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6 Attorneys for Plaintiff Theresa Suzanne Lopez,
individually and on behalf of all other Similarly Aggrieved Employees

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF STANISLAUS**

11 **THERESA SUZANNE LOPEZ**, an
individual; individually and on behalf of all
12 others similarly situated,
Plaintiffs;

13 v.
14

15 **CENTRAL VALLEY SPECIALTY**
HOSPITAL, INC., a California corporation;
16 and DOES 1 through 20, inclusive,
Defendant.

CASE NO. CV-20-001778

Consolidated with Case No. CV-21-002861

**DECLARATION OF ALLEN FELAHY
IN SUPPORT OF PLAINTIFF THERESA
SUZANNE LOPEZ'S MOTION TO
APPROVE PAGA SETTLEMENT**

[Concurrently filed with Plaintiff's Motion to
Approve PAGA Settlement; Request for Judicial
Notice; and [Proposed] Order]

Hearing

Date: May 2, 2025

Time: 8:30 a.m.

Dept.: 22

1 I, Allen B. Felahy, declare as follows:

2 1. I am an attorney duly licensed to practice law before all courts of the State of
3 California. I am a Principal of Felahy Employment Lawyers. My law firm, Felahy Employment
4 Lawyers, is counsel for Plaintiff Theresa Lopez ("Plaintiff") herein. I have personal knowledge of
5 the facts set forth herein, and if called as a witness, I could and would testify to these facts.

6 2. This declaration is submitted in support of Plaintiff's Motion to Approve PAGA
7 Settlement. The following facts are within my personal knowledge and, if called as a witness herein,
8 I can and will competently testify thereto.

9 3. A true and correct copy of the PAGA Representative Action Settlement Agreement
10 (the "Settlement Agreement" or "Agreement") between Plaintiff and Defendant Central Valley
11 Specialty Hospital, Inc. ("Defendant" or "CVSH") is attached hereto for the Court's reference as
12 **Exhibit 1** and which is incorporated herein by reference.

13 4. The Labor Workforce Development Agency ("LWDA") has been served with the
14 underlying Motion, its supporting documents, and the Settlement Agreement; and a true and correct
15 copy of the corresponding Proof of Service is attached hereto as **Exhibit 2**.

16 **Summary of Contentions, Facts and Procedural Events**

17 5. Defendant employed Plaintiff as an hourly-paid, non-exempt employee, at its long-
18 term acute care hospital in Modesto, California. Plaintiff was employed by Defendant as a Licensed
19 Vocational Nurse. Although Plaintiff has alleged numerous Labor Code violations against
20 Defendant, Defendant's liability (or lack thereof) was predicated on the threshold issue of whether
21 Defendant's Rest and Meal Break policies and practices complied with California law, as well as an
22 alleged miscalculation of the alleged regular rate of pay for overtime calculations.

23 6. Prior to filing her PAGA Complaint, in accordance with Labor Code section 2699.3,
24 on Plaintiff filed her PAGA notice/letter with the LWDA and served it on Defendant. Attached hereto
25 as **Exhibit 3** is a true and correct copy of Plaintiff's LWDA Letter, dated January 2, 2020.

26 7. On March 18, 2020, after having received no response from the LWDA, Plaintiff
27 timely filed a PAGA Representative Action Complaint against Defendant with this Court (Case
28 Number CV-20-001778) for herself and on behalf of Defendant's other similarly aggrieved

1 employees. Attached hereto as **Exhibit 4** is a true and correct copy of Plaintiff's PAGA Complaint,
2 CV-20-001778.

3 8. Thereafter, on October 26, 2020, Plaintiff provided a second written notice to the
4 LWDA and to Defendant regarding additional violations of the Labor Code. Attached hereto as
5 **Exhibit 5** is a true and correct copy of Plaintiff's LWDA Letter, dated 10/26/2020. Thereafter, on
6 April 7, 2021, Plaintiff filed and served a second amended written notice regarding yet additional
7 violations of the Labor Code. Attached hereto as **Exhibit 6** is a true and correct copy of Plaintiff's
8 LWDA Letter, dated 4/7/2021.

9 9. On July 15, 2021, Plaintiff filed and served her First Amended PAGA Representative
10 Action Complaint ("FAPC") with this Court. Attached hereto as **Exhibit 7** is a true and correct copy
11 of Plaintiff's First Amended PAGA Complaint, CV-20-001778, file stamped 7/15/2021. Pursuant to
12 this FAPC, civil penalties were sought for Defendant's violations of California Labor Code sections
13 201, 202, 203, 204, 223, 226(a), 226.7, 353, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198,
14 1199, 2800, and 2802.

15 10. On June 7, 2021, following her termination by Defendant, Plaintiff filed a separate
16 Unlawful Retaliation/Wrongful Termination and Class Action matter in Stanislaus County Superior
17 Court – Case Number CV-21-002861. Attached hereto as **Exhibit 8** is a true and correct copy of
18 Plaintiff's Retaliation/Class Action Complaint, file stamped 6/7/2021. On August 5, 2021, the parties
19 Stipulated to a consolidation of the cases; and on August 18, 2021, this Court Ordered that Case No.
20 CV-20-001778 and Case No. CV-21-002861 were to be consolidated for all purposes and that Case
21 No. CV-20-001778 would be the lead case. Attached hereto as **Exhibit 9** is a true and correct copy
22 of the Stipulation and Order to Consolidate Cases, file stamped 8/25/2021.

23 **The Parties have Conducted Sufficient Investigation and Discovery to Allow**
24 **Counsel and the Court to Evaluate the Fairness of the Settlement that Resulted from**
25 **Extensive Arm's-Length Negotiations**

26 11. In an effort to investigate the allegations and claims contained in the FAPC and the
27 asserted defenses, the Parties engaged in extensive investigation and discovery. The mailing of the
28 Belaire-West Notice was completed by CPT Group, Inc. (the initial mailing occurred on March 14,

1 2024); and the Parties have exchanged, reviewed and analyzed voluminous documents and/or data
2 having a bearing on the Labor Code violations at issue in the lawsuit. In addition to the parties' own
3 independent investigation(s), due to the scope and breadth of the issues and defenses, the parties
4 exchanged substantial discovery. Indeed, to date, the parties have propounded 35 sets of written
5 discovery and Defendant has produced approximately 74,600 pages of records; and my office has
6 thoroughly reviewed and analyzed these records/documents.

7 12. Notably, after a thorough analysis of the discovery and information obtained from
8 Defendant, my office determined that class certification of the alleged class claims was/is unlikely;
9 and accordingly, my office did not pursue nor obtain any certification of the class claims.
10 Specifically, Plaintiff's theories of liability on the rest/meal break class claims would necessitate a
11 fact-intensive, case-by-case, employee-specific analysis that would be wholly unmanageable at trial
12 on a class action basis. However, notwithstanding the foregoing, this manageability issue would be
13 obviated in the PAGA context, as articulated by the California Supreme Court in Estrada v. Royalty
14 Carpet Mills, Inc., 15 Cal.5th 582 (2024). Accordingly, Plaintiff vigorously litigated the PAGA
15 action.

16 13. After conducting a thorough investigation and analysis, the Parties agreed to attend a
17 full-day private mediation and retained the services of the esteemed Michelle Reinglass, Esq. As part
18 of this mediation, which initially took place on December 22, 2023, the Parties submitted briefs and
19 documents to Ms. Reinglass that detailed/supported their respective positions. Ms. Reinglass
20 reviewed these submissions and provided all counsel with her opinion regarding the strengths and
21 weaknesses of the claims and defenses, and provided the Parties her opinion regarding potential
22 settlement values.

23 14. While a settlement did not immediately arise out of these initial arm's-length
24 negotiations, over the course of the ensuing year the Parties continued to engage in the discovery
25 process and investigation; and it was the further exchange of this information that enabled the Parties
26 to conduct a more extensive analysis into the claims and defenses. Thereafter, in December of 2024,
27 the Parties re-engaged Ms. Reinglass in an effort to continue settlement discussions. It was a result
28 of these continued and exhaustive arm's-length negotiations that a Settlement was reached by the

Parties. (See Exhibit 1: Settlement Agreement.)

The Settlement Agreement

15. Now, with a comprehensive Settlement Agreement that resolves the claims alleged in this case, Plaintiff seeks (and Defendant does not oppose), this Court's approval of a Gross Settlement Payment for the PAGA Claim in the amount of \$525,000.00 ("Gross PAGA Settlement Amount ") in full settlement of the PAGA claim involving approximately 2,183 total Aggrieved Employees. (Exhibit 1: Settlement Agreement.)

16. The Settlement Agreement encompasses "all PAGA claims asserted in the LWDA Complaint and related civil complaint(s) filed by Plaintiff in her representative capacity." (Settlement Agreement ("SA") at §2(B), attached as Ex. 1.) And, pursuant to the operative FAPC, the PAGA Aggrieved Employees are defined as "all nonexempt employees who worked at Central Valley Specialty Hospital, Inc. between the dates of January 2, 2019 and the date of approval of the settlement." The Settlement provides that Defendant will pay a non-reversionary settlement amount of \$525,000.00 (the "Gross PAGA Settlement Amount"), inclusive of payments to the LWDA and Aggrieved Employees, attorneys' fees/costs, as well as third party administrator ("Administrator") costs. (Ex 1: SA § 2(B).) After payment of the attorneys' fees/costs and administration costs, the remainder of approximately \$316,250.00 will form the PAGA Penalties and, pursuant to Labor Code § 2699(m), 65% shall be paid to the LWDA, and the remaining 35% being paid to the Aggrieved Employees. The following reflects the estimated payments from Gross PAGA Settlement Amount:

	Amount
Gross PAGA Settlement Amount	\$525,000.00
Attorneys' Fees	\$183,750.00
Litigation Costs	\$25,000.00
Administrator Costs	\$20,000.00
Net Settlement Amount (PAGA Penalties)	\$316,250.00
65% to the LWDA	\$205,562.50
35% to Aggrieved Employees	\$110,687.50
Balance	\$0

17. The LWDA will receive approximately \$205,562.50 (65% of the PAGA Penalties) and the approximately 2,183 Aggrieved Employees will receive approximately \$110,687.50 (35% of

1 the PAGA Penalties). The Administrator will calculate each Individual PAGA Payment by (a)
2 dividing the amount of the Aggrieved Employees' 35% share of PAGA Penalties by the total number
3 of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b)
4 multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. (Ex 1: SA § 2(B).)

5 18. The Gross Settlement Payment for the PAGA Claim of \$525,000.00 is to be made by
6 Defendant to the Claims Administrator in twelve payments of \$43,750.00 per month beginning April
7 25, 2025, and paid monthly thereafter on or before the twenty-fifth day of each month and completed
8 by March 2026. (Ex. 1: SA §2(B.1).) The Administrator will disburse the entire Gross PAGA
9 Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a
10 condition of payment. None of the Gross PAGA Settlement Amount will revert to Defendant.
11 Payment to the Aggrieved Employees, the LWDA, and Plaintiff's counsel will be issued after (1)
12 this Court approves the PAGA Settlement, (2) the Administrator receives the Aggrieved Employee
13 data (which Defendant is required to produce within 30 calendar days of the final order), and (3) 10
14 days after Defendant makes the final payment of Gross PAGA Settlement Amount to the
15 Administrator. (Ex. 1: SA § 2(B).)

16 19. Should Defendant default on any of the monthly payments identified in the Settlement
17 Agreement, and not pay those to the agreed account in a timely manner, then Plaintiff may claim a
18 default and may provide written notice and a ten (10) calendar day opportunity to cure the default.
19 Notice of default must be delivered in writing to Defendant's counsel. If Defendant does not timely
20 cure the default within this cure period, then the Parties agree that the PAGA Settlement Payment
21 shall be increased by Six Hundred Thousand Dollars and Zero Cents (\$600,000.00) and the monthly
22 payment obligations identified in Paragraph 2(B) shall be accelerated and the PAGA Settlement
23 Payment due in full. Upon default and the lapse of the cure period (without a cure), Plaintiff may
24 move for entry of a judgment of settlement by ex parte application with the court consistent with the
25 default provision and the Settlement Agreement. Defendant shall be given credit for any payments
26 previously made pursuant to this Agreement in the court's judgment of settlement. (Ex. 1: SA § 5.)
27 The Aggrieved Employees will have 180 days to cash their checks and, if for any reason a check is
28 uncashed, the check will be voided and the funds issued to the California State Controller in the name

1 of the Aggrieved Employee who may claim the funds at a later date. A Notice informing the
2 Aggrieved Employees of the nature of the payment will be provided along with the settlement check.

3 20. The Settlement Agreement narrowly binds the Aggrieved Employees for civil penalty
4 claims brought in the Action, as noted in Section 7(B) of the Settlement Agreement:

5 “In exchange for the payment of the PAGA Settlement Payment, Plaintiff, individually and
6 as representative of the State of California and the aggrieved employees, knowingly and
7 voluntarily, generally releases and forever discharges Central Valley Specialty Hospital,
8 including any right to sue Defendant's directors, officers, shareholders, members, employees,
9 representatives, attorneys, insurers, and agents (hereafter "the Released Parties") to the fullest
10 extent permitted by law, of and from any and all claims arising under Labor Code section
11 2699 et. seq. for any and all Labor Code violations during the PAGA period and as set forth
12 in the LWDA Complaint and the PAGA civil complaint(s).”

13 As the release is narrowly related to the claims alleged, the Parties contend that the release is proper
14 and reasonable.

15 21. On behalf of Plaintiff my office provided the LWDA with the required notice letters
16 advising it of the alleged Labor Code violations, but the LWDA deferred the prosecution of these
17 violations to Plaintiff and her attorneys. Accordingly, the Settlement and the common fund created
18 by it for the benefit of the State and Aggrieved Employees is solely the result of the work performed
19 by Plaintiff and my office on this case. Accordingly, the Settlement Agreement merits full approval
20 because it fulfills the purpose of PAGA, has been negotiated extensively and at arms-length between
21 the parties (and with the assistance of a skilled neutral), and is a fair and equitable resolution of the
22 PAGA claims.

23 **Plaintiff's Counsel is Experienced in Similar Litigation and**
24 **Views the Settlement Agreement Favorably.**

25 22. My firm and I are highly experienced in wage and hour litigation and are experienced
26 labor law practitioners who are seasoned in matters which involve complex employment, labor and
27 business litigation. I have been practicing employment/labor law for the last twenty-seven years;
28 and have successfully prosecuted numerous Federal and State law actions through trial. Moreover,
my firm and I have prosecuted hundreds of employment/labor law actions. Both state and federal
judges have noted my skill and experience. In my view, the Settlement Agreement is fundamentally
fair, reasonable, and adequate. Moreover, based on my experience, this matter is well suited for

1 settlement given the strength and limitations of the PAGA claim.

2 23. Over the past 15 years I have represented employees in numerous plaintiff wage-and-
3 hour class-action/PAGA lawsuits. In those instances where we have been named Class Counsel, our
4 hourly rates and number of hours worked have consistently been approved by the courts. The
5 following is a list of some of our class-action and/or PAGA settlements that have received final
6 approval:

- 7 • *Tenny vs. Dignity Health*, Kern County Superior Court Case Number BCV-18-102316
8 (January 6, 2025) – Class Action and PAGA Settlement and Judgment – Lead Class
9 Counsel;
- 10 • *Abdalla Wahby Gurses v. Gulfstream Aerospace Corporation*, LASC Case Number
11 20STCV18486 (August 5, 2021) – Statewide PAGA Settlement and Judgment;
- 12 • *Karapetyan v. ABM Industries*, United State District Court, Central District of California,
13 Case No.: CV 15-08313-GW(Ex) (September 7, 2017) – Class Counsel;
- 14 • *Lorena Ayala v. Golden Gate of Orlando, LLC.*, Superior Court, State of California,
15 County of Riverside, Case No. RIC 1307057 (August 11, 2016) – Lead Counsel;
- 16 • *Cervando Robles v. Phase II Transportation, Inc.*, Superior Court, State of California,
17 County of San Bernardino, Case No. CIVRS 1308400 (May 3, 2016) – Lead Counsel;
- 18 • *Esmeralda Navarro v. Campus Apartments, et al.*, Superior Court, State of California,
19 County of Riverside, Case No. RIC 1215729 (July 8, 2015) – Lead Counsel;
- 20 • *Miller, et al. v. Windsor Chico Creek, et al.*, Superior Court of California, County of
21 Butte, Case No.: 152925 (April 30, 2014) – Class Counsel;
- 22 • *Martin Salazar, et al. v. Adir International, LLC*, Superior Court, State of California,
23 County of Los Angeles, Case No.: BC398402 (November 4, 2013) – Lead Counsel;
- 24 • *Guadalupe Mejia vs. Alliance Residential, LLC*, United State District Court, Central
25 District of California, Case No.: 2:11-CV11-08879-DDP-JCGx (February 4, 2013) –
26 Lead Counsel;
- 27 • *Walter Santos v. Medcoast Medservices, Inc.*, Superior Court, State of California, County
28 of Los Angeles, Case No.: BC476385 (May 2, 2013) – Lead Counsel;
- *Marilyn Porter vs. Lowe's HIW Inc.*, United States District Court, Central District of

- 1 California, Case No.: 10-CV-06903-MMM-JCG (November 23, 2011) – Lead Counsel;
- 2 • *Veronica Valencia vs. Ritmo Latino, Inc.*, Superior Court, State of California, County of
- 3 Los Angeles, Central District, Case No.: BC444417 (September 4, 2012) – Lead Counsel;
- 4 and
- 5 • *Juan Ortiz vs. Summer Systems, Inc.*; Superior Court, State of California, County of Los
- 6 Angeles, Central District, Case No.: BC400075 (March 17, 2011) – Lead Counsel.

7 24. Additionally, in 2018, I served as lead trial counsel in a multi-party trial that involved

8 PAGA claims on behalf of a group of similarly-aggrieved employees. That case, captioned *Malone*

9 *v. OneUnited Bank*, Los Angeles County Superior Court of California Case No. BC558184, along

10 with a related case captioned *Perera, et al. v. OneUnited Bank*, Los Angeles County Superior Court

11 of California Case No. BC637385, were tried concurrently together in the Los Angeles Superior

12 Court Complex Litigation Court in December 2018. Following a multi-week trial, in 2019 the trial

13 court issued a statement of decision in favor of the plaintiffs.

14 25. Additionally, I have been counsel of record on numerous reported decisions at the

15 Court of Appeals and had a case before the California Supreme Court which ultimately became part

16 of new law on the topic of employer wage-and-hour liability. (See Betancourt vs. OS Restaurant

17 Services, LLC (2022) 511 P.3d 492; See Also Betancourt, 83 Cal.App.5th 132 [published August 25,

18 2022]). In the published decision of Taylor v Nabors Drilling USA, LP (2014) 222 Cal. App. 4th

19 1228, 1251, my firm and I successfully represented an individual in a law clarifying workplace hostile

20 work environment sexual harassment matter under the Fair Employment and Housing Act (FEHA).

21 In addition to myself, Joseph Snizek (“Of Counsel” to my firm) has over 25 years of experience as

22 an employment/labor law attorney and has proven track record of success in complex multi-party

23 employment/labor law matters. Likewise, senior associate attorney Farbod Nourian, has over nine

24 years of experience prosecuting employment/labor actions. Due to my expertise in the field of

25 employment and labor law in particular, I (along with Mr. Snizek) was invited to be, and served as, a

26 contributing consultant to the (2009-2010) CEB California Wage and Hour Compliance and Litigation

27 Manual (updated through 2022). I accepted the invitation and edited a portion of that CEB guide.

28 26. Trial courts have consistently determined Felahy Employment Lawyer’s rates to be

1 reasonable. Recently, on January 16, 2025, in the matter of *Kariavandan Raju v. County of Los*
2 *Angeles*, Los Angeles Superior Court Case Number BC615598, Judge Virginia Keeny determined
3 the following hourly rates for attorneys at Felahy Employment Lawyers to be reasonable in a Labor
4 Code action: Mr. Felahy (Partner) \$750 per hour, Mr. Sniezek (Sr. Attorney) \$595.00 per hour, and
5 Mr. Nourian (Sr. Attorney) \$475.00 per hour. Additionally, on January 6, 2025, in the matter of
6 *Tenny vs. Dignity Health*, Kern County Superior Court Case # BCV-18-102316, Judge Thomas S.
7 Clark determined that those same hourly rates for attorneys at Felahy Employment Lawyers were
8 reasonable in that wage and hour class action/PAGA matter – i.e. Mr. Felahy (Partner) \$750 per hour,
9 Mr. Sniezek (Sr. Attorney) \$595.00 per hour, and Mr. Nourian (Sr. Attorney) \$475.00 per hour.

10 27. Moreover, the *Laffey Matrix* confirms that Felahy Employment Lawyers’ rates are
11 reasonable rates and could actually be higher. Indeed, the updated *Laffey Matrix*
12 (<http://www.laffeymatrix.com/see.html>) indicates that the rate for myself (Allen Felahy – 27 years
13 of experience as an employment/labor law attorney) could be as high as \$1141 per hour, Joseph
14 Sniezek’s rate (Of Counsel for Felahy Employment Lawyers with 25 years of experience as an
15 employment/labor law attorney) could be as high as \$1141 per hour, Farbod Nourian’s rate (Senior
16 Attorney at Felahy Employment Lawyers with 9 years of experience as an employment/labor law
17 attorney) could be as high as \$839 per hour, and the rates for Associate Attorneys with 1-3 years of
18 experience could be as high as \$473 per hour.

19 28. Since Plaintiff’s Counsel Felahy Employment Lawyers’ hourly rates are fully in line
20 with the hourly rates of attorneys of comparable experience and expertise, our rates should be
21 approved by this Court.

22 29. I am and have been the managing partner of Felahy Employment Lawyers throughout
23 the duration of this action. As such, I am readily familiar with all of the firm’s business and billing
24 practices, files and procedures. I am familiar with all aspects of billing regarding this matter.

25 30. During the prosecution of Plaintiff’s claims, Felahy Employment Lawyers performed
26 extensive work on behalf of Plaintiff. I have personally audited and reviewed all of the time/billing
27 entries and summaries, which are maintained during the regular course of business. I have also
28 reviewed the regular billable hourly rate (the rates are commensurate with the prevailing rates among

firms that regularly litigate complex employment/wage-and-hour actions) and the hours worked by each attorney. The fee totals reflect the amounts that would have been charged on an hourly basis. During the prosecution of Plaintiff's claims, Felahy Employment Lawyers performed extensive work on behalf of Plaintiff. The total amount of attorney's fees incurred by Plaintiff is \$268,040.00. The attorney hours total 417 and include:

Last Name	First	Rate	Hours	Total
- Attorneys -				
Felahy	Allen	\$750.00	247	\$185,250.00
Snizek	Joseph	\$595.00	17	\$10,115.00
Nourian	Farbod	\$475.00	153	\$72,675.00
Grand Total:			417	\$268,040.00

31. My firm and I have dedicated substantial resources and time to this litigation. We conducted extensive legal research regarding the merits of Plaintiff's claims, ability to recover penalties under PAGA, and Defendant's potential defenses. We also conducted significant factual research and analysis. As such, the above attorney hours include extensive work done in connection with: the PAGA claim notice(s)/letter(s) to the LWDA; pre-litigation investigation and research; the drafting of Plaintiff's Complaint(s); post-filing investigation and research into all aspects of Plaintiff's claims; the drafting, finalizing and mailing of the Belaire-West Notice; all aspects of discovery (e.g. the drafting of Plaintiff's written requests, creation of a discovery plan, review/analysis of Defendant's discovery responses/documents); preparation for and attending hearings; creation of a damage model/analysis; research and investigation into Defendant's affirmative defenses; conferences with opposing counsel; work done in connection with the mediation before Michelle Reinglass, Esq.; and work done in connection with the Settlement Agreement and the underlying Motion).

32. My office has also incurred approximately \$25,278.53 in litigation expenses. This includes the mediator's fees, filing fees, research/Lexis costs, consultant fees, attorney service expenses, copy/print/postage expenses, and court costs/expenses.

33. As discussed at length in the underlying Motion, Defendant maintains several

1 defenses to Plaintiff's theories of liability, which if successfully argued and proven, had the potential
2 to eliminate or substantially reduce recovery. Throughout this litigation, Defendant maintained, and
3 continues to maintain, that it had, and continues to have, legally compliant employment policies and
4 practices. Defendant denies that it ever violated any provision of the Labor Code, including those
5 sections for which Plaintiff seeks penalties under PAGA. Defendant further denied, and continues to
6 deny, the lawsuit is appropriate for representative treatment for any purpose other than settlement.

7 34. Had this case not "settled," the Parties would have conducted additional extensive
8 formal discovery, including additional written discovery, and multiple depositions of witnesses in
9 California, to prepare the case for trial. Even if Defendant failed on its defenses, litigating a complex
10 PAGA action is inherently expensive, and the litigation could continue beyond entry of judgment if
11 either party were to appeal adverse rulings. Additionally, there is a real possibility that Plaintiff would
12 recover nothing, either for herself or on behalf of California or the Aggrieved Employees, after years
13 of costly and labor-intensive litigation. Avoiding these risks and the likelihood of future contentious
14 litigation, which would involve significant costs, favors settlement.

15 35. The Settlement provides significant benefits to California and the Aggrieved
16 Employees, and falls well-within the range of acceptable settlements under the circumstances.
17 Moreover, approval is appropriate since this Settlement will provide monetary relief to the State of
18 California and the Aggrieved Employers.

19 36. The parties have agreed to have CPT Group, Inc. ("CPT") appointed to serve as the
20 Settlement Administrator and will be responsible for processing the settlement payments and
21 providing notice to the Aggrieved Employees. CPT has provided an all-in bid to administer the
22 Settlement for \$20,000 (i.e. not to exceed), which is the amount that will be paid from the Gross
23 Settlement Amount. Attached hereto as **Exhibit 10** is a true and correct copy of CPT's Administrative
24 Costs Bid.

25 37. As stated above, after a thorough investigation and analysis of the discovery and
26 information obtained from Defendant, my office determined that class certification of the alleged
27 class claims was/is very unlikely and as such, did not pursue nor obtain class certification.
28 Specifically, Plaintiff's theories of liability on the rest/meal break class claims would necessitate a

1 fact-intensive, case-by-case, employee-specific analysis that would be wholly unmanageable at trial
2 on a class basis. It is for this reason that pursuant to CRC 3.770, Plaintiff requests dismissal (without
3 prejudice) of the class action claims of the putative class members contained in Plaintiff's Class
4 Action Complaint, Case Number CV-21-002861. Neither Plaintiff nor my firm are receiving any
5 consideration for requesting dismissal of the class action allegations against Defendant contained in
6 Plaintiff's Class Action Complaint, Case Number CV-21-002861.

7
8 I declare under penalty of perjury under the laws of the State of California that the foregoing is
9 true and correct.

10 Executed: March 24, 2025 at Glendale, California.

11 Allen Felahy
12 Allen B. Felahy, Declarant

EXHIBIT 1

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement Agreement”) is entered into by and between Theresa Lopez (“Plaintiff” or “Employee”) and Central Valley Specialty Hospital (“CVSH”, “Defendant”, or “Employer”). (The term “Party” or “Parties” as used herein shall refer to Plaintiff, Defendants, or both, as may be appropriate.) The Agreement is effective when executed by all Parties, when any revocation period has expired and when all of the conditions precedent to the settlement set forth herein have been satisfied fully.

Recitals

WHEREAS, Employee was employed at will by CVSH (“the Employer”) in or about 2015;

WHEREAS, on or about October 2020, Employer and Employee had a dispute concerning Employee’s separation. The circumstances surrounding the separation are in dispute between the Parties;

WHEREAS, the Parties agree that Employee’s separation shall be treated as an involuntary termination of Employee’s at will employment by Employer;

WHEREAS, on or about January 2, 2020, Employee filed an administrative complaint (“LWDA Complaint”) with the California Labor and Workforce Development Agency (“LWDA”) against Defendant setting forth various alleged Labor Code violations that she alleged that the aggrieved nonexempt employees suffered during the PAGA period (January 2019 through the date of settlement/judgment), which claim Plaintiff intended to prosecute in a representative capacity pursuant to Labor Code 2699 *et. seq.* The LWDA did not act upon providing her LWDA Complaint, thereby providing her authority and standing to pursue that claim as a representative of the aggrieved nonexempt employees;

WHEREAS, on or about March 18, 2020, Employee filed a civil complaint (“PAGA Complaint”) styled as *Theresa Lopez v. Central Valley Specialty Hospital*, Riverside County Superior Court Case No. CV-20-001778, asserting Private Attorney General Act (“PAGA”) claims against Defendant;

WHEREAS, on or about June 7, 2021, Employee filed a civil complaint (“Class & Employment Complaint”) styled as *Theresa Lopez v. Central Valley Specialty Hospital*, Riverside County Superior Court Case No. CV-21-002861, asserting putative class action claims for violation of the Labor Code and unpaid wages and penalties and employment (wrongful termination and retaliation) claims against Defendant;

WHEREAS, on or about August 25, 2021, the Parties agreed to consolidate the two lawsuits for the PAGA Complaint and the Class & Employment Complaint into a single lawsuit pursuant to Case No. CV-20-001778;

WHEREAS, based upon the discovery and information obtained from Defendant, Plaintiff determined that class certification of the alleged class claims was unlikely and did not pursue or obtain any class certification;

WHEREAS, the Parties engaged in mediation with a mediator, Michelle Reinglass, Esq. on December 22, 2023, which did not result in a settlement. However, thereafter, the parties continued their mediation dialogue through the mediator and exchanged further discovery, ultimately resulting in an arms-length settlement of both the PAGA Complaint and Plaintiff's individual claims, subject to execution of this long form settlement agreement and the Court's approval of the tentative PAGA settlement; and

WHEREAS, there has been no adjudication of any of the facts or legal claims concerning either the PAGA Complaint, the class allegations, or the individual employment claims, but the Employer and Employee wish to globally resolve all disputes and claims between them through settlement and without further litigation and to separate and end their relationships in an amicable and non-adversarial manner. Each Party agrees that there is no admission of liability concerning any claims, counterclaims and/or defenses, and each of the Party's contentions is denied by the other.

Terms & Conditions

1. **No Admission of Wrongdoing.** The Parties agree that neither this Settlement Agreement, nor the furnishing of the consideration for this Settlement Agreement, shall be deemed or construed at any time for any purpose as an admission by any Party as to the truth or validity of the claims of the other Party(ies). The Parties acknowledge, agree and stipulate that there has been no adjudication of facts or law of any kind. The Parties each deny the other Party's positions, claims and contentions. This settlement agreement is inadmissible to prove any fact, allegation or claim in the litigation, is covered by the mediation and settlement privileges, and is admissible only for purposes of enforcing this agreement.

2. **Settlement Payments.** In consideration for signing this Settlement Agreement and complying with its terms, Defendant CVSH will pay to Plaintiff and her counsel the following settlement payments.

(A) Settlement Payment for Individual Employment Claims: In settlement of Plaintiff's individual employment claims concerning her termination, and in exchange for the release set forth in Paragraph 7(F), Defendant CVSH shall pay to Plaintiff the sum of Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00) (hereafter "Individual Settlement Payment"). The Individual Settlement Payment shall be paid within forty-five (45) calendar days of the parties execution of this Settlement Agreement, but only after the lapse of the revocation/rescission periods identified in Paragraph 7(F). The Parties agree that this Individual Settlement Payment is in settlement of Plaintiffs' individual employment claims relating to her separation in October 2020 and/or her related claims of wrongful termination and/or retaliation, which claims are unrelated to and separate from the PAGA representative claim. The Individual Settlement Payment shall be paid

by check delivered to Plaintiff's attorney of record, Felahy Employment Lawyers, and payable to the client trust account of Felahy Employment Lawyers.

(B.1.) Gross Settlement Payment for the PAGA Claim: Defendant CVSH promises to pay the total gross sum of Five Hundred Twenty Five Thousand Dollars and Zero Cents (\$525,000.00) ("Gross PAGA Settlement Amount ") in full settlement of the PAGA claim and in exchange for a general release in Paragraph 7 and approved by the Court of all PAGA claims asserted in the LWDA Complaint and related civil complaint(s) filed by Plaintiff in her representative capacity. The PAGA Settlement Payment shall be made payable to a third party administrator ("Administrator") designated by Plaintiff's counsel and approved by Defendant's counsel and the Court. The PAGA Settlement Amount shall be paid by Defendant CVSH in twelve payments of Forty Three Thousand Seven Hundred Fifty Dollars and Zero Cents (\$43,750.00) per month beginning April 25, 2025, and paid monthly thereafter on or before the twenty-fifth day of each month and completed by March 2026 when the full balance (\$525,000) has been paid. The monthly payments shall begin on April 25, 2025, so long as the Plaintiff's counsel has obtained court approval of the PAGA settlement prior to that date and, if not, within ten (10) days of the court's approval of the PAGA settlement. Notwithstanding this agreed payment schedule, nothing in this Agreement shall limit Defendant CVSH's ability to pay the 2(B) payments in a faster manner or to pay them off in less than the agreed time period and there shall be no penalty for prepayment of these settlement monies. The Administrator will disburse the entire Gross PAGA Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross PAGA Settlement Amount will revert to Defendant CVSH.

(B.2.) Payments from the Gross PAGA Settlement Amount. The Administrator will make and deduct the following payments from the Gross PAGA Settlement Amount, in the amounts specified by the Court in the Final Approval:

(B.2.1.) To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 35% which is currently estimated to be \$183,750.00 and PAGA Counsel Litigation Expenses Payment of not more than \$25,000.00 . Defendant CVSH will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net PAGA Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant CVSH harmless, and indemnifies Defendant

CVSH, from any dispute or controversy regarding any division or sharing of any of these Payments.

(B.2.2.) To the Administrator: An Administrator Expenses Payment not to exceed \$20,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$20,000.00, the Administrator will retain the remainder in the Net PAGA Settlement Amount.

(B.2.3.) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$316,250.00 to be paid from the Gross PAGA Settlement Amount, with 65% allocated to the LWDA PAGA Payment and 35% allocated to the Individual PAGA Payments.

The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 35% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3. **Court Approval of PAGA Settlement.** The Parties agree that the settlement of the representative PAGA claims shall be subject to court approval. Plaintiff, by and through her counsel, shall have the sole responsibility for obtaining that court approval. Defendant and its counsel shall cooperate fully with the court approval process. As part of Plaintiff's obtaining approval of the settlement of the PAGA representative claim and the PAGA Settlement Payment, Plaintiff shall obtain court approval for the PAGA release set forth in Paragraph 7(B), which the Parties agree is conditioned upon Defendant's complete payment of the PAGA Settlement Payment amounts identified in Paragraph 2(B). The Parties agree that the court's approval of the PAGA Settlement Payments identified in Paragraph 2(B) shall not affect the Parties' agreement to settle the Plaintiff's individual employment claims and that, even if the court does not approve the PAGA settlement, then the settlement of Plaintiff's individual employment claims and the dismissal of those claims with prejudice shall not be affected by the court's order not approving the PAGA portion of the settlement.

4. **Dismissal of Lawsuits.** The Parties agree and acknowledge that upon completion of the payment of the amounts identified in Paragraph 2(A) and 2(B), Plaintiff shall dismiss those settled claims with prejudice no later than twenty (20) days following Plaintiff's receipt of the settlement monies identified in Paragraph 2(A) and 2(B). The class allegations shall be dismissed without prejudice at the same time as the PAGA claim is dismissed with prejudice. The Parties acknowledge that a material consideration to the Defendant's settlement payments is the resolution of the lawsuits filed by Plaintiff so that the Defendant can be free of the risks, time consumption and expense of litigation. Therefore, Plaintiff acknowledges and agrees that any settlement payments to be made by Defendant are contingent on the dismissal of the pending claims by Plaintiff and that upon completion of the settlement payments identified in

Paragraph 2, the entirety of the Lawsuit shall be dismissed with in accordance with this paragraph.

5. **Default.** Should Defendant default on any of the monthly payments identified in Paragraph 2(A-B), and not pay those to the agreed account in a timely manner, then Plaintiff may claim a default and may provide written notice and a ten (10) calendar day opportunity to cure the default. Notice of default must be delivered in writing to Defendant's counsel. If Defendant does not timely cure the default within this cure period, then the Parties agree that the PAGA Settlement Payment shall be increased by Six Hundred Thousand Dollars and Zero Cents (\$600,000) and the monthly payment obligations identified in Paragraph 2(B) shall be accelerated and the PAGA Settlement Payment due in full. Upon default and the lapse of the cure period (without a cure), Plaintiff may move for entry of a judgment of settlement by ex parte application with the court consistent with this default provision and this Agreement. Defendant shall be given credit for any payments previously made pursuant to this Agreement in the court's judgment of settlement.

6. **Tax Treatment & Indemnification.** Plaintiff agrees that Defendant and its counsel have no responsibility for any allocation of the settlement payments between Plaintiff and her counsel or between various claims. Plaintiff further agrees that Defendant has no involvement in the tax characterization of the settlement payments and Plaintiff agrees to seek her own legal and/or tax counsel in regard to the taxable nature of the settlement payments. Plaintiff further agrees to indemnify and hold the Released Parties (as defined below in Paragraph 6) harmless relative to the allocation of the settlement payments, the tax treatment of the settlement payments, and for the amount of any taxes, penalties, or interest that may be assessed by any governmental tax authority in connection with such governmental authority's determination concerning the reporting and/or withholding of income taxes and/or employment taxes from the payments made pursuant to Section 2 of this Agreement.

7. **Mutual, General Releases.**

A. **Plaintiff's General Release of Individual Claims.** In exchange for the payment of the Individual Settlement Payment, Plaintiff, individually and on behalf of her heirs, executors, administrators, representatives, attorneys, successors, and assigns knowingly and voluntarily, generally releases and forever discharges Central Valley Specialty Hospital, including of all its directors, officers, shareholders, members, employees, representatives, attorneys, insurers, and agents (hereafter "the Released Parties") to the fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and unasserted, which Plaintiff individually has or may have against the Released Parties as of the date of execution of this Settlement Agreement including, but not limited to, any alleged violation of:

- Title VII of the Civil Rights Act of 1964;
- The Civil Rights Act of 1991;
- Sections 1981 through 1988 of Title 42 of the United States Code, as amended;

- The Employee Retirement Income Security Act of 1974 (“ERISA”) (as modified below);
- The Immigration Reform and Control Act;
- The Americans with Disabilities Act of 1990;
- The Age Discrimination in Employment Act of 1967 (“ADEA”);
- The Workers Adjustment and Retraining Notification Act;
- The Occupational Safety and Health Act;
- The Sarbanes-Oxley Act of 2002;
- The Fair Credit Reporting Act;
- The Family and Medical Leave Act;
- The Equal Pay Act;
- The Genetic Information Nondiscrimination Act of 2008;
- The Rehabilitation Act;
- California Family Rights Act – Cal. Gov’t Code § 12945.2;
- California Fair Employment and Housing Act – Cal. Gov’t Code § 12900 et seq.;
- California Unruh Civil Rights Act – Cal. Civ. Code § 51 et seq.;
- Statutory Provisions Regarding the Confidentiality of AIDS Information – Cal. Health & Safety Code § 120775 et seq.;
- California Confidentiality of Medical Information Act – Cal. Civ. Code § 56 et seq.;
- California Parental Leave Law – Cal. Lab. Code § 230.7 et seq.;
- California Military Personnel Bias Law – Cal. Mil. & Vet. Code § 394;
- The California Occupational Safety and Health Act, as amended, and any applicable regulations thereunder;
- The California Consumer Credit Reporting Agencies Act – Cal. Civ. Code § 1785 et seq.

- California Investigative Consumer Reporting Agencies Act – Cal. Civ. Code § 1786 et seq.;
- Any alleged statutory violations of the California Labor, Civil Code, and Government Code that lawfully may be released;
- Any other federal, state or local civil or human rights law or any other federal, state or local law, regulation or ordinance;
- Any public policy, contract, tort or common law claim relating to Plaintiff's employment or any interaction between the Parties prior to the date of execution; and
- Any basis for recovering costs, fees or other expenses including attorneys' fees incurred in the Lawsuit and/or related to these matters.

However, notwithstanding this broad release, the Parties acknowledge and agree that Plaintiff is *not* waiving nor releasing any claims that may not be released by law, including any claims for: (i) ERISA violations relating to any employee benefits under Defendant's health, welfare, or retirement benefits plans as of the date of execution of this Settlement Agreement; (ii) benefits under applicable workers' compensation (except as to claims under Labor Code sections 132a and 4553 which are released); (iii) unemployment insurance or indemnification statutes; (iv) other claims which by law cannot be waived by law; and (v) claims to enforce this Agreement.

B. Plaintiff's General Release of PAGA Claims. In exchange for the payment of the PAGA Settlement Payment, Plaintiff, individually and as representative of the State of California and the aggrieved employees, knowingly and voluntarily, generally releases and forever discharges Central Valley Specialty Hospital, including any right to sue Defendant's directors, officers, shareholders, members, employees, representatives, attorneys, insurers, and agents (hereafter "the Released Parties") to the fullest extent permitted by law, of and from any and all claims arising under Labor Code section 2699 *et. seq.* for any and all Labor Code violations during the PAGA period and as set forth in the LWDA Complaint and the PAGA civil complaint(s). In conjunction with her approval of the PAGA Settlement Payment by the Court, and upon completion of the PAGA Settlement Payment identified in Paragraph 2(b), Plaintiff shall also generally release to the fullest extent allowed by law all of the PAGA claims set forth in the LWDA Complaint and the related civil complaints, both individually and in her representative capacity on behalf of the State of California. Plaintiff agrees that this Agreement shall be a bar and res judicata as to any other PAGA claims filed by any other employee of CVSH concerning the PAGA period, which runs from January 2, 2019 through the date of court approval of this PAGA settlement.

C. Defendant's General Release. Defendant generally releases and forever discharge Plaintiff and her attorneys (hereafter "the Plaintiff Releasees") to the fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and unasserted, which Defendant has or may have against the Plaintiff Releasees as of the date of execution of this

Settlement Agreement, excepting only any claims that Defendant has relative to enforcement of this Agreement.

D. Non-Interference with Government Agencies/Investigations. Nothing in this Settlement Agreement prohibits, prevents, or otherwise limits Plaintiff from filing a charge or complaint with or participating, testifying, or assisting in any investigation, hearing, action, or other proceeding before any federal, state, or local government agency (*e.g.*, EEOC, NLRB, SEC, DFEH, DLSE, *etc.*) or in any legislative or judicial proceeding, nor does anything in this Settlement Agreement preclude, prohibit, or otherwise limit, in any way, Plaintiff's rights and abilities to contact, communicate with, or report unlawful conduct to federal, state, or local officials for investigation, or otherwise participate in any whistleblower program administered by any such agencies. However, to the maximum extent permitted by law, Plaintiff agrees that if such an administrative claim is made, Plaintiff shall waive and not be entitled to recover any individual monetary relief or other individual remedies and waives any right to such monetary relief.

E. Waiver of Attorney Fees and/or Costs. As against the other Parties to this Agreement, including those Parties released by the releases in Paragraph 6, Plaintiff and Defendants each waive and release any right to recovery of attorney's fees and costs against the other Party. Neither party shall seek a recovery of attorney's fees and/or costs from the other party in addition to those payments identified in Paragraph 2(a-b). However, this provision shall not bar Plaintiff's counsel from seeking a court approved attorney fees and costs award relative to the PAGA claims, which is expressly contemplated by the Parties to this Agreement.

E. Waiver of California Civil Code section 1542. To effect a full and complete general release as described above, both Plaintiff and Defendants expressly waive, release, and relinquish all rights and benefits of section 1542 of the Civil Code of the State of California, and each does so understanding and acknowledging the significance and consequence of specifically waiving section 1542. Section 1542 of the Civil Code of the State of California states as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in her or her favor at the time of executing the release and that, if known by him or her, would have materially affected her or her settlement with the debtor or released party.

Thus, notwithstanding the provisions of section 1542, and to implement a full and complete release and discharge of the Released Parties and the Plaintiff Releasees, each signatory to this Settlement Agreement expressly acknowledges this agreement is intended to include in its effect, without limitation, all claims that each signatory does not know or suspect to exist in their favor at the time of signing this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any such claims. Each Party warrants that he/she/they have read this Settlement Agreement, including this waiver of California Civil Code section 1542, and that each Party has consulted with or had the opportunity to consult with counsel of that Party's choosing about this Settlement Agreement and specifically about the waiver of section 1542, and that each Party understands this Settlement Agreement and the section 1542 waiver, and so each

Party freely and knowingly enters into this Settlement Agreement. Each Party further acknowledges that he/she/they may later discover facts different from or in addition to those settling parties now knows or believes to be true regarding the matters released or described in this Settlement Agreement, and even so that Party agrees that the releases and agreements contained in this Settlement Agreement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts. Each Party expressly assumes any and all risk of any mistake in connection with the true facts involved in the matters, disputes, or controversies released or described in this Settlement Agreement or with regard to any facts now unknown to that Party relating thereto.

F. Release of ADEA Claims. Plaintiff's release of her individual employment claims includes a release of any age discrimination claims pursuant to the Age Discrimination in Employment Act ("ADEA"). Pursuant to the ADEA, Plaintiff is advised that her waiver and release herein includes a waiver of certain statutory age discrimination rights, including any claims of age discrimination under the ADEA. Plaintiff is therefore advised: (a) to consult with an attorney prior to signing this Agreement; and (b) that Employee has twenty-one (21) days in which to consider and accept this Agreement by signing and returning this Agreement to Employer. Employee acknowledges that if Employee signs and returns this Agreement to Employer prior to the expiration of the twenty-one (21) day waiting period, Employee does so voluntarily. In addition, Employee has a period of seven (7) days following Employee's execution of this Agreement in which Employee may revoke this Agreement as to the release of the ADEA claims. If Employee does not advise Employer by a writing received by Employer directed to Defendant's counsel via hand delivery to: **Klinedinst PC, Attention Greg Garbacz, 2 Park Plaza, Suite 1250, Irvine, CA 92614**, within such seven (7) day period of Employee's intent to revoke the Agreement as to the ADEA claims, the release will become fully effective and enforceable. If the Employee revokes their agreement to release ADEA claims, then this entire Agreement is null and void and the Individual Settlement Payments will not be paid or due.

8. Acknowledgements and Affirmations.

A. Plaintiff affirms that she has not filed or caused to be filed any claim, complaint, or action against any of the Released Parties in any forum or form, other than the LWDA Complaint, any DFEH (now CRD) complaint, and the two lawsuits concerning the PAGA Complaint and the Class & Employment Complaint. Plaintiff further affirms that she is not a party to any other claim, complaint, or action against any of the Released Parties in any forum or form, other than the specified lawsuit. Nothing in this Settlement Agreement or the acknowledgements and affirmations in this Section 8 is intended to impair Plaintiff's rights under whistleblower laws or cause Plaintiff to disclose her participation in any governmental whistleblower program or any whistleblowing statute(s) or regulation(s) allowing for anonymity.

B. Other than any amounts to be paid pursuant to Paragraph 2, Plaintiff further affirms that she has been paid or has received all compensation, wages, bonuses, commissions, and benefits which are due and payable as of the date of her separation from employment with Defendant.

9. Medicare Secondary Payer Rules.

A. Medicare Secondary Payer Act Compliance: The Parties to this Agreement intend to comply with the Medicare Secondary Payer Act (42 U.S.C. §1395y). Plaintiff understands that as used herein, the term “Medicare” includes Medicare Part A (Hospital Insurance), Medicare Part B (Medical Insurance), Medicare Part C (Medicare Advantage Organizations) and Medicare Part D (Prescription Drug Insurance).

B. Medicare Eligibility Representation and Warranty: Plaintiff represents and warrants that she is not currently enrolled in Medicare and has not been enrolled in Medicare for any period of time since the date of her separation from Employer. Plaintiff has not sought any medical care relating to the claims settled by this Agreement.

C. Medicare Release: Plaintiff releases and forever discharges the Released Parties from all claims or causes of action arising out of the loss of any present or future right to Medicare benefits.

D. Waiver of Private Cause of Action: In the event it is determined that Medicare made conditional payments for the treatment of Plaintiff’s injuries or medical condition(s) arising out of Plaintiff’s employment, Plaintiff waives the right to sue any of the Released Parties under Section 1395y(b)(3)(A) of the Medicare Secondary Payer Act for failure to provide for primary payment or appropriate reimbursement of any conditional payment.

E. Guarantee of Payment: Plaintiff guarantees that she will pay all valid medical and hospital bills and liens, including Medicare conditional payments and Medicaid liens, and all other bills or liens that in any way relate to the treatment of the injuries or medical condition(s) arising out of the separation of her employment.

F. Indemnification: To the fullest extent permitted by law, Plaintiff will defend, indemnify and hold harmless the Released Parties with respect to claims by any person or entity seeking payment or reimbursement of medical and hospital bills and liens, including Medicaid liens and Medicare conditional payments, and all other bills or liens that in any way relate to the treatment of her injuries or medical condition(s) arising out of the Plaintiff’s employment or separation.

10. No Transfer/Assignment of Claims. Plaintiff warrants and represents that Plaintiff has not assigned or transferred or purported to assign or transfer to any person or entity all or any part of or any interest in any claim released under this Settlement Agreement. Plaintiff and her counsel agree that they solely are responsible for the satisfaction of any assignment or lien to any lien holder and will indemnify and hold the Released Parties harmless against any liens, damages, penalties, fines, fees, assessments, taxes, or attorneys’ fees that may be imposed against or incurred by any of the Released Parties as a result of the actions of any lien holder or any lien claimant or any taxing authority or any court in relation to any interest which any third-party may have in any claim which Plaintiff is releasing under this Settlement Agreement or any interest in any of the proceeds paid to Plaintiff or Plaintiff’s Counsel under this Settlement Agreement.

11. Liens and Attorneys' Fees/Indemnification.

Plaintiff acknowledges that she is solely responsible for any liens made in connection with any services performed on Plaintiff's behalf by any attorney, consultants, expert witnesses, or healthcare providers. Each Party solely is responsible for any fees and costs he, she, or it has incurred including, but not limited to, fees for attorneys, consultants, and expert witnesses. Plaintiff agrees and covenants that she will satisfy any liens on her recovery in this matter to the fullest extent required by law and contract. Plaintiff acknowledges that none of the Released Parties nor their attorney(s) are responsible for the payment of any fees incurred on behalf of Plaintiff in connection with the prosecution of the Lawsuit. Plaintiff acknowledges and agrees that Plaintiff will indemnify the Released Parties for any and all costs any of them incur as a result of any claims made by any attorneys, consultants, expert witnesses, healthcare providers, or other third-parties to recover monies from the amounts payable to Plaintiff or Plaintiff's Counsel under this Settlement Agreement.

12. Governing Law and Interpretation.

A. This Settlement Agreement shall be governed and conformed in accordance with the laws of the State of California provided, however, that parol evidence shall not be admissible to alter, vary, or supplement the terms of this Settlement Agreement. Should any provision of this Settlement Agreement be declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable, excluding the general release language, such provision immediately shall become null and void, leaving the remainder of this Settlement Agreement in full force and effect.

B. The Parties agree that the Court shall retain jurisdiction pursuant to C.C.P. §664.6 to enforce and/or interpret this settlement to the fullest extent allowed by law.

C. In the event of a breach of any provision of this Settlement Agreement, any Party may institute an action specifically to enforce or interpret any term or terms of this Settlement Agreement or seek damages for breach.

13. Amendment. This Settlement Agreement may not be modified, altered, or changed, except in writing and signed by both Parties wherein specific reference is made to this Settlement Agreement.

14. Miscellaneous.

A. This Settlement Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, taken together shall constitute the same instrument. A signature made on a faxed or electronically mailed copy of the Settlement Agreement or a signature transmitted by facsimile or electronic mail shall have the same effect as the original signature.

B. The section headings used in this Settlement Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify, or otherwise be used in the interpretation of any of the provisions hereof.

C. This Settlement Agreement was the result of negotiations between the Parties and their respective counsel. In the event of vagueness, ambiguity, or uncertainty, this Settlement Agreement shall not be construed against the Party preparing it, but shall be construed as if both Parties prepared it jointly.

D. If Plaintiff or Defendant fails to enforce this Settlement Agreement or to insist on performance of any term, that failure does not mean a waiver of that term or of the Settlement Agreement. The Settlement Agreement remains in full force and effect anyway.

15. Entire Agreement. This Settlement Agreement sets forth the entire agreement between the Parties, and fully supersedes any prior agreements or understandings between the Parties. Plaintiff acknowledges that Plaintiff has not relied on any representations, promises, or agreements of any kind made to Plaintiff in connection with Plaintiff's decision to accept this Settlement Agreement, except for those set forth in this Settlement Agreement.

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES AND TO RECEIVE THE CONSIDERATION SET FORTH IN SECTION 2 ABOVE, PLAINTIFF FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTERS INTO THIS SETTLEMENT AGREEMENT INTENDING TO WAIVE, SETTLE, AND RELEASE ALL CLAIMS PLAINTIFF HAS OR MIGHT HAVE AGAINST THE RELEASED PARTIES AS OF THE DATE OF EXECUTION OF THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

Executed on January 2nd, 2025

Theresa Lopez
Theresa Lopez (Jan 6, 2025 16:25 CST)

THERESA LOPEZ, individually

Executed on _____, 2025

By:

CENTRAL VALLEY SPECIALTY
HOSPITAL, by and through its authorized
representative, Tammy Thompson.

B. The section headings used in this Settlement Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify, or otherwise be used in the interpretation of any of the provisions hereof.

C. This Settlement Agreement was the result of negotiations between the Parties and their respective counsel. In the event of vagueness, ambiguity, or uncertainty, this Settlement Agreement shall not be construed against the Party preparing it, but shall be construed as if both Parties prepared it jointly.

D. If Plaintiff or Defendant fails to enforce this Settlement Agreement or to insist on performance of any term, that failure does not mean a waiver of that term or of the Settlement Agreement. The Settlement Agreement remains in full force and effect anyway.

15. Entire Agreement. This Settlement Agreement sets forth the entire agreement between the Parties, and fully supersedes any prior agreements or understandings between the Parties. Plaintiff acknowledges that Plaintiff has not relied on any representations, promises, or agreements of any kind made to Plaintiff in connection with Plaintiff's decision to accept this Settlement Agreement, except for those set forth in this Settlement Agreement.

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES AND TO RECEIVE THE CONSIDERATION SET FORTH IN SECTION 2 ABOVE, PLAINTIFF FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTERS INTO THIS SETTLEMENT AGREEMENT INTENDING TO WAIVE, SETTLE, AND RELEASE ALL CLAIMS PLAINTIFF HAS OR MIGHT HAVE AGAINST THE RELEASED PARTIES AS OF THE DATE OF EXECUTION OF THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

Executed on _____, 2025

THERESA LOPEZ, individually

Executed on Jan 6, 2025, 2025

By: TAMMY THOMPSON

CENTRAL VALLEY SPECIALTY
HOSPITAL, by and through its authorized
representative, Tammy Thompson.

Approved as to form.

FELAHY EMPLOYMENT LAWYERS

Executed on January 6, 2025

By: Allen Felahy
Allen Felahy, Esq., Attorney for Plaintiff
Theresa Lopez

KLINEDINST PC

Executed on January 7, 2025

By: Greg A. Garbacz
Greg A. Garbacz, Esq., Attorney for
Defendant CENTRAL VALLEY
SPECIALTY HOSPITAL

EXHIBIT 2

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California; I am over the age of 18 and not a party to the within action; my business address is 500 N. Brand Blvd, Suite 1160, Glendale, California 91203.

On March 24, 2025, I served the following document(s):

- 1. PLAINTIFF THERESA SUZANNE LOPEZ'S MOTION TO APPROVE PAGA SETTLEMENT;**
- 2. DECLARATION OF ALLEN FELAHY IN SUPPORT OF PLAINTIFF'S MOTION TO APPROVE PAGA SETTLEMENT;**
- 3. PLAINTIFF THERESA SUZANNE LOPEZ'S REQUEST FOR JUDICIAL NOTICE; and**
- 4. [PROPOSED] ORDER**

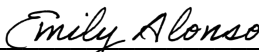
upon the interested parties in this action by placing [] the original [X] true copies thereof as follows:

Labor & Workforce Development Agency
1515 Clay Street, Suite 801
Oakland, CA 94612

[X] **(BY ELETRONIC SERVICE)** I caused the above document(s) to be submitted through the Department of Industrial Relations online portal.

[X] **(STATE COURT)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 24, 2025, at Los Angeles, California.



EMILY ALONSO

EXHIBIT 3

FELAHY EMPLOYMENT LAWYERS

fnourian@felahylaw.com

January 2, 2020

Via Online Submission

California Labor and Workforce Development Agency

Via Certified Mail

Central Valley Specialty Hospital, Inc.
730 17th Street
Modesto, California 95354

RE: Lopez v. Central Valley Specialty Hospital, Inc.
Notice of Labor Code Violations Pursuant to California Labor Code Private
Attorneys General Act of 2004 (Lab. Code §§ 2698, *et seq.*)

Dear Sir or Madam:

This office serves as legal counsel for Theresa Suzanne Lopez (“Ms. Lopez”) with respect to her claims against Central Valley Specialty Hospital, Inc. (“Defendant”), her current employer.

In accordance with the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*) (“PAGA”), Ms. Lopez hereby provides notice regarding Defendant’s violations of numerous provisions of the California Labor Code enumerated in California Labor Code section 2699.5. Ms. Lopez provides further notice that she, on behalf of herself and all other similarly aggrieved current and former non-exempt employees of Defendant, intends to utilize the protection(s) and remedies granted by PAGA (Cal. Lab. Code §§ 2698, *et seq.*)

Ms. Lopez is an aggrieved employee within the meaning of California Labor Code section 2699, subdivision (c). Defendant currently employs Ms. Lopez in the State of California. Ms. Lopez works for Defendant at its long-term acute care hospital in Modesto, California, as a non-exempt Licensed Vocational Nurse. The other similarly aggrieved employees also hold and have held non-exempt positions with Defendant at its hospital in Modesto, California.

Defendant maintained, and uniformly applied, a company-wide policy that prohibits rest breaks for Ms. Lopez and all other similarly aggrieved employees when it is busy and the workload is heavy; however, Defendant has not provided compensation in lieu thereof in

violation of California Labor Code § 226.7. Thus, Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were not provided lawful rest periods and were not compensated for their missed rest breaks, in violation of Labor Code section 226.7. Defendant failed to authorize and permit Ms. Lopez and all other similarly aggrieved current and former employees to take a minimum ten (10) minute rest break for every four hours or major fraction thereof worked each work shift. Ms. Lopez regularly did not receive her mandatory rest breaks; all similarly aggrieved current and former employees of Defendant were similarly treated. Additionally, Defendant took no steps to record or otherwise track the failure to provide uninterrupted rest periods; nor did it educate employees on how to do so.

Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were not provided lawful meal periods and were not compensated one additional hour of pay for each workday that a meal period was not provided, in violation of Labor Code sections 226.7 and 512(a). Due to Defendant's policy of understaffing and the corresponding workload demands, Ms. Lopez and all other similarly aggrieved employees are routinely required by Defendant to work in excess of five (5) hours without being provided an uninterrupted thirty (30) minute meal period by the end of the fifth hour, and/or a second uninterrupted thirty (30) minute meal period when they worked over 10 hours in a shift by the end of the tenth hour, and have not been provided compensation in lieu thereof in violation of California labor laws, regulations and IWC Wage Order. Thus, Defendant has violated the provisions of Labor Code § 512 and applicable IWC Wage Orders by failing to provide 30 minute uninterrupted meal periods by the end of the fifth hour for days on which Ms. Lopez and all other similarly aggrieved current and former employees worked work periods in excess of 5 hours. Defendant also violated the provisions of Labor Code § 512 and applicable IWC Wage Orders by failing to provide a second 30 minute uninterrupted meal period by the end of the tenth hour for days in which Ms. Lopez and all other similarly aggrieved current and former employees worked shifts in excess of 10 hours. Defendant further violated the provisions of Labor Code § 512 and applicable IWC Wage Orders by failing to provide compensation for such statutorily non-compliant meal periods. Further, by failing to record and maintain adequate and accurate time records according to sections 226 and 1174 (d) of the Labor Code, Defendant has injured Ms. Lopez and all other similarly aggrieved current and former employees of Defendant and had made it difficult to calculate the unpaid meal period compensation due to Ms. Lopez and all other similarly aggrieved current and former employees of Defendant.

Ms. Lopez and all other similarly situated current and former employees of Defendant were not properly paid for all hours worked and were not paid overtime compensation for all overtime hours worked, in violation of Labor Code sections 510, 1194, 1197, 1197.1, 1198 and 1199. During the relevant time period, due to Defendant's failure to properly implement a valid alternative workweek schedule, Ms. Lopez and all other similarly aggrieved current and former employees were not paid overtime for hours worked over eight in a day. Pursuant to sections 510, 1194, 1197 and 1198 of the Labor Code, among other applicable sections, it is unlawful to employ persons for longer than the hours set by the IWC. During the relevant time period, Ms. Lopez and all other similarly aggrieved current and former employees were compelled to work in

excess of eight (8) hours per workday. Defendant failed and refused to compensate Ms. Lopez and all other similarly aggrieved current and former employees at the rate of no less than one and one-half times their regular rate of pay for all overtime hours worked. Defendant also failed to pay Ms. Lopez and all other similarly aggrieved current and former employees for all time that they were on-duty. As a result, Ms. Lopez and all other similarly aggrieved current and former employees were not paid wages or the overtime premium for the additional time they worked.

Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were not reimbursed for their business expenses, in violation of California Labor Code sections 2800 and 2802. Pursuant to California Labor Code sections 2800 and 2802, an employer must indemnify or reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. At all relevant times, due to Defendant's company-wide policy requiring Ms. Lopez and all other similarly aggrieved current and former employees of Defendant to use their personal phones/data plans in the performance of their job duties (specifically, they are required to download and utilize an "App" on their cell phones called "On Shift"), Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were forced to incur "data" charges that have not been reimbursed by Defendant.

Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were not provided with complete and accurate itemized wage statements. The deficiencies with the wage statements included, without limitation, the failure to include the total hours worked, accurate gross and net wages earned (including all earned overtime compensation), and other items as required by California Labor Code section 226, subdivision (a)(1) to (5), (7), and (9). As a result of Defendant's violation of California Labor Code section 226(a), Ms. Lopez and all other similarly aggrieved current and former employees have suffered injuries and damages, including confusion over whether they received all wages earned and owed to them, difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact properly compensated them. Additionally, Ms. Lopez and all other similarly aggrieved current and former employees have been injured by Defendant's intentional and willful violation of California Labor Code section 226(a) because they were denied both the legal right to receive and the protected interest in receiving accurate and itemized wage statements pursuant to California Labor Code section 226(a).

Accordingly, Ms. Lopez intends to bring a private civil action against Defendant asserting claims on behalf of herself and all other similarly aggrieved past and current employees of Defendant under PAGA for Defendant's violations of the California Labor Code. In her action, Ms. Lopez will seek penalties and other relief provided under PAGA on behalf of herself and all other past and current employees similarly aggrieved.

Date: January 2, 2020

RE: Lopez v. Central Valley Specialty Hospital, Inc.

Page: 4 of 4

Please direct all communications in this matter to my office, as follows:

Allen B. Felahy, Esq.
Farbod Nourian, Esq.
Felahy Employment Lawyers
550 S. Hope Street, Suite 2655
Los Angeles, California 90071

Thank you for your anticipated courtesy and consideration.

Very truly yours,

FELAHY EMPLOYMENT LAWYERS

By: _____


Allen B. Felahy, Esq.,
Farbod Nourian, Esq.,
Attorneys for Theresa Suzanne Lopez

EXHIBIT 4

Electronically Filed
3/18/2020 12:16 PM
Superior Court of California
County of Stanislaus
Clerk of the Court
By: Mouang Saechao, Deputy

\$435 PAID

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Attorneys for Plaintiff Theresa Suzanne Lopez,
and on behalf of all other Similarly Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF STANISLAUS

THERESA SUZANNE LOPEZ, an
individual, on behalf of the State of
California, as a private attorney general, and
on behalf of all other Similarly Aggrieved
Employees,

Plaintiff; :

v.

CENTRAL VALLEY SPECIALTY
HOSPITAL, INC., a California corporation;
and DOES 1 through 20, inclusive,

Defendant.

Case No. CV-20-001778

**1. PAGA REPRESENTATIVE ACTION
COMPLAINT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE §§ 2698 ET
SEQ.)**

This case has been assigned to Judge Speiller, Stacy
Dept. 22
Department _____, for all purposes including Trial.

1 Plaintiff Theresa Suzanne Lopez (“Plaintiff”) as an aggrieved employee and on behalf of all
2 other aggrieved employees, hereby brings this Private Attorneys General Act (“PAGA”)
3 Representative Action Complaint (“Complaint”) against Defendant Central Valley Specialty
4 Hospital, Inc., a California corporation, and DOES 1 through 20, inclusive (collectively
5 “Defendant”), and on information and belief alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. This is an enforcement action under the California Labor Code Private Attorneys
8 General Act of 2004, California Labor Code sections 2698 et seq. (“PAGA”) to recover civil
9 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
10 current and former employees who worked for Defendant in California as non-exempt, hourly-paid
11 employees; received at least one wage statement; and against whom one or more violations of any
12 provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating hours and
13 days of work in the applicable Industrial Welfare Commission (“IWC”) Wage Order were
14 committed, as set forth in this Complaint, at any time between one year prior to the filing of this
15 complaint until judgment (“non-party similarly Aggrieved Employees”). Plaintiff’s share of civil
16 penalties sought in this action does not exceed \$75,000.

17 2. This Court has jurisdiction over this action pursuant to the California Constitution,
18 Article VI, section 10. The statute under which this action is brought does not specify any other
19 basis for jurisdiction.

20 3. This Court has jurisdiction over Defendant because, on information and belief,
21 Defendant is a citizen of California, has sufficient minimum contacts in California, and has availed
22 itself of the California market so as to render the exercise of jurisdiction over it by the California
23 courts consistent with traditional notions of fair play and substantial justice. There is no basis for
24 federal diversity jurisdiction in this action given that the State of California, as the real party in
25 interest in this action, is not a “citizen” for purposes of satisfying diversity jurisdiction. (*Urbino v.*
26 *Orkin Servs. of Cal.*, 726 F.3d 1118, 1123 (9th Cir. Cal. 2013).) *Urbino* also holds that civil
27 penalties cannot be aggregated to satisfy the amount in controversy requirement for federal diversity
28 jurisdiction in this action, and that diversity jurisdiction cannot be established when Plaintiff’s share

1 of the civil penalties attributable to violations personally suffered are less than \$75,000. (*Id.* at
2 1122.)

3 4. Venue is proper in this Court because Defendant employs persons in this county and
4 employed Plaintiff in this county – more specifically, in Modesto, California – and thus, a
5 substantial portion of the transactions and occurrences related to this action occurred in this county.

6 5. PAGA authorizes aggrieved employees to sue as private attorneys general against
7 their current or former employers for civil penalties for violations of various provisions in the
8 California Labor Code.

9 **THE PARTIES**

10 6. Plaintiff Theresa Suzanne Lopez (“Plaintiff”) is a resident of the State of California
11 and currently resides in Modesto, California. Plaintiff is a “person” as that term is defined in
12 California Business and Professions Code section 17201 and an “aggrieved employee” as that term
13 is defined in California Labor Code section 2699, subdivision (c). Defendant employed Plaintiff as
14 an hourly-paid, non-exempt employee, at its long-term acute care hospital in Modesto, California.
15 Plaintiff was employed by Defendant as a Licensed Vocational Nurse.

16 7. Defendant Central Valley Specialty Hospital, Inc. (“Defendant”) is and at all relevant
17 times was, a corporation organized in the State of California. Defendant is and at all relevant times
18 was an employer with employees engaged throughout the State of California, including in Stanislaus
19 County.

20 8. The true names or capacities, whether individual, corporate, associate, or otherwise,
21 of Defendant DOES 1 through 20, inclusive, are presently unknown to Plaintiff, who therefore sues
22 those Defendant by such fictitious names pursuant to California Code of Civil Procedure section
23 474 and will amend this Complaint to allege their true names and capacities when ascertained by
24 Plaintiff. Plaintiff is informed and believes that each of the Defendant sued herein as a DOE is
25 legally responsible in some manner for the events and happenings alleged herein and proximately
26 caused injury and damages as alleged herein.

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9. Upon information and belief, Defendant owns and operates a long-term acute care hospital, and employs approximately 50 individuals in various positions at its hospital. Upon information and belief, Defendant implements uniform, standardized policies and practices affecting all of its non-exempt, hourly-paid employees in California, including Plaintiff and other non-party similarly Aggrieved Employees. At all relevant times, Defendant issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly-paid employees in California, including Plaintiff and other non-party similarly Aggrieved Employees, regardless of their position.

10. Defendant continues to employ non-exempt, hourly-paid employees within California.

11. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Plaintiff and other non-party similarly Aggrieved Employees were entitled to receive certain wages for overtime compensation and that they were not receiving certain wages for overtime compensation.

12. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Plaintiff and other non-party similarly Aggrieved Employees were entitled to meal periods in accordance with the Labor Code or payment of one (1) additional hour of pay at their regular rates of pay when they were not provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and other non-party similarly Aggrieved Employees were not provided with all meal periods or payment of one (1) additional hour of pay at their regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal period.

13. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Plaintiff and other non-party similarly Aggrieved Employees were entitled to rest periods in accordance with the Labor Code and applicable IWC Wage Order or payment of one (1) additional hour of pay at their regular rates of pay when they were not provided with a compliant rest period, and that Plaintiff and other non-party similarly Aggrieved Employees were

1 not provided compliant rest periods or payment of one (1) additional hour of pay at their regular
2 rates of pay when they were not provided a compliant rest period.

3 14. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or
4 should have known that Plaintiff and other non-party similarly Aggrieved Employees were entitled
5 to receive complete and accurate wage statements in accordance with California law. In violation of
6 the California Labor Code, Plaintiff and other non-party similarly Aggrieved Employees were not
7 provided complete and accurate wage statements.

8 15. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or
9 should have known that it had a duty to maintain accurate and complete payroll records in
10 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly, and
11 intentionally failed to do so.

12 16. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or
13 should have known that Plaintiff and other non-party similarly Aggrieved Employees were entitled
14 to timely payment of wages during their employment. In violation of the California Labor Code,
15 Plaintiff and other non-party similarly Aggrieved Employees did not receive payment of all wages,
16 including, but not limited to, overtime wages, minimum wages, and meal and rest period premiums,
17 within permissible time periods.

18 17. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or
19 should have known that Plaintiff and other non-party similarly Aggrieved Employees were entitled
20 to timely payment of all wages earned upon termination of employment. In violation of the
21 California Labor Code, Plaintiff and other non-party similarly Aggrieved Employees did not receive
22 payment of all wages due, including, but not limited to, overtime wages, minimum wages, and meal
23 and rest period premiums, within the permissible time periods.

24 18. Plaintiff is informed and believes, and thereon alleges that Defendant knew or should
25 have known that Plaintiff and other non-party similarly Aggrieved Employees were entitled to
26 receive reimbursement for all business-related expenses and costs they incurred during the course
27 and scope of their employment, and that they did not receive reimbursement of applicable business-
28 related expenses and costs they incurred.

1 19. Plaintiff is informed and believes, and thereon alleges, that at all times herein
2 mentioned, Defendant knew or should have known that it had a duty to compensate Plaintiff and
3 other non-party similarly Aggrieved Employees for all hours worked, and that Defendant had the
4 financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do
5 so, and falsely represented to Plaintiff and other non-party similarly Aggrieved Employees that they
6 were properly denied wages, all in order to increase Defendant's profits.

7 20. At all times herein set forth, PAGA provides that any provision of law under the
8 Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and
9 collected by the LWDA for violations of the California Labor Code and applicable IWC Wage
10 Order may, as an alternative, be recovered by aggrieved employees in a civil action brought on
11 behalf of themselves and other current or former employees pursuant to procedures outlined in
12 California Labor Code section 2699.3.

13 21. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
14 person who was employed by the alleged violator and against whom one or more of the alleged
15 violations was committed."

16 22. Plaintiff and other current and former employees of Defendant are "aggrieved
17 employees" as defined by Labor Code section 2699(c) in that they are all Defendant's current or
18 former employees and one or more of the alleged violations were committed against them.

19 23. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
20 employee, such as Plaintiff, may pursue a civil action arising under PAGA after the following
21 requirements have been met:

22 (a) The aggrieved employee shall give written notice by online filing (hereinafter
23 "Employee's Notice") to the LWDA and by certified mail to the employer of the specific
24 provisions of the California Labor Code alleged to have been violated, including the facts
25 and theories to support the alleged violations.

26 (b) An aggrieved employee's notice filed with the LWDA pursuant to 2699.3(a) and any
27 employer response to that notice shall be accompanied by a filing fee of seventy-five dollars
28 (\$75).

1 (c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the employer and the
2 aggrieved employee by certified mail that it does not intend to investigate the alleged
3 violation within sixty (60) calendar days of the postmark date of the Employee's Notice.
4 Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty-five
5 (65) calendar days of the postmark date of the Employee's Notice, the aggrieved employee
6 may commence a civil action pursuant to California Labor Code section 2699 to recover
7 civil penalties in addition to any other penalties to which the employee may be entitled.

8 24. On January 2, 2020, Plaintiff provided written notice by online filing to the LWDA
9 and by certified mail to Defendant of the specific provisions of the California Labor Code alleged to
10 have been violated, including facts and theories to support the alleged violations, in accordance with
11 California Labor Code section 2699.3. Plaintiff's written notice was accompanied with the
12 applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA Administrator has confirmed
13 receipt of Plaintiff's written notice and assigned to Plaintiff's PAGA claim LWDA Case No.
14 LWDA-CM-764276-20. A true and correct copy of Plaintiff's written notice to the LWDA and
15 Defendant dated January 2, 2020, is attached hereto as Exhibit 1.

16 25. As of the filing date of this complaint, over 65 days have passed since Plaintiff sent
17 the Employee's Notice described above, and the LWDA has not responded that it intends to
18 investigate Plaintiff's claims and Defendant has not cured the violations.

19 26. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor
20 Code section 2699.3(a) to recover civil penalties against Defendant, in addition to other remedies,
21 for violations of California Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7, 353, 510,
22 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2800, and 2802.

23 27. Defendant, at all times relevant to this Complaint, was an employer or persons acting
24 on behalf of an employer(s) who violated Plaintiff's and other non-party similarly Aggrieved
25 Employees' rights by violating various sections of the California Labor Code as set forth above.

26 28. As set forth below, Defendant has violated numerous provisions of both the Labor
27 Code sections regulating hours and days of work as well as the applicable IWC Wage Order.
28

29. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), and 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other non-party similarly Aggrieved Employees, and the State of California against Defendant, in addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7, 353, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2800, and 2802.

FIRST CAUSE OF ACTION

For Civil Penalties, Pursuant to California Labor Code §§ 2698, et seq.

(By Plaintiff, as an Aggrieved Employee, on Behalf of the State of California and all other
Similarly Aggrieved Employees Against Defendant and DOES 1-20)

30. Plaintiff refers to all of the foregoing paragraphs and incorporates herein by this reference those paragraphs as though fully set forth in this cause of action.

31. California Labor Code §§ 2698, et seq. (“PAGA”) permits Plaintiff to recover civil penalties for violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7, 246, 353, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2800 and 2802.

32. Defendant's conduct, as alleged herein, violates numerous sections of the California Labor Code, including, but not limited to, the following:

(a) Violation of Labor Code sections 510, 1194, 1198, and the applicable IWC wage order for Defendant's failure to compensate Plaintiff and other non-party similarly Aggrieved Employees with all required overtime pay, as set forth below;

(b) Violation of Labor Code sections 1194, 1197, 1197.1, 1198, 1199 and the applicable IWC wage order for Defendant's failure to compensate Plaintiff and other non-party similarly Aggrieved Employees with at least minimum wages for all hours worked, as set forth below;

(d) Violation of Labor Code sections 226.7, 512(a), 1198, and the applicable IWC wage order for Defendant's failure to provide Plaintiff and other non-party similarly Aggrieved Employees with meal and/or rest periods, as set forth below;

(e) Violation of Labor Code sections 226(a), 1198.5, and the applicable IWC wage order for Defendant's failure to provide accurate and complete wage statements to Plaintiff and other non-party similarly Aggrieved Employees, as set forth below;

(f) Violations of Labor Code sections 1174(d), 1198.5, and the applicable IWC wage order for Defendant's failure to maintain payroll records, as set forth below;

(g) Violation of Labor Code section 204 for Defendant's failure to pay Plaintiff and other non-party similarly Aggrieved Employees all earned wages during employment, as set forth below;

(h) Violation of Labor Code sections 201, 202, and 203 for failure to pay Plaintiff and other non-party similarly Aggrieved Employees all earned wages upon termination, as set forth below;

(i) Violation of Labor Code sections 2800 and 2802 for failure to reimburse Plaintiff and other non-party similarly Aggrieved Employees for all business expenses necessarily incurred, as set forth below; and

(j) Violation of Labor Code section 1199 by virtue of violating the foregoing and other provisions of the California Labor Code and the applicable IWC Wage Order(s).

FAILURE TO PAY OVERTIME

VIOLATION OF LABOR CODE SECTIONS 510, 1194 AND 1198

33. California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that "... the standard conditions of labor fixed by the commission shall be the ... standard conditions of labor for employees. The employment of any employee ... under conditions of labor prohibited by the order is unlawful."

34. California Labor Code section 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

1 35. Specifically, the applicable IWC Wage Order provides that Defendant is and was
2 required to pay Plaintiff and other non-party similarly Aggrieved Employees working more than
3 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and one-half
4 (1.5) for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
5 workweek.

6 36. The applicable IWC Wage Order further provides that Defendant is and was required
7 to pay Plaintiff and other non-party similarly Aggrieved Employees working more than twelve (12)
8 hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay. An
9 employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of,
10 the employee, including non-discretionary bonuses and incentive pay.

11 37. California Labor Code section 510 codifies the right to overtime compensation at one
12 and one-half times (1.5) the regular rate of pay for hours worked in excess of eight (8) hours in a
13 day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh (7th) day of
14 work, and to overtime compensation at twice the employee's regular rate of pay for hours worked in
15 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh (7th) day
16 of work.

17 38. California Labor Code section 1194 provides that any employee receiving less than
18 the legal overtime compensation applicable to the employee is entitled to recover in a civil action
19 the unpaid balance of the full amount of this overtime compensation.

20 39. During the relevant time period, Defendant willfully failed to pay all overtime wages
21 owed to Plaintiff and other non-party similarly Aggrieved Employees. During the relevant time
22 period, Plaintiff and other non-party similarly Aggrieved Employees were not paid overtime
23 premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve
24 (12) hours in a day, and/or in excess of forty (40) hours in a week.

25 40. Defendant has and had a company-wide policy depriving non-exempt employees of
26 overtime wages. During the relevant time period, Defendant failed to properly implement an
27 alternative workweek schedule and regularly required Plaintiff and other non-party similarly
28

1 Aggrieved Employees to work overtime hours, but did not compensate them at the appropriate
2 overtime rate.

3 41. Defendant knew or should have known that as a result of these company-wide
4 practices and/or policies, Plaintiff and other non-party similarly Aggrieved Employees were not
5 being compensated for all overtime hours worked. Because Plaintiff and other non-party similarly
6 Aggrieved Employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or
7 more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Plaintiff and
8 other non-party similarly Aggrieved Employees were not paid overtime wages for all of the
9 overtime hours they actually worked.

10 42. Defendant's failure to pay Plaintiff and other non-party similarly Aggrieved
11 Employees the balance of overtime compensation, as required by California law, violates the
12 provisions of California Labor Code sections 510, 1194 and 1198. Plaintiff and other non-party
13 similarly Aggrieved Employees are entitled to recover civil penalties pursuant to California Labor
14 Code sections 558 and 2699(a), (f), and (g).

15 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**

16 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), AND 1198**

17 43. At all relevant times herein set forth, the applicable IWC Wage Order(s) and
18 California Labor Code sections 226.7, 512(a), and 1198 were applicable to Plaintiff and other non-
19 party similarly Aggrieved Employees employed by Defendant.

20 44. California Labor Code section 512(a) provides that an employer may not require,
21 cause, or permit an employee to work for a period of more than five (5) hours per day without
22 providing the employee with a meal period of not less than thirty (30) minutes, except that if the
23 total work period per day of the employee is not more than six (6) hours, the meal period may be
24 waived by mutual consent of both the employer and the employee. Under California law, first meal
25 periods must start after no more than five hours. (*Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th
26 1004, 1041-1042 (Cal. 2012).)

27 45. California Labor Code sections 226.7 and 512(a) provide that no employer shall
28 require an employee to work during any meal period mandated by an applicable order of the IWC.

1 46. During the relevant time period, Defendant regularly failed to comply with California
2 Labor Code sections 226.7 and 512(a) by failing to provide Plaintiff and other non-party similarly
3 Aggrieved Employees duty-free meal periods in accordance with California Labor Code sections
4 226.7 and 512(a) and the applicable IWC Wage Order. And at all relevant times, Defendant
5 regularly failed to compensate Plaintiff and other non-party similarly Aggrieved Employees one
6 additional hour of pay at their regular pay rate for meal periods that were not provided in accordance
7 with California Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order.

8 47. Defendant also maintained and continues to maintain a policy of understaffing its
9 hospital, such that Plaintiff and other non-party Aggrieved Employees are routinely required to
10 work in excess of five (5) hours without being provided an uninterrupted thirty (30) minute meal
11 period by the end of the fifth hour, and/or a second uninterrupted thirty (30) minute meal period
12 when they worked over 10 hours in a shift by the end of the tenth hour.

13 48. Defendant engaged in a systematic, company-wide practice and/or policy of not
14 paying meal period premiums owed when compliant meal periods were not provided. As a result,
15 Defendant failed to provide Plaintiff and other non-party Aggrieved Employees compliant meal
16 periods and failed to pay the full meal period premiums due.

17 49. Defendant's conduct violates the applicable IWC Wage Order, and California Labor
18 Code sections 226.7, 512(a), and 1198. Plaintiff and other non-party Aggrieved Employees are
19 entitled to recover civil penalties pursuant to California Labor Code section 2699(a), (f), and (g).

20 **FAILURE TO PROVIDE REST PERIODS**

21 **VIOLATION OF LABOR CODE SECTIONS 226.7 AND 1198**

22 50. At all relevant times set forth herein, the applicable IWC Wage Order and California
23 Labor Code sections 226.7 and 1198 were applicable to Plaintiff and other non-party similarly
24 Aggrieved Employees employed by Defendant.

25 51. At all relevant times, the applicable IWC Wage Order provides that every employer
26 shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in
27 the middle of each work period and that the "rest period time shall be based on the total hours
28

1 worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction
2 thereof” unless the total daily work time is less than three and one-half (3.5) hours.

3 52. At all relevant times, California Labor Code section 226.7 provides that no employer
4 shall require an employee to work during any rest period mandated by an applicable order of the
5 California IWC. To comply with its obligation to provide rest periods under California Labor Code
6 section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over
7 how employees spend their break time, and relieve their employees of all duties - including the
8 obligation that an employee remain on call. A rest period, in short, must be a period of rest.”
9 (*Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).)

10 53. Pursuant to the applicable IWC Wage Order and California Labor Code section
11 226.7(b), Plaintiff and other non-party similarly Aggrieved Employees are entitled to recover from
12 Defendant one (1) additional hour of pay at their regular rates of pay for each work day that a
13 required rest period was not provided.

14 54. During the relevant time period, Defendant regularly failed to authorize and permit
15 Plaintiff and other non-party similarly Aggrieved Employees to take ten (10) minute rest periods per
16 each four (4) hour period worked or major fraction thereof.

17 55. Plaintiff and all other non-party similarly Aggrieved Employees of Defendant were
18 not provided lawful rest periods and were not compensated one additional hour of pay for each
19 workday that a rest period was not provided, in violation of Labor Code section 226.7.

20 56. Defendant maintained and uniformly applied a company-wide policy that prohibited
21 10-minute rest breaks when it was busy and the workload was heavy. The policy discouraged and
22 prevented non-exempted employees – Plaintiff all other non-party similarly Aggrieved Employees
23 of Defendant – from receiving their legally mandated rest breaks. Plaintiff regularly did not receive
24 her mandatory rest breaks, as the hospital was often busy; all other non-party similarly Aggrieved
25 Employees of Defendant were similarly treated.

26 57. Additionally, Defendant took no steps to record or otherwise track the failure to
27 provide uninterrupted rest periods; nor did Defendant educate employees on how to do so. Despite
28 having both the means and a policy that provided for the tracking and recording of employees’ rest

1 periods, Defendant willfully disregarded its own policies so as to obfuscate their repeated violations
2 of law.

3 58. Defendant has also engaged in a company-wide practice and/or policy to not pay rest
4 periods premiums owed when compliant rest periods are not provided. As a result, Plaintiff and
5 other non-party similarly Aggrieved Employees were denied rest periods and Defendant failed to
6 pay Plaintiff and other non-party similarly Aggrieved Employees the full rest period premiums due,
7 in violation of Labor Code section 226.7 and the applicable IWC Wage Order.

8 59. Defendant's conduct violates the applicable IWC Wage Order and California Labor
9 Code sections 226.7 and 1198. Plaintiff and other non-party similarly Aggrieved Employees are
10 therefore entitled to recover civil penalties pursuant to California Labor Code section 2699(a), (f),
11 and (g).

12 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**

13 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198.5**

14 60. At all relevant times herein, California Labor Code section 226(a) provides that every
15 employer shall furnish each of her or her employees an accurate and complete itemized wage
16 statement in writing, including, but not limited to, the name and address of the legal entity that is the
17 employer, the inclusive dates of the pay period, the total hours worked, the gross and net wages
18 earned, and all applicable rates of pay.

19 61. During the relevant time period, Defendant has knowingly and intentionally provided
20 Plaintiff and other non-party similarly Aggrieved Employees with uniform, incomplete, and
21 inaccurate wage statements. The deficiencies with the wage statements included, without limitation,
22 the failure to include the total hours worked, accurate gross and net wages earned (including, all
23 earned overtime wage), and other items as required by California Labor Code section 226,
24 subdivision (a)(1) to (5), (7), and (9).

25 62. California Labor Code section 1174(d) provides that "[e]very person employing
26 labor in this state shall ... [k]eep a record showing the names and addresses of all employees
27 employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or
28 establishments at which employees are employed, payroll records showing the hours worked daily

1 by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate
2 paid to, employees employed at the respective plants or establishments...” For the above stated
3 reasons, in violation of Labor Code section 1174(d), Defendant willfully failed to maintain accurate
4 payroll records for Plaintiff and other non-party similarly Aggrieved Employees showing the daily
5 hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours
6 that they worked.

7 63. Pursuant to the applicable IWC Wage Order, employers are required to keep accurate
8 time records showing when the employee begins and ends each work period; and during the relevant
9 time period, for the reasons stated above, Defendant failed, on a company-wide basis, to keep such
10 accurate records for Plaintiff and other non-party similarly Aggrieved Employees.

11 64. Because Defendant’s violations of Labor Code §§ 226(a), 1174(d), and 1198.5 were
12 committed against Plaintiff and other non-party similarly Aggrieved Employees, Plaintiff and other
13 non-party similarly Aggrieved Employees are entitled to recover civil penalties pursuant to
14 California Labor Code sections 226(e), 226.3, 1174.5, 1198.5, and/or 2699(a), (f), and (g).

15 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

16 **VIOLATION OF LABOR CODE SECTION 204**

17 65. At all relevant times herein set forth, California Labor Code section 204 requires that
18 all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of
19 any calendar month, other than those wages due upon termination of an employee, are due and
20 payable between the 16th and the 26th day of the month during which the labor was performed.
21 Labor Code section 204 further provides that all wages earned by any person in any employment
22 between the 16th and the last day, inclusive, of any calendar month, other than those wages due
23 upon termination of an employee, are due and payable between the 1st and the 10th day of the
24 following month.

25 66. At all relevant times herein, California Labor Code section 204 also requires that all
26 wages earned for labor in excess of the normal work period shall be paid no later than the payday
27 for the next regular payroll period. Alternatively, at all relevant times herein, Labor Code section
28 204 provides that the requirements of this section are deemed satisfied by the payment of wages for

1 weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar
2 days following the close of the payroll period.

3 67. During the relevant time period, Defendant willfully failed to pay Plaintiff and other
4 non-party similarly Aggrieved Employees all wages due to them within any time period specified by
5 California Labor Code section 204 including, but not limited to, overtime wages, minimum wages,
6 and meal and rest period premium wages.

7 68. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover
8 civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

9 **FAILURE TO PAY WAGES UPON TERMINATION**

10 **VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

11 69. At all times relevant herein set forth, Labor Code sections 201 and 202 provide that if
12 an employer discharges an employee, the wages earned and unpaid at the time of discharge are due
13 and payable immediately, and that if an employee voluntarily leaves his or her employment, his or
14 her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the
15 employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which
16 case the employee is entitled to his or her wages at the time of quitting.

17 70. During the relevant time period, Defendant willfully failed to pay Plaintiff and other
18 non-party similarly Aggrieved Employees who are no longer employed by Defendant all their
19 earned wages, including, but not limited to, overtime wages, minimum wages, and meal and rest
20 period premium wages, either at the time of discharge, or within seventy-two (72) hours of their
21 leaving Defendant's employ.

22 71. Defendant's failure to pay Plaintiff and those non-party similarly Aggrieved
23 Employees who are no longer employed by Defendant their wages earned and unpaid at the time of
24 discharge, or within seventy-two (72) hours of their leaving Defendant's employ, violates Labor
25 Code sections 201 and 202.

26 72. Plaintiff and other non-party similarly Aggrieved Employees are therefore entitled to
27 recover civil penalties pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

28 ///

1 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

2 **VIOLATION OF LABOR CODE SECTIONS 2800 AND 2802**

3 73. At all times herein set forth, California Labor Code section 2802 provides that an
4 employer must reimburse employees for all necessary expenditures and losses incurred by the
5 employee in the performance of his or her job. The purpose of Labor Code section 2802 is to
6 prevent employers from passing off their cost of doing business and operating expenses on to their
7 employees. (*Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014).)

8 74. At all relevant times, Defendant intentionally and willfully failed to reimburse
9 Plaintiff and other non-party similarly Aggrieved Employees for necessary business-related
10 expenses and costs, in violation of California Labor Code section 2800 and 2802.

11 75. Defendant had a company-wide policy of requiring Plaintiff and other non-party
12 similarly Aggrieved Employees to purchase and download a web/mobile “App” called, “On Shift”
13 on their personal cell phone or other personal electronic device, as the “App” was used to
14 communicate required work-related information, weekly schedules, and messages to employees.
15 Despite downloading the “On Shift” “App” and using it on their personal cell phones or at home on
16 the Internet, and incurring data and other charges associated with the “App,” Plaintiff and all and
17 other non-party similarly Aggrieved Employees were not reimbursed for these business-related
18 expenditures.

19 76. Defendant’s company-wide policy and/or practice of passing its operating costs on to
20 Plaintiff and other non-party similarly Aggrieved Employees is in violation of California Labor
21 Code section 2802.

22 77. Plaintiff and other non-party similarly Aggrieved Employees are therefore entitled to
23 recover civil penalties pursuant to Labor Code section 2699(a). (f)-(g).

24 **PRAYER FOR RELIEF**

25 78. Plaintiff, as an aggrieved employee and on behalf of all other aggrieved employees,
26 prays for relief and judgment against Defendant, jointly and severally, as follows:

- 27 a. For civil penalties and attorneys’ fees in excess of twenty-five thousand dollars
28 (\$25,000).

- 1 b. That the Court declare, adjudge and decree that Defendant violated the following
2 California Labor Code provisions as to Plaintiff and/or other non-party similarly
3 Aggrieved Employees: 223, 510, 558, 1194, and 1198 (by failing to pay all
4 overtime compensation); 223, 558, 1194, 1197, 1197.1, 1198, and 1199 (by
5 failing to pay at least minimum wages for all hours worked); 226.7, 512, and
6 1198 (by failing to provide all meal and rest periods); 226(a), 353, 1174(d), and
7 1198.5 (by failing to provide accurate wage statements and maintain accurate
8 payroll records); 201, 202, 203 (by failing timely to pay all earned wages upon
9 termination); 204 (by failing timely to pay all earned wages during employment);
10 and 2800 and 2802 (by failing to reimburse business expenses).
- 11 c. For civil penalties, pursuant to California Labor Code sections 210, 225.5, 226.3,
12 256, 558, 1174.5, 1197.1, 1198.5, 2699(a) and/or 2699(f) and (g), for violations
13 of California Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7, 353,
14 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2800, and 2802.
- 15 d. For attorneys' fees and costs pursuant to California Labor Code section
16 2699(g)(1), and any and all other relevant statutes, for Defendant's violations of
17 California Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7, 353, 510,
18 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2800, and 2802.
- 19 e. For pre-judgment and post-judgment interest as provided by law.
- 20 f. For such other and further relief as the Court may deem equitable and
21 appropriate.

22 Dated: March 18, 2020

FELAHY EMPLOYMENT LAWYERS

23
24 By: 

25 Allen B. Felahy

26 Farbod Nourian

Shannen T. Garrett

27 Attorneys for Plaintiff Theresa Suzanne Lopez,
28 and on behalf of all other Similarly Aggrieved
Employees

DEMAND FOR JURY TRIAL

Plaintiff Theresa Suzanne Lopez hereby demands trial of her claims by jury to the extent authorized by law.

DATED: March 18, 2020

FELAHY EMPLOYMENT LAWYERS

By: _____


Allen B. Felahy
Farbod Nourian
Shannen T. Garrett
Attorneys for Plaintiff Theresa Suzanne Lopez,
and on behalf of all other Similarly Aggrieved
Employees

EXHIBIT 1

FELAHY EMPLOYMENT LAWYERS

fnourian@felahylaw.com

January 2, 2020

Via Online Submission

California Labor and Workforce Development Agency

Via Certified Mail

Central Valley Specialty Hospital, Inc.
730 17th Street
Modesto, California 95354

RE: Lopez v. Central Valley Specialty Hospital, Inc.
Notice of Labor Code Violations Pursuant to California Labor Code Private
Attorneys General Act of 2004 (Lab. Code §§ 2698, *et seq.*)

Dear Sir or Madam:

This office serves as legal counsel for Theresa Suzanne Lopez (“Ms. Lopez”) with respect to her claims against Central Valley Specialty Hospital, Inc. (“Defendant”), her current employer.

In accordance with the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*) (“PAGA”), Ms. Lopez hereby provides notice regarding Defendant’s violations of numerous provisions of the California Labor Code enumerated in California Labor Code section 2699.5. Ms. Lopez provides further notice that she, on behalf of herself and all other similarly aggrieved current and former non-exempt employees of Defendant, intends to utilize the protection(s) and remedies granted by PAGA (Cal. Lab. Code §§ 2698, *et seq.*)

Ms. Lopez is an aggrieved employee within the meaning of California Labor Code section 2699, subdivision (c). Defendant currently employs Ms. Lopez in the State of California. Ms. Lopez works for Defendant at its long-term acute care hospital in Modesto, California, as a non-exempt Licensed Vocational Nurse. The other similarly aggrieved employees also hold and have held non-exempt positions with Defendant at its hospital in Modesto, California.

Defendant maintained, and uniformly applied, a company-wide policy that prohibits rest breaks for Ms. Lopez and all other similarly aggrieved employees when it is busy and the workload is heavy; however, Defendant has not provided compensation in lieu thereof in

violation of California Labor Code § 226.7. Thus, Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were not provided lawful rest periods and were not compensated for their missed rest breaks, in violation of Labor Code section 226.7. Defendant failed to authorize and permit Ms. Lopez and all other similarly aggrieved current and former employees to take a minimum ten (10) minute rest break for every four hours or major fraction thereof worked each work shift. Ms. Lopez regularly did not receive her mandatory rest breaks; all similarly aggrieved current and former employees of Defendant were similarly treated. Additionally, Defendant took no steps to record or otherwise track the failure to provide uninterrupted rest periods; nor did it educate employees on how to do so.

Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were not provided lawful meal periods and were not compensated one additional hour of pay for each workday that a meal period was not provided, in violation of Labor Code sections 226.7 and 512(a). Due to Defendant's policy of understaffing and the corresponding workload demands, Ms. Lopez and all other similarly aggrieved employees are routinely required by Defendant to work in excess of five (5) hours without being provided an uninterrupted thirty (30) minute meal period by the end of the fifth hour, and/or a second uninterrupted thirty (30) minute meal period when they worked over 10 hours in a shift by the end of the tenth hour, and have not been provided compensation in lieu thereof in violation of California labor laws, regulations and IWC Wage Order. Thus, Defendant has violated the provisions of Labor Code § 512 and applicable IWC Wage Orders by failing to provide 30 minute uninterrupted meal periods by the end of the fifth hour for days on which Ms. Lopez and all other similarly aggrieved current and former employees worked work periods in excess of 5 hours. Defendant also violated the provisions of Labor Code § 512 and applicable IWC Wage Orders by failing to provide a second 30 minute uninterrupted meal period by the end of the tenth hour for days in which Ms. Lopez and all other similarly aggrieved current and former employees worked shifts in excess of 10 hours. Defendant further violated the provisions of Labor Code § 512 and applicable IWC Wage Orders by failing to provide compensation for such statutorily non-compliant meal periods. Further, by failing to record and maintain adequate and accurate time records according to sections 226 and 1174 (d) of the Labor Code, Defendant has injured Ms. Lopez and all other similarly aggrieved current and former employees of Defendant and had made it difficult to calculate the unpaid meal period compensation due to Ms. Lopez and all other similarly aggrieved current and former employees of Defendant.

Ms. Lopez and all other similarly situated current and former employees of Defendant were not properly paid for all hours worked and were not paid overtime compensation for all overtime hours worked, in violation of Labor Code sections 510, 1194, 1197, 1197.1, 1198 and 1199. During the relevant time period, due to Defendant's failure to properly implement a valid alternative workweek schedule, Ms. Lopez and all other similarly aggrieved current and former employees were not paid overtime for hours worked over eight in a day. Pursuant to sections 510, 1194, 1197 and 1198 of the Labor Code, among other applicable sections, it is unlawful to employ persons for longer than the hours set by the IWC. During the relevant time period, Ms. Lopez and all other similarly aggrieved current and former employees were compelled to work in

excess of eight (8) hours per workday. Defendant failed and refused to compensate Ms. Lopez and all other similarly aggrieved current and former employees at the rate of no less than one and one-half times their regular rate of pay for all overtime hours worked. Defendant also failed to pay Ms. Lopez and all other similarly aggrieved current and former employees for all time that they were on-duty. As a result, Ms. Lopez and all other similarly aggrieved current and former employees were not paid wages or the overtime premium for the additional time they worked.

Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were not reimbursed for their business expenses, in violation of California Labor Code sections 2800 and 2802. Pursuant to California Labor Code sections 2800 and 2802, an employer must indemnify or reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. At all relevant times, due to Defendant's company-wide policy requiring Ms. Lopez and all other similarly aggrieved current and former employees of Defendant to use their personal phones/data plans in the performance of their job duties (specifically, they are required to download and utilize an "App" on their cell phones called "On Shift"), Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were forced to incur "data" charges that have not been reimbursed by Defendant.

Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were not provided with complete and accurate itemized wage statements. The deficiencies with the wage statements included, without limitation, the failure to include the total hours worked, accurate gross and net wages earned (including all earned overtime compensation), and other items as required by California Labor Code section 226, subdivision (a)(1) to (5), (7), and (9). As a result of Defendant's violation of California Labor Code section 226(a), Ms. Lopez and all other similarly aggrieved current and former employees have suffered injuries and damages, including confusion over whether they received all wages earned and owed to them, difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact properly compensated them. Additionally, Ms. Lopez and all other similarly aggrieved current and former employees have been injured by Defendant's intentional and willful violation of California Labor Code section 226(a) because they were denied both the legal right to receive and the protected interest in receiving accurate and itemized wage statements pursuant to California Labor Code section 226(a).

Accordingly, Ms. Lopez intends to bring a private civil action against Defendant asserting claims on behalf of herself and all other similarly aggrieved past and current employees of Defendant under PAGA for Defendant's violations of the California Labor Code. In her action, Ms. Lopez will seek penalties and other relief provided under PAGA on behalf of herself and all other past and current employees similarly aggrieved.

Date: January 2, 2020

RE: Lopez v. Central Valley Specialty Hospital, Inc.

Page: 4 of 4

Please direct all communications in this matter to my office, as follows:

Allen B. Felahy, Esq.
Farbod Nourian, Esq.
Felahy Employment Lawyers
550 S. Hope Street, Suite 2655
Los Angeles, California 90071

Thank you for your anticipated courtesy and consideration.

Very truly yours,

FELAHY EMPLOYMENT LAWYERS

By: _____


Allen B. Felahy, Esq.,
Farbod Nourian, Esq.,
Attorneys for Theresa Suzanne Lopez

EXHIBIT 5

FELAHY EMPLOYMENT LAWYERS

fnourian@felahylaw.com

October 26, 2020

Via Online Submission

California Labor and Workforce Development Agency

Via Certified Mail and Email

Central Valley Specialty Hospital, Inc.

c/o Matthew Taylor

730 17th Street

Modesto, California 95354

mtaylor.legal@americanam.org

Greg A. Garbacz

Jessica R. Spinola

KLINEDINST PC

2 Park Plaza, Suite 1250

Irvine, California 92614

ggarbacz@klinedinstlaw.com

jspinola@klinedinstlaw.com

RE: Lopez v. Central Valley Specialty Hospital, Inc.
AMENDED NOTICE of Labor Code Violations Pursuant to California Labor
Code Private Attorneys General Act of 2004 (Lab. Code §§ 2698, *et seq.*)

Dear Sir or Madam:

This office serves as legal counsel for Theresa Suzanne Lopez (“Ms. Lopez” or “Plaintiff”) with respect to her claims against Central Valley Specialty Hospital, Inc. (“Defendant”), her *former* employer. This correspondence serves as a follow up claim to Ms. Lopez’s previous claim, LWDA Case No. LWDA-CM-764276-20, filed on January 2, 2020, and alleges additional California Labor Code violations.

In accordance with the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*) (“PAGA”), Ms. Lopez hereby provides notice regarding Defendant’s additional violations of certain provisions of the California Labor Code pursuant to California Labor Code section 2699.5. Ms. Lopez provides further notice that she, on behalf of herself and all other similarly situated current and former non-exempt employees of Defendant, intends to utilize the protection(s) and remedies granted by PAGA (Cal. Lab. Code §§ 2698, *et seq.*)

As previously stated, Ms. Lopez is an aggrieved employee within the meaning of California Labor Code section 2699, subdivision (c). Defendant employed Ms. Lopez in the State of California, within one year of the filing of this amended PAGA Notice. Defendant employed Ms. Lopez between October 8, 2015, and October 9, 2020, as a non-exempt Licensed Vocational Nurse at its long-term acute care hospital in Modesto, California. The other similarly aggrieved employees also hold and have held non-exempt positions with Defendant at its long-term acute care hospital in Modesto, California.

Throughout the course of Ms. Lopez's employment with Defendant, Defendant maintained, and uniformly applied, non-discretionary bonus/incentive payments to Plaintiff and other similarly aggrieved employees. These non-discretionary bonus/incentive payments were paid to Plaintiff and other similarly aggrieved employees when they worked an additional work shift in a given work-week. Defendant employed, and currently employs, a policy wherein it provides employees, such as Ms. Lopez, with the ability to work extra shifts. As an incentive for employees to work extra shifts, Defendant provided, and currently provides, employees with non-discretionary bonus/incentive payments. These bonus/incentive payments were non-discretionary in that once Plaintiff or another similarly aggrieved employee worked the extra work shift, the bonus/incentive payment was earned and due. Defendant did not have the ability to pick and chose when or if the bonus/incentive payment was given. Despite providing Plaintiff with these bonus/incentive payments, Defendant failed to include said bonuses when calculating the regular rate of pay for Ms. Lopez and all other similarly aggrieved current and former employees.

Wages are defined in California Labor Code § 200 as “[a]ll amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis or other method of calculation.” The following are included in the definition of wages for purposes of calculating the regular rate of pay for purposes of overtime pay and rest and meal period premiums (see, DLSE Enforcement Policies and Interpretations Manual § 49): (a) Hourly earnings; (b) Salary; (c) Piece-work earnings; (d) Commissions; **(e) Nondiscretionary bonuses (based on hours worked, production, or proficiency)**; (f) Shift premiums; (g) Employee's share of service charges; and (h) The value of meals and lodging. (See Also, California Wage and Hour: Law and Litigation (Cal CEB 2016) § 1.24.) **Performance bonuses must be included in the regular rate of pay.** (29 CFR §778.211(a)); **and bonuses which are announced to employees to induce them to work more steadily or more rapidly or more efficiently/safely or to remain with the firm are regarded as part of the regular rate of pay, and they must be included in the regular rate of pay.** (29 CFR §778.211(c).) Performance bonuses/objective-based bonuses must be included in the regular rate whether they are the sole source of the employee's compensation or are in addition to a guaranteed salary or hourly rate. (29 CFR §§778.117, 778.208. See, *Oliver v Mercy Med. Ctr., Inc.* (9th Cir 1982) 695 F2d 379.) Moreover, such bonuses, even if labeled “discretionary,” must be included as remuneration under FLSA and California state law for the purpose of calculating the regular pay rate. (*Wang v Chinese Daily News, Inc.* (CD Cal 2006) 435 F Supp 2d 1042, *aff'd* (9th Cir 2010) 623 F3d 743, vacated on other grounds (2011) 132 S Ct 74.)

Since Ms. Lopez received bonus/incentive payments, those bonus/incentive payments should have been accounted for in her regular rate of pay for purposes of both overtime compensation and meal and rest breaks¹. Defendant has committed the same violations with respect to all other similarly aggrieved current and former employees. Moreover, since payments required by California Labor Code §§ 510 and 1194 – that are due and owing – are wages, Ms. Lopez and all other similarly aggrieved current and former employees of Defendant are entitled to recover these unpaid wages pursuant to California Labor Code §§ 201-204 – which Defendant is in violation of.

Accordingly, Ms. Lopez intends to amend her existing Complaint against Defendant to assert these claims on behalf of herself and all other similarly aggrieved past and current employees of Defendant under PAGA for Defendant's violations of the California Labor Code. In her action, Ms. Lopez will seek penalties and other relief provided under PAGA on behalf of herself and all other past and current employees similarly aggrieved.

Please direct all communications in this matter to my office, as follows:

Allen B. Felahy, Esq.
Farbod Nourian, Esq.
Felahy Employment Lawyers
550 S. Hope Street, Suite 2655
Los Angeles, California 90071

Thank you for your anticipated courtesy and consideration.

Very truly yours,

FELAHY EMPLOYMENT LAWYERS

By: 
Allen B. Felahy, Esq.,
Farbod Nourian, Esq.,
Attorney for Theresa Suzanne Lopez

¹ The issue of whether rest break premium pay is subject to computation at one hour of an employee's regular rate of pay or merely at one hour of their straight time rate is an issue presently pending before the State Supreme Court in the matter of Ferra vs. Lowes Hollywood Hotel, S259172 (November 18, 2019).

EXHIBIT 6

FELAHY EMPLOYMENT LAWYERS

550 South Hope Street, Suite 2655, Los Angeles, California 90071 • Telephone: (323) 645-5197 • Facsimile: (323) 645-5198

fnourian@felahylaw.com

April 7, 2021

Via Online Submission

California Labor and Workforce Development Agency

Via Certified Mail and Email

Central Valley Specialty Hospital, Inc.

c/o Matthew Taylor

730 17th Street

Modesto, California 95354

mtaylor.legal@americanam.org

Greg A. Garbacz

Jessica R. Spinola

KLINEDINST PC

2 Park Plaza, Suite 1250

Irvine, California 92614

ggarbacz@klinedinstlaw.com

jspinola@klinedinstlaw.com

RE: Lopez v. Central Valley Specialty Hospital, Inc.
SECOND AMENDED NOTICE of Labor Code Violations Pursuant to California
Labor Code Private Attorneys General Act of 2004 (Lab. Code §§ 2698, *et seq.*)

Dear Sir or Madam:

This office serves as legal counsel for Theresa Suzanne Lopez (“Ms. Lopez” or “Plaintiff”) with respect to her claims against Central Valley Specialty Hospital, Inc. (“Defendant” or “CVSH”), her *former* employer. This Second Amended PAGA Notice serves as a follow up claim to Ms. Lopez’s previous claims, LWDA Case No. LWDA-CM-764276-20, filed on January 2, 2020, and LWDA Case No. LWDA-CM-810661-20, filed on October 26, 2020. Therefore, in addition to the allegations contained in LWDA Case No. LWDA-CM-764276-20 and LWDA Case No. LWDA-CM-810661-20, this correspondence alleges further California Labor Code violations against Defendant Central Valley Specialty Hospital, Inc.

In accordance with the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*) (“PAGA”), Ms. Lopez hereby provides notice regarding Defendant’s additional violations of certain provisions of the California Labor Code pursuant to California

Labor Code section 2699.5. Ms. Lopez provides further notice that she, on behalf of herself and all other similarly situated current and former non-exempt employees of Defendant, intends to utilize the protection(s) and remedies granted by PAGA (Cal. Lab. Code §§ 2698, et seq.)

As previously stated, Ms. Lopez is an aggrieved employee within the meaning of California Labor Code section 2699, subdivision (c). Defendant employed Ms. Lopez in the State of California, within one year of the filing of this amended PAGA Notice. Defendant employed Ms. Lopez between October 8, 2015, and October 9, 2020, as a non-exempt Licensed Vocational Nurse at its long-term acute care hospital in Modesto, California. The other similarly aggrieved employees also hold and have held non-exempt positions with Defendant at its long-term acute care hospital in Modesto, California.

During discovery of Plaintiff's ongoing litigation with Defendant, Defendant produced Plaintiff's time records. A review of Plaintiff's time records has revealed that Defendant has engaged in the unlawful practice of rounding employee time in a way that causes violations of the California labor laws regarding the provision of meal periods.

This issue was directly addressed by the California Supreme Court in the February 25, 2021, decision of *Donohue v. AMN Services*, wherein the Supreme Court held that employers cannot engage in the practice of rounding time in the meal period context; that the wage laws pertaining to meal periods are designed to prevent even minor infringements, and that rounding is incompatible with that objective. The Supreme Court further held that time records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage. Such records exist in this case, and based on the Supreme Court's decision, create a presumption that Defendant engaged in meal period violations as to Plaintiff and other similarly aggrieved employees.

For instance, on May 10, 2020, Ms. Lopez clocked into work at 6:54 and clocked out for her meal break at 14:10 – for a total of seven (7) hours and sixteen (16) minutes of work before clocking out for her meal break. Ms. Lopez thereafter clocked in from her meal break at 14:40 and clocked out for the day at 19:30 – for an additional four (4) hours and fifty (50) minutes of work on that day. Ms. Lopez worked a total of twelve (12) hours and six (6) minutes on May 10, 2020. However, Defendant improperly rounded down Ms. Lopez's total time worked on May 10, 2020, to exactly twelve (12) hours. (The time sheet for May 10, 2020, was produced by Defendant and bates labeled as CVSH RPD2 000168.) Defendant's improper rounding scheme was designed to deprive Ms. Lopez of her mandatory second meal break, as Defendant's own meal break waiver policy/form provides that a waiver of the second meal break only occurs when the "total day's work will be completed within a work period of not more than twelve (12) hours." (Defendant's California Meal Break Waiver Agreement, was produced by Defendant and bates labeled as CVSH RPD1 00096.) Therefore, Defendant's improper rounding policy has resulted in violations California Labor Code §§ 226.7 and 512, affecting Ms. Lopez and all other similarly aggrieved current and former employees of Defendant.

Date: April 7, 2021

RE: Lopez v. Central Valley Specialty Hospital, Inc.

Page: 3 of 3

Accordingly, Ms. Lopez intends to amend her existing Complaint against Defendant to assert additional claims addressed in this PAGA Notice as well as the claims addressed in her January 2, 2020 and October 26, 2020 PAGA Notices on behalf of herself and all other similarly aggrieved past and current employees of Defendant under PAGA for Defendant's violations of the California Labor Code. In her action, Ms. Lopez will seek penalties and other relief provided under PAGA on behalf of herself and all other past and current employees similarly aggrieved.

Please direct all communications in this matter to my office, as follows:

Allen B. Felahy, Esq.
Farbod Nourian, Esq.
Felahy Employment Lawyers
550 S. Hope Street, Suite 2655
Los Angeles, California 90071

Thank you for your anticipated courtesy and consideration.

Very truly yours,

FELAHY EMPLOYMENT LAWYERS

By: _____
Allen B. Felahy, Esq.,
Farbod Nourian, Esq.,
Attorney for Theresa Suzanne Lopez

EXHIBIT 7

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5 Attorneys for Plaintiff Theresa Suzanne Lopez,
6 and on behalf of all other Similarly Aggrieved Employees

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF STANISLAUS**

10 THERESA SUZANNE LOPEZ, an
11 individual, on behalf of the State of
12 California, as a private attorney general, and
on behalf of all other Similarly Aggrieved
Employees,

13 Plaintiff;

14 v.

15 CENTRAL VALLEY SPECIALTY
16 HOSPITAL, INC., a California corporation;
17 and DOES 1 through 20, inclusive,

18 Defendant.
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Case No. CV-20-001778

**1. PAGA REPRESENTATIVE ACTION
FIRST AMENDED COMPLAINT
PURSUANT TO THE PRIVATE
ATTORNEYS GENERAL ACT
(LABOR CODE §§ 2698 ET SEQ.)**

1 Plaintiff Theresa Suzanne Lopez (“Plaintiff”) as an aggrieved employee and on behalf of all
2 other aggrieved employees, hereby brings this Private Attorneys General Act (“PAGA”)
3 Representative Action First Amended Complaint (“FAC”) against Defendant Central Valley Specialty
4 Hospital, Inc., a California corporation, and DOES 1 through 20, inclusive (collectively “Defendant”),
5 and on information and belief alleges as follows:

6 **JURISDICTION AND VENUE**

7 1. This is an enforcement action under the California Labor Code Private Attorneys
8 General Act of 2004, California Labor Code sections 2698 et seq. (“PAGA”) to recover civil penalties
9 and any other available relief on behalf of Plaintiff, the State of California, and other current and
10 former employees who worked for Defendant in California as non-exempt, hourly-paid employees;
11 received at least one wage statement; and against whom one or more violations of any provision in
12 Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating hours and days of work in
13 the applicable Industrial Welfare Commission (“IWC”) Wage Order were committed, as set forth in
14 this Complaint, at any time between one year prior to the filing of this complaint until judgment (“non-
15 party similarly Aggrieved Employees”). Plaintiff’s share of civil penalties sought in this action does
16 not exceed \$75,000.

17 2. This Court has jurisdiction over this action pursuant to the California Constitution,
18 Article VI, section 10. The statute under which this action is brought does not specify any other basis
19 for jurisdiction.

20 3. This Court has jurisdiction over Defendant because, on information and belief,
21 Defendant is a citizen of California, has sufficient minimum contacts in California, and has availed
22 itself of the California market so as to render the exercise of jurisdiction over it by the California
23 courts consistent with traditional notions of fair play and substantial justice. There is no basis for
24 federal diversity jurisdiction in this action given that the State of California, as the real party in interest
25 in this action, is not a “citizen” for purposes of satisfying diversity jurisdiction. (*Urbino v. Orkin*
26 *Servs. of Cal.*, 726 F.3d 1118, 1123 (9th Cir. Cal. 2013).) *Urbino* also holds that civil penalties cannot
27 be aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction in
28

1 this action, and that diversity jurisdiction cannot be established when Plaintiff's share of the civil
2 penalties attributable to violations personally suffered are less than \$75,000. (*Id.* at 1122.)

3 4. Venue is proper in this Court because Defendant employs persons in this county and
4 employed Plaintiff in this county – more specifically, in Modesto, California – and thus, a substantial
5 portion of the transactions and occurrences related to this action occurred in this county.

6 5. PAGA authorizes aggrieved employees to sue as private attorneys general against their
7 current or former employers for civil penalties for violations of various provisions in the California
8 Labor Code.

9 **THE PARTIES**

10 6. Plaintiff Theresa Suzanne Lopez ("Plaintiff") is a resident of the State of California
11 and currently resides in Modesto, California. Plaintiff is a "person" as that term is defined in
12 California Business and Professions Code section 17201 and an "aggrieved employee" as that term is
13 defined in California Labor Code section 2699, subdivision (c). Defendant employed Plaintiff as an
14 hourly-paid, non-exempt employee, at its long-term acute care hospital in Modesto, California.
15 Plaintiff was employed by Defendant as a Licensed Vocational Nurse.

16 7. Defendant Central Valley Specialty Hospital, Inc. ("Defendant") is and at all relevant
17 times was, a corporation organized in the State of California. Defendant is and at all relevant times
18 was an employer with employees engaged throughout the State of California, including in Stanislaus
19 County.

20 8. The true names or capacities, whether individual, corporate, associate, or otherwise, of
21 Defendant DOES 1 through 20, inclusive, are presently unknown to Plaintiff, who therefore sues those
22 Defendant by such fictitious names pursuant to California Code of Civil Procedure section 474 and
23 will amend this Complaint to allege their true names and capacities when ascertained by Plaintiff.
24 Plaintiff is informed and believes that each of the Defendant sued herein as a DOE is legally
25 responsible in some manner for the events and happenings alleged herein and proximately caused
26 injury and damages as alleged herein.

27 ///

28 ///

PAGA REPRESENTATIVE ALLEGATIONS

9. Defendant owns and operates a long-term acute care hospital, and between January 2019 and July 2020 employed approximately 850 individuals in various positions at its hospital. Defendant's typical number of daily employees is approximately 400. Upon information and belief, Defendant implements uniform, standardized policies and practices affecting all of its non-exempt, hourly-paid employees in California, including Plaintiff and other non-party similarly Aggrieved Employees. At all relevant times, Defendant issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly-paid employees in California, including Plaintiff and other non-party similarly Aggrieved Employees, regardless of their position.

10. Defendant continues to employ non-exempt, hourly-paid employees within California.

11. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Plaintiff and other non-party similarly Aggrieved Employees were entitled to receive certain wages for overtime compensation and that they were not receiving certain wages for overtime compensation.

12. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Plaintiff and other non-party similarly Aggrieved Employees were entitled to meal periods in accordance with the Labor Code or payment of one (1) additional hour of pay at their regular rates of pay when they were not provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and other non-party similarly Aggrieved Employees were not provided with all meal periods or payment of one (1) additional hour of pay at their regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal period.

13. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendant has engaged in the unlawful practice of rounding employee time in a way that causes violations of the California labor laws regarding the provision of meal periods. On information and belief, Defendant would frequently round shifts over twelve (12) hours down to exactly twelve (12) hours in order to avoid providing a second meal break.

14. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should have known that Plaintiff and other non-party similarly Aggrieved Employees were entitled to rest

1 periods in accordance with the Labor Code and applicable IWC Wage Order or payment of one (1)
2 additional hour of pay at their regular rates of pay when they were not provided with a compliant rest
3 period, and that Plaintiff and other non-party similarly Aggrieved Employees were not provided
4 compliant rest periods or payment of one (1) additional hour of pay at their regular rates of pay when
5 they were not provided a compliant rest period.

6 15. On information and belief, Defendant maintained, and uniformly applied, non-
7 discretionary bonus/incentive payments. These non-discretionary bonus/incentive payments were
8 paid to employees when they worked an additional work shift in a given work-week. Once an
9 employee worked the extra work shift, the bonus/incentive payment was earned and due. Defendant
10 did not have the ability to pick and choose when or if the bonus/incentive payment was given. So,
11 these bonuses were nondiscretionary. However, in violation of the California Labor Code, Defendants
12 failed to always incorporate all compensation – including incentive pay/nondiscretionary bonuses –
13 into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate.
14 Further, on those occasions when Defendant did include incentive pay/nondiscretionary bonuses when
15 calculating the regular rate of pay, Defendant failed to include the non-discretionary bonus
16 compensation as part of the employees’ “regular rate of pay” and/or improperly calculated the “regular
17 rate” by dividing the bonus by all hours worked rather than just all non-overtime hours worked.

18 16. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should
19 have known that Plaintiff and other non-party similarly Aggrieved Employees were entitled to receive
20 complete and accurate wage statements in accordance with California law. In violation of the
21 California Labor Code, Plaintiff and other non-party similarly Aggrieved Employees were not
22 provided complete and accurate wage statements.

23 17. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should
24 have known that it had a duty to maintain accurate and complete payroll records in accordance with
25 the Labor Code and applicable IWC Wage Order, but willfully, knowingly, and intentionally failed
26 to do so.

27 18. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should
28 have known that Plaintiff and other non-party similarly Aggrieved Employees were entitled to timely

1 payment of wages during their employment. In violation of the California Labor Code, Plaintiff and
2 other non-party similarly Aggrieved Employees did not receive payment of all wages, including, but
3 not limited to, overtime wages, minimum wages, and meal and rest period premiums, within
4 permissible time periods.

5 19. Plaintiff is informed and believes, and thereon alleges, that Defendant knew or should
6 have known that Plaintiff and other non-party similarly Aggrieved Employees were entitled to timely
7 payment of all wages earned upon termination of employment. In violation of the California Labor
8 Code, Plaintiff and other non-party similarly Aggrieved Employees did not receive payment of all
9 wages due, including, but not limited to, overtime wages, minimum wages, and meal and rest period
10 premiums, within the permissible time periods.

11 20. Plaintiff is informed and believes, and thereon alleges that Defendant knew or should
12 have known that Plaintiff and other non-party similarly Aggrieved Employees were entitled to receive
13 reimbursement for all business-related expenses and costs they incurred during the course and scope
14 of their employment, and that they did not receive reimbursement of applicable business-related
15 expenses and costs they incurred.

16 21. Plaintiff is informed and believes, and thereon alleges, that at all times herein
17 mentioned, Defendant knew or should have known that it had a duty to compensate Plaintiff and other
18 non-party similarly Aggrieved Employees for all hours worked, and that Defendant had the financial
19 ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and
20 falsely represented to Plaintiff and other non-party similarly Aggrieved Employees that they were
21 properly denied wages, all in order to increase Defendant's profits.

22 22. At all times herein set forth, PAGA provides that any provision of law under the Labor
23 Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and collected
24 by the LWDA for violations of the California Labor Code and applicable IWC Wage Order may, as
25 an alternative, be recovered by aggrieved employees in a civil action brought on behalf of themselves
26 and other current or former employees pursuant to procedures outlined in California Labor Code
27 section 2699.3.

1 23. PAGA defines an “aggrieved employee” in Labor Code section 2699(c) as “any person
2 who was employed by the alleged violator and against whom one or more of the alleged violations
3 was committed.”

4 24. Plaintiff and other current and former employees of Defendant are “aggrieved
5 employees” as defined by Labor Code section 2699(c) in that they are all Defendant’s current or
6 former employees and one or more of the alleged violations were committed against them.

7 25. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
8 employee, such as Plaintiff, may pursue a civil action arising under PAGA after the following
9 requirements have been met:

10 (a) The aggrieved employee shall give written notice by online filing (hereinafter “Employee's
11 Notice”) to the LWDA and by certified mail to the employer of the specific provisions of the
12 California Labor Code alleged to have been violated, including the facts and theories to
13 support the alleged violations.

14 (b) An aggrieved employee’s notice filed with the LWDA pursuant to 2699.3(a) and any
15 employer response to that notice shall be accompanied by a filing fee of seventy-five dollars
16 (\$75).

17 (c) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the
18 aggrieved employee by certified mail that it does not intend to investigate the alleged violation
19 within sixty (60) calendar days of the postmark date of the Employee’s Notice. Upon receipt
20 of the LWDA Notice, or if the LWDA Notice is not provided within sixty-five (65) calendar
21 days of the postmark date of the Employee’s Notice, the aggrieved employee may commence
22 a civil action pursuant to California Labor Code section 2699 to recover civil penalties in
23 addition to any other penalties to which the employee may be entitled.

24 26. On January 2, 2020, Plaintiff provided written notice by online filing to the LWDA
25 and by certified mail to Defendant of the specific provisions of the California Labor Code alleged to
26 have been violated, including facts and theories to support the alleged violations, in accordance with
27 California Labor Code section 2699.3. Plaintiff’s written notice was accompanied with the applicable
28 filing fee of seventy-five dollars (\$75). The LWDA PAGA Administrator has confirmed receipt of

1 Plaintiff's written notice and assigned to Plaintiff's PAGA claim LWDA Case No. LWDA-CM-
2 764276-20. A true and correct copy of Plaintiff's written notice to the LWDA and Defendant dated
3 January 2, 2020, is attached hereto as Exhibit 1.

4 27. On October 26, 2020, Plaintiff provided further written notice by online filing to the
5 LWDA and by certified mail and electronic Defendant of additional provisions of the California Labor
6 Code alleged to have been violated, including facts and theories to support the alleged violations, in
7 accordance with California Labor Code section 2699.3. Plaintiff's amended written notice was
8 accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA
9 Administrator has confirmed receipt of Plaintiff's amended written notice and assigned to Plaintiff's
10 PAGA claim LWDA Case No. LWDA-CM-810661-20. A true and correct copy of Plaintiff's
11 amended written notice to the LWDA and Defendant dated October 26, 2020, is attached hereto as
12 Exhibit 2.

13 28. On April 7, 2021, Plaintiff provided further written notice by online filing to the
14 LWDA and by certified mail and electronic Defendant of additional provisions of the California Labor
15 Code alleged to have been violated, including facts and theories to support the alleged violations, in
16 accordance with California Labor Code section 2699.3. Plaintiff's second amended written notice
17 was accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA
18 Administrator has confirmed receipt of Plaintiff's second amended written notice and assigned to
19 Plaintiff's PAGA claim LWDA Case No. LWDA-CM-828572-21. A true and correct copy of
20 Plaintiff's second amended written notice to the LWDA and Defendant dated April 7, 2021, is
21 attached hereto as Exhibit 3.

22 29. As of the filing date of this First Amended Complaint, over 65 days have passed since
23 Plaintiff sent the Second Amended Employee's Notice described above, and the LWDA has not
24 responded that it intends to investigate Plaintiff's claims and Defendant has not cured the violations.

25 30. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor
26 Code section 2699.3(a) to recover civil penalties against Defendant, in addition to other remedies, for
27 violations of California Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7, 353, 510, 512(a),
28 558, 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2800, and 2802.

31. Defendant, at all times relevant to this Complaint, was an employer or persons acting on behalf of an employer(s) who violated Plaintiff's and other non-party similarly Aggrieved Employees' rights by violating various sections of the California Labor Code as set forth above.

32. As set forth below, Defendant has violated numerous provisions of both the Labor Code sections regulating hours and days of work as well as the applicable IWC Wage Order.

33. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a), 2699.3(a), and 2699.5, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other non-party similarly Aggrieved Employees, and the State of California against Defendant, in addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7, 353, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2800, and 2802.

FIRST CAUSE OF ACTION

For Civil Penalties, Pursuant to California Labor Code §§ 2698, et seq.

(By Plaintiff, as an Aggrieved Employee, on Behalf of the State of California and all other
Similarly Aggrieved Employees Against Defendant and DOES 1-20)

34. Plaintiff refers to all of the foregoing paragraphs and incorporates herein by this reference those paragraphs as though fully set forth in this cause of action.

35. California Labor Code §§ 2698, et seq. (“PAGA”) permits Plaintiff to recover civil penalties for violation(s) of the Labor Code sections enumerated in Labor Code section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7, 246, 353, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2800 and 2802.

36. Defendant's conduct, as alleged herein, violates numerous sections of the California Labor Code, including, but not limited to, the following:

(a) Violation of Labor Code sections 510, 1194, 1198, and the applicable IWC wage order for Defendant's failure to compensate Plaintiff and other non-party similarly Aggrieved Employees with all required overtime pay, as set forth below;

(b) Violation of Labor Code sections 1194, 1197, 1197.1, 1198, 1199 and the applicable IWC wage order for Defendant's failure to compensate Plaintiff and other

1 non-party similarly Aggrieved Employees with at least minimum wages for all hours
2 worked, as set forth below;

3 (d) Violation of Labor Code sections 226.7, 512(a), 1198, and the applicable IWC
4 wage order for Defendant's failure to provide Plaintiff and other non-party similarly
5 Aggrieved Employees with meal and/or rest periods, as set forth below;

6 (e) Violation of Labor Code sections 226(a), 1198.5, and the applicable IWC wage
7 order for Defendant's failure to provide accurate and complete wage statements to
8 Plaintiff and other non-party similarly Aggrieved Employees, as set forth below;

9 (f) Violations of Labor Code sections 1174(d), 1198.5, and the applicable IWC wage
10 order for Defendant's failure to maintain payroll records, as set forth below;

11 (g) Violation of Labor Code section 204 for Defendant's failure to pay Plaintiff and
12 other non-party similarly Aggrieved Employees all earned wages during employment,
13 as set forth below;

14 (h) Violation of Labor Code sections 201, 202, and 203 for failure to pay Plaintiff and
15 other non-party similarly Aggrieved Employees all earned wages upon termination, as
16 set forth below;

17 (i) Violation of Labor Code sections 2800 and 2802 for failure to reimburse Plaintiff
18 and other non-party similarly Aggrieved Employees for all business expenses
19 necessarily incurred, as set forth below; and

20 (j) Violation of Labor Code section 1199 by virtue of violating the foregoing and other
21 provisions of the California Labor Code and the applicable IWC Wage Order(s).

22 **FAILURE TO PAY OVERTIME**

23 **VIOLATION OF LABOR CODE SECTIONS 510, 1194 AND 1198**

24 37. California Labor Code section 1198 makes it illegal to employ an employee under
25 conditions of labor that are prohibited by the applicable wage order. California Labor Code section
26 1198 requires that "... the standard conditions of labor fixed by the commission shall be the ... standard
27 conditions of labor for employees. The employment of any employee ... under conditions of labor
28 prohibited by the order is unlawful."

1 38. California Labor Code section 1198 and the applicable IWC Wage Order provide that
2 it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half
3 or two-times that person's regular rate of pay, depending on the number of hours worked by the person
4 on a daily or weekly basis.

5 39. Specifically, the applicable IWC Wage Order provides that Defendant is and was
6 required to pay Plaintiff and other non-party similarly Aggrieved Employees working more than eight
7 (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and one-half (1.5)
8 for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek.

9 40. The applicable IWC Wage Order further provides that Defendant is and was required
10 to pay Plaintiff and other non-party similarly Aggrieved Employees working more than twelve (12)
11 hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay. An
12 employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
13 employee, including non-discretionary bonuses and incentive pay.

14 41. California Labor Code section 510 codifies the right to overtime compensation at one
15 and one-half times (1.5) the regular rate of pay for hours worked in excess of eight (8) hours in a day
16 or forty (40) hours in a week or for the first eight (8) hours worked on the seventh (7th) day of work,
17 and to overtime compensation at twice the employee's regular rate of pay for hours worked in excess
18 of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh (7th) day of work.

19 42. California Labor Code section 1194 provides that any employee receiving less than the
20 legal overtime compensation applicable to the employee is entitled to recover in a civil action the
21 unpaid balance of the full amount of this overtime compensation.

22 43. At all times relevant herein, Defendant was required to properly compensate Plaintiff
23 and other non-party similarly Aggrieved Employees for all overtime hours worked pursuant to
24 California Labor Code § 510 and IWC Wage Order No. 1-2001. IWC Wage Order 1-2001, § 3
25 requires an employer to pay an employee "one and one-half (1½) times the employee's regular rate
26 of pay" for work in excess of 8 hours per work day and/or in excess of 40 hours of work in the
27 workweek. Further, it is well established in California that an employee's "regular rate of pay" for
28 purposes of overtime pursuant to Labor Code § 510 is not the same as the employee's straight time

1 rate (i.e., his or her normal hourly wage rate). “Regular rate of pay, which can change from pay period
2 to pay period, includes adjustments to the straight time rate, reflecting, among other things, shift
3 differentials and the per-hour value of any non-hourly compensation the employee has earned.” (See,
4 *Alvarado vs. Dart Container Corp. of California* (2018) 4 Cal.5th 542, 554.)

5 44. During the relevant time period, Defendant willfully failed to pay all overtime wages
6 owed to Plaintiff and other non-party similarly Aggrieved Employees. During the relevant time
7 period, Plaintiff and other non-party similarly Aggrieved Employees were not paid overtime
8 premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve
9 (12) hours in a day, and/or in excess of forty (40) hours in a week.

10 45. Defendant has and had a company-wide policy depriving non-exempt employees of
11 overtime wages. During the relevant time period, Defendant failed to properly implement an
12 alternative workweek schedule and regularly required Plaintiff and other non-party similarly
13 Aggrieved Employees to work overtime hours, but did not compensate them at the appropriate
14 overtime rate.

15 46. At all times relevant herein, Defendant failed to properly compute/adjust Plaintiff’s
16 and other non-party similarly Aggrieved Employees’ regular rate of pay to account for the
17 nondiscretionary bonus/incentive pay they earned, and by so doing, failed to pay Plaintiff and other
18 non-party similarly Aggrieved Employees a proper overtime rate that properly accounted for their
19 adjusted “regular rate,” thereby depriving Plaintiff and other Class members of earned overtime
20 wages.

21 47. Defendant knew or should have known that as a result of these company-wide practices
22 and/or policies, Plaintiff and other non-party similarly Aggrieved Employees were not being
23 compensated for all overtime hours worked. Because Plaintiff and other non-party similarly
24 Aggrieved Employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or
25 more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Plaintiff and
26 other non-party similarly Aggrieved Employees were not paid overtime wages for all of the overtime
27 hours they actually worked.

1 48. Defendant's failure to pay Plaintiff and other non-party similarly Aggrieved
2 Employees the balance of overtime compensation, as required by California law, violates the
3 provisions of California Labor Code sections 510, 1194 and 1198. Plaintiff and other non-party
4 similarly Aggrieved Employees are entitled to recover civil penalties pursuant to California Labor
5 Code sections 558 and 2699(a), (f), and (g).

6 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**

7 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), AND 1198**

8 49. At all relevant times herein set forth, the applicable IWC Wage Order(s) and California
9 Labor Code sections 226.7, 512(a), and 1198 were applicable to Plaintiff and other non-party similarly
10 Aggrieved Employees employed by Defendant.

11 50. California Labor Code section 512(a) provides that an employer may not require,
12 cause, or permit an employee to work for a period of more than five (5) hours per day without
13 providing the employee with a meal period of not less than thirty (30) minutes, except that if the total
14 work period per day of the employee is not more than six (6) hours, the meal period may be waived
15 by mutual consent of both the employer and the employee. Under California law, first meal periods
16 must start after no more than five hours. (*Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004,
17 1041-1042 (Cal. 2012).)

18 51. California Labor Code sections 226.7 and 512(a) provide that no employer shall
19 require an employee to work during any meal period mandated by an applicable order of the IWC.

20 52. During the relevant time period, Defendant regularly failed to comply with California
21 Labor Code sections 226.7 and 512(a) by failing to provide Plaintiff and other non-party similarly
22 Aggrieved Employees duty-free meal periods in accordance with California Labor Code sections
23 226.7 and 512(a) and the applicable IWC Wage Order. And at all relevant times, Defendant regularly
24 failed to compensate Plaintiff and other non-party similarly Aggrieved Employees one additional hour
25 of pay at their regular pay rate for meal periods that were not provided in accordance with California
26 Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order.

27 53. Defendant also maintained and continues to maintain a policy of understaffing its
28 hospital, such that Plaintiff and other non-party Aggrieved Employees are routinely required to work

1 in excess of five (5) hours without being provided an uninterrupted thirty (30) minute meal period by
2 the end of the fifth hour, and/or a second uninterrupted thirty (30) minute meal period when they
3 worked over 10 hours in a shift by the end of the tenth hour.

4 54. Defendant engaged in a systematic, company-wide practice and/or policy of not paying
5 meal period premiums owed when compliant meal periods were not provided. As a result, Defendant
6 failed to provide Plaintiff and other non-party Aggrieved Employees compliant meal periods and
7 failed to pay the full meal period premiums due.

8 55. On information and belief, Defendant also maintained and continues to maintain an
9 improper rounding scheme. Defendant would frequently round shifts over twelve (12) hours down to
10 exactly twelve (12) hours in order to avoid providing a second meal break.

11 56. Defendant's conduct violates the applicable IWC Wage Order, and California Labor
12 Code sections 226.7, 512(a), and 1198. Plaintiff and other non-party Aggrieved Employees are
13 entitled to recover civil penalties pursuant to California Labor Code section 2699(a), (f), and (g).

14 **FAILURE TO PROVIDE REST PERIODS**

15 **VIOLATION OF LABOR CODE SECTIONS 226.7 AND 1198**

16 57. At all relevant times set forth herein, the applicable IWC Wage Order and California
17 Labor Code sections 226.7 and 1198 were applicable to Plaintiff and other non-party similarly
18 Aggrieved Employees employed by Defendant.

19 58. At all relevant times, the applicable IWC Wage Order provides that every employer
20 shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in
21 the middle of each work period and that the "rest period time shall be based on the total hours worked
22 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless
23 the total daily work time is less than three and one-half (3.5) hours.

24 59. At all relevant times, California Labor Code section 226.7 provides that no employer
25 shall require an employee to work during any rest period mandated by an applicable order of the
26 California IWC. To comply with its obligation to provide rest periods under California Labor Code
27 section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over
28 how employees spend their break time, and relieve their employees of all duties - including the

1 obligation that an employee remain on call. A rest period, in short, must be a period of rest.”
2 (*Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).)

3 60. Pursuant to the applicable IWC Wage Order and California Labor Code section
4 226.7(b), Plaintiff and other non-party similarly Aggrieved Employees are entitled to recover from
5 Defendant one (1) additional hour of pay at their regular rates of pay for each work day that a required
6 rest period was not provided.

7 61. During the relevant time period, Defendant regularly failed to authorize and permit
8 Plaintiff and other non-party similarly Aggrieved Employees to take ten (10) minute rest periods per
9 each four (4) hour period worked or major fraction thereof.

10 62. Plaintiff and all other non-party similarly Aggrieved Employees of Defendant were not
11 provided lawful rest periods and were not compensated one additional hour of pay for each workday
12 that a rest period was not provided, in violation of Labor Code section 226.7.

13 63. Defendant maintained and uniformly applied a company-wide policy that prohibited
14 10-minute rest breaks when it was busy and the workload was heavy. The policy discouraged and
15 prevented non-exempted employees – Plaintiff all other non-party similarly Aggrieved Employees of
16 Defendant – from receiving their legally mandated rest breaks. Plaintiff regularly did not receive her
17 mandatory rest breaks, as the hospital was often busy; all other non-party similarly Aggrieved
18 Employees of Defendant were similarly treated.

19 64. Additionally, Defendant took no steps to record or otherwise track the failure to
20 provide uninterrupted rest periods; nor did Defendant educate employees on how to do so. Despite
21 having both the means and a policy that provided for the tracking and recording of employees’ rest
22 periods, Defendant willfully disregarded its own policies so as to obfuscate their repeated violations
23 of law.

24 65. Defendant has also engaged in a company-wide practice and/or policy to not pay rest
25 periods premiums owed when compliant rest periods are not provided. As a result, Plaintiff and other
26 non-party similarly Aggrieved Employees were denied rest periods and Defendant failed to pay
27 Plaintiff and other non-party similarly Aggrieved Employees the full rest period premiums due, in
28 violation of Labor Code section 226.7 and the applicable IWC Wage Order.

1 66. Defendant's conduct violates the applicable IWC Wage Order and California Labor
2 Code sections 226.7 and 1198. Plaintiff and other non-party similarly Aggrieved Employees are
3 therefore entitled to recover civil penalties pursuant to California Labor Code section 2699(a), (f), and
4 (g).

5 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**

6 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198.5**

7 67. At all relevant times herein, California Labor Code section 226(a) provides that every
8 employer shall furnish each of her or her employees an accurate and complete itemized wage
9 statement in writing, including, but not limited to, the name and address of the legal entity that is the
10 employer, the inclusive dates of the pay period, the total hours worked, the gross and net wages earned,
11 and all applicable rates of pay.

12 68. During the relevant time period, Defendant has knowingly and intentionally provided
13 Plaintiff and other non-party similarly Aggrieved Employees with uniform, incomplete, and
14 inaccurate wage statements. The deficiencies with the wage statements included, without limitation,
15 the failure to include the total hours worked, accurate gross and net wages earned (including, all earned
16 overtime wage), and other items as required by California Labor Code section 226, subdivision (a)(1)
17 to (5), (7), and (9).

18 69. California Labor Code section 1174(d) provides that "[e]very person employing labor
19 in this state shall ... [k]eep a record showing the names and addresses of all employees employed and
20 the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments
21 at which employees are employed, payroll records showing the hours worked daily by and the wages
22 paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
23 employed at the respective plants or establishments..." For the above stated reasons, in violation of
24 Labor Code section 1174(d), Defendant willfully failed to maintain accurate payroll records for
25 Plaintiff and other non-party similarly Aggrieved Employees showing the daily hours they worked
26 and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

27 70. Pursuant to the applicable IWC Wage Order, employers are required to keep accurate
28 time records showing when the employee begins and ends each work period; and during the relevant

1 time period, for the reasons stated above, Defendant failed, on a company-wide basis, to keep such
2 accurate records for Plaintiff and other non-party similarly Aggrieved Employees.

3 71. Because Defendant's violations of Labor Code §§ 226(a), 1174(d), and 1198.5 were
4 committed against Plaintiff and other non-party similarly Aggrieved Employees, Plaintiff and other
5 non-party similarly Aggrieved Employees are entitled to recover civil penalties pursuant to California
6 Labor Code sections 226(e), 226.3, 1174.5, 1198.5, and/or 2699(a), (f), and (g).

7 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

8 **VIOLATION OF LABOR CODE SECTION 204**

9 72. At all relevant times herein set forth, California Labor Code section 204 requires that
10 all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of
11 any calendar month, other than those wages due upon termination of an employee, are due and payable
12 between the 16th and the 26th day of the month during which the labor was performed. Labor Code
13 section 204 further provides that all wages earned by any person in any employment between the 16th
14 and the last day, inclusive, of any calendar month, other than those wages due upon termination of an
15 employee, are due and payable between the 1st and the 10th day of the following month.

16 73. At all relevant times herein, California Labor Code section 204 also requires that all
17 wages earned for labor in excess of the normal work period shall be paid no later than the payday for
18 the next regular payroll period. Alternatively, at all relevant times herein, Labor Code section 204
19 provides that the requirements of this section are deemed satisfied by the payment of wages for
20 weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days
21 following the close of the payroll period.

22 74. During the relevant time period, Defendant willfully failed to pay Plaintiff and other
23 non-party similarly Aggrieved Employees all wages due to them within any time period specified by
24 California Labor Code section 204 including, but not limited to, overtime wages, minimum wages,
25 and meal and rest period premium wages.

26 75. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover
27 civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

28 **FAILURE TO PAY WAGES UPON TERMINATION**

1 **VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

2 76. At all times relevant herein set forth, Labor Code sections 201 and 202 provide that if
3 an employer discharges an employee, the wages earned and unpaid at the time of discharge are due
4 and payable immediately, and that if an employee voluntarily leaves his or her employment, his or
5 her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the
6 employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which
7 case the employee is entitled to his or her wages at the time of quitting.

8 77. During the relevant time period, Defendant willfully failed to pay Plaintiff and other
9 non-party similarly Aggrieved Employees who are no longer employed by Defendant all their earned
10 wages, including, but not limited to, overtime wages, minimum wages, and meal and rest period
11 premium wages, either at the time of discharge, or within seventy-two (72) hours of their leaving
12 Defendant's employ.

13 78. Defendant's failure to pay Plaintiff and those non-party similarly Aggrieved
14 Employees who are no longer employed by Defendant their wages earned and unpaid at the time of
15 discharge, or within seventy-two (72) hours of their leaving Defendant's employ, violates Labor Code
16 sections 201 and 202.

17 79. Plaintiff and other non-party similarly Aggrieved Employees are therefore entitled to
18 recover civil penalties pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

19 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

20 **VIOLATION OF LABOR CODE SECTIONS 2800 AND 2802**

21 80. At all times herein set forth, California Labor Code section 2802 provides that an
22 employer must reimburse employees for all necessary expenditures and losses incurred by the
23 employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent
24 employers from passing off their cost of doing business and operating expenses on to their employees.
25 (*Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014).)

26 81. At all relevant times, Defendant intentionally and willfully failed to reimburse Plaintiff
27 and other non-party similarly Aggrieved Employees for necessary business-related expenses and
28 costs, in violation of California Labor Code section 2800 and 2802.

82. Defendant had a company-wide policy of requiring Plaintiff and other non-party similarly Aggrieved Employees to purchase and download a web/mobile “App” called, “On Shift” on their personal cell phone or other personal electronic device, as the “App” was used to communicate required work-related information, weekly schedules, and messages to employees. Despite downloading the “On Shift” “App” and using it on their personal cell phones or at home on the Internet, and incurring data and other charges associated with the “App,” Plaintiff and all and other non-party similarly Aggrieved Employees were not reimbursed for these business-related expenditures.

83. Defendant's company-wide policy and/or practice of passing its operating costs on to Plaintiff and other non-party similarly Aggrieved Employees is in violation of California Labor Code section 2802.

84. Plaintiff and other non-party similarly Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code section 2699(a). (f)-(g).

PRAYER FOR RELIEF

85. Plaintiff, as an aggrieved employee and on behalf of all other aggrieved employees, prays for relief and judgment against Defendant, jointly and severally, as follows:

- a. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars (\$25,000).
- b. That the Court declare, adjudge and decree that Defendant violated the following California Labor Code provisions as to Plaintiff and/or other non-party similarly Aggrieved Employees: 223, 510, 558, 1194, and 1198 (by failing to pay all overtime compensation); 223, 558, 1194, 1197, 1197.1, 1198, and 1199 (by failing to pay at least minimum wages for all hours worked); 226.7, 512, and 1198 (by failing to provide all meal and rest periods); 226(a), 353, 1174(d), and 1198.5 (by failing to provide accurate wage statements and maintain accurate payroll records); 201, 202, 203 (by failing timely to pay all earned wages upon termination); 204 (by failing timely to pay all earned wages during employment); and 2800 and 2802 (by failing to reimburse business expenses).

- 1 c. For civil penalties, pursuant to California Labor Code sections 210, 225.5, 226.3,
2 256, 558, 1174.5, 1197.1, 1198.5, 2699(a) and/or 2699(f) and (g), for violations of
3 California Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7, 353, 510,
4 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 1199, 2800, and 2802.
- 5 d. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1),
6 and any and all other relevant statutes, for Defendant's violations of California
7 Labor Code sections 201, 202, 203, 204, 223, 226(a), 226.7, 353, 510, 512(a), 558,
8 1174(d), 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2800, and 2802.
- 9 e. For pre-judgment and post-judgment interest as provided by law.
- 10 f. For such other and further relief as the Court may deem equitable and appropriate.

11
12 Dated: July 15, 2021

FELAHY EMPLOYMENT LAWYERS

13
14 By: Farbod Nourian

Allen B. Felahy

Farbod Nourian

15 Attorneys for Plaintiff Theresa Suzanne Lopez,
16 and on behalf of all other Similarly Aggrieved
17 Employees
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EXHIBIT 1

FELAHY EMPLOYMENT LAWYERS

fnourian@felahylaw.com

January 2, 2020

Via Online Submission

California Labor and Workforce Development Agency

Via Certified Mail

Central Valley Specialty Hospital, Inc.
730 17th Street
Modesto, California 95354

RE: Lopez v. Central Valley Specialty Hospital, Inc.
Notice of Labor Code Violations Pursuant to California Labor Code Private
Attorneys General Act of 2004 (Lab. Code §§ 2698, *et seq.*)

Dear Sir or Madam:

This office serves as legal counsel for Theresa Suzanne Lopez (“Ms. Lopez”) with respect to her claims against Central Valley Specialty Hospital, Inc. (“Defendant”), her current employer.

In accordance with the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*) (“PAGA”), Ms. Lopez hereby provides notice regarding Defendant’s violations of numerous provisions of the California Labor Code enumerated in California Labor Code section 2699.5. Ms. Lopez provides further notice that she, on behalf of herself and all other similarly aggrieved current and former non-exempt employees of Defendant, intends to utilize the protection(s) and remedies granted by PAGA (Cal. Lab. Code §§ 2698, *et seq.*)

Ms. Lopez is an aggrieved employee within the meaning of California Labor Code section 2699, subdivision (c). Defendant currently employs Ms. Lopez in the State of California. Ms. Lopez works for Defendant at its long-term acute care hospital in Modesto, California, as a non-exempt Licensed Vocational Nurse. The other similarly aggrieved employees also hold and have held non-exempt positions with Defendant at its hospital in Modesto, California.

Defendant maintained, and uniformly applied, a company-wide policy that prohibits rest breaks for Ms. Lopez and all other similarly aggrieved employees when it is busy and the workload is heavy; however, Defendant has not provided compensation in lieu thereof in

violation of California Labor Code § 226.7. Thus, Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were not provided lawful rest periods and were not compensated for their missed rest breaks, in violation of Labor Code section 226.7. Defendant failed to authorize and permit Ms. Lopez and all other similarly aggrieved current and former employees to take a minimum ten (10) minute rest break for every four hours or major fraction thereof worked each work shift. Ms. Lopez regularly did not receive her mandatory rest breaks; all similarly aggrieved current and former employees of Defendant were similarly treated. Additionally, Defendant took no steps to record or otherwise track the failure to provide uninterrupted rest periods; nor did it educate employees on how to do so.

Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were not provided lawful meal periods and were not compensated one additional hour of pay for each workday that a meal period was not provided, in violation of Labor Code sections 226.7 and 512(a). Due to Defendant's policy of understaffing and the corresponding workload demands, Ms. Lopez and all other similarly aggrieved employees are routinely required by Defendant to work in excess of five (5) hours without being provided an uninterrupted thirty (30) minute meal period by the end of the fifth hour, and/or a second uninterrupted thirty (30) minute meal period when they worked over 10 hours in a shift by the end of the tenth hour, and have not been provided compensation in lieu thereof in violation of California labor laws, regulations and IWC Wage Order. Thus, Defendant has violated the provisions of Labor Code § 512 and applicable IWC Wage Orders by failing to provide 30 minute uninterrupted meal periods by the end of the fifth hour for days on which Ms. Lopez and all other similarly aggrieved current and former employees worked work periods in excess of 5 hours. Defendant also violated the provisions of Labor Code § 512 and applicable IWC Wage Orders by failing to provide a second 30 minute uninterrupted meal period by the end of the tenth hour for days in which Ms. Lopez and all other similarly aggrieved current and former employees worked shifts in excess of 10 hours. Defendant further violated the provisions of Labor Code § 512 and applicable IWC Wage Orders by failing to provide compensation for such statutorily non-compliant meal periods. Further, by failing to record and maintain adequate and accurate time records according to sections 226 and 1174 (d) of the Labor Code, Defendant has injured Ms. Lopez and all other similarly aggrieved current and former employees of Defendant and had made it difficult to calculate the unpaid meal period compensation due to Ms. Lopez and all other similarly aggrieved current and former employees of Defendant.

Ms. Lopez and all other similarly situated current and former employees of Defendant were not properly paid for all hours worked and were not paid overtime compensation for all overtime hours worked, in violation of Labor Code sections 510, 1194, 1197, 1197.1, 1198 and 1199. During the relevant time period, due to Defendant's failure to properly implement a valid alternative workweek schedule, Ms. Lopez and all other similarly aggrieved current and former employees were not paid overtime for hours worked over eight in a day. Pursuant to sections 510, 1194, 1197 and 1198 of the Labor Code, among other applicable sections, it is unlawful to employ persons for longer than the hours set by the IWC. During the relevant time period, Ms. Lopez and all other similarly aggrieved current and former employees were compelled to work in

excess of eight (8) hours per workday. Defendant failed and refused to compensate Ms. Lopez and all other similarly aggrieved current and former employees at the rate of no less than one and one-half times their regular rate of pay for all overtime hours worked. Defendant also failed to pay Ms. Lopez and all other similarly aggrieved current and former employees for all time that they were on-duty. As a result, Ms. Lopez and all other similarly aggrieved current and former employees were not paid wages or the overtime premium for the additional time they worked.

Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were not reimbursed for their business expenses, in violation of California Labor Code sections 2800 and 2802. Pursuant to California Labor Code sections 2800 and 2802, an employer must indemnify or reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. At all relevant times, due to Defendant's company-wide policy requiring Ms. Lopez and all other similarly aggrieved current and former employees of Defendant to use their personal phones/data plans in the performance of their job duties (specifically, they are required to download and utilize an "App" on their cell phones called "On Shift"), Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were forced to incur "data" charges that have not been reimbursed by Defendant.

Ms. Lopez and all other similarly aggrieved current and former employees of Defendant were not provided with complete and accurate itemized wage statements. The deficiencies with the wage statements included, without limitation, the failure to include the total hours worked, accurate gross and net wages earned (including all earned overtime compensation), and other items as required by California Labor Code section 226, subdivision (a)(1) to (5), (7), and (9). As a result of Defendant's violation of California Labor Code section 226(a), Ms. Lopez and all other similarly aggrieved current and former employees have suffered injuries and damages, including confusion over whether they received all wages earned and owed to them, difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact properly compensated them. Additionally, Ms. Lopez and all other similarly aggrieved current and former employees have been injured by Defendant's intentional and willful violation of California Labor Code section 226(a) because they were denied both the legal right to receive and the protected interest in receiving accurate and itemized wage statements pursuant to California Labor Code section 226(a).

Accordingly, Ms. Lopez intends to bring a private civil action against Defendant asserting claims on behalf of herself and all other similarly aggrieved past and current employees of Defendant under PAGA for Defendant's violations of the California Labor Code. In her action, Ms. Lopez will seek penalties and other relief provided under PAGA on behalf of herself and all other past and current employees similarly aggrieved.

Date: January 2, 2020

RE: Lopez v. Central Valley Specialty Hospital, Inc.

Page: 4 of 4

Please direct all communications in this matter to my office, as follows:

Allen B. Felahy, Esq.
Farbod Nourian, Esq.
Felahy Employment Lawyers
550 S. Hope Street, Suite 2655
Los Angeles, California 90071

Thank you for your anticipated courtesy and consideration.

Very truly yours,

FELAHY EMPLOYMENT LAWYERS

By: _____


Allen B. Felahy, Esq.,
Farbod Nourian, Esq.,
Attorneys for Theresa Suzanne Lopez

EXHIBIT 2

FELAHY EMPLOYMENT LAWYERS

fnourian@felahylaw.com

October 26, 2020

Via Online Submission

California Labor and Workforce Development Agency

Via Certified Mail and Email

Central Valley Specialty Hospital, Inc.

c/o Matthew Taylor

730 17th Street

Modesto, California 95354

mtaylor.legal@americanam.org

Greg A. Garbacz

Jessica R. Spinola

KLINEDINST PC

2 Park Plaza, Suite 1250

Irvine, California 92614

ggarbacz@klinedinstlaw.com

jspinola@klinedinstlaw.com

RE: Lopez v. Central Valley Specialty Hospital, Inc.
AMENDED NOTICE of Labor Code Violations Pursuant to California Labor
Code Private Attorneys General Act of 2004 (Lab. Code §§ 2698, *et seq.*)

Dear Sir or Madam:

This office serves as legal counsel for Theresa Suzanne Lopez (“Ms. Lopez” or “Plaintiff”) with respect to her claims against Central Valley Specialty Hospital, Inc. (“Defendant”), her *former* employer. This correspondence serves as a follow up claim to Ms. Lopez’s previous claim, LWDA Case No. LWDA-CM-764276-20, filed on January 2, 2020, and alleges additional California Labor Code violations.

In accordance with the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*) (“PAGA”), Ms. Lopez hereby provides notice regarding Defendant’s additional violations of certain provisions of the California Labor Code pursuant to California Labor Code section 2699.5. Ms. Lopez provides further notice that she, on behalf of herself and all other similarly situated current and former non-exempt employees of Defendant, intends to utilize the protection(s) and remedies granted by PAGA (Cal. Lab. Code §§ 2698, *et seq.*)

As previously stated, Ms. Lopez is an aggrieved employee within the meaning of California Labor Code section 2699, subdivision (c). Defendant employed Ms. Lopez in the State of California, within one year of the filing of this amended PAGA Notice. Defendant employed Ms. Lopez between October 8, 2015, and October 9, 2020, as a non-exempt Licensed Vocational Nurse at its long-term acute care hospital in Modesto, California. The other similarly aggrieved employees also hold and have held non-exempt positions with Defendant at its long-term acute care hospital in Modesto, California.

Throughout the course of Ms. Lopez's employment with Defendant, Defendant maintained, and uniformly applied, non-discretionary bonus/incentive payments to Plaintiff and other similarly aggrieved employees. These non-discretionary bonus/incentive payments were paid to Plaintiff and other similarly aggrieved employees when they worked an additional work shift in a given work-week. Defendant employed, and currently employs, a policy wherein it provides employees, such as Ms. Lopez, with the ability to work extra shifts. As an incentive for employees to work extra shifts, Defendant provided, and currently provides, employees with non-discretionary bonus/incentive payments. These bonus/incentive payments were non-discretionary in that once Plaintiff or another similarly aggrieved employee worked the extra work shift, the bonus/incentive payment was earned and due. Defendant did not have the ability to pick and chose when or if the bonus/incentive payment was given. Despite providing Plaintiff with these bonus/incentive payments, Defendant failed to include said bonuses when calculating the regular rate of pay for Ms. Lopez and all other similarly aggrieved current and former employees.

Wages are defined in California Labor Code § 200 as “[a]ll amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis or other method of calculation.” The following are included in the definition of wages for purposes of calculating the regular rate of pay for purposes of overtime pay and rest and meal period premiums (see, DLSE Enforcement Policies and Interpretations Manual § 49): (a) Hourly earnings; (b) Salary; (c) Piece-work earnings; (d) Commissions; **(e) Nondiscretionary bonuses (based on hours worked, production, or proficiency)**; (f) Shift premiums; (g) Employee's share of service charges; and (h) The value of meals and lodging. (See Also, California Wage and Hour: Law and Litigation (Cal CEB 2016) § 1.24.) **Performance bonuses must be included in the regular rate of pay.** (29 CFR §778.211(a)); **and bonuses which are announced to employees to induce them to work more steadily or more rapidly or more efficiently/safely or to remain with the firm are regarded as part of the regular rate of pay, and they must be included in the regular rate of pay.** (29 CFR §778.211(c).) Performance bonuses/objective-based bonuses must be included in the regular rate whether they are the sole source of the employee's compensation or are in addition to a guaranteed salary or hourly rate. (29 CFR §§778.117, 778.208. See, *Oliver v Mercy Med. Ctr., Inc.* (9th Cir 1982) 695 F2d 379.) Moreover, such bonuses, even if labeled “discretionary,” must be included as remuneration under FLSA and California state law for the purpose of calculating the regular pay rate. (*Wang v Chinese Daily News, Inc.* (CD Cal 2006) 435 F Supp 2d 1042, *aff'd* (9th Cir 2010) 623 F3d 743, vacated on other grounds (2011) 132 S Ct 74.)

Since Ms. Lopez received bonus/incentive payments, those bonus/incentive payments should have been accounted for in her regular rate of pay for purposes of both overtime compensation and meal and rest breaks¹. Defendant has committed the same violations with respect to all other similarly aggrieved current and former employees. Moreover, since payments required by California Labor Code §§ 510 and 1194 – that are due and owing – are wages, Ms. Lopez and all other similarly aggrieved current and former employees of Defendant are entitled to recover these unpaid wages pursuant to California Labor Code §§ 201-204 – which Defendant is in violation of.

Accordingly, Ms. Lopez intends to amend her existing Complaint against Defendant to assert these claims on behalf of herself and all other similarly aggrieved past and current employees of Defendant under PAGA for Defendant's violations of the California Labor Code. In her action, Ms. Lopez will seek penalties and other relief provided under PAGA on behalf of herself and all other past and current employees similarly aggrieved.

Please direct all communications in this matter to my office, as follows:

Allen B. Felahy, Esq.
Farbod Nourian, Esq.
Felahy Employment Lawyers
550 S. Hope Street, Suite 2655
Los Angeles, California 90071

Thank you for your anticipated courtesy and consideration.

Very truly yours,

FELAHY EMPLOYMENT LAWYERS

By: 
Allen B. Felahy, Esq.,
Farbod Nourian, Esq.,
Attorney for Theresa Suzanne Lopez

¹ The issue of whether rest break premium pay is subject to computation at one hour of an employee's regular rate of pay or merely at one hour of their straight time rate is an issue presently pending before the State Supreme Court in the matter of Ferra vs. Lowes Hollywood Hotel, S259172 (November 18, 2019).

EXHIBIT 3

FELAHY EMPLOYMENT LAWYERS

550 South Hope Street, Suite 2655, Los Angeles, California 90071 • Telephone: (323) 645-5197 • Facsimile: (323) 645-5198

fnourian@felahylaw.com

April 7, 2021

Via Online Submission

California Labor and Workforce Development Agency

Via Certified Mail and Email

Central Valley Specialty Hospital, Inc.

c/o Matthew Taylor

730 17th Street

Modesto, California 95354

mtaylor.legal@americanam.org

Greg A. Garbacz

Jessica R. Spinola

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RE: Lopez v. Central Valley Specialty Hospital, Inc.
SECOND AMENDED NOTICE of Labor Code Violations Pursuant to California
Labor Code Private Attorneys General Act of 2004 (Lab. Code §§ 2698, *et seq.*)

Dear Sir or Madam:

This office serves as legal counsel for Theresa Suzanne Lopez (“Ms. Lopez” or “Plaintiff”) with respect to her claims against Central Valley Specialty Hospital, Inc. (“Defendant” or “CVSH”), her *former* employer. This Second Amended PAGA Notice serves as a follow up claim to Ms. Lopez’s previous claims, LWDA Case No. LWDA-CM-764276-20, filed on January 2, 2020, and LWDA Case No. LWDA-CM-810661-20, filed on October 26, 2020. Therefore, in addition to the allegations contained in LWDA Case No. LWDA-CM-764276-20 and LWDA Case No. LWDA-CM-810661-20, this correspondence alleges further California Labor Code violations against Defendant Central Valley Specialty Hospital, Inc.

In accordance with the California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*) (“PAGA”), Ms. Lopez hereby provides notice regarding Defendant’s additional violations of certain provisions of the California Labor Code pursuant to California

Labor Code section 2699.5. Ms. Lopez provides further notice that she, on behalf of herself and all other similarly situated current and former non-exempt employees of Defendant, intends to utilize the protection(s) and remedies granted by PAGA (Cal. Lab. Code §§ 2698, et seq.)

As previously stated, Ms. Lopez is an aggrieved employee within the meaning of California Labor Code section 2699, subdivision (c). Defendant employed Ms. Lopez in the State of California, within one year of the filing of this amended PAGA Notice. Defendant employed Ms. Lopez between October 8, 2015, and October 9, 2020, as a non-exempt Licensed Vocational Nurse at its long-term acute care hospital in Modesto, California. The other similarly aggrieved employees also hold and have held non-exempt positions with Defendant at its long-term acute care hospital in Modesto, California.

During discovery of Plaintiff's ongoing litigation with Defendant, Defendant produced Plaintiff's time records. A review of Plaintiff's time records has revealed that Defendant has engaged in the unlawful practice of rounding employee time in a way that causes violations of the California labor laws regarding the provision of meal periods.

This issue was directly addressed by the California Supreme Court in the February 25, 2021, decision of *Donohue v. AMN Services*, wherein the Supreme Court held that employers cannot engage in the practice of rounding time in the meal period context; that the wage laws pertaining to meal periods are designed to prevent even minor infringements, and that rounding is incompatible with that objective. The Supreme Court further held that time records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage. Such records exist in this case, and based on the Supreme Court's decision, create a presumption that Defendant engaged in meal period violations as to Plaintiff and other similarly aggrieved employees.

For instance, on May 10, 2020, Ms. Lopez clocked into work at 6:54 and clocked out for her meal break at 14:10 – for a total of seven (7) hours and sixteen (16) minutes of work before clocking out for her meal break. Ms. Lopez thereafter clocked in from her meal break at 14:40 and clocked out for the day at 19:30 – for an additional four (4) hours and fifty (50) minutes of work on that day. Ms. Lopez worked a total of twelve (12) hours and six (6) minutes on May 10, 2020. However, Defendant improperly rounded down Ms. Lopez's total time worked on May 10, 2020, to exactly twelve (12) hours. (The time sheet for May 10, 2020, was produced by Defendant and bates labeled as CVSH RPD2 000168.) Defendant's improper rounding scheme was designed to deprive Ms. Lopez of her mandatory second meal break, as Defendant's own meal break waiver policy/form provides that a waiver of the second meal break only occurs when the "total day's work will be completed within a work period of not more than twelve (12) hours." (Defendant's California Meal Break Waiver Agreement, was produced by Defendant and bates labeled as CVSH RPD1 00096.) Therefore, Defendant's improper rounding policy has resulted in violations California Labor Code §§ 226.7 and 512, affecting Ms. Lopez and all other similarly aggrieved current and former employees of Defendant.

Date: April 7, 2021

RE: Lopez v. Central Valley Specialty Hospital, Inc.

Page: 3 of 3

Accordingly, Ms. Lopez intends to amend her existing Complaint against Defendant to assert additional claims addressed in this PAGA Notice as well as the claims addressed in her January 2, 2020 and October 26, 2020 PAGA Notices on behalf of herself and all other similarly aggrieved past and current employees of Defendant under PAGA for Defendant's violations of the California Labor Code. In her action, Ms. Lopez will seek penalties and other relief provided under PAGA on behalf of herself and all other past and current employees similarly aggrieved.

Please direct all communications in this matter to my office, as follows:

Allen B. Felahy, Esq.
Farbod Nourian, Esq.
Felahy Employment Lawyers
550 S. Hope Street, Suite 2655
Los Angeles, California 90071

Thank you for your anticipated courtesy and consideration.

Very truly yours,

FELAHY EMPLOYMENT LAWYERS

By: *Farbod Nourian*
Allen B. Felahy, Esq.,
Farbod Nourian, Esq.,
Attorney for Theresa Suzanne Lopez

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California; I am over the age of 18 and not a party to the within action; my business address is 550 S. Hope Street, Suite 2655, Los Angeles, California 90071.

On July 15, 2021, I served the following document(s):

**PAGA REPRESENTATIVE ACTION FIRST AMENDED COMPLAINT PURSUANT TO
THE PRIVATE ATTORNEYS GENERAL ACT
(LABOR CODE §§ 2698 ET SEQ.)**

upon the interested parties in this action by placing [] the original [X] true copies thereof as follows:

Attorneys for Defendant Central Valley Specialty Hospital, Inc.

Greg A. Garbacz
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KLINEDINST PC
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mtaylor.legal@americanam.org

[X] **(BY ELETRONIC MAIL)** I caused the above document(s) to be electronically mailed to the addressee(s) as listed above.

[X] **(STATE COURT)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 15, 2021, at Los Angeles, California.

Nicolette Behnam

NICOLETTE BEHNAM

EXHIBIT 8

1 ALLEN B. FELAHY (SBN 190177)
2 afelahy@felahylaw.com
3 FARBOD NOURIAN (SBN 306145)
4 fnourian@felahylaw.com
5 **FELAHY EMPLOYMENT LAWYERS**
6 550 South Hope Street, Suite 2655
7 Los Angeles, California 90071
8 Telephone: (323) 645-5197
9 Facsimile: (323) 645-5198

10 Attorneys for Plaintiff Theresa Suzanne Lopez, individually,
11 and on behalf of all others similarly situated.

12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF STANISLAUS**
15

16 THERESA SUZANNE LOPEZ, an
17 individual; individually and on behalf of all
18 others similarly situated,

19 Plaintiffs;

20 v.

21 CENTRAL VALLEY SPECIALTY
22 HOSPITAL, INC., a California corporation;
23 and DOES 1 through 20, inclusive,

24 Defendant.
25

Case No.

INDIVIDUAL COMPLAINT:

1. **RETALIATION IN VIOLATION OF GOV'T CODE §§ 1102.5 ET SEQ.**
2. **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;**

CLASS ACTION COMPLAINT:

3. **FAILURE TO PAY OVERTIME WAGES (CAL. LAB. CODE §§ 510, 1194 AND 1198);**
4. **FAILURE TO PROVIDE AND RECORD MEAL PERIODS (CAL. LAB. CODE §§ 226.7, 512(a), AND 1198);**
5. **FAILURE TO PROVIDE REST PERIODS (CAL. LAB. CODE §§ 226.7, AND 1198);**

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6. **FAILURE TO ISSUE COMPLETE AND ACCURATE WAGE STATEMENTS (CAL. LAB. CODE §§ 226(a), 1174(d), AND 1198.5);**
7. **FAILURE TO PAY WAGES UPON TERMINATION (CAL. LAB. CODE §§ 201, 202, AND 203);**
8. **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSE (CAL. LAB. CODE §§ 2800 AND 2802); AND**
9. **VIOLATION OF UNFAIR COMPETITION LAW (CAL. BUS. & PROF. CODE §§ 17200, *ET SEQ.***

UNLIMITED CIVIL CASE

DEMAND FOR JURY TRIAL

1 All allegations in this individual action and class action complaint against Defendants Central
2 Valley Specialty Hospital, Inc., and DOES 1 through 20, inclusive (collectively, “Defendants”) are
3 based upon information and belief, except those allegations that pertain to Plaintiff Theresa Suzanne
4 Lopez (“Plaintiff”), which are based on her personal knowledge. Plaintiff’s information and belief
5 derive from, inter alia, her own investigations and the investigation conducted by her counsel. Each
6 allegation in this Complaint either has evidentiary support or is likely to have evidentiary support after
7 a reasonable opportunity for further investigation and discovery.

8 Plaintiff, individually and on behalf of herself and others similarly situated, alleges as follows:

9 **INTRODUCTION**

10 1. Plaintiff’s individual claims arise from Defendant’s retaliation against Plaintiff for
11 engaging in protected activity.

12 2. The class action claims arise out of Defendants subjecting Plaintiff and other class
13 members to wage-and-hour policies and practices that violate California wage-and-hour laws.
14 Plaintiff brings this class action on behalf of herself and all non-exempt current and former employees
15 employed by Defendant Central Valley Specialty Hospital, Inc. in California who have sustained
16 injuries or damages arising out of Defendant Central Valley Specialty Hospital, Inc.’s conduct in
17 violating wage and hour laws of the State of California and California Business and Professions Code
18 section 17200, et seq.

19 **JURISDICTION AND VENUE**

20 3. California Superior Court has jurisdiction in this matter by reason of the alleged
21 violations of California law. Jurisdiction is also proper because the individual and aggregate monetary
22 damages and restitution sought exceeds the jurisdictional minimums of the Superior Court and will
23 be established at trial according to proof. This Court has jurisdiction over this action pursuant to the
24 California Constitution, Article VI, section 10. The statute under which this action is brought does
25 not specify any other basis for jurisdiction.

4. This Court has jurisdiction over Defendant because, on information and belief, Defendant is a citizen of California, has sufficient minimum contacts in California, conducts business in California, and has availed itself of the California market so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

5. Venue is proper in this Court pursuant to California Code of Civil Procedure section 393(a) because Defendant continues to employ persons in this county and employed Plaintiff in this county – more specifically, in Modesto, California – and thus, a substantial portion of the transactions and occurrences related to this action occurred in this county. Venue as to each Defendant is proper in this judicial district, pursuant to Code of Civil Procedure § 395.

THE PARTIES

6. Plaintiff Theresa Suzanne Lopez (“Plaintiff”) is a resident of the State of California and currently resides in Modesto, California. Defendants employed Plaintiff between October 8, 2015, and October 9, 2020 as an hourly-paid, non-exempt employee, at its long-term acute care hospital in Modesto, California. Plaintiff was employed by Defendants as a Licensed Vocational Nurse throughout her employment.

7. Defendant Central Valley Specialty Hospital, Inc. (“Defendant”) is and at all relevant times was, a corporation organized in the State of California. Defendant is and at all relevant times was an employer with employees engaged in the State of California, including in Stanislaus County.

8. Plaintiff does not know the true names or capacities, whether individual, associate, partner or corporate of DOES 1 through 20, inclusive, and for that reason, DOES 1 to 20 are sued under such fictitious names pursuant to California Code of Civil Procedure section 474. Plaintiff will seek leave of court to amend this Complaint to allege such names and capacities as soon as they are ascertained. Defendant and Defendant DOES 1 through 20, inclusive, shall herein after collectively be referred to as “Defendants.”

9. Plaintiff is informed and believes that Defendants, and each of them, are in some manner legally responsible for the events alleged in this Complaint. Plaintiff is further informed and believes that each of the Defendants acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan, policy, or enterprise, or aided and abetted the acts and omissions alleged herein, and that the acts and omissions of each Defendant are legally attributable to the other Defendants.

10. Plaintiff is informed and believes that Defendants committed other wrongful acts or omissions of which Plaintiff is presently unaware. Plaintiff shall conduct discovery to identify said wrongful acts, and will seek leave of Court to amend this Complaint to add said acts upon discovery.

FACTUAL ALLEGATIONS FOR INDIVIDUAL RETALIATION CLAIM

11. Plaintiff was hired on October 8, 2015, as a non-exempt Licensed Vocational Nurse at Defendants' long-term acute care hospital in Modesto, California.

12. Throughout the course of her employment, Plaintiff consistently met or exceeded her job performance expectations and continually received positive job performance evaluations.

13. Despite Plaintiff's proficient job performance, as evidenced in her performance evaluations, Defendants retaliated against Plaintiff for engaging in protected activity.

14. On January 2, 2020, Plaintiff provided written notice by online filing to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated by Defendants, including facts and theories to support the alleged violations, in accordance with California Labor Code section 2699.3.

15. On March 18, 2020, Plaintiff filed a Complaint with the Superior Court for the State of California, County of Stanislaus, pursuant to California's Private Attorney General Act (Labor Code section 2698, et seq.), on behalf of herself and Defendants' other non-party similarly aggrieved

1 employees alleging Defendants violated several California Labor Code sections (Case Number CV-
2 20-001778) (the “PAGA matter”).

3 16. In Plaintiff’s PAGA matter, Defendants propounded written discovery on Plaintiff,
4 wherein Plaintiff provided Defendants with detailed explanations of Defendants’ violations of the
5 various provisions of the California Labor Code. In addition to written discovery, Defendants took
6 Plaintiff’s oral deposition on September 21, 2020.

7 17. At Plaintiff’s deposition, Plaintiff testified as to the various wage and hour/California
8 Labor Code sections she reasonably believed Defendant had violated and identified Defendants’ other
9 employees she had been in contact with regarding her PAGA matter.

10 18. On October 9, 2020, approximately two weeks after Plaintiff provided deposition
11 testimony regarding Defendants’ various violations of the California Labor Code, Defendants
12 retaliated against Plaintiff by terminating her employment.

13 19. On October 9, 2020, after Plaintiff returned to her workstation from her meal break,
14 Summer Elmore, Defendants’ employee responsible for Employee Health and Education, grabbed
15 Plaintiff and instructed her to follow her to a conference room in Defendants’ Human Resources’
16 department.

17 20. When Plaintiff walked into the conference room, she noticed that the following
18 individuals were present: Sony Sindhu – Defendant’s Chief Nursing Officer; Jason John –
19 Defendant’s Director of Nursing; Maria Zabala – Defendant’s Human Resources Director; Michael
20 Worsham – Defendant’s in-house paralegal; and Summer Elmore.

21 21. At the meeting, Defendants provided Plaintiff a letter that it had prepared regarding
22 the termination of Plaintiff’s employment. Defendants’ letter stated the reason for the termination
23 was that Plaintiff “failed to perform to the standards of Central Valley Specialty Hospital in the role
24 of LVN.” The letter failed to provide any additional information or details, namely, the manner in
25 which Plaintiff failed to perform to Defendants’ standards, amongst other critical information.

1 22. When Plaintiff inquired about the reason(s) for her termination she was told that a
2 patient's family had allegedly made a complaint against her the day before and that she purportedly
3 falsified documents.

4 23. In response, Plaintiff informed Defendants' staff that she had no negative interactions
5 with any of her patients or their family on October 8, 2020, and that she had been caring for the same
6 group of patients for the previous nine work shifts and not a single incident had arisen. Thereafter,
7 Plaintiff inquired about the specifics of the alleged patient complaint, however, Defendants refused to
8 disclose which patient made the complaint, refused to provide Plaintiff with a copy of the purported
9 complaint, refused to disclose what Plaintiff had done to purportedly place the patient's life in danger,
10 and refused to disclose whether Defendants had conducted any sort of investigation before reaching
11 the decision to terminate Plaintiff's employment.

12 24. On information and belief, given that the purported event that caused Plaintiff's
13 termination occurred on October 8, 2020, and Plaintiff was terminated the next day on October 9,
14 2020, Plaintiff believes that Defendants failed to conduct an in-depth investigation before reaching
15 the decision to terminate Plaintiff's employment.

16 25. In addition to the purported patient care issue, Defendants further informed Plaintiff
17 that Plaintiff's employment was also being terminated because Plaintiff had purportedly falsified
18 documents on October 8, 2020. When Plaintiff inquired about the alleged falsified documents,
19 Defendants refused to identify which particular document Plaintiff purportedly falsified. On October
20 8, 2020, as with all other work shifts, Plaintiff worked as a group with other nurses, specifically a
21 registered nurse. Defendants' policy required all members of the group to sign any patient-related
22 documents. On October 8, 2020, Plaintiff was grouped with Joli Ngo, a Registered Nurse employed
23 by Defendants. On information and belief, Ms. Ngo was not reprimanded in any manner for the
24 alleged falsification of documents on or around October 8, 2020.

25 26. On information and belief, Defendants also terminated the employment of Danielle
26

Thapia, an employee that Plaintiff was in frequent contact with regarding Defendant's violations of the Labor Code, and who Plaintiff identified as a witness during her deposition on September 21, 2020.

GENERAL ALLEGATIONS

27. Defendants own and operate a long-term acute care hospital in Modesto, California. Between January 2019 and July 2020 Defendants employed approximately 850 individuals in various positions at its hospital. On information and belief, Defendants' typical number of daily employees is approximately 400.

28. On information and belief, Defendants implement uniform, standardized policies and practices affecting all of its non-exempt, hourly-paid employees in California, including Plaintiff and other Class members. At all relevant times, Defendants issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly-paid employees in California, including Plaintiff and other Class members, regardless of their position.

29. On information and belief, Plaintiff and other Class members, received the same standardized documents and/or written policies. On information and belief, Defendants set forth uniform policies and procedures in several documents provided at an employee's time of hire and throughout their tenure, including, but not limited to, CVHS Corporate Employee Handbook, CVHS Human Resources Policy and Procedure Manual, CVHS Compensation/Benefits, and Licensed Practical/Vocational Nurse Job Description Policy.

30. On information and belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid employees.

31. Defendants continue to employ non-exempt, hourly-paid employees within California.

32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other Class members were entitled to receive certain wages for overtime compensation and that they were not receiving certain wages for overtime compensation.

33. Plaintiff is informed and believes, and thereon allege, that Defendants knew or should have known that Plaintiff and other Class members were entitled to be paid at a regular rate of pay, and corresponding overtime rate of pay, that included as eligible income all income derived from incentive pay, nondiscretionary bonuses, and/or other forms of compensation.

34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other Class members were entitled to meal periods in accordance with the Labor Code or payment of one (1) additional hour of pay at their regular rates of pay when they were not provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and other Class members were not provided with all meal periods or payment of one (1) additional hour of pay at their regular rates of pay when they did not receive a timely, uninterrupted, thirty (30) minute meal period.

35. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants have engaged in the unlawful practice of rounding employee time in a way that causes violations of the California labor laws regarding the provision of meal periods.

36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other Class members were entitled to rest periods in accordance with the Labor Code and applicable IWC Wage Order or payment of one (1) additional hour of pay at their regular rates of pay when they were not provided with a compliant rest period, and that Plaintiff and other Class members were not provided compliant rest periods or payment of one (1) additional hour of pay at their regular rates of pay when they were not provided a compliant rest period.

37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other class members were entitled to receive complete and accurate wage statements in accordance with California law. In violation of the California Labor Code, Plaintiff and other Class members were not provided complete and accurate wage statements.

38. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should

1 have known that it had a duty to maintain accurate and complete payroll records in accordance with
2 the Labor Code and applicable IWC Wage Order, but willfully, knowingly, and intentionally failed
3 to do so.

4 39. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
5 have known that Plaintiff and other Class members were entitled to timely payment of wages during
6 their employment. In violation of the California Labor Code, Plaintiff and other Class members did
7 not receive payment of all wages, including, but not limited to, overtime wages at the proper rate of
8 pay, and meal and rest period premiums, within permissible time periods.

9 40. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
10 have known that Plaintiff and other Class members were entitled to timely payment of all wages
11 earned upon termination of employment. In violation of the California Labor Code, Plaintiff and
12 other Class members did not receive payment of all wages due, including, but not limited to, overtime
13 wages, minimum wages, and meal and rest period premiums, within the permissible time periods.

14 41. Plaintiff is informed and believes, and thereon alleges that Defendants knew or should
15 have known that Plaintiff and other Class members were entitled to receive reimbursement for all
16 business-related expenses and costs they incurred during the course and scope of their employment,
17 and that they did not receive reimbursement of applicable business-related expenses and costs they
18 incurred.

19 42. Plaintiff is informed and believes, and thereon alleges, that at all times herein
20 mentioned, Defendants knew or should have known that it had a duty to compensate Plaintiff and
21 other Class members for all hours worked, and that Defendants had the financial ability to pay such
22 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented to
23 Plaintiff and other Class members that they were properly denied wages, all in order to increase
24 Defendants' profits.

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1 calculations of their regular rate of pay.

2 48. Defendants maintained, and uniformly applied, non-discretionary bonus/incentive
3 payments. These non-discretionary bonus/incentive payments were paid to employees when they
4 worked an additional work shift in a given work-week. Once an employee worked the extra work
5 shift, the bonus/incentive payment was earned and due. Defendants did not have the ability to pick
6 and choose when or if the bonus/incentive payment was given. So, these bonuses were
7 nondiscretionary. However, in violation of the California Labor Code, Defendants failed to always
8 incorporate all compensation – including incentive pay/nondiscretionary bonuses – into the
9 calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Further, on
10 those occasions when Defendants did include incentive pay/nondiscretionary bonuses when
11 calculating the regular rate of pay, Defendants failed to include the non-discretionary bonus
12 compensation as part of the employees’ “regular rate of pay” and/or improperly calculated the “regular
13 rate” by dividing the bonus by all hours worked rather than just all non-overtime hours worked.

14 49. In California, an employee’s regular rate of pay for purposes of overtime pursuant to
15 California Labor Code Section 510 is not the same as that employee’s straight time (i.e., his or her
16 normal hourly wage rate.) “Regular rate of pay, which can change from pay period to pay period,
17 includes adjustments to the straight time rate, reflecting, among other things, shift differentials and
18 the per-hour value any non-hourly compensation the employee has earned.” (See, Alvarado vs. Dart
19 Container Corp. of California (2018) 4 Cal.5th 542, 554.) Because Plaintiff and other Class members
20 were non-exempt employees who earned periodic nondiscretionary bonuses, Defendants were
21 required to properly adjust their regular rate of pay to account for said bonuses when computing their
22 overtime rate. However, proper adjustments were not made, and Plaintiff and other Class members
23 were thereby underpaid by Defendants for each overtime hour they worked.

24 50. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
25 have known that Plaintiff and other Class members were entitled to receive overtime compensation at

1 their “regular rate” pursuant to the Supreme Court’s holding in Alvarado vs. Dart Container Corp. of
2 California, and that they were not in fact being paid at their regular rate.

3 51. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
4 have known that Plaintiff and other Class members were entitled to receive complete and accurate
5 wage statements in accordance with California law. In violation of the California Labor Code,
6 Plaintiff and other Class members were not provided complete and accurate wage statements.

7 52. As a result, Plaintiff and other Class members have not been paid all wages due to
8 them, including overtime wages; and their wage statements do not accurately reflect the applicable
9 rate(s) of pay, the gross and net wages earned, and the manner by which the wages were earned.
10 Additionally, Plaintiff and other Class members have not been timely paid all wages owed to them.

11 **CLASS ACTION ALLEGATIONS**

12 53. Plaintiff brings this action on her own behalf, as well as on behalf of all other persons
13 similarly situated, and thus seeks class certification under California Code of Civil Procedure section
14 382.

15 54. Plaintiff’s proposed Class consists of and is defined as follows: All persons who
16 worked for Defendants as non-exempt, hourly paid employees in California, within four years prior
17 to the filing of the initial complaint until the date of trial (“Class”).

18 55. Plaintiff’s proposed Subclass consists of and is defined as follows: All members of the
19 Plaintiff Class whose employment ended during the Class Period (“Subclass”). The Class Period is
20 defined as the period from four years prior to the filing of this action through and including the date
21 of trial.

22 56. Members of the Class and Subclass are referred to herein as “Class members.”

23 57. All claims alleged herein for which Plaintiff seeks relief arise under California law and
24 are authorized by California law. Plaintiff reserves the right to redefine the Class and Subclass and
25 to add additional subclasses as appropriate based on further investigation, discovery, and specific

1 theories of liability.

2 58. There are common questions of law and fact as to Class members that predominate
3 over questions affecting only individual members, including, but not limited to:

4 (a) Whether Defendants required Plaintiffs and Class members to work over eight (8)
5 hours per day, over twelve (12) hours per day, or over forty (40) hours per week and failed to
6 pay all legally required overtime compensation to Plaintiff and Class members;

7 (b) Whether Defendants failed to properly calculate the “regular rate” of pay on which
8 Plaintiff’s and Class members’ overtime rate of pay was based;

9 (c) Whether Defendants provided Plaintiff and Class members with complete and accurate
10 wage statements as required by California Labor Code section 226(a);

11 (d) Whether Defendants failed to pay all earned overtime wages due to Plaintiff and Class
12 members upon the end of their employment with Defendants;

13 (e) Whether Defendants failed timely to pay overtime wages to Plaintiff and Class
14 members during their employment;

15 (f) Whether Defendants failed to provide rest period time shall be based on the total hours
16 worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction
17 thereof unless the total daily work time is less than three and one-half (3.5) hours.

18 (g) Whether Defendants failed to provide adequate meal period not less than thirty (30)
19 minutes when an employee to work for a period of more than five (5) hours per day and the
20 work period exceeds six (6) hours or a second uninterrupted thirty (30) minute meal period
21 when they worked over 10 hours in a shift by the end of the tenth hour.

22 (h) Whether Defendants failed to provide employees with reimbursements for all
23 necessary expenditures and losses incurred by the employee in the performance of his or her
24 job

25 (i) The appropriate amounts of damages, restitution, or monetary penalties resulting from

Defendants' violations of California law

59. There is a well-defined community of interest in the litigation and the Class members are readily ascertainable:

(a) Numerosity: The Class members are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire Class is unknown to Plaintiffs at this time; however, there is an estimated 850 individuals employed by Defendants between January 2019 and July 2020, and the typical number of daily employees is 400, with the identity of class membership readily ascertainable by inspection of Defendants' employment records.

(b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each class member with whom they have a well-defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all Class members as demonstrated herein.

(c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class member with whom he has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff acknowledges that she has an obligation to make known to the Court any relationship, conflicts or differences with any Class member. Plaintiff's attorneys, the proposed Class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each Class member.

(d) Superiority: The nature of this action makes the use of class action adjudication superior to other methods. A class action will achieve economies of time, effort, and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner and at the same time for the entire class.

1 (e) Public Policy Considerations: Employers in the State of California violate employment
2 and labor laws every day. Current employees are often afraid to assert their rights out of fear
3 of direct or indirect retaliation. Former employees are fearful of bringing actions because they
4 believe their former employers might damage their future endeavors through negative
5 references and/or other means. Class actions provide the class members who are not named in
6 the complaint with a type of anonymity that allows for the vindication of their rights while
7 simultaneously protecting their privacy.

8 **FIRST CAUSE OF ACTION**

9 **ULAWFUL RETALIATION IN VIOLATION OF LABOR CODE §1102.5**

10 **(Against all Defendants By Plaintiff as an Individual)**

11 60. Plaintiff hereby re-alleges and incorporates by reference, as though fully set forth
12 herein, the allegation in the preceding paragraphs.

13 61. At all times relevant herein, California Labor Code 1102.5 was in effect. California
14 Labor Code §1102.5 states:

15 “An employer, or any person acting on behalf of the employer, shall not retaliate against
16 an employee for disclosing information, or because the employer believes that the
17 employee disclosed or may disclose information, to a government or law enforcement
18 agency, to a person with authority over the employee or another employee who has the
19 authority to investigate, discover, or correct the violation or noncompliance, or for
20 providing information to, or testifying before, any public body conducting an
21 investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the
22 information discloses a violation of state or federal statute, or a violation of or
23 noncompliance with a local, state, or federal rule or regulation, regardless of whether
24 disclosing the information is part of the employee’s job duties.”

25 62. At all times herein mentioned, California Labor Code was in effect and was binding
26 upon Defendants. The California Labor Codes required Defendants to fully pay all overtime wages
27 at the proper rate of pay, provide complete meal and rest breaks, provide accurate wage statements,
28 fully pay all wages owed during and after employment, and reimburse for all necessary expenses.

63. On January 2, 2020, Plaintiff provided written notice by online filing to the LWDA

1 and by certified mail to Defendants of the specific provisions of the California Labor Code alleged to
2 have been violated, including facts and theories to support the alleged violations, in accordance with
3 California Labor Code section 2699.3.

4 64. On March 18, 2020, Plaintiff filed a Complaint with the Superior Court for the State
5 of California, County of Stanislaus, pursuant to California's Private Attorney General Act (Labor
6 Code section 2698, et seq.), on behalf of herself and Defendants' other non-party similarly Aggrieved
7 Employees alleging Defendants violated several California Labor Code sections (Case Number CV-
8 20-001778).

9 65. In Plaintiff's PAGA matter, Defendant propounded written discovery on Plaintiff,
10 wherein Plaintiff provided detailed explanations of Defendants' violations of the various provisions
11 of the Labor Code. In addition to written discovery, Defendants took Plaintiff's oral deposition on
12 September 21, 2020.

13 66. At Plaintiff's deposition, Plaintiff testified as to the various wage and hour/California
14 Labor Code sections she believed Defendant had violated and identified Defendants' other employees
15 she had been in contact with regarding her PAGA matter.

16 67. As a result of Plaintiff's protected activity, Plaintiff was retaliated against by
17 Defendants and her employment was terminated on October 9, 2020.

18 68. As a direct result of the retaliation, Plaintiff has suffered, and continues to suffer,
19 damages and injury as herein alleged, including pain and suffering, severe mental anguish and
20 emotional distress, humiliation, anxiety, depression, loss of earnings, past and future, and loss of
21 reputation, goodwill and standing in the industry in which plaintiff has worked, thus resulting in loss
22 or diminution of employment-related opportunities such as the opportunity for promotion, other
23 employment benefits, and job opportunities in an amount to be determined according to proof at trial.

24 69. Plaintiff has incurred and continues to incur legal expenses and attorney fees. Plaintiff
25 is uncertain to the precise amount of these expenses and fees and pays leave of court to amend this

1 complaint when the amount is more fully known.

2 70. The unlawful employment practices described in this complaint so egregiously and
3 maliciously harmed Plaintiff and violated her rights, it justifies an award of punitive damages. Due
4 to Defendants' willful, knowing, and intentional retaliation against Plaintiff, Plaintiff seeks an award
5 of punitive and exemplary damages in an amount according to proof. Plaintiff is entitled to, pursuant
6 to Labor Code section 1102.5(f), ten thousand dollars (\$10,000) for each individual violation of
7 Section 1102.5.

8 **SECOND CAUSE OF ACTION**

9 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

10 **(Against all Defendants By Plaintiff as an Individual)**

11 71. Plaintiff hereby re-alleges and incorporates by reference, as though fully set forth
12 herein, the allegations in the preceding paragraphs.

13 72. Defendants were Plaintiff's employer.

14 73. At all times mentioned herein, the public policy of the State of California, as codified,
15 expressed and mandated in the California Labor Code, including without limitation, Labor Code §§
16 98.6 and 1102.5, prohibit employers from retaliating and/or discriminating against employees because
17 of their exercise of rights under the California Labor Code and/or complaining about and/or protesting
18 potentially illegal activities. Nevertheless, Defendants violated these public policies by terminating
19 Plaintiff for exercising her rights under the Labor Code and for reporting Defendants' violations of
20 violating wage and hour laws of the State of California. (See Tameny v. Atlantic Richfield Co., 27
21 Cal.3d 167 (1980); Foley v. Interactive Data Corp., 47 Cal.3d 654, 666 (1988).)

22 74. Defendants terminated Plaintiff's employment on account of her reporting Defendants'
23 violations of the Labor Code to the California LWDA and commencing her PAGA litigation and
24 testifying at her deposition on September 21, 2020, about Defendant's ongoing violations of the
25 California Labor Code, as set forth above.

1 75. Defendant's termination was in direct violation of the fundamental public policy
2 detailed hereinabove.

3 76. As alleged herein, Plaintiff's wrongful termination caused and continues to cause
4 Plaintiff harm.

5 77. Defendants' acts were willful, wanton, malicious, intentional, oppressive and
6 despicable and were done in willful and conscious disregard of the rights, welfare and safety of
7 Plaintiff. Defendants' actions were done by with the express knowledge, consent, and ratification of
8 Defendants, thereby justifying the awarding of punitive and exemplary damages in an amount to be
9 determined at the time of trial pursuant to California Civil Code section 3294(a) and (b).

10 78. By the aforesaid acts and conduct of Defendants, and each of them, Plaintiff has been
11 directly and legally caused to suffer actual damages pursuant to California Civil Code section 3333
12 including, but not limited to, loss of earnings and future earning capacity, attorneys' fees, and other
13 pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to amend when
14 ascertained.

15 79. As a result of the wrongful acts of Defendants, and each of them, as alleged herein,
16 Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically provided in
17 California Code of Civil Procedure section 1021.5. Plaintiff's action enforces important rights
18 affecting the public interest by bringing forth this lawsuit to ensure Defendants, as employers, refrain
19 from retaliating against and wrongfully terminating one of its employees, thereby conferring a
20 significant benefit on the general public's health and well-being as a result. The necessity and financial
21 burden of this private enforcement, as well as the interest of justice, entitles Plaintiff to reasonable
22 attorneys' fees and costs under California Civil Code section 1021.5.

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1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PAY OVERTIME**

3 **VIOLATION OF LABOR CODE §§ 510, 1194 AND 1198**

4 **(By Plaintiff, On Behalf of Herself and All Others Similarly Situated, Against All Defendants)**

5 80. Plaintiff hereby re-alleges and incorporates by reference, as though fully set forth
6 herein, the allegations in the preceding paragraphs.

7 81. At all times relevant herein, the IWC Wage Order and California Labor Code section
8 510 were in effect and applicable to Plaintiffs and other Class members' employment with
9 Defendants.

10 82. California Labor Code section 510 provides that hourly, non-exempt employees are
11 entitled to all overtime wages and compensation for work performed, and provides a private right of
12 action for failure to pay all compensation owed for overtime work performed.

13 83. California Labor Code section 1198 and the applicable IWC Wage Order provide that
14 it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half
15 or two-times that person's regular rate of pay, depending on the number of hours worked by the person
16 on a daily or weekly basis.

17 84. California Labor Code § 1194 establishes an employee's right to recover unpaid
18 wages, including overtime compensation and interest thereon, together with the costs of suit.

19 85. At all times relevant herein, Defendants were required to properly compensate Plaintiff
20 and other Class members for all overtime hours worked pursuant to California Labor Code § 510 and
21 IWC Wage Order No. 1-2001. IWC Wage Order 1-2001, § 3 requires an employer to pay an employee
22 "one and one-half (1½) times the employee's regular rate of pay" for work in excess of 8 hours per
23 work day and/or in excess of 40 hours of work in the workweek. Further, it is well established in
24 California that an employee's "regular rate of pay" for purposes of overtime pursuant to Labor Code
25 § 510 is not the same as the employee's straight time rate (i.e., his or her normal hourly wage rate).

1 “Regular rate of pay, which can change from pay period to pay period, includes adjustments to the
2 straight time rate, reflecting, among other things, shift differentials and the per-hour value of any non-
3 hourly compensation the employee has earned.” (See, Alvarado vs. Dart Container Corp. of
4 California (2018) 4 Cal.5th 542, 554.)

5 86. California Labor Code § 510(a) provides: Eight (8) hours of labor constitutes a day’s
6 work. Any work in excess of eight (8) hours in one workday and any work in excess of forty (40)
7 hours in any one workweek and the first eight (8) hours worked on the seventh day of work in any
8 one workweek shall be compensated at the rate of no less than one and one-half times the regular rate
9 of pay for an employee. Any work in excess of twelve (12) hours in one day shall be compensated at
10 the rate of no less than twice the employee’s regular rate of pay. In addition, any work in excess of
11 eight (8) hours on any seventh day of a workweek shall be compensated at the rate of no less than
12 twice the employee’s regular rate of pay.

13 87. California Labor Code § 204 states, in pertinent part: All wages, other than those
14 mentioned in Section 201, 202, 204.1, or 204.2, earned by any person in any employment are due and
15 payable twice during each calendar month, on days designated in advance by the employer as the
16 regular paydays.

17 88. During the relevant time period, Defendants willfully failed to pay all overtime wages
18 owed to Plaintiff and other Class members. During the relevant time period, Plaintiff and other Class
19 members were not paid overtime premiums for all of the hours they worked in excess of eight (8)
20 hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week.

21 89. Defendant has and had a company-wide policy depriving non-exempt employees of
22 overtime wages. During the relevant time period, Defendant failed to properly implement an
23 alternative workweek schedule and regularly required Plaintiff and other Class members to work
24 overtime hours, but did not compensate them at the appropriate overtime rate.

25 90. Defendant knew or should have known that as a result of these company-wide practices

1 and/or policies, Plaintiff and other Class members were not being compensated for all overtime hours
2 worked. Because Plaintiff and other Class members worked shifts of eight (8) hours a day or more or
3 forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay.
4 Therefore, Plaintiff and other Class members were not paid overtime wages for all of the overtime
5 hours they actually worked.

6 91. At all relevant times herein, Defendant employed a non-discretionary bonus/incentive
7 pay policy wherein Plaintiff and other Class members would receive a bonus when they worked an
8 extra work shift during a given work-week.

9 92. Plaintiff and other Class members regularly worked and continue to work overtime
10 hours. However, at all times relevant herein, Defendants failed to pay proper overtime wages and
11 record/compensate Plaintiff and other Class members all of their earned wages.

12 93. At all times relevant herein, Defendants failed to properly compute/adjust Plaintiff's
13 and other Class members' regular rate of pay to account for the nondiscretionary bonus/incentive pay
14 they earned, and by so doing, failed to pay Plaintiff and other Class members a proper overtime rate
15 that properly accounted for their adjusted "regular rate," thereby depriving Plaintiff and other Class
16 members of earned overtime wages.

17 94. Defendants' failure to properly pay Plaintiffs and other Class members for all overtime
18 wages earned is in violation of California Labor Code § 510.

19 95. Plaintiffs and other Class members are entitled to recover unpaid overtime
20 compensation pursuant to California Labor Code sections 510 and 1194 as well as wages pursuant to
21 California Labor Code section 558, interest, and those attorneys' fees and litigation costs reasonably
22 necessary and incurred pursuant to California Labor Code sections 218.5 and 1194. Plaintiffs and
23 other Class members are also entitled to all other remedies available under the law.

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1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**

3 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), AND 1198**

4 **(By Plaintiff, On Behalf of Herself and All Others Similarly Situated, Against All Defendants)**

5 96. Plaintiff hereby re-alleges and incorporates by reference, as though fully set forth
6 herein, the allegations in the preceding paragraphs.

7 97. At all relevant times herein set forth, the applicable IWC Wage Order(s) and California
8 Labor Code sections 226.7, 512(a), and 1198 were applicable to Plaintiff and other Class members
9 employed by Defendants.

10 98. California Labor Code section 512(a) provides that an employer may not require,
11 cause, or permit an employee to work for a period of more than five (5) hours per day without
12 providing the employee with a meal period of not less than thirty (30) minutes, except that if the total
13 work period per day of the employee is not more than six (6) hours, the meal period may be waived
14 by mutual consent of both the employer and the employee. Under California law, first meal periods
15 must start after no more than five hours. (Brinker Rest. Corp. v. Superior Court, 53 Cal. 4th 1004,
16 1041-1042 (Cal. 2012).)

17 99. California Labor Code sections 226.7 and 512(a) provide that no employer shall
18 require an employee to work during any meal period mandated by an applicable order of the IWC.

19 100. During the relevant time period, Defendant regularly failed to comply with California
20 Labor Code sections 226.7 and 512(a) by failing to provide Plaintiff and other Class members' duty-
21 free meal periods in accordance with California Labor Code sections 226.7 and 512(a) and the
22 applicable IWC Wage Order. And at all relevant times, Defendants regularly failed to compensate
23 Plaintiff and other Class members one additional hour of pay at their regular pay rate for meal periods
24 that were not provided in accordance with California Labor Code sections 226.7 and 512(a) and the
25 applicable IWC Wage Order.

101. Defendant also maintained and continues to maintain a policy of understaffing its hospital, such that Plaintiff and other Class members are routinely required to work in excess of five (5) hours without being provided an uninterrupted thirty (30) minute meal period by the end of the fifth hour, and/or a second uninterrupted thirty (30) minute meal period when they worked over 10 hours in a shift by the end of the tenth hour.

102. On information and belief, Defendants also maintained and continue to maintain an improper rounding scheme. Defendants would frequently round shifts over twelve (12) hours down to exactly twelve (12) hours in order to avoid providing a second meal break.

103. Defendants engaged in a systematic, company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods were not provided. As a result, Defendants failed to provide Plaintiff and other Class members' compliant meal periods and failed to pay the full meal period premiums due.

104. Defendant's conduct violates the applicable IWC Wage Order, and California Labor Code sections 226.7, 512(a), and 1198.

105. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7, subdivision (c), Plaintiff and other Class members are entitled to recover from Defendants one additional hour of pay at their regular rate of pay for each workday that they were entitled to, but not provide a meal period. Plaintiff and other Class members are also entitled to all other remedies available under the law for Defendants' failure to provide meal periods.

FIFTH CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS

VIOLATION OF LABOR CODE SECTIONS 226.7 AND 1198

(By Plaintiff, On Behalf of Herself and All Others Similarly Situated, Against All Defendants)

106. Plaintiff hereby re-alleges and incorporates by reference, as though fully set forth herein, the allegations in the preceding paragraphs.

107. At all relevant times set forth herein, the applicable IWC Wage Order and California Labor Code sections 226.7 and 1198 were applicable to Plaintiff and other Class members employed by Defendants.

108. At all relevant times, the applicable IWC Wage Order provides that every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3.5) hours.

109. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. To comply with its obligation to provide rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties - including the obligation that an employee remains on call. A rest period, in short, must be a period of rest.” (Augustus, et al. v. ABM Security Services, Inc., 2 Cal. 5th 257, 269-270 (2016).)

110. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff and other Class members are entitled to recover from Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a required rest period was not provided.

111. During the relevant time period, Defendants regularly failed to authorize and permit Plaintiff and other Class members to take ten (10) minute rest periods per each four (4) hour period worked or major fraction thereof.

112. Plaintiff and other Class members employed by Defendants were not provided lawful rest periods and were not compensated one additional hour of pay for each workday that a rest period was not provided, in violation of Labor Code section 226.7.

113. Defendants maintained and uniformly applied a company-wide policy that prohibited

1 10-minute rest breaks when the hospital was busy and the workload was heavy. The policy
2 discouraged and prevented non-exempted employees – Plaintiff and other Class members employed
3 by Defendant – from receiving their legally mandated rest breaks. Plaintiff regularly did not receive
4 her mandatory rest breaks, as the hospital was often busy; on information and belief, all other Class
5 members were similarly treated.

6 114. Additionally, Defendants took no steps to record or otherwise track the failure to
7 provide uninterrupted rest periods; nor did Defendants educate employees on how to do so. Despite
8 having both the means and a policy that provided for the tracking and recording of employees’ rest
9 periods, Defendants willfully disregarded its own policies so as to obfuscate their repeated violations
10 of law.

11 115. Defendants has also engaged in a company-wide practice and/or policy to not pay rest
12 periods premiums owed when compliant rest periods are not provided. As a result, Plaintiff and other
13 Class members were denied rest periods and Defendants failed to pay Plaintiff and other Class
14 members the full rest period premiums due, in violation of Labor Code section 226.7 and the
15 applicable IWC Wage Order.

16 116. Defendants’ conduct violates the applicable IWC Wage Order and California Labor
17 Code sections 226.7 and 1198.

18 117. Pursuant to the applicable IWC Wage Order and California Labor Code section 226.7,
19 subdivision (c), Plaintiff and other Class members are entitled to recover from Defendants one
20 additional hour of pay at their regular rate of pay for each workday that they were entitled to, but not
21 provided a rest break. Plaintiff and other Class members are entitled to all other remedies available
22 under the law for Defendants’ failure to authorize and permit rest periods.

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1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**

3 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198.5**

4 **(By Plaintiff, On Behalf of Herself and All Others Similarly Situated, Against All Defendants)**

5 118. Plaintiff hereby re-alleges and incorporates by reference, as though fully set forth
6 herein, the allegations in the preceding paragraphs.

7 119. At all relevant times herein, California Labor Code section 226(a) provides that every
8 employer shall furnish each of her or her employees an accurate and complete itemized wage
9 statement in writing, including, but not limited to, the name and address of the legal entity that is the
10 employer, the inclusive dates of the pay period, the total hours worked, the gross and net wages earned,
11 and all applicable rates of pay.

12 120. During the relevant time period, Defendants knowingly and intentionally provided
13 Plaintiff and other Class members with uniform, incomplete, and inaccurate wage statements. The
14 deficiencies with the wage statements included, without limitation, the failure to include the total
15 hours worked, accurate gross and net wages earned (including, all earned overtime wage), and other
16 items as required by California Labor Code section 226, subdivision (a)(1) to (5), (7), and (9).

17 121. California Labor Code section 1174(d) provides that “[e]very person employing labor
18 in this state shall ... [k]eep a record showing the names and addresses of all employees employed and
19 the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments
20 at which employees are employed, payroll records showing the hours worked daily by and the wages
21 paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
22 employed at the respective plants or establishments...” For the above stated reasons, in violation of
23 Labor Code section 1174(d), Defendants willfully failed to maintain accurate payroll records for
24 Plaintiff and other Class members showing the daily hours they worked and the wages paid thereto as
25 a result of failing to record the off-the-clock hours that they worked.

1 122. Pursuant to the applicable IWC Wage Order, employers are required to keep accurate
2 time records showing when the employee begins and ends each work period; and during the relevant
3 time period, for the reasons stated above, Defendants failed, on a company-wide basis, to keep such
4 accurate records for Plaintiff and other non-party similarly Situated employees.

5 123. Because Defendants' violations of Labor Code §§ 226(a), 1174(d), and 1198.5 were
6 committed against Plaintiff and other Class members, Plaintiff and other Class members are entitled
7 to recover civil penalties pursuant to California Labor Code sections 226(e), 226.3, 1174.5, and/or
8 1198.5.

9 **SEVENTH CAUSE OF ACTION**

10 **FAILURE TO PAY WAGES UPON TERMINATION**

11 **VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

12 **(By Plaintiff, On Behalf of Herself and All Others Similarly Situated, Against All Defendants)**

13 124. Plaintiff hereby re-alleges and incorporates by reference, as though fully set forth
14 herein, the allegations in the preceding paragraphs.

15 125. At all times relevant herein set forth, Labor Code sections 201 and 202 provide that if
16 an employer discharges an employee, the wages earned and unpaid at the time of discharge are due
17 and payable immediately, and that if an employee voluntarily leaves his or her employment, his or
18 her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the
19 employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which
20 case the employee is entitled to his or her wages at the time of quitting.

21 126. During the relevant time period, Defendants willfully failed to pay Plaintiff and other
22 Class members who are no longer employed by Defendants all their earned wages, including, but not
23 limited to, overtime wages at the proper rate of pay, and meal and rest period premium wages, either
24 at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

25 127. Defendants' failure to pay Plaintiff and other Class members who are no longer

1 employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-
2 two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201 and 202.

3 128. California Labor Code section 203 provides that if an employer willfully fails to pay
4 wages owed in accordance with sections 201 and 202, then the wages of the employee shall continue
5 as a penalty from the due date thereof at the same rate until paid or until an action is commenced; but
6 the wages shall not continue for more than thirty (30) days.

7 129. Plaintiff and other members of the Subclass are entitled to recover from Defendants
8 the statutory penalty for each day they were not paid their earned and unpaid wages, up to a thirty
9 (30) day maximum, pursuant to California Labor Code section 203, as well as interest and those
10 attorneys' fees and costs reasonably necessary and incurred.

11 **EIGHTH CAUSE OF ACTION**

12 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

13 **VIOLATION OF LABOR CODE SECTIONS 2800 AND 2802**

14 **(By Plaintiff, On Behalf of Herself and All Others Similarly Situated, Against All Defendants)**

15 130. Plaintiff hereby re-alleges and incorporates by reference, as though fully set forth
16 herein, the allegations in the preceding paragraphs.

17 131. At all times herein set forth, California Labor Code section 2802 provides that an
18 employer must reimburse employees for all necessary expenditures and losses incurred by the
19 employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent
20 employers from passing off their cost of doing business and operating expenses on to their employees.
21 (Cochran v. Schwan's Home Service, Inc., 228 Cal. App. 4th 1137, 1144 (2014).)

22 132. At all relevant times, Defendants intentionally and willfully failed to reimburse
23 Plaintiff and other Class members for necessary business-related expenses and costs, in violation of
24 California Labor Code section 2800 and 2802.

25 133. Defendants had a company-wide policy of requiring Plaintiff and other Class members

1 to purchase and download a web/mobile “App” called, “On Shift” on their personal cell phone or
2 other personal electronic device, as the “App” was used to communicate required work-related
3 information, weekly schedules, and messages to Defendants’ employees. Despite downloading the
4 “On Shift” “App” and using it on their personal cell phones or at home on the Internet, and incurring
5 data and other charges associated with the “App,” Plaintiff and all and other non-party similarly
6 Situated employees were not reimbursed for these business-related expenditures.

7 134. On information and belief, Defendants did not have free Wi-Fi available for Plaintiff
8 and other Class members while they worked on site at Defendants’ facility.

9 135. Defendants’ company-wide policy and/or practice of passing its operating costs on to
10 Plaintiff and other Class members is in violation of California Labor Code section 2802.

11 136. Accordingly, Plaintiff and other Class members are entitled to recover from
12 Defendants their business-related expenses incurred in the course and scope of employment, plus
13 interest accrued from the date on which they incurred the necessary expenditures; penalties; and
14 those attorneys’ fees and litigation costs reasonably necessary and incurred.

15 **NINTH CAUSE OF ACTION**

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

17 **(By Plaintiff, On Behalf of Herself and All Others Similarly Situated, Against All Defendants)**

18 137. Plaintiff hereby re-alleges and incorporates by reference, as though fully set forth
19 herein, the allegations in the preceding paragraphs.

20 138. California Business & Professions Code § 17200 et seq., prohibits any unlawful,
21 unfair, or fraudulent business practices.

22 139. Defendants’ practices, as alleged above, have been and continue to be unfair,
23 fraudulent and illegal, and harmful to Plaintiff, other Class members, and the general public.
24 Defendants’ above-alleged practices constitute violations of Business and Professions Code section
25 17200, et seq. Specifically, a practice that violates any state law or regulation may constitute the basis

1 of an unlawful business practice prohibited by Business and Professions Code §§ 17200, et seq.
2 Among other things, the following practices of Defendants, as alleged, constitute unfair business
3 practices:

- 4 a. Defendants' failure to pay overtime compensation at the proper rate of pay for hours
5 worked as required by Labor Code §§ 510 and 1194;
- 6 b. Defendants' failure to provide accurate and itemized statements of wages and
7 deductions as required by Labor Code § 226;
- 8 c. Defendants' failure to provide timely meal breaks as required by Labor Code §§ 226.7,
9 512(a) and 1198;
- 10 d. Defendants' failure to provide timely rest breaks as required by Labor Code §§ 226.7
11 and 1198;
- 12 e. Defendants' failure to reimburse business related expenses as required by Labor Code
13 §§ 2800 and 2802;
- 14 f. Defendants' failure to pay all wages upon termination of an employee as required by
15 Labor Code §§ 201-203; and
- 16 g. Defendants' failure to timely pay wages for hours worked as required by Labor Code
17 § 204.

18 140. California Labor Code § 90.5(a) states that it is the public policy of California to
19 enforce vigorously minimum labor standards in order to ensure employees are not required to work
20 under substandard and unlawful conditions, and to protect employers who comply with the law from
21 those who attempt to gain competitive advantage at the expense of their workers by failing to comply
22 with minimum labor standards.

23 141. By violating the aforementioned statutes and regulations, including California Labor
24 Code §§ 201-204, 226, 510, 512, 1194, 1198, 2800, 2802 and applicable IWC Wage Orders, as alleged
25 above and incorporated herein, Defendants' acts constitute unfair and unlawful business practices

1 under California Business & Professions Code, Section 17200, et seq.

2 142. Defendants' violations of sections of the California Labor Code, as alleged above,
3 constitute an unfair business practice because these were done in a systematic manner to the detriment
4 of Plaintiff and other Class members. All of the foregoing harmed Plaintiff and other Class members
5 and continues to harm Plaintiff and other Class members.

6 143. Under Section 17208 of the California Business and Professions Code, the statute of
7 limitations for a claim under Section 17200 is four years. Accordingly, the actionable period for this
8 cause of action is from four years from the date this action was filed to the present (effectively the
9 "statutory period").

10 144. Defendants' course of conduct, act and practice in violation of the California laws
11 mentioned in each paragraph above constitute separate and independent violations of 17200 et seq.,
12 of the California Business and Professions Code.

13 145. The harm to Plaintiff and other Class members by Defendants' acts as stated
14 hereinabove and incorporated herein as though fully set forth and alleged, constitutes an unfair
15 business practice or act within the meaning of California Business and Professions Code § 17200.

16
17 **PRAYER FOR RELIEF**

18 146. Plaintiff, individually, and on behalf of and other Class members, prays for relief and
19 judgment against Defendants, jointly and severally, as follows:

- 20 a. For an order certifying the proposed Class;
21 b. For appointment of Plaintiff as the representative of the Class;
22 c. For appointment of counsel for Plaintiff as Class Counsel;
23 d. For actual and compensatory damages, including all unpaid wages, in an amount
24 according to proof at trial;

- e. For all penalties permitted under the California Labor Code, in amount according to proof at trial;
- f. For an Order enjoining Defendants from continuing to employ the unlawful methods, acts, and practices described herein;
- g. Pursuant to California Business and Professions Code section 17203 and pursuant to the equitable powers of this Court, for a preliminary and permanent injunction against Defendants' acts in violation of California Business and Professions Code sections 17200, *et seq.* as described herein;
- h. Pursuant to California Business and Professions Code section 17203 and pursuant to the equitable powers of this Court, for an Order that Defendants restore all wages and other monies withheld and retained from Plaintiff and other Class members as a result of any act or practices of Defendants declared by this Court to constitute violation of California Business and Professions Code sections 17200, *et seq.* as described herein;
- i. Upon the First through Second Causes of Action, for all economic, special, general and punitive damages as permitted by law, all statutory damages and/or penalties, including pursuant to Labor Code § 1102.5(f), and costs and attorney's fees;
- j. For reasonable attorneys' fees pursuant to Labor Code Sections 218.5, 226 and 1194, and Cal. Code of Civ. Proc. § 1021.5;
- k. For costs of suit as permitted by law;
- l. For pre-judgment and post-judgment interest as permitted by law;
- m. For injunctive relief and restitution as permitted by law;
- n. For such equitable relief as may be appropriate; and
- o. For all such other and further relief that the Court may deem just and proper.

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Dated: June 7, 2021

FELAHY EMPLOYMENT LAWYERS

By: Farbod Nourian
Allen B. Felahy
Farbod Nourian
Attorneys for Plaintiff Theresa Suzanne Lopez
and other Class members

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DEMAND FOR JURY TRIAL

Plaintiff Theresa Suzanne Lopez, individually and on behalf of all other Class members,
hereby demands trial of her claims by jury to the extent authorized by law.

DATED: June 7, 2021

FELAHY EMPLOYMENT LAWYERS

By: Farbod Nourian
Allen B. Felahy
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EXHIBIT 9

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Attorneys for Defendant
CENTRAL VALLEY SPECIALTY HOSPITAL,
INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF STANISLAUS**

THERESA SUZANNE LOPEZ, an individual,
on behalf of the State of California, as a
private attorney general, and on behalf of all
other Similarly Aggrieved Employees,

Plaintiff,

v.

CENTRAL VALLEY SPECIALTY
HOSPITAL, INC., a California corporation;
and DOES 1 through 20, inclusive,

Defendant.

Case No. CV-20-001778
Related case CV-21-002861

**STIPULATION AND ORDER TO
CONSOLIDATE CASES**

Action Filed: March 18, 2020

RECITALS

1. On March 18, 2020, Plaintiff THERESA SUZANNE LOPEZ ("Plaintiff") filed the present action against Defendant CENTRAL VALLEY SPECIALTY HOSPITAL, INC. ("Defendant") (the "First Action"). The action arises out of the employment and subsequent termination of Plaintiff with Defendant.

2. On June 7, 2021, a PAGA representative action was filed by Plaintiff THERESA SUZANNE LOPEZ in the Superior Court of Stanislaus County, Case No. CV-21-002861 (the "Second Action"). This action arises out of the same alleged acts and/or omissions as the First Action.

3. The First Action was assigned to Department 23 with Judge John D. Freeland, and the Second Action was assigned to Department 22 with Judge Stacy P. Speiller.

4. On July 1, 2021, Defendant filed Notices of Related Case in each action, and no party has objected to these notices.

5. Based upon the overlapping plaintiff and defendant in both actions, and the substantially similar questions of law and/or fact in both actions, the parties in both actions agree that the First Action and the Second Action are related cases.

6. There will be a substantial duplication of judicial resources if the two cases are heard by different judges and consolidation will be in the interest of judicial economy.

7. Consolidation of the two actions will lower attorneys' fees, costs and legal expenses associated with the parties conducting discovery and preparing for trial in two separate but related matters.

8. It is anticipated that much, if not all, of the discovery and investigation to be performed will apply to both actions and need not be duplicated.

STIPULATION

IT IS HEREBY STIPULATED, by and between the Plaintiff and Defendant, by and through their attorneys of record, as follows:

That the Court issue an Order consolidating Case No. CV-20-001778 with Case No. CV-21-002861 for all purposes;

That the original of all further papers filed in the above captioned actions shall be entitled *Theresa Suzanne Lopez, et al., v. Central Valley Specialty Hospital, Inc.* and filed in Case No. CV-20-001778;

That a copy of this Order shall be filed in Case No. CV-21-002861, but no further papers or documents or copies of such papers shall be filed in that action.

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Each party reserves the right to bifurcate claims for trial.

All parties appearing in the above-referenced actions agree to the stated terms as evidenced by their signatures below.

This Stipulation may be executed in counterparts and if so executed, shall have the same force and effect it would have if the parties executed a single original of this Stipulation.

IT IS SO STIPULATED:

FELAHY EMPLOYMENT LAWYERS

DATED: August 5, 2021

By Allen B. Felahy
ALLEN B. FELAHY
FARBOD NOURIAN
Attorneys for Plaintiff, THERESA LOPEZ

KLINEDINST PC

DATED: August __, 2021

By: _____
Greg A. Garbacz
Jessica R. Spinola
Attorneys for Defendant,
CENTRAL VALLEY SPECIALTY HOSPITAL,
INC.

ORDER

IT IS SO ORDERED pursuant to the Stipulation of the parties to the above entitled actions that Case No. CV-20-001778 and Case No. CV-21-002861 are consolidated for all purposes.

IT IS FURTHER ORDERED that Case No. CV-20-001778 shall be the lead case in this matter. The original of all further papers filed in the above captioned actions shall be entitled *Theresa Suzanne Lopez, et al., v. Central Valley Specialty Hospital, Inc.* and filed in Case No. CV-20-001778. A copy of this Order shall be filed in Case No. CV-21-002861, but no further papers or documents or copies of such papers shall be filed in this action.

IT IS SO ORDERED.

DATED: _____

JUDGE OF THE SUPERIOR COURT

EXHIBIT 10

CASE NAME: LOPEZ v CENTRAL VALLEY SPECIALTY, INC.

Requesting Attorney: Farbod Nourian

Plaintiff or Defense: Plaintiff

Firm Name: Felahy Employment Lawyers

Telephone: (323) 645-5197

Email: fnourian@felahylaw.com

Date: March 10, 2025

Prepared By: Dominique Fite, Esq.

50 Corporate Park, Irvine CA 92606

DFite@CPTGroup.com

Direct Number: (619) 613-1653

Main Number: (800) 542-0900

PROJECT ASSUMPTIONS & ADMINISTRATIVE COSTS

Number of Aggrieved Employees: 2,183

Language Translation Services: No

Settlement Website: No

Payment Option: Check

Undeliverable Check Rate: 6%

Check Reminder Postcard: No

Unclaimed Funds: SCO

Postage Total: \$1,504.97

Grand Total: \$24,413.19

NOT TO EXCEED: \$20,000.00

The services and numbers reflected herein are estimates based on the information provided by counsel at the time of this Bid. If the actual services and numbers are different, our cost estimate will change accordingly. Client expressly acknowledges and agrees that estimated fees and costs may fluctuate and agrees to pay for any such increases to such estimates as if set forth herein.

The attached Terms and Conditions are included as part of and incorporated by reference to our cost proposal. By accepting our cost proposal for this matter, you are thereby agreeing to the Terms and Conditions.

CASE SETUP

After receiving the data, CPT will scrub all records to eliminate duplicates and anomalies; this process is designed to achieve a higher success percentage in delivering the distribution proceeds. Each aggrieved employee will receive a unique mailing ID that will be utilized for all administrative purposes. CPT will perform an address update via NCOA and, if necessary, conduct an additional skip trace in order to ensure that mail is delivered to the most current address possible.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Manager: Case Intake & Review	\$95.00	7	\$665.00
Project Manager: Format Documents	\$95.00	1	\$95.00
Programming: Data Base Setup	\$150.00	8	\$1,200.00
National Change of Address Search (NCOA)	\$250.00	1	\$250.00
XML Lex ID Skip Trace	\$0.75	218	\$163.50
Sub Total:			\$2,373.50

AGGRIEVED EMPLOYEE SUPPORT

CPT will establish a toll-free telephone number equipped with interactive voice response (IVR) capabilities and live customer support representatives. Live support will be available during regular business hours, Monday to Friday, 9:00 AM to 5:30 PM, Pacific Time (PT). The dedicated case phone number shall be operational for a maximum of 120 days following the disbursement.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Toll-Free Number Establish/Setup	\$150.00	2	\$300.00
Live Call Center Support Reps.	\$3.00	437	\$1,311.00
Sub Total:			\$1,611.00

SSN VERIFICATION

Authenticate Social Security Number for validity using IRS verification processes and/or IRS backup withholdings processes.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: SSN Selection	\$150.00	1	\$150.00
Department Manager: Analysis & Reporting	\$95.00	3	\$285.00
IRS SSN Verification	\$0.10	2,183	\$218.30
Sub Total:			\$653.30

TAX REPORTING - YEAR 2025

CPT will establish a 26 CFR § 1.468B-1 compliant Qualified Settlement Fund (QSF). CPT prepares annual tax reporting on behalf of the QSF.

All parties will be furnished with a report.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Obtain EIN, Setup QSF/Bank Account	\$150.00	3	\$450.00
Project Supervisor: Account Reconciliation	\$150.00	8	\$1,200.00
Programming: Reports	\$150.00	2	\$300.00
Project Manager: Account Files Sent to Atty	\$95.00	2	\$190.00
QSF Annual Tax Reporting	\$500.00	1	\$500.00
Sub Total:			\$2,640.00

DISTRIBUTION SERVICES

Upon approval, CPT will perform the required payment calculations, and once approved by the parties, CPT will print a one-page notice and issue a (MICR) check to all eligible employees. CPT will also issue an IRS Form 1099 when applicable. CPT utilizes the bank's Payee Positive Pay to prevent check fraud and performs monthly account reconciliations for the QSF bank account. Undeliverable checks are skip-traced to obtain a current address and are remailed accordingly. Requests for check reissues will be processed throughout the check cashing period. CPT's administration of the QSF will continue for a maximum duration of one year following the initial distribution of funds.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: Calculation Totals	\$150.00	3	\$450.00
Project Supervisor: Review of Distribution	\$150.00	9	\$1,350.00
Project Manager: Correspondence w/Parties	\$95.00	5	\$475.00
Programming: Setup & Printing of Checks	\$150.00	4	\$600.00
Print & Mail Notice, Checks & 1099	\$2.75	2,183	\$6,003.25
First-Class Postage (up to 1 oz.)*	\$0.62	2,183	\$1,353.46
Project Supervisor: Account Reconciliation	\$150.00	12	\$1,800.00
Update Undeliverable Checks Database	\$0.50	131	\$65.49
Clerical Staff	\$60.00	1	\$60.00
Skip Trace for Best Address	\$1.00	131	\$130.98
Remail Undeliverable Checks	\$3.00	119	\$357.00
First-Class Postage (up to 1 oz.)	\$0.69	119	\$82.11
Re-Issue Checks as Required	\$5.00	88	\$440.00
First-Class Postage (up to 1 oz.)	\$0.69	88	\$60.72
Sub Total:			\$13,228.01

*Postage costs are subject to change at anytime. The final rate will be determined at the time of mailing.

TAX REPORTING & SETTLEMENT CONCLUSION - YEAR 2026/FINAL

CPT prepares annual tax reporting on behalf of the QSF and Federal and State taxes in accordance with current state and federal regulations. All parties will be furnished with weekly and final reports. A declaration attesting to due process will be provided to all parties.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Supervisor: Reconcile Uncashed Chk	\$150.00	1	\$150.00
Programming: Weekly & Final Reports	\$150.00	2	\$300.00
Project Supervisor: Final Declaration	\$150.00	2	\$300.00
Project Manager: Account Files Sent to Atty	\$95.00	2	\$190.00
CA Tax Preparation*	\$600.00	1	\$600.00
Annual Tax Reporting to IRS*	\$1,000.00	1	\$1,000.00
QSF Annual Tax Reporting	\$500.00	1	\$500.00
Sub Total:			\$3,040.00

*CPT will file Federal and California taxes in accordance with current state and federal regulations. Additional charges will apply if the Settlement/Order/parties require(s) multiple state tax filings.

SCO ESCHEATMENT PROCESSING

Escheatment Processing to the State Controller Unclaimed Property Division / Uncashed Check Rate 21%			
ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
UPEnterprise Reporting Services	\$0.15	458	\$68.70
Project Manager: Reporting & Remittance	\$95.00	2	\$190.00
Project Supervisor: Review of Report	\$150.00	1	\$150.00
Certified Mail Report to SCO	\$8.68	1	\$8.68
Add'l Account Recons	\$150.00	3	\$450.00
Sub Total:			\$867.38

Total Administration Costs: \$24,413.19

Courtesy Discount: -\$4,413.19

CPT'S DISCOUNTED FLAT FEE: \$20,000.00

TERMS AND CONDITIONS

These Terms and Conditions (“**Terms and Conditions**”) are made a part of, and incorporated by reference into, any Bid presented by CPT Group, Inc. (“**CPT**”) to Client. Each of Client and CPT is a “**Party**” to this Agreement, and collectively, the “**Parties**”.

1. Definitions.

- a) “**Affiliate**” means a party that partially (at least 50%) or fully controls, is partially or fully controlled by, or is under partial (at least 50%) or full common control with another party.
- b) “**Agreement**” means these Terms and Conditions and the Bid.
- c) “**Applicable Laws**” means all applicable local, state and federal laws, ordinances, rules and regulations.
- d) “**Approved Bank**” means any financial institution that is insured by the Federal Deposit Insurance Corporation.
- e) “**Bid**” means a proposal, statement of work, order form, and/or schedule for Services (including any and all addendums, exhibits, or amendments thereto) provided by CPT to Client.
- f) “**Case**” means the case referred to in the attached Bid and/or the particular judicial matter identified by the name of plaintiff(s) and defendant(s) on the caption of the applicable Court Order.
- g) “**Class**” means Members and putative Members collectively.
- h) “**Client**” means the party or parties engaging CPT for Services as set forth in the Bid, namely Plaintiff Counsel and/or Defense Counsel.
- i) “**Confidential Information**” means any non-public information of CPT or Client disclosed by either Party to the other Party, either directly or indirectly, in writing, orally or by inspection of tangible objects, or to which the other Party may have access, which a reasonable person would consider confidential and/or which is marked “confidential” or “proprietary” or some similar designation by the disclosing Party. Confidential Information shall also include the terms of this Agreement, except where this Agreement specifically provides for disclosure of certain items. Confidential Information shall not, however, include the existence of the Agreement or any information which the recipient can establish: (i) was or has become generally known or available or is part of the public domain without direct or indirect fault, action, or omission of the recipient; (ii) was known by the recipient prior to the time of disclosure, according to the recipient’s prior written documentation; (iii) was received by the recipient from a source other than the discloser, rightfully having possession of and the right to disclose such information; or (iv) was independently developed by the recipient, where such independent development has been documented by the recipient.
- j) “**Court Order**” means a legal command or direction issued by a court, judicial office, or applicable administrative body requiring one or more Parties To The Case to carry out a legal obligation pursuant to the Case.
- k) “**Defendant**” means the named Party and/or Parties in the Case against whom action is brought.
- l) “**Defense Counsel**” means the attorney(s) of record for the Defendant(s) in the Case.
- m) “**Intellectual Property Right**” means any patent, copyright, trade or service mark, trade dress, trade name, database right, goodwill, logo, trade secret right, or any other intellectual property right or proprietary information right, in each case whether registered or unregistered, and whether arising in any jurisdiction, including without limitation all rights of registrations, applications, and renewals thereof and causes of action for infringement or misappropriation related to any of the foregoing.
- n) “**Member**” means an individual who is eligible under the Case or Class to receive a communication about their pending legal rights under the matter and/or designated amount of the Settlement, including the named Plaintiff(s) in the Case and all other putative persons or other parties in the representative action so designated or addressed therein.
- o) “**Member Content**” means all Member written document communications relating to the Case, including claim forms, opt-out forms, and/or objections, which may contain Member Data.
- p) “**Member Data**” means proprietary or personal data regarding Members under this Agreement.
- q) “**Parties To The Case**” shall mean collectively Defendant(s) and Plaintiff(s) as defined in the Settlement Agreement or Court Order.
- r) “**Plaintiff**” means the named party and/or parties in the Case who are bringing the action.
- s) “**Plaintiff Counsel**” means the attorney(s) of record for Plaintiff(s) in the Case, and/or upon certification by the Court the attorney(s) of record designated to represent the Class.
- t) “**Products**” means any and all CPT Services and work product resulting from Services.

- u) “**Qualified Settlement Fund**” or “**QSF**” means a bank account established pursuant to U.S. Department of Treasury Regulations §1468B-1.
- v) “**Service**” means any service rendered by CPT specifically to Client, including, but not limited to: (i) notifications to Members; (ii) setting up a QSF with an Approved Bank; (iii) management of disbursement of funds from the QSF to applicable parties pursuant to the Settlement Agreement; (iv) provision of customer support relating to the Case; (v) management of Case claim forms and correspondence; and/or (vi) any administrative or consulting service.
- w) “**Settlement Agreement**” means the contract between Parties To The Case to resolve the same, which specifies amounts to be disbursed from the Qualified Settlement Fund to attorneys, CPT, and individual Members.
- x) “**Settlement Amount**” means the total dollar amount agreed to between Parties To The Case to resolve the Case to mutual satisfaction.
- y) “**Software**” means any and all of CPT’s software applications, including, without limitation, all updates, revisions, bug-fixes, upgrades, and enhancements thereto.
- z) “**Transmission Methods**” means the secure authorized manner to send Member Data and/or Wire Information as specified on a schedule or exhibit hereto.
- aa) “**Term**” means the period commencing on the date set forth on the Bid and continuing until the date of final judgment (if a settlement) or upon completion of all Services as set forth in the Bid.
- bb) “**Wire Information**” means instructions for (i) Defense Counsel to transfer funds from Defendant to the Qualified Settlement Fund or (ii) CPT to transfer funds from the Qualified Settlement Fund to applicable parties pursuant to the Settlement Agreement.

2. Client Obligations. Client will ensure that it has obtained all necessary consents and approvals for CPT to access and use Member Data for the purposes permitted under this Agreement and shall only transmit Member Data and/or Wire Information to CPT via the Transmission Methods. Client shall use and maintain appropriate administrative, technical, and physical safeguards designed to protect Member Data provided under this Agreement. Client further warrants that any Member Data, Wire Information, or other content, data, materials or information it transmits shall be free of viruses, worms, Trojan horses, or other harmful or disabling codes which could adversely affect Member Data and/or CPT. If Client is in breach of this section, CPT may suspend Services, in addition to any other rights and remedies CPT may have at law or in equity.

3. CPT Obligations. CPT will (i) maintain appropriate safeguards designed to protect Member Data, including regular back-ups, security and incident response protocols, and (ii) not access or disclose Member Data except (A) as compelled by law, (B) to prevent or address service or technical issues, (C) in accordance with this Agreement or the provisions of the Settlement Agreement, or (D) if otherwise permitted by Parties To The Case, Members, Plaintiff Counsel or Defense Counsel as applicable.

4. Security. Client and CPT shall each use reasonable administrative, technical, and physical safeguards that are reasonably designed to: (a) protect the security and confidentiality of any Member Data in its possession or control under this Agreement; (b) protect against any anticipated threats or hazards to the security or integrity of such Member Data; (c) protect against unauthorized access to or use of such Member Data that could result in substantial harm or inconvenience to any individual; and (d) protect against unauthorized access to or use of such Member Data in connection with its disposal.

a) Incident Notification. In the event a Party discovers that Member Data relating to the Case is the subject of (i) any unauthorized acquisition, loss, access or use and/or (ii) an actual or suspected breach concerning such Party’s systems (items (i) and/or (ii) a “**Security Incident**”), or a Party has a reasonable belief that a Security Incident has occurred or is at risk of occurring, such Party will promptly but no later than forty-eight (48) hours of its discovery of such circumstances, inform the other Parties in the event of such Security Incident, and shall utilize best efforts to assist the other Parties to mitigate the effects of such Security Incident.

b) b) Response Procedures. In the event of a Security Incident, the breached party shall (i) cooperate with any reasonable investigation concerning the Security Incident by the other Parties, regulators and/or law enforcement; and (ii) cooperate with the other Parties to comply with Applicable Laws concerning such Security Incident, including any notification to affected individuals. The Parties acknowledge that the breached party in any Security Incident shall be the Party responsible for

any and all remedies and costs under Applicable Laws concerning such Security Incident, unless such breach occurred due to another Party's actions hereunder, in which instance such party shall be comparatively responsible for all remedies and costs. In no event will any Party serve notice or otherwise publicize a Security Incident without the prior written consent of the other Parties. The Parties shall reasonably cooperate and coordinate with each other to respond to the Security Incident, including with regard to the content of notification to affected individuals.

6. **Qualified Settlement Fund Account.** When the Case has a Settlement Amount CPT shall be authorized to establish one or more QSF bank accounts at an Approved Bank if and as applicable to the Services as set forth in the Bid. The amounts held at the Approved Bank under this Agreement are at the sole risk of Defendant. Without limiting the generality of the foregoing, CPT shall have no responsibility or liability for any diminution of the funds that may result from the deposit thereof at the Approved Bank, including deposit losses, credit losses, or other claims made against the Approved Bank. It is acknowledged and agreed that CPT has acted reasonably and prudently in depositing funds at an Approved Bank, and CPT is not required to conduct diligence or make any further inquiries regarding such Approved Bank.
7. **Fees and Payment.** Pricing for Services is as stated on the Bid, and Client agrees to pay CPT in the amounts set forth on the Bid. Client will be invoiced per the schedule set forth in the Bid, and payment of fees will be due within 30 days after the date of the invoice, except where the Bid or terms of the Settlement Agreement or Court Order expressly prescribes other payment dates. All fees set forth in a Bid are in U.S. dollars, must be paid in U.S. dollars, and are exclusive of taxes and applicable transaction processing fees. Late payments hereunder will incur a late charge of 1.5% per month (or the highest rate allowable by law, whichever is lower) on the outstanding balance from the date due until the date of actual payment, which such late charge(s) may be charged against the QSF account if incurred in connection with Services provided pursuant to administration of a settlement. In addition, Services are subject to suspension for failure to timely remit payment therefor. If travel is required to effect Services, Client shall reimburse CPT for pre-approved, reasonable expenses arising from and/or relating to such travel, including, but not limited to, airfare, lodging, meals, and ground transportation. In connection with CPT's administration of a QSF, unless otherwise stated in the Settlement Agreement or Court Order concerning disbursement of unclaimed funds in the QSF account, CPT reserves the right, after one (1) year of issuance of disbursements to Members, to classify any remaining balance in such QSF account as additional administrative fees payable to CPT until such time as the QSF account balance becomes zero (\$0.00), and thereafter close such account.
8. **Term and Termination.**
 - a) **Term.** The Term is set forth in the Bid. The Agreement may be renewed by mutual written agreement of the parties.
 - b) **Termination for Cause.** Either Party may immediately terminate this Agreement if the other Party materially breaches its obligations hereunder, and, where capable of remedy, such breach has not been materially cured within forty-five (45) days of the breaching Party's receipt of written notice describing the breach in reasonable detail.
 - c) **Bankruptcy Events.** A Party may immediately terminate this Agreement if the other Party: (i) has a receiver appointed over it or over any part of its undertakings or assets; (ii) passes a resolution for winding up (other than for a bona fide scheme of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect and such order is not discharged or stayed within ninety (90) days; or (iii) makes a general assignment for the benefit of its creditors.
 - d) **Effect of Termination.** Immediately following termination of this Agreement, upon written request, Member Data may be retrieved via the secure FTP site in the same format in which the Member Data was originally inputted into the Software, at no additional charge. Alternatively, Member Data can be returned in a mutually agreed format at a scope and price to be agreed upon. CPT will maintain a copy of Member Data and Member Content for no more than four (4) years following the date of the final check cashing deadline for Members under the Settlement Agreement, after which time any Member Data and Member Content not retrieved will be destroyed.
 - e) **Final Payment.** If Client terminates this Agreement due to Section "Termination", Client shall pay CPT all fees owed through the termination date. If CPT terminates the Agreement in accordance with Section "Termination," Client shall pay CPT all fees invoiced through the termination date, plus all fees remaining to be invoiced during the Term, less any costs CPT would have incurred had the Agreement not been terminated.
9. **Confidentiality.** Each Party agrees: (i) not to disclose any Confidential Information to any third parties except as mandated by law and except to those subcontractors of CPT providing Products hereunder who agree to be bound by confidentiality obligations no less stringent than those set forth in this Agreement; (ii) not to use any Confidential Information for any purposes except carrying out such Party's rights and responsibilities under this Agreement; and (iii) to keep the Confidential Information confidential using the same degree of care such Party uses to protect its own confidential information; provided, however, that such Party shall use at least reasonable care. These obligations shall survive termination of this Agreement.
 - a) **Compelled Disclosure.** If receiving Party is compelled to disclose any Confidential Information by judicial or administrative process or by other requirements of law, such Party shall (i) promptly notify the other Party, (ii) reasonably cooperate with the other Party in such Party's efforts to prevent or limit such compelled disclosure and/or obtain confidential treatment of the items requested to be disclosed, and (iii) shall disclose only that portion of such information which each Party is advised by its counsel in writing is legally required to be disclosed.
 - b) **Remedies.** If either Party breaches any of its obligations with respect to confidentiality or the unauthorized use of Confidential Information hereunder, the other Party shall be entitled to seek equitable relief to protect its interest therein, including but not limited to, injunctive relief, as well as money damages.
10. **Intellectual Property.** CPT retains all right, title and interest (including, without limitation, all Intellectual Property Rights) in and to the Products. CPT does not claim any ownership rights to Member Data.
11. **Indemnification.** Client agrees to indemnify, defend, and hold harmless CPT, its Affiliates, and the respective officer, directors, consultants, employees, and agents of each (collectively, "**Covered CPT Parties**") from and against any and all third party claims and causes of action, as well as related losses, liabilities, judgments, awards, settlements, damages, expenses and costs (including reasonable attorney's fees and related court costs and expenses) (collectively, "**Damages**") incurred or suffered by CPT which directly relate to or directly arise out of (i) Client's breach of this Agreement; (ii) CPT's performance of Services hereunder; (iii) the processing and/or handling of any payment by CPT; (iv) any content, instructions, information or Member Data provided by Client to CPT in connection with the Services provided by CPT hereunder. The foregoing provisions of this section shall not apply to the extent the Damages relate to or arise out of CPT's willful misconduct. To obtain indemnification, indemnitee shall: (i) give written notice of any claim promptly to indemnitor; (ii) give indemnitor, at indemnitor's option, sole control of the defense and settlement of such claim, provided that indemnitor may not, without the prior consent of indemnitee (not to be unreasonably withheld), settle any claim unless it unconditionally releases indemnitee of all liability; (iii) provide to indemnitor all available information and assistance; and (iv) not take any action that might compromise or settle such claim.
12. **Warranties.** Each Party represents and warrants to the other Party that, as of the date hereof: (i) it has full power and authority to execute and deliver the Agreement; (ii) the Agreement has been duly authorized and executed by an appropriate employee of such Party; (iii) the Agreement is a legally valid and binding obligation of such Party; and (iv) its execution, delivery and/or performance of the Agreement does not conflict with any agreement, understanding or document to which it is a party. CPT WARRANTS THAT ANY AND ALL SERVICES PROVIDED BY IT HEREUNDER SHALL BE PERFORMED IN A PROFESSIONAL MANNER CONSISTENT WITH PREVAILING INDUSTRY STANDARDS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, CPT DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE
13. **Liability.**
 - a) **Liability Cap.** EXCEPT FOR A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, WILL BE LIMITED TO THE TOTAL FEES PAID OR PAYABLE BY CLIENT AND/OR THE PARTIES TO THE CASE TO CPT HEREUNDER. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT EXPAND SUCH LIMIT. THE PARTIES ACKNOWLEDGE THAT THE FEES AGREED UPON BETWEEN CLIENT AND CPT ARE BASED IN PART ON THESE LIMITATIONS, AND THAT THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ANY ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE FOREGOING LIMITATION SHALL NOT APPLY TO A PARTY'S PAYMENT OBLIGATIONS UNDER THE AGREEMENT.
 - b) **Exclusion of Consequential Damages.** NEITHER PARTY WILL BE LIABLE FOR LOST PROFITS, LOST REVENUE, LOST BUSINESS OPPORTUNITIES, LOSS OF DATA, INTERRUPTION OF BUSINESS, OR ANY OTHER INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
14. **Communications.** CPT may list Client's name and logo alongside CPT's other clients on the CPT website and in marketing materials, unless and until Client revokes such permission. CPT may also list the Case name and/or number, and

certain Qualified Settlement Fund information, on the CPT website and in marketing materials, unless stated otherwise in the Settlement Agreement.

15. Miscellaneous Provisions.

- a) Governing Law; Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of California and the federal laws of the United States of America, without regard to conflict of law principles. CPT and Client agree that any suit, action or proceeding arising out of, or with respect to, this Agreement or any judgment entered by any court in respect thereof shall be brought exclusively in the state or federal courts of the State of California located in the County of Orange, and each of CPT and Client hereby irrevocably accepts the exclusive personal jurisdiction and venue of those courts for the purpose of any suit, action or proceeding.
- b) Force Majeure. Neither Party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including without limitation acts of war, acts of God, earthquake, flood, weather conditions, embargo, riot, epidemic, acts of terrorism, acts or omissions of vendors or suppliers, equipment failures, sabotage, labor shortage or dispute, governmental act, failure of the Internet or other acts beyond such Party's reasonable control, provided that the delayed Party: (i) gives the other Party prompt notice of such cause; and (ii) uses reasonable commercial efforts to correct promptly such failure or delay in performance.
- c) Counterparts. This Agreement may be executed in any number of counterparts and electronically, each of which shall be an original but all of which together shall constitute one and the same instrument.
- d) Entire Agreement. This Agreement contains the entire understanding of the parties in respect of its subject matter and supersedes all prior agreements and understandings (oral or written) between the Parties with respect to such subject matter. The schedules and exhibits hereto constitute a part hereof as though set forth in full herein.
- e) Modifications. Any modification, amendment, or addendum to this Agreement must be in writing and signed by the Parties.
- f) Assignment. Neither Party may assign this Agreement or any of its rights, obligations, or benefits hereunder, by operation of law or otherwise, without the other Party's prior written consent; provided, however, either Party, without the consent of the other Party, may assign this Agreement to an Affiliate or to a successor (whether direct or indirect, by operation of law, and/or by way of purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of such Party, where the responsibilities or obligations of the other Party are not increased by such assignment and the rights and remedies available to the other Party are not adversely affected by such assignment. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and be enforceable against the parties and their respective successors and permitted assigns.
- g) No Third-Party Beneficiaries. The representations, warranties, and other terms contained herein are for the sole benefit of the Parties hereto and their respective successors and permitted assigns and shall not be construed as conferring any rights on any other persons.
- h) Statistical Data. Without limiting the confidentiality rights and Intellectual Property Rights protections set forth in this Agreement, CPT has the perpetual right to use aggregated, anonymized, and statistical data ("**Statistical Data**") derived from the operation of the Software. and

nothing herein shall be construed as prohibiting CPT from utilizing the Statistical Data for business and/or operating purposes, provided that CPT does not share with any third-party Statistical Data which reveals the identity of Client, Client's Class Members, or Client's Confidential Information.

- i) Export Controls. Client understands that the use of CPT's Products is subject to U.S. export controls and trade and economic sanctions laws and agrees to comply with all such Applicable Laws, including the Export Administration Regulations maintained by the U.S. Department of Commerce and the trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control.
- j) Severability. If any provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be contrary to law, such provision shall be changed by the court or by the arbitrator and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions of this Agreement shall remain in full force and effect.
- k) Notices. Any notice or communication required or permitted to be given hereunder may be delivered by hand, deposited with an overnight courier, sent by electronic delivery, or mailed by registered or certified mail, return receipt requested and postage prepaid to the address for the other Party as set forth on the Bid or at such other address as may hereafter be furnished in writing by either Party hereto to the other Party. Such notice will be deemed to have been given as of the date it is delivered, if by personal delivery; the next business day, if deposited with an overnight courier; upon receipt of confirmation of electronic delivery (if followed up by such registered or certified mail); and five days after being so mailed.
- l) Independent Contractors. Client and CPT are independent contractors, and nothing in this Agreement shall create any partnership, joint venture, agency, franchise, sales representative or employment relationship between Client and CPT. Each Party understands that it does not have authority to make or accept any offers or make any representations on behalf of the other. Neither Party may make any statement that would contradict anything in this section.
- m) Subcontractors. CPT may use subcontractors to perform Client-specific Services; provided however, that CPT shall be responsible for its subcontractors' performance of Services under this Agreement.
- n) Headings. The headings of the sections of this Agreement are for convenience only, do not form a part hereof, and in no way limit, define, describe, modify, interpret, or construe its meaning, scope or intent.
- o) Waiver. No failure or delay on the part of either Party in exercising any right, power or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise or the exercise of any other right, power, or remedy.
- p) Acceptance. If, when requested in writing by Client, CPT then provides any Service to Client, whether or not such Services were specified in the original Bid, these Terms and Conditions shall apply to the provision of such Services and be deemed accepted and approved by Client concerning such Services.
- q) Survival. Sections of the Agreement intended by their nature and content to survive termination of the Agreement shall so survive.