc.* (2000) 24
25 Cal.4th 83.

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY COMPENSATION FOR ALL HOURS WORKED AND MINIMUM**
3 **WAGE VIOLATIONS**

4 **(LABOR CODE §§ 216, 1194, 1194.2 AND 1197)**

5 25. As a separate and distinct cause of action, Plaintiff complains and realleges all of the
6 allegations contained in this complaint, and incorporates them by reference into this cause of
7 action as though fully set forth herein, excepting those allegations which are inconsistent with
8 this cause of action.

9 26. Plaintiff brings this action to recover unpaid compensation for all hours worked.

10 27. Defendants' conduct described in this Complaint violates, among other things, Labor
11 Code §§ 204, 216, 218, 218.5, 218.6, 510, 1194, and 1198 and the IWC Wage Orders.

12 28. Defendants failed to pay Plaintiff for all of the actual hours he worked including for work
13 over eight hours in a day and over forty hours in a workweek. Defendants knew or should have
14 known that Plaintiff was working these hours.

15 29. Plaintiff is also entitled to penalties pursuant to Paragraph No. 20 of the applicable IWC
16 Wage Order which provides, in addition to any other civil penalties provided by law, any
17 employer or any other person acting on behalf of the employer who violates, or causes *to be*
18 violated, the provisions of the IWC Wage Order, shall be subject to a civil penalty of \$50.00 (for
19 initial violations) or \$100.00 (for subsequent violations) for each underpaid employee for each
20 pay period during which the employee was underpaid in addition to the amount which is
21 sufficient to recover unpaid wages.

22 30. Plaintiff has been deprived of his rightfully earned minimum wages as a direct and
23 proximate result of Defendants' policies and practices and Defendants' failure and refusal to pay
24 said wages for all hours worked. The Class Members, including Plaintiff, are entitled to recover
25 the past wages owed to them, under the minimum wage laws, plus an additional equal amount as
26 liquidated damages as permitted under the Wage Orders and Labor Code § 1194.2, plus interest
27 thereon and attorneys' fees and costs pursuant to Labor Code §§ 1194 and 2698, in an amount
28 according to proof at the time of trial.

1 37. Throughout Plaintiff's employment, Defendants failed to provide Plaintiff rest periods for
2 shifts in excess of four (4) hours as required by law and failed to compensate him for missed rest
3 periods. Defendants also failed to provide Plaintiff with rest periods for shifts in excess of four
4 (4) hours as required by law and failed to compensate him for missed rest periods.

5 38. Plaintiff is informed and believes, and thereon alleges that the failure of Defendants to
6 provide meal and rest periods and to compensate Plaintiff for these missed meal and rest periods
7 was willful, purposeful, and unlawful and done in accordance with the policies and practices of
8 Defendants' operations. As a result of Defendants' knowing and intentional policies and
9 procedures, Plaintiff was not provided rest and meal periods and was not properly compensated
10 for having missed these rest and meal periods.

11 39. As a proximate cause of the aforementioned violations, Plaintiff has been damaged in an
12 amount according to proof at the time of trial, but in an amount in excess of the jurisdiction of
13 this Court. Plaintiff is entitled to recover the unpaid balance of wages owed, penalties, including
14 penalties available pursuant to California Labor Code Sections 226, 226.7, 558, plus interest,
15 reasonable attorney fees and costs of suit according to the mandate of California Labor Code,
16 Section 1194, *et seq.*

17 **FOURTH CAUSE OF ACTION**

18 **FAILURE TO FURNISH ACCURATE WAGE AND HOUR STATEMENTS**

19 **(LABOR CODE § 226)**

20 40. As a separate and distinct cause of action, Plaintiff complains and realleges all of the
21 allegations contained in this complaint, and incorporates them by reference into this cause of
22 action as though fully set forth herein, excepting those allegations which are inconsistent with
23 this cause of action.

24 41. Defendants have routinely failed to provide Plaintiff with timely and accurate wage and
25 hour statements showing gross hours earned, total hours worked, all deductions made, net wages
26 earned, and all applicable hours rates in effect during each pay period and the corresponding
27 number of hours worked at each hourly rate.

28 42. As a consequence of Defendants' actions, Plaintiff has suffered injury.

1 43. As a consequence of Defendants' actions, Plaintiff is entitled to all available statutory
2 penalties, including those provided in California Labor Code section 226(e), as well as all other
3 available remedies.

4 **FIFTH CAUSE OF ACTION**

5 **UNFAIR COMPETITION AND UNFAIR BUSINESS PRACTICES**

6 **(CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 17200, ET SEQ.)**

7 44. As a separate and distinct cause of action, Plaintiff complains and realleges all of the
8 allegations contained in this complaint, and incorporates them by reference into this cause of
9 action as though fully set forth herein, excepting those allegations which are inconsistent with
10 this cause of action.

11 45. Defendants' violations of the Employment Laws and Regulations as alleged in this
12 Complaint, including Defendants'

13 a. Failure and refusal to pay Plaintiff wages for all hours worked;

14 b. Failure and refusal to pay Plaintiff overtime wages;

15 c. Failure to provide Plaintiff with meal and rest breaks to which he was entitled by
16 law and failed to compensate Plaintiff for missed meal and rest breaks;

17 d. Failure and refusal to provide Plaintiff with timely and accurate wage and hour
18 statements;

19 e. Failure to maintain complete and accurate payroll records for Plaintiff;

20 all of which constitute unfair business practices in violation of the California Business &
21 Professions Code section 17200, *et seq.*

22 46. Defendants have avoided payment of wages, overtime wages and other benefits as
23 required by the California Labor Code, the California Code of Regulations, and applicable
24 Industrial Welfare Commission Wage Orders. Further, Defendants have failed to record, report
25 and pay the correct sums of assessment to the State authorities under the California Labor Code
26 and other applicable regulations.

27 47. As a result of Defendants' unfair business practices, Defendants have reaped unfair
28 benefits and illegal profits at the expense of Plaintiff and members of the public. Defendants


1 should be made to disgorge their ill-gotten gains and to restore them to Plaintiff.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff prays that the Court enter judgment in his favor and against
4 Defendants as follows:

- 5 1. For compensatory damages in an amount to be ascertained at trial;
- 6 2. For restitution in an amount to be ascertained at trial;
- 7 3. For penalties as required by the applicable Wage Order or otherwise by law;
- 8 4. For prejudgment interest at the legal rate pursuant to California Labor Code
9 section 218.6 and other applicable sections;
- 10 5. For reasonable attorney's fees pursuant to California Labor Code §§ 1194;
- 11 6. For cost of suit incurred herein;
- 12 7. For disgorgement of profits garnered as a result of Defendants' unlawful practice;
- 13 and
- 14 8. For such further relief as the Court may deem appropriate.

15 DATED: July 20, 2016 LAW OFFICES OF THOMAS W. FALVEY

16
17
18 By: 
MICHAEL H. BOYAMIAN
19 Attorneys for Plaintiff RAYMOND CAMPOS

20 **DEMAND FOR JURY TRIAL**

21 Plaintiff demands jury trial of this matter.

22 DATED: July 20, 2016 LAW OFFICES OF THOMAS W. FALVEY

23
24 By: 
MICHAEL H. BOYAMIAN
25 Attorneys for Plaintiff RAYMOND CAMPOS
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27
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