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FILED
Superior Court of California
County of Riverside

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C. Mundo

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF RIVERSIDE**

10 MINDY WILSON, as an individual and on
11 behalf of all others similarly situated,

12 Plaintiffs,

13 v.

14 DOCTORS HOSPITAL OF RIVERSIDE
15 LLC, a Limited Liability Company;
16 PARKVIEW COMMUNITY HOSPITAL
MEDICAL CENTER, A Nonprofit Public
Benefit Corporation; and DOES 1 through
50, inclusive,

17 Defendants.

CASE NO. RIC2001079

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

**(1) VIOLATION OF CAL. LABOR CODE §
226(a);**

**(2) VIOLATION OF CAL. LABOR CODE §
201-203; AND**

**(3) VIOLATION OF LABOR CODE § 2698,
ET SEQ.**

DEMAND EXCEEDS \$25,000.00

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1 Plaintiff MINDY WILSON (“Plaintiff”) hereby submits this First Amended Class Action
2 Complaint (“Complaint”) against Defendant DOCTORS HOSPITAL OF RIVERSIDE LLC, a
3 Limited Liability Company (“DOCTORS HOSPITAL”), PARKVIEW COMMUNITY
4 HOSPITAL MEDICAL CENTER, A Nonprofit Public Benefit Corporation (“PARKVIEW”), and
5 DOES 1-50 (hereinafter collectively referred to as “Defendants”), individually and on behalf of a
6 Class of all other similarly situated current and former employees of Defendants for penalties
7 and/or damages for violations of the California Labor Code, including without limitation, failure
8 to provide employees with accurate itemized wage statements and pay employees their sick pay at
9 their regular rate of pay, as follows:

10 **INTRODUCTION**

11 1. This class action is within the Court’s jurisdiction under California Labor Code §§
12 201-203, and 226 and the California Industrial Welfare Commission’s (“IWC”) Wage Orders.

13 2. This Complaint challenges systemic illegal employment practices resulting in
14 violations of the California Labor Code against employees of Defendants.

15 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants jointly
16 and severally have acted knowingly and intentionally by failing to provide accurate itemized wage
17 statements identifying all required information, including without limitation, the correct overtime
18 rate, and paying overtime at the correct rate of pay.

19 **JURISDICTION AND VENUE**

20 4. The Court has jurisdiction over the violations of the California Labor Code §§ 201-
21 203, and 226.

22 5. Venue is proper in Riverside County because Defendants maintain business
23 locations in this County and Plaintiff worked at Defendants’ hospital located in this County.

24 **PARTIES**

25 6. On or about January 8, 2017, Plaintiff began working for Defendants as a Certified
26 Nurse Assistant (CNA) at Defendants’ hospital located in Riverside, California. Plaintiff was
27 terminated on February 3, 2020. During her employment, Plaintiff was paid various non-
28 discretionary incentive wages, including, but not limited to, shift differential wages. Plaintiff was

1 also paid wages for sick time.

2 7. Defendants provide medical services in Riverside, California.

3 8. Plaintiff was and is a victim of the policies, practices, and customs of Defendants
4 complained of in this action in ways that have deprived Plaintiff of the rights guaranteed by
5 California Labor Code §§ 201-203 and 226.

6 9. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
7 mentioned Defendants and DOES 1 through 50 are and were business entities, individuals, and
8 partnerships, licensed to do business and actually doing business in the State of California.

9 10. As such, and based upon all the facts and circumstances incident to Defendants'
10 business in California, Defendants are subject to California Labor Code §§ 201-203, and 226.

11 11. Plaintiff does not know the true names or capacities, whether individual, partner or
12 corporate, of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason, said
13 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
14 complaint when the true names and capacities are known. Plaintiff is informed and believes, and
15 based thereon alleges, that each of said fictitious Defendants was responsible in some way for the
16 matters alleged herein and proximately caused Plaintiff and members of the general public and
17 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

18 12. At all times herein mentioned, each of said Defendants participated in the doing of
19 the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
20 Defendants, and each of them, were the agents, servants and employees of each of the other
21 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
22 within the course and scope of said agency and employment.

23 13. Plaintiff is informed and believes, and based thereon alleges, that at all times
24 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
25 joint venturer of, or working in concert with each of the other co- Defendants and was acting
26 within the course and scope of such agency, employment, joint venture, or concerted activity. To
27 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
28 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
Defendants.

1 14. At all times herein mentioned, Defendants, and each of them, were members of, and
2 engaged in, a joint venture, partnership and common enterprise, and acting within the course and
3 scope of, and in pursuance of, said joint venture, partnership and common enterprise.

4 15. At all times herein mentioned, the acts and omissions of various Defendants, and
5 each of them, concurred and contributed to the various acts and omissions of each and all of the
6 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
7 herein mentioned, Defendants, and each of them, ratified each and every act or omission
8 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided and
9 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
10 damages as herein alleged.

11 **CLASS ACTION ALLEGATIONS**

12 16. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
13 California Code of Civil Procedure § 382, of the following class:

- 14 a. All current and former non-exempt California employees who were paid
15 shift differential wages from Defendant at any time during the period of
16 time from March 6, 2019, through the present (the “Wage Statement
17 Class”).
- 18 b. All non-exempt California employees who were paid non-discretionary
19 incentive wages including, but not limited to, shift differential wages and
20 sick pay from Defendant and whose employment ended, either voluntarily
21 or involuntarily, at any time during the period of time from March 6, 2017,
22 through the present (the “Sick Pay Class”).

23 17. **Numerosity and Ascertainability:** The members of the Class are so numerous
24 that joinder of all members would be impractical, if not impossible. The identity of the members
25 of the Class is readily ascertainable by review of the Defendants records, including payroll records.
26 Plaintiff is informed and believes, and based thereon alleges, that the Defendants failed to provide
27 accurate itemized wage statements to employees in violation of Labor Code § 226 and pay
28 employees their sick pay at their regular rate of pay in violation of Labor Code §§ 201-203.

 18. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all

1 necessary steps to represent fairly and adequately the interests of the class defined above.

2 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the class and the
3 named Plaintiffs. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in
4 the past and currently have a number of wage-and-hour class actions pending in California courts.

5 19. Defendants uniformly administered a corporate policy, practice of failing to provide
6 accurate itemized wage statements to employees in violation of Labor Code §226 and pay
7 employees their sick pay at their regular rate of pay in violation of Labor Code §§ 201-203.

8 20. **Common Question of Law and Fact:** There are predominant common questions
9 of law and fact and a community of interest amongst Plaintiffs and the claims of the Class
10 concerning the Defendants failure to provide accurate itemized wage statements to employees in
11 violation of Labor Code § 226 and pay employees their sick pay at their regular rate of pay in
12 violation of Labor Code §§ 201-203.

13 21. **Typicality:** The claims of the named Plaintiff are typical of the claims of all
14 members of the Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar
15 and typical manner as the Class members. Plaintiff was not provided proper and accurate payroll
16 records identifying all information required by Labor Code § 226(a). Specifically, Defendants
17 violated Labor Code § 226(a)(2) by, among other actions, failing to list the total hours worked.
18 Specifically, whenever shift differential wages were paid, the wage statements issued by the
19 Company did not identify the accurate total hours worked. Similarly, when the hours shown on the
20 wage statements are added up, they do not appear to add up to the actual total hours worked.
21 Further, Defendants violated Labor Code §§ 201-203 by failing to pay sick pay at the regular rate
22 of pay. Specifically, Plaintiff and all members of the class routinely earned non-discretionary
23 incentive wages such as shift differential wages and thus increased their rates of pay. However,
24 when sick pay was paid, it was paid at the Plaintiff and Class Members' base rate of pay rather
25 than the regular rate of pay. Thus, Plaintiff is a member of the Class and has suffered the alleged
26 violations of California Labor Code §§ 201-203, and 226.

27 22. The California Labor Code and upon which Plaintiff bases these claims is broadly
28 remedial in nature. These laws and labor standards serve an important public interest in
establishing minimum working conditions and standards in California. These laws and labor

standards protect the average working employee from exploitation by employers who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment.

23. The nature of this action and the format of laws available to Plaintiff and members of the Class identified herein make the class action format a particularly efficient and appropriate procedure to redress the wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate Defendant would necessarily gain an unconscionable advantage since it would be able to exploit and overwhelm the limited resources of the individual Plaintiff with Defendants' vastly superior financial and legal resources. Requiring each Class member to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damage to their careers at subsequent employment.

24. The prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual Class members against the Defendants and which would establish potentially incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to individual Class members which would, as a practical matter, be dispositive of the interest of the other Class members not parties to the adjudications or which would substantially impair or impede the ability of the Class members to protect their interests. Further, the claims of the individual members of the Class are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

25. Such a pattern, practice and uniform administration of corporate policy regarding illegal employee compensation described herein is unlawful and creates an entitlement to recovery by Plaintiffs and the Class identified herein, in a civil action any and all applicable penalties and/or damages, reasonable attorneys' fees, and costs of suit according to the mandate of California Labor Code §§ 218.5, 226 and 1194 and Code of Civil Procedure § 1021.5.

26. Proof of a common business practice or factual pattern, which the named Plaintiffs experienced and are representative of, will establish the right of each of the members of the Class to recovery on the causes of action alleged herein.

27. The Class is commonly entitled to a specific fund with respect to the compensation illegally and unfairly retained by the Defendants. The Class is commonly entitled to restitution of those funds being improperly withheld by the Defendants. This action is brought for the benefit of the entire class and will result in the creation of a common fund.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE § 226(a)

**(AGAINST THE DEFENDANTS AND DOES 1-50 BY PLAINTIFF AND THE WAGE
STATEMENT CLASS)**

28. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 27 as though fully set for herein.

29. The Defendants failed in its affirmative obligation to provide accurate itemized wage statements in violation of Labor Code § 226(a). Specifically, the Defendants violated Labor Code § 226(a)(2) by, among other actions, failing to list the accurate total hours worked for wage statements furnished to Plaintiff and Class Members whenever shift differential wages were paid.

30. In particular, whenever shift differential wages were paid, the wage statements issued by the Defendants did not identify the accurate total hours worked. Similarly, when the hours shown on the wage statements are added up, they do not appear to add up to the actual total hours worked. Plaintiff is informed and believes, and based thereon alleges, that that the Defendants' violation of Section 226(a) is class-wide.

31. Such a pattern, practice and uniform administration of corporate policy as described herein is unlawful and creates an entitlement to recovery by Plaintiffs and the Class identified herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226, including interest thereon, attorneys' fees, and costs of suit according to the mandate of California Labor Code § 226.

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1 38. Plaintiff brings this cause of action as a proxy for the State of California and in this
2 capacity, seeks penalties on behalf of all Aggrieved Employees for Defendants' violations of
3 Labor Code §§201-203, 226 and 246 from March 4, 2019, through the present.

4 39. Plaintiff alleges that Defendants failed to list the accurate total hours worked for
5 wage statements furnished to Plaintiff and/or other similarly aggrieved non-exempt employees
6 whenever shift differential wages were paid. In particular, whenever shift differential wages were
7 paid, the wage statements issued by the Defendants did not identify the accurate total hours
8 worked. Similarly, when the hours shown on the wage statements are added up, they do not
9 appear to add up to the actual total hours worked. Therefore, Defendants violated Labor Code §
10 226 as to Plaintiff and all other similarly aggrieved employees as it failed to identify the correct
11 total hours worked.

12 40. Plaintiff further alleges that Defendants violated Labor Code §§ 201-203 and 246
13 by failing to pay sick pay at the regular rate of pay. Plaintiff and other employees routinely earned
14 non-discretionary incentive wages such as shift differential wages and thus increasing their
15 regular rate of pay. However, when sick pay was paid, it was paid at our base rate of pay rather
16 than the regular rate of pay.

17 41. On or about March 4, 2020, Plaintiff sent written notice to the California Labor &
18 Workforce Development Agency ("LWDA") of Defendants' violations of Labor Code §§201-
19 203, 226 and 246, pursuant to Labor Code § 2698, *et seq.*, the Private Attorney General Act
20 ("PAGA").

21 42. As of the date of this filing, the LWDA has not provided written notice regarding
22 whether it intends to investigate the Labor Code violations set forth in Plaintiff's written notice
23 and thus allowing Plaintiff to proceed under PAGA against Defendants for said violations.
24 Therefore, Plaintiff may seek any and all applicable penalties under PAGA.

25 43. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
26 applicable civil penalties for Defendants' violation of Labor Code §§201-203, 226 and 246, for
27 the time periods described above, as a proxy for the State of California and on behalf of other
28 Aggrieved Employees.

1
2 **PRAYER FOR RELIEF**

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

- 5 1. For an order certifying the proposed Class;
6 2. For an order appointing Plaintiff as the representative of the Class as described
7 herein;
8 3. For an order appointing counsel for Plaintiff as Class counsel;
9 4. Upon the First Cause of Action, for damages and/or penalties pursuant to California
10 Labor Code § 226, and for costs and attorneys' fees;
11 5. Upon the Second Cause of Action, for unpaid wages and/or penalties pursuant to
12 California Labor Code §§ 201-203, and for costs and attorneys' fees pursuant to Labor Code §§
13 218.5 and 1194;
14 6. Upon the Third Cause of Action, for penalties pursuant to Labor Code §§ 226.3 and
15 2699, and for costs and attorneys' fees;
16 7. On all causes of action, for attorneys' fees and costs as provided by California
17 Labor Code §§218.5, 226 and 1194 and Code of Civil Procedure § 1021.5; and
18 8. For such other and further relief as the Court may deem just and proper.

19 DATED: April 30, 2020

LAW OFFICES OF CHOI & ASSOCIATES

20 By: 
21 Edward W. Choi

22 Attorneys for PLAINTIFF and the CLASS
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24
25
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27
28

PROOF OF SERVICE

I am employed in the County of Los Angeles; I am over the age of 18 years and not a party to the within action; my business address is 515 S. Figueroa St. Suite 1250, Los Angeles, California 90071.

On April 30, 2020, I served the foregoing document(s) described as: **FIRST AMENDED CLASS ACTION COMPLAINT** on the interested parties in this action by placing a true copy thereof, in a sealed envelope(s) addressed as follows:

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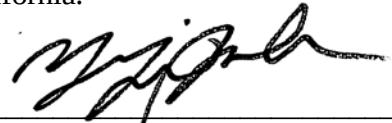
 X **BY ELECTRONIC MAIL**

I caused a true and complete copy of the document(s) described above to be to be served on the offices and person(s) set forth above via electronic mail.

 x **(State)** I declare under penalty of perjury that the foregoing is true and correct.

 (Federal) I declare under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on April 30, 2020, at Los Angeles, California.



Michelle Lee