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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUN 26 2020

BY Leanne M. Landeros
LEANNE M. LANDEROS, DEPUTY

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SAN BERNARDINO
11

12 JULIE FILAMORE-ANGEL, as an
aggrieved employee pursuant to the Private
13 Attorneys General Act ("PAGA"), on
behalf of the State of California and other
14 aggrieved employees,

15 Plaintiff,

16 vs.

17 VICTOR VALLEY HOSPITAL
ACQUISITION, INC., a California
18 corporation; KPC HEALTHCARE, INC., a
Nevada corporation; and DOES 1 through
19 10, inclusive,

20 Defendants.
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Case No.: **CIV DS 2014298**
COMPLAINT – PAGA ENFORCEMENT
ACTION

(1) Claim for Civil Penalties for Violations
of California Labor Code, Pursuant to
PAGA, §§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiff Julie Filamore-Angel, as an aggrieved employee and on behalf of the State of
2 California and all other aggrieved employees, alleges as follows:

3 JURISDICTION AND VENUE

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698 *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants in California as a non-exempt, hourly paid
8 employee and received at least one wage statement and against whom one or more violations
9 of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating
10 hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage
11 Order were committed, as set forth in this complaint, at any time between one year prior to the
12 filing of the pre-filing written notice to the Labor and Workforce Development Agency
13 (“LWDA”) in this case on April 8, 2020, until judgment (“non-party Aggrieved Employees”).
14 Plaintiff’s share of civil penalties sought in this action does not exceed \$75,000.

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

18 3. This Court has jurisdiction over all Defendants because, on information and
19 belief, Defendants are either citizens of California, have sufficient minimum contacts in
20 California, or otherwise intentionally avail themselves of the California market so as to render
21 the exercise of jurisdiction over them by the California courts consistent with traditional
22 notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction
23 in this action given that the State of California, as the real party in interest in this action, is not
24 a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*,
25 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be
26 aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction
27 in this action, and that diversity jurisdiction cannot be established when Plaintiff’s share of the
28 civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

4. Venue is proper in this Court, because Defendants employ persons in this county, and employed Plaintiff in this county, and thus a substantial portion of the transactions and occurrences related to this action occurred in this county.

5. California Labor Code sections 2698, *et seq.*, the “Labor Code Private Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys general their current or former employers for various civil penalties for violations of various provisions in the California Labor Code.

THE PARTIES

6. Plaintiff Julie Filamore-Angel is a resident of Apple Valley, in San Bernardino County, California. Defendants employed Plaintiff as an hourly paid, non-exempt Registered Nurse from approximately February 2019 to March 20, 2020, at their location in Victorville, California. Plaintiff typically worked eight (8) to twelve (12) hours or more per day, up to four (4) days per week. Plaintiff's primary job duties included, without limitation, receiving patients from ambulances, administering medication, charting vitals, and assisting patients.

7. On information and belief, Defendants required some employees, including Plaintiff, to execute a dispute resolution policy and/or arbitration agreement at the time of their hire or during their employment. On further information and belief, Defendants' dispute resolution policy and/or arbitration agreement was and is both procedurally and substantively unconscionable. Specifically, Defendants presented new hires with an Employment-At-Will and Arbitration Agreement ("Arbitration Agreement") during the onboarding process, which had to be reviewed and signed immediately. In fact, upon information and belief, the Arbitration Agreement was one of several documents presented to new employees for signature during the orientation process, including Request For Non-Participation In Patient Care, New Employee Information Sheet, Confidentiality Agreement, Software Code Of Ethics Employee Agreement, Agreement For Twelve Hour Shift, and Meal Period Waiver Agreement For Non-Healthcare Employees, among other documents. Also, employees did not have a meaningful opportunity to negotiate the terms of the Arbitration Agreement. Rather, it was provided to Defendants' employees for them to sign on a take-it or leave-it

1 basis at the time they were hired, along with other on-boarding documents. Further,
2 Defendants did not set forth in the agreement or otherwise provide employees with the rules
3 which will govern the arbitration, instead forcing employees to seek this information out on
4 their own.

5 8. VICTOR VALLEY HOSPITAL ACQUISITION, INC. was and is, upon
6 information and belief, a California corporation, and at all times hereinafter mentioned, an
7 employer whose employees are engaged throughout this county, the State of California, or the
8 various states of the United States of America.

9 9. KPC HEALTHCARE, INC. was and is, upon information and belief, a Nevada
10 corporation, and at all times hereinafter mentioned, an employer whose employees are
11 engaged throughout this county, the State of California, or the various states of the United
12 States of America.

13 10. Plaintiff is unaware of the true names or capacities of the Defendants sued
14 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
15 amend the complaint and serve such fictitiously named Defendants once their names and
16 capacities become known.

17 11. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
18 were the partners, agents, owners, or managers of VICTOR VALLEY HOSPITAL
19 ACQUISITION, INC. and KPC HEALTHCARE, INC. at all relevant times.

20 12. Plaintiff is informed and believes, and thereon alleges, that each and all of the
21 acts and omissions alleged herein was performed by, or is attributable to, VICTOR VALLEY
22 HOSPITAL ACQUISITION, INC.; KPC HEALTHCARE, INC.; and/or DOES 1 through 10
23 (collectively, “Defendants” or “KPC”), each acting as the agent, employee, alter ego, and/or
24 joint venturer of, or working in concert with, each of the other co-Defendants and was acting
25 within the course and scope of such agency, employment, joint venture, or concerted activity
26 with legal authority to act on the others’ behalf. The acts of any and all Defendants were in
27 accordance with, and represent, the official policy of Defendants.

28 13. At all relevant times, Defendants, and each of them, ratified each and every act

1 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
2 and abetted the acts and omissions of each and all the other Defendants in proximately causing
3 the damages herein alleged.

4 14. Plaintiff is informed and believes, and thereon alleges, that each of said
5 Defendants are in some manner intentionally, negligently, or otherwise responsible for the
6 acts, omissions, occurrences, and transactions alleged herein.

7 15. Under California law, Defendants are jointly and severally liable as employers
8 for the violations alleged herein because they have each exercised sufficient control over the
9 wages, hours, working conditions, and employment status of Plaintiff and other non-party
10 Aggrieved Employees. Each Defendant had the power to hire and fire Plaintiff and other non-
11 party Aggrieved Employees, supervised and controlled their work schedule and/or conditions
12 of employment, determined their rate of pay, and maintained their employment records.
13 Defendants suffered or permitted Plaintiff and other non-party Aggrieved Employees to work
14 and/or “engaged” Plaintiff and other non-party Aggrieved Employees so as to create a
15 common-law employment relationship. As joint employers of Plaintiff and other non-party
16 Aggrieved Employees, Defendants are jointly and severally liable for the civil penalties
17 available to Plaintiff and other non-party Aggrieved Employees under the law.

18 16. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
19 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other
20 non-party Aggrieved Employees because Defendants have:

- 21 (a) jointly exercised meaningful control over the work performed by
22 Plaintiff and other non-party Aggrieved Employees;
- 23 (b) jointly exercised meaningful control over Plaintiff’s and other non-party
24 Aggrieved Employees’ wages, hours, and working conditions, including
25 the quantity, quality standards, speed, scheduling, and operative details
26 of the tasks performed by Plaintiff and other non-party Aggrieved
27 Employees;
- 28 (c) jointly required that Plaintiff and other non-party Aggrieved Employees

1 perform work which is an integral part of Defendants' businesses; and
2 (d) jointly exercised control over Plaintiff and other non-party Aggrieved
3 Employees as a matter of economic reality in that Plaintiff and other
4 non-party Aggrieved Employees were dependent on Defendants, who
5 shared the power to set the wages of Plaintiff and other non-party
6 Aggrieved Employees and determined their working conditions, and
7 who jointly reaped the benefits from the underpayment of their wages
8 and noncompliance with other statutory provisions governing their
9 employment.

10 17. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
11 there has existed a unity of interest and ownership between Defendants such that any
12 individuality and separateness between the entities has ceased.

13 18. VICTOR VALLEY HOSPITAL ACQUISITION, INC.; KPC HEALTHCARE,
14 INC.; and DOES 1 through 10 are therefore alter egos of each other.

15 19. Adherence to the fiction of the separate existence of Defendants would permit
16 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
17 from liability for the wrongful acts committed by them under the name KPC.

18 20. Plaintiff further alleges, upon information and belief, that Defendants VICTOR
19 VALLEY HOSPITAL ACQUISITION, INC. and KPC HEALTHCARE, INC. are alter egos
20 of each other for the following reasons:

21 (a) According to their most recent "Statement of Information" forms filed
22 with the California Secretary of State, VICTOR VALLEY HOSPITAL
23 ACQUISITION, INC. and KPC HEALTHCARE, INC. share the same
24 officers and directors, including William E. Thomas, who serves as
25 Secretary for VICTOR VALLEY HOSPITAL ACQUISITION, INC.
26 and KPC HEALTHCARE, INC.; and John Collins, who serves as Chief
27 Financial Officer for VICTOR VALLEY HOSPITAL ACQUISITION,
28 INC. and KPC HEALTHCARE, INC.;

(b) VICTOR VALLEY HOSPITAL ACQUISITION, INC. and KPC HEALTHCARE, INC. share the same agent for service of process, CORPORATION SERVICE COMPANY WHICH WILL DO BUSINESS IN CALIFORNIA AS CSC - LAWYERS INCORPORATING SERVICE; and

(c) On information and belief, VICTOR VALLEY HOSPITAL ACQUISITION, INC. and KPC HEALTHCARE, INC. utilize the same standardized employment forms and issue the same employment policies.

PAGA REPRESENTATIVE ALLEGATIONS

21. Defendants are a regional provider of acute care medical centers, operating seven (7) hospitals across southern California. Upon information and belief, Defendants maintain a single, centralized Human Resources (“HR”) department at their corporate headquarters in Victorville and/or Santa Ana, California, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants’ company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

22. In particular, Plaintiff and other non-party Aggrieved Employees, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees’ assigned locations or positions. Upon information and belief, Defendants set forth uniform policies and procedures in several documents provided at an employee’s time of hire.

23. Upon information and belief, Defendants maintain a centralized Payroll department at their corporate headquarters in Victorville, Santa Ana, or Corona, California, which processes payroll for all non-exempt, hourly paid employees working for Defendants at their various locations and jobsites in California, including Plaintiff and other non-party

1 Aggrieved Employees. Based upon information and belief, Defendants issue the same
2 formatted wage statements to all non-exempt, hourly paid employees in California,
3 irrespective of their work locations. Upon information and belief, Defendants process payroll
4 for departing employees in the same manner throughout the State of California, regardless of
5 the manner in which each employee's employment ends.

6 24. Defendants continue to employ non-exempt or hourly paid employees in
7 California.

8 25. Plaintiff is informed and believes, and thereon alleges, that at all times herein
9 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
10 and advisors knowledgeable about California labor and wage law, employment and personnel
11 practices, and about the requirements of California law.

12 26. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other
13 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
14 were not recorded.

15 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
17 receive certain wages for overtime compensation and that they were not receiving certain
18 wages for overtime compensation.

19 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that other non-party Aggrieved Employees were entitled to be paid at a
21 regular rate of pay, and corresponding overtime rates of pay, that included as eligible income
22 all income derived from shift differential pay, incentive pay, nondiscretionary bonuses, and/or
23 other forms of compensation.

24 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
25 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
26 receive at least minimum wages for compensation and that they were not receiving at least
27 minimum wages for work that was required to be done off-the-clock. In violation of the
28 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at

1 least minimum wages for work done off-the-clock.

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

9 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
10 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
11 rest periods in accordance with the Labor Code and applicable IWC Wage Order or payment
12 of one (1) additional hour of pay at their regular rates of pay when they were not authorized
13 and permitted to take a compliant rest period. In violation of the California Labor Code,
14 Plaintiff and other non-party Aggrieved Employees were not authorized and permitted to take
15 compliant rest periods, nor did Defendants provide Plaintiff and other non-party Aggrieved
16 Employees with payment of one (1) additional hour of pay at their regular rates of pay when
17 they were not authorized and permitted to take a compliant rest period.

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

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

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

1 timely payment of all wages earned upon termination of employment. In violation of the
2 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
3 payment of all wages due, including, but not limited to, overtime wages, minimum wages,
4 reporting time pay, and/or meal and rest period premiums, within permissible time periods
5 within permissible time periods.

6 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
8 timely payment of wages during their employment. In violation of the California Labor Code,
9 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
10 including, but not limited to, overtime wages, minimum wages, reporting time pay, and/or
11 meal and rest period premiums, within permissible time periods.

12 36. Plaintiff is informed and believes, and thereon alleges, that at all times herein
13 mentioned, that Defendants knew or should have known that they had a duty to cover the costs
14 and expenses Plaintiff and other non-party Aggrieved Employees incurred obtaining
15 mandatory physical examinations and/or drug tests, but willfully, knowingly, and intentionally
16 failed to do so.

17 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that other non-party Aggrieved Employees were entitled to be paid
19 reporting time pay when they reported to work for their scheduled shift but were put to work
20 for less than half of the regular schedule. In violation of the California Labor Code,
21 Defendants did not pay other non-party Aggrieved Employees all reporting time pay due.

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

27 39. Plaintiff is informed and believes, and thereon alleges, that at all times herein
28 mentioned, Defendants knew or should have known that they had a duty to compensate

1 Plaintiff and other non-party Aggrieved Employees for all hours worked, and that Defendants
2 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally
3 failed to do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees
4 that they were properly denied wages, all in order to increase Defendants' profits.

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

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

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

17 43. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
18 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
19 following requirements have been met:

- 20 (a) The aggrieved employee shall give written notice by online filing
21 (hereinafter "Employee's Notice") to the LWDA and by certified mail
22 to the employer of the specific provisions of the California Labor Code
23 alleged to have been violated, including the facts and theories to support
24 the alleged violations.
- 25 (b) An aggrieved employee's notice filed with the LWDA pursuant to
26 2699.3(a) and any employer response to that notice shall be
27 accompanied by a filing fee of seventy-five dollars (\$75).
- 28 (c) The LWDA shall provide notice (hereinafter "LWDA Notice") to the

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

9 44. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
10 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
11 provision other than those listed in Section 2699.5 after the following requirements have been
12 met:

- 13 (a) The aggrieved employee or representative shall give written notice by
14 online filing to the LWDA and by certified mail to the employer of the
15 specific provisions of the California Labor Code alleged to have been
16 violated (other than those listed in Section 2699.5), including the facts
17 and theories to support the alleged violation.
- 18 (b) An aggrieved employee's notice filed with the LWDA pursuant to
19 2699.3(c) and any employer response to that notice shall be
20 accompanied by a filing fee of seventy-five dollars (\$75).
- 21 (c) The employer may cure the alleged violation within thirty-three (33)
22 calendar days of the postmark date of the notice. The employer shall
23 give written notice by certified mail within that period of time to the
24 aggrieved employee or representative and the agency if the alleged
25 violation is cured, including a description of actions taken, and no civil
26 action pursuant to Section 2699 may commence. If the alleged violation
27 is not cured within the 33-day period, the employee may commence a
28 civil action pursuant to Section 2699.

1 45. On April 8, 2020, Plaintiff provided written notice by online filing to the
2 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
3 Code alleged to have been violated, including facts and theories to support the alleged
4 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
5 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
6 LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned
7 Plaintiff PAGA Case Number LWDA-CM-782242-20. A true and correct copy of Plaintiff's
8 written notice to the LWDA and Defendants dated April 8, 2020, is attached hereto as
9 "Exhibit 1."

10 46. As of the filing date of this complaint, over 65 days have passed since Plaintiff
11 sent the initial LWDA Notice described above, and the LWDA has not responded that it
12 intends to investigate Plaintiff's claims, and Defendants have not cured the violations.

13 47. Thus, Plaintiff has satisfied the administrative prerequisites under California
14 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
15 violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510,
16 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, and 2802.

17 48. Labor Code section 558(a) provides "[a]ny employer or other person acting on
18 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
19 provision regulating hours and days of work in any order of the Industrial Welfare
20 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
21 dollars (\$50) for each underpaid employee for each pay period for which the employee was
22 underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each
23 underpaid employee for each pay period for which the employee was underpaid" Labor
24 Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition
25 to any other civil or criminal penalty provided by law." Plaintiff, acting in the public interest
26 as a private attorney general, seeks assessment and collection of civil penalties under Labor
27 Code section 558 for herself, all other non-party Aggrieved Employees, and the State of
28 California against Defendants for violations of Labor Code sections 510, 512(a), 516, 1198,

1 and the applicable IWC wage order. Plaintiff, acting in the public interest as private attorney
2 general, does not seek the recovery of unpaid wages under Labor Code section 558 from
3 Defendants for violations of Labor Code sections 510, 512(a), 516, 1198, and the applicable
4 IWC wage order.

5 49. Defendants, at all times relevant to this complaint, were employers or persons
6 acting on behalf of an employer(s) who violated Plaintiff's and other non-party Aggrieved
7 Employees' rights by violating various sections of the California Labor Code as set forth
8 above.

9 50. As set forth below, Defendants have violated numerous provisions of both the
10 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
11 Order.

12 51. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
13 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a
14 private attorney general, seeks assessment and collection of civil penalties for herself, all other
15 non-party Aggrieved Employees, and the State of California against Defendants for violations
16 of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516,
17 1174(d), 1182.12, 1194, 1197, 1198 and 2802.

18 **FIRST CAUSE OF ACTION**

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

20 **(Against all Defendants)**

21 52. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
22 and every allegation set forth above.

23 53. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover
24 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
25 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 222.5,
26 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1198, and 2802. Labor Code section
27 2699.3(c) permits aggrieved employees, including Plaintiff, to recover civil penalties for
28 violations of those Labor Code sections not found in section 2699.5, including sections 516,

1 and 1182.12.

2 54. Defendants' conduct, as alleged herein, violates numerous sections of the
3 California Labor Code, including, but not limited to, the following:

- 4 (a) Violation of Labor Code sections 510, 1198, and the applicable IWC
5 wage order for Defendants' failure to compensate Plaintiff and other
6 non-party Aggrieved Employees with all required overtime pay and
7 failure to properly calculate the overtime rates paid to other non-party
8 Aggrieved Employees, as set forth below;
- 9 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1198, and the
10 applicable IWC wage order for Defendants' failure to compensate
11 Plaintiff and other non-party Aggrieved Employees with at least
12 minimum wages for all hours worked as set forth below;
- 13 (c) Violation of Labor Code sections 226.7, 512, 516, 1198, and the
14 applicable IWC wage order for Defendants' failure to provide Plaintiff
15 and other non-party Aggrieved Employees with meal periods, as set
16 forth below;
- 17 (d) Violation of Labor Code sections 226.7, 516, 1198, and the applicable
18 IWC wage order for Defendants' failure to authorize and permit
19 Plaintiff and other non-party Aggrieved Employees to take rest periods,
20 as set forth below;
- 21 (e) Violation of Labor Code sections 226(a), 1198, and the applicable IWC
22 wage order for failure to provide accurate and complete wage statements
23 to Plaintiff and other non-party Aggrieved Employees, as set forth
24 below;
- 25 (f) Violation of Labor Code sections 1174(d), 1198, and the applicable
26 IWC wage order for failure to maintain payroll records as set forth
27 below;
- 28 (g) Violation of Labor Code section 204 for failure to pay all earned wages

during employment as set forth below;

- (h) Violation of Labor Code sections 201, 202, and 203 for failure to pay all earned wages upon termination as set forth below;
- (i) Violation of Labor Code section 222.5 for failing to compensate Plaintiff and other non-party Aggrieved Employees for mandatory physical examinations and/or drug testing, as set forth below;
- (j) Violation of Labor Code section 1198 and the applicable IWC wage order for failure to pay reporting time pay when other non-party Aggrieved Employees were put to work for less than half of their regular scheduled shifts, as set forth below; and
- (k) Violation of Labor Code section 2802 for failure to reimburse Plaintiff and other non-party Aggrieved Employees for all business expenses necessarily incurred, as set forth below, as set forth below.

FAILURE TO PAY OVERTIME

VIOLATION OF LABOR CODE SECTIONS 510 AND 1198

55. 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.”

56. 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.

57. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff and other non-party Aggrieved Employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and one-half (1½) for all hours worked in excess of eight (8) hours in a day or more than forty (40)

1 hours in a workweek.

2 58. The applicable IWC Wage Order further provides that Defendants are and were
3 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve
4 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
5 An employee's regular rate of pay includes all remuneration for employment paid to, or on
6 behalf of, the employee, including nondiscretionary bonuses and incentive pay.

7 59. California Labor Code section 510 codifies the right to overtime compensation
8 at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8)
9 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
10 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
11 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
12 in a day on the seventh (7th) day of work.

13 60. During the relevant time period, Defendants willfully failed to pay all overtime
14 wages owed to Plaintiff and other non-party Aggrieved Employees. During the relevant time
15 period, Plaintiff and other non-party Aggrieved Employees were not paid overtime premiums
16 for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12)
17 hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were
18 not recorded.

19 61. First, during the relevant period, Defendants had a policy and/or practice of
20 discouraging and impeding Plaintiff and other non-party Aggrieved Employees from
21 recording hours worked that were outside of their scheduled shifts in order to limit the amount
22 of overtime employees could accrue. On information and belief, this policy of limiting
23 overtime, coupled with Defendants' understaffing and assigning heavy workloads (*see infra*),
24 led Plaintiff and other non-party Aggrieved Employees to work off-the-clock before and after
25 their scheduled shift times in order to complete their assigned tasks. For example, 3-4 times
26 per week, Plaintiff would spend 15-20 minutes prior to the start of her scheduled shift locating
27 a computer station, accessing patient reports, and preparing for patient supervision and
28 treatment. Similarly, 1-2 times per week, Plaintiff would spend 10-20 minutes after clocking

1 out to finish charting patient vitals and/or remain on duty to transition patients to another
2 nurse. Moreover, on information and belief, Defendants had a policy of improperly adjusting
3 Plaintiff's and other non-party Aggrieved Employees' clock-in and clock-out duration times in
4 their timekeeping system. Defendants' time-shaving policy resulted in the failure to
5 compensate Plaintiff and other non-party Aggrieved Employees fully for all hours worked,
6 causing Plaintiff and other non-party Aggrieved Employees to not be paid overtime wages for
7 all of the overtime hours they actually worked. Thus, Defendants failed to track this time
8 spent working before and after scheduled shifts, and Plaintiff and other non-party Aggrieved
9 Employees received no compensation for this time.

10 62. Additionally, in conjunction with their policy of limiting overtime accrual,
11 Defendants had, and continue to have, a company-wide policy and/or practice of requiring
12 employees to complete work-related tasks while off-the-clock. Defendants required Plaintiff
13 and other non-party Aggrieved Employees to complete online training modules from home but
14 did not compensate them for all of the time spent completing them. For example, Plaintiff
15 sometimes spent approximately 2-4 hours completing Defendants' requisite online training
16 modules, but was not paid for all of this time. Furthermore, Plaintiff and other non-party
17 Aggrieved Employees were required to work on their off-days traveling to attend mandatory
18 training or meetings. For example, Plaintiff was required to drive her own vehicle for three
19 (3) hours roundtrip to and from mandatory trainings three (3) separate times in Ontario,
20 California, but was not paid for the time she spent traveling to and from the meetings. Thus,
21 Defendants failed to track the time Plaintiff and other non-party Aggrieved Employees spent
22 working outside of their scheduled shifts, completing online trainings and traveling to attend
23 mandatory training sessions, time for which they were not fully compensated.

24 63. Second, Defendants had a company-wide policy and/or practice of improperly
25 rounding employee clock-in and clock-out duration times to the nearest quarter-hour in their
26 timekeeping system. For example, Plaintiff's supervisor informed her that she was required to
27 clock in no more than seven (7) minutes before the beginning of her scheduled shift, and no
28 more than seven (7) minutes after the end of her scheduled shift, or she would be reprimanded

1 for accruing overtime pay (*see supra*). Defendants' rounding policy resulted in the failure to
2 compensate Plaintiff and other non-party Aggrieved Employees fully for all hours worked,
3 causing Plaintiff and other non-party Aggrieved Employees to not be paid overtime wages for
4 all of the overtime hours they actually worked. Upon information and belief, Defendants'
5 rounding policy is, and continues to be, unfair and has, over time, resulted in the
6 underpayment of wages to Plaintiff and other non-party Aggrieved Employees. To the extent
7 Defendants' rounding policy has taken away time worked that was eligible for overtime,
8 Plaintiff and non-party Aggrieved Employees were denied overtime pay for all hours worked.

9 64. Third, Defendants had, and continue to have, a company-wide policy and/or
10 practice of understaffing their hospitals, while assigning heavy workloads and implementing
11 strict deadlines, resulting in a failure to provide Plaintiff and other non-party Aggrieved
12 Employees with adequate meal period coverage. As a result of this lack of meal period
13 coverage, Plaintiff and other non-party Aggrieved Employees were not always afforded
14 uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal
15 period. For example, Plaintiff regularly missed meal periods 1-2 times per week to respond to
16 direct requests from supervisors or meet the rigorous demands and deadlines of
17 simultaneously caring for ten or more patients, while ensuring that she was meeting
18 Defendants' standards of taking vital signs from patients, administering medication, and
19 charting vital signs into the system every 1-2 hours. Thus, Plaintiff and other non-party
20 Aggrieved Employees missed or had meal periods interrupted in order to complete their
21 assigned workloads. Defendants did not pay Plaintiff and other aggrieved employees for the
22 time they continued to perform tasks during meal periods.

23 65. Fourth, Defendants, on a company-wide basis, had a practice of failing to
24 adhere to a schedule of meal periods, which further caused Plaintiff and other non-party
25 Aggrieved Employees to not be relieved of their duties for compliant meal periods. As a
26 result of these policies and/or practices, Plaintiff and other non-party Aggrieved Employees
27 were required to work through and/or to return early from meal periods, in order to complete
28 their assigned tasks. Further, on information and belief, because Defendants frowned upon

1 employees accruing meal period penalties, Defendants pressured Plaintiff and other non-party
2 Aggrieved Employees to clock out for meal periods and/or adjusted employee time records to
3 reflect compliant meal periods, regardless of whether they had received a compliant meal
4 period, in order to strictly limit meal penalties that Defendants would otherwise owe. Thus,
5 Plaintiff and other non-party Aggrieved Employees performed work during meal periods for
6 which they were not paid.

7 66. Defendants knew or should have known that, as a result of these company-wide
8 practices and/or policies, Plaintiff and other non-party Aggrieved Employees were performing
9 their assigned duties during their meal periods and performing work off-the-clock before and
10 after their shifts, and were suffered or permitted to perform work for which they were not
11 paid. Defendants also knew, or should have known, that they did not compensate Plaintiff and
12 other non-party Aggrieved Employees applicable overtime rates of pay for overtime hours that
13 they worked.

14 67. Because Plaintiff and other non-party Aggrieved Employees regularly worked
15 shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-
16 the-clock work qualified for overtime premium pay. Therefore, Plaintiff and other non-party
17 Aggrieved Employees were not paid overtime wages for all of the overtime hours they
18 actually worked.

19 68. Furthermore, Defendants did not pay other non-party Aggrieved Employees the
20 correct overtime rates for the recorded overtime hours that they generated. In addition to an
21 hourly wage, Defendants paid other non-party Aggrieved Employees shift differential pay,
22 incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in
23 violation of the California Labor Code, Defendants failed to incorporate all remunerations,
24 including shift differential pay, incentive pay, and/or nondiscretionary bonuses, into the
25 calculation of the regular rate of pay for purposes of calculating the overtime wage rate.
26 Therefore, during times when other non-party Aggrieved Employees worked overtime and
27 received these other forms of pay, Defendants failed to pay all overtime wages by paying a
28 lower overtime rate than required.

69. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees the balance of overtime compensation as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved Employees are entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

FAILURE TO PAY MINIMUM WAGES

VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198

70. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order 5 as "the time during which an employee is suffered or permitted to work for the employer, whether or not required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards Act." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

71. As set forth above, during the relevant time period, as a result of Defendants' policy of limiting the amount of overtime employees could accrue and time-shaving, Plaintiff and other non-party Aggrieved Employees were required to work off-the-clock before and after their scheduled shift start and end times to complete assigned job duties. Plaintiff and other non-party Aggrieved Employees were also required to work off-the-clock outside of their scheduled shifts on their off-days completing online training modules and traveling to attend mandatory trainings, time for which they were not paid. Additionally, due to Defendants' policy of rounding Plaintiff's and other non-party Aggrieved Employees' clock-in and clock-out duration times to the quarter-hour in their timekeeping system, Defendants failed to compensate Plaintiff and other non-party Aggrieved Employees fully for all hours worked. Also, due to Defendants' policy and/or practice of understaffing while assigning heavy workloads and deadlines and failing to adhere to a schedule of meal periods, Plaintiff and other non-party Aggrieved Employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock.

1 72. Moreover, Defendants maintained and implemented a company-wide policy of
2 requiring employees to travel to a medical facility on their own time and using their own
3 personal vehicles to undergo mandatory physical examinations, tuberculin (TB) testing, and/or
4 drug testing. At all times, Defendants were in control of scheduling the date and time for the
5 testing and/or physical examinations, selecting the provider or facility where the testing and/or
6 physical examinations were to take place, and determining the scope of the testing and/or
7 physical examinations.

8 73. For example, Defendants gave Plaintiff and other non-party Aggrieved
9 Employees strict instructions to undergo physical examinations, annual tuberculin (TB)
10 testing, and/or drug testing, and Plaintiff and other non-party Aggrieved Employees
11 underwent the examinations and testing for the sole benefit of Defendants. In order to
12 undergo Defendants' mandatory drug tests and physical examinations, other non-party
13 Aggrieved Employees followed Defendants' instructions and traveled in their personal
14 vehicles to and from designated medical facilities. Additionally, in order to undergo the
15 annual TB testing as instructed by Defendants, each time, Plaintiff traveled 10-12 miles, for
16 approximately 30 minutes, to and from the medical facility authorized by Defendants, and
17 spent approximately one (1) hour waiting at the medical facility and undergoing the initial TB
18 test. Each time, she would then be required to return to the facility 2-3 days later and wait
19 approximately one (1) hour in order to have her TB test results read. However, Defendants
20 did not compensate Plaintiff and other non-party Aggrieved Employees for the time they spent
21 traveling to and from the medical facilities and undergoing the mandatory physical
22 examinations, TB testing, and/or drug testing.

23 74. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
24 and other non-party Aggrieved Employees. To the extent that these off-the-clock hours did
25 not qualify for overtime premium payment, Defendants did not pay at least minimum wages
26 for those hours worked off-the-clock in violation of California Labor Code sections 1182.12,
27 1194, 1197, and 1198.

28 75. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees

1 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
2 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
3 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

4 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**
5 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

6 76. At all relevant times herein set forth, the applicable IWC Wage Order(s) and
7 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and
8 non-party Aggrieved Employees' employment by Defendants.

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

17 78. At all relevant times herein set forth, California Labor Code sections 226.7,
18 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
19 meal period mandated by an applicable order of the IWC.

20 79. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198,
21 and the applicable IWC Wage Order also require employers to provide a second meal period
22 of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay
23 an employee one (1) additional hour of pay at the employee's regular rate, except that if the
24 total hours worked is no more than twelve (12) hours, the second meal period may be waived
25 by mutual consent of the employer and the employee only if the first meal period was not
26 waived.

27 80. First, as set forth above, Defendants' company-wide policies and/or practices of
28 understaffing their hospitals while assigning heavy workloads and deadlines, lack of adequate

1 meal period coverage, and failure to adhere to a schedule of meal periods prevented Plaintiff
2 and other non-party Aggrieved Employees from taking all timely, uninterrupted meal periods
3 to which they were entitled. As a result of Defendants' practices and/or policies, Plaintiff and
4 other non-party Aggrieved Employees were forced to work in excess of five (5) hours before
5 taking a meal period. And, for the same reasons, Plaintiff and other non-party Aggrieved
6 Employees had their meal periods interrupted and/or had to forgo their meal periods
7 altogether. For example, during her employment, Plaintiff had to forego her meal periods 1-2
8 times per week in order to ensure she was meeting Defendants' standards of taking vital signs
9 from patients, administering medication, and charting vital signs into the system every 1-2
10 hours. She was never permitted to take a meal period until ten (10) hours into her shift, and
11 even then, was interrupted 2-3 times per month and called back early from a meal period to
12 assist patients with medical emergencies.

13 81. Second, on information and belief, because Defendants frowned upon
14 employees accruing meal period penalties, Defendants' management would adjust Plaintiff's
15 and other non-party Aggrieved Employees' time records and/or pressured employees to clock
16 out for meal periods to reflect compliant meal periods, regardless of whether they had
17 received a compliant meal period, in order to strictly limit meal penalties that would need to
18 be paid by Defendants. For example, Plaintiff was pressured by her supervisor to clock out
19 and continue working during her meal periods, or if she failed to do so, would be verbally
20 reprimanded by her supervisor who would then adjust her time records. Plaintiff and other
21 non-party Aggrieved Employees worked through meal periods or had their meal periods
22 interrupted, because there were not enough employees on duty to handle the workload.

23 82. Third, Defendants did not provide Plaintiff and other non-party Aggrieved
24 Employees with second 30-minute meal periods on days that they worked in excess of ten (10)
25 hours in one day. For example, Plaintiff was never given a second meal periods even though
26 she regularly worked shifts of 12 or more hours. Plaintiff and other non-party Aggrieved
27 Employees did not sign valid meal period waivers on days that they were entitled to meal
28 periods and were not relieved of all duties.

1 83. As a result of Defendants’ practices and/or policies, Plaintiff and other non-
2 party Aggrieved Employees were forced to work in excess of five (5) hours before taking a
3 meal period and, at times, had their meal periods interrupted, and/or had to forgo their meal
4 periods altogether. Defendants knew or should have known that as a result of their policies,
5 Plaintiff and other non-party Aggrieved Employees were not actually relieved of all duties to
6 take timely, uninterrupted meal periods. Defendants further knew or should have known that
7 they did not pay Plaintiff and other non-party Aggrieved Employees meal period premium
8 wages when meal periods were missed, late, short, and/or interrupted, because Defendants
9 adjusted employee time records to reflect compliant meal periods, even if none were taken.

10 84. Defendants also have engaged in a company-wide practice and/or policy of not
11 paying meal period premiums owed when compliant meal periods are not provided. Because
12 of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees have not
13 received premium pay for missed, late, and interrupted meal periods. Alternatively, to the
14 extent that Defendants did pay meal period premium wages to other non-party Aggrieved
15 Employees, they did so at the incorrect rates. Because Defendants did not properly calculate
16 other non-party Aggrieved Employees’ regular rates of pay by including all remunerations,
17 such as shift differential pay, incentive pay, and/or nondiscretionary bonuses, any premiums
18 paid for meal period violations were also paid at an incorrect rate and resulted in an
19 underpayment of meal period premium wages.

20 85. Thus, Defendants failed to provide Plaintiff and other non-party Aggrieved
21 Employees compliant meal periods and failed to pay the full meal period premiums due.
22 Defendants’ conduct violates the applicable IWC Wage Order, and California Labor Code
23 sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved Employees are
24 entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and
25 (g).

26 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**
27 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

28 86. At all relevant times herein set forth, the applicable IWC Wage Order and

1 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and other
2 non-party Aggrieved Employees' employment by Defendants.

3 87. At all relevant times, the applicable IWC Wage Order provides that "[e]very
4 employer shall authorize and permit all employees to take rest periods, which insofar as
5 practicable shall be in the middle of each work period" and that the "rest period time shall be
6 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
7 hours or major fraction thereof" unless the total daily work time is less than three and one-half
8 (3½) hours.

9 88. At all relevant times, California Labor Code section 226.7 provides that no
10 employer shall require an employee to work during any rest period mandated by an applicable
11 order of the California IWC. To comply with its obligation to authorize and permit rest
12 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
13 employer must "relinquish any control over how employees spend their break time, and
14 relieve their employees of all duties—including the obligation that an employee remain on
15 call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services,*
16 *Inc.*, 2 Cal. 5th 257, 269-270 (2016).

17 89. Pursuant to the applicable IWC Wage Order and California Labor Code section
18 226.7(b), Plaintiff and other non-party Aggrieved Employees are entitled to recover from
19 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
20 required rest period was not authorized and permitted.

21 90. During the relevant time period, Defendants regularly failed to authorize and
22 permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest
23 period per each four (4) hour period worked or major fraction thereof. As with meal periods,
24 Defendants' company-wide practices, including understaffing their hospitals while assigning
25 heavy workloads and deadlines, prevented Plaintiff and other non-party Aggrieved Employees
26 from being relieved of all duty to take compliant rest periods. Additionally, Defendants failed
27 to schedule rest periods, which, coupled with Defendants' failure to provide adequate rest
28 period coverage, further led to Plaintiff and other non-party Aggrieved Employees not being

1 authorized and permitted to take compliant rest periods.

2 91. Furthermore, Defendants maintained and implemented a company-wide
3 practice and/or policy requiring that Plaintiff and other non-party Aggrieved Employees
4 remain on premises during their rest breaks. Because Plaintiff and other non-party Aggrieved
5 Employees were restricted from leaving the premises during rest periods, they were denied the
6 ability to use their rest periods freely for their own purposes. Thus, Defendants effectively
7 maintained control over Plaintiff and other non-party Aggrieved Employees during rest
8 periods, and, as a result of this rest period policy, Defendants did not relinquish control over
9 Plaintiff and other non-party Aggrieved Employees during rest periods.

10 92. As a result of Defendants' practices and policies, Plaintiff and other non-party
11 Aggrieved Employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
12 excess of 10 hours without receiving all ten (10) minute rest periods to which they were
13 entitled. For example, throughout her employment, Plaintiff had to forego rest periods
14 altogether, due to Defendants' policy of assigning heavy workloads and deadlines and failing
15 to provide sufficient rest period coverage.

16 93. Defendants also have engaged in a company-wide practice and/or policy of not
17 paying all rest period premiums owed when compliant rest periods are not authorized or
18 permitted. Because of this practice and/or policy, Plaintiff and other non-party Aggrieved
19 Employees have not received premium pay for all missed rest periods. Alternatively, to the
20 extent that Defendants did pay rest period premium wages to other non-party Aggrieved
21 Employees, they did so at the incorrect rates. Because Defendants did not properly calculate
22 other non-party Aggrieved Employees' regular rates of pay by including all forms of
23 compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or
24 other forms of remuneration, any premiums paid for rest period violations were also paid at an
25 incorrect rate and resulted in an underpayment of rest period premium wages.

26 94. Defendants' conduct violates the applicable IWC Wage Order and California
27 Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved
28 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections

1 558 and/or 2699(a), (f), and (g).

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

3 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

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

9 96. During the relevant time period, Defendants have knowingly and intentionally
10 provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and
11 inaccurate wage statements. For example, Defendants issued uniform wage statements to
12 Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages
13 earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the
14 pay period, including overtime rates of pay, and the corresponding number of hours worked at
15 each hourly rate. Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and
16 226(a)(9).

17 97. First, because Defendants did not record the time Plaintiff and other non-party
18 Aggrieved Employees spent working off-the-clock, underreported their hourly clock-in and
19 clock-out times in their timekeeping system, and improperly rounded their total hours worked,
20 Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff
21 and other non-party Aggrieved Employees, in compliance with section 226(a)(1) and
22 226(a)(5), respectively. For the same reason, Defendants failed to accurately list the total
23 number of the hours worked by Plaintiff and other non-party Aggrieved Employees, in
24 violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect
25 during the pay period and the corresponding accurate number of hours worked at each hourly
26 rate, in violation of section 226(a)(9).

27 98. Second, because Defendants did not calculate other non-party Aggrieved
28 Employees' regular rate of pay correctly for purposes of paying overtime wages, Defendants

1 did not list the correct amount of gross wages earned by other non-party Aggrieved
2 Employees in compliance with section 226(a)(1) and did not list the correct amount of net
3 wages earned by other non-party Aggrieved Employees in violation of section 226(a)(5).
4 Defendants also failed to correctly list all applicable hourly rates in effect during the pay
5 period, namely, correct overtime rates of pay and correct rates of pay for premium wages, in
6 violation of section 226(a)(9).

7 99. The wage statement deficiencies also include, without limitation, failing to list
8 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
9 a piece-rate basis; failing to list all deductions; failing to list the name of the employee and
10 only the last four digits of his or her social security number or an employee identification
11 number other than a social security number; failing to list the name and address of the legal
12 entity that is the employer; failing to list the inclusive dates of the period for which aggrieved
13 employees were paid; and/or failing to state all hours worked as a result of not recording or
14 stating hours worked off-the-clock.

15 100. California Labor Code section 1198 provides that the maximum hours of work
16 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
17 set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he
18 employment of any employees for longer hours than those fixed by the order or under
19 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
20 Wage Order, employers are required to keep accurate time records showing when the
21 employee begins and ends each work period and meal period. At all relevant times, as stated,
22 Defendants engaged in company-wide practices and/or policies of failing to record actual
23 hours worked, and thereby failed to keep accurate records of work period and meal period
24 start and end times for Plaintiff and other non-party Aggrieved Employees. Also, as stated,
25 Defendants engaged in a company-wide practice and/or policy of falsifying Plaintiff’s and
26 other non-party Aggrieved Employees’ time records by recording that compliant meal periods
27 were taken regardless of if or when meal periods were actually taken, and thereby failed to
28 keep accurate records of work period and meal period start and end times for Plaintiff and

1 other non-party Aggrieved Employees. Furthermore, in light of Defendants’ failure to provide
2 Plaintiff and other non-party Aggrieved Employees with second 30-minute meal periods to
3 which they were entitled, Defendants kept no records of meal start and end times for second
4 meal periods.

5 101. California Labor Code section 1174(d) provides that “[e]very person employing
6 labor in this state shall ... [k]eep a record showing the names and addresses of all employees
7 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
8 plants or establishments at which employees are employed, payroll records showing the hours
9 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
10 applicable piece rate paid to, employees employed at the respective plants or
11 establishments...” During the relevant time period, and in violation of Labor Code section
12 1174(d), Defendants willfully failed to maintain accurate payroll records for Plaintiff and
13 other non-party Aggrieved Employees showing the daily hours they worked and the wages
14 paid thereto as a result of failing to record the off-the-clock hours that they worked,
15 underreporting Plaintiff’s and other non-party Aggrieved Employees’ hourly clock-in and
16 clock-out times in their timekeeping system, and improperly rounding Plaintiff’s and other
17 non-party Aggrieved Employees’ total hours worked.

18 102. Because Defendants’ violations of 226(a) and 1174(d) were committed against
19 Plaintiff and other non-party Aggrieved Employees, Plaintiff and other non-party Aggrieved
20 Employees are entitled to recover civil penalties pursuant to Labor Code sections 226.3, 1174.5,
21 and/or 2699(a), (f), and (g).

22 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

23 **VIOLATION OF LABOR CODE SECTION 204**

24 103. At all relevant times herein set forth, California Labor Code section 204
25 requires that all wages earned by any person in any employment between the 1st and the 15th
26 days, inclusive, of any calendar month, other than those wages due upon termination of an
27 employee, are due and payable between the 16th and the 26th day of the month during which
28 the labor was performed. Labor Code section 204 further provides that all wages earned by

any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

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

105. During the relevant time period, Defendants willfully failed to pay Plaintiff and other non-party Aggrieved Employees all wages due to them within any time period specified by California Labor Code section 204 including, but not limited to, overtime wages, minimum wages, reporting time pay, and/or meal and rest period premium wages.

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

FAILURE TO PAY WAGES UPON TERMINATION

VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203

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

108. Defendants willfully failed to pay Plaintiff and other non-party Aggrieved Employees who are no longer employed by Defendants the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, reporting time pay, and/or meal and rest period premium wages, either at the time of discharge, or within seventy-

two (72) hours of their leaving Defendants' employ.

109. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ, violates Labor Code sections 201 and 202. Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 256 and/or 2699(a), (f), and (g).

FAILURE TO PAY COSTS OF MEDICAL OR PHYSICAL EXAMINATION
VIOLATION OF LABOR CODE SECTION 222.5

110. At all relevant times herein, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

111. During the relevant time period, Defendants implemented, on a company-wide basis, an employer-imposed requirement that Plaintiff and other non-party Aggrieved Employees undergo mandatory physical examinations, tuberculin (TB) testing, and/or drug testing, but required them to do so at their own expense. As stated, Defendants had a company-wide policy requiring that all employees, including Plaintiff and other non-party Aggrieved Employees, travel to a specified medical facility on their own time and using their own means of transportation to undergo physical examinations, TB testing, and/or drug testing. At all times, Defendants were in control of scheduling the date and time for the examinations and/or testing, selecting the provider/facility where the examinations and/or testing were to take place, and determining the scope of the examinations and/or testing.

112. During the relevant time period, Plaintiff and other non-party Aggrieved Employees were instructed by Defendants to travel to a medical facility and obtain physical examinations, TB testing, and/or drug testing. In order to undergo Defendants' mandatory drug tests and physical examinations, other non-party Aggrieved Employees followed Defendants' instructions and traveled in their personal vehicles to and from designated medical facilities. Additionally, in order to undergo the annual TB testing as instructed by

1 Defendants, each time, Plaintiff traveled 10-12 miles, for approximately 30 minutes, to and
2 from the medical facility authorized by Defendants, and spent approximately one (1) hour
3 waiting at the medical facility and undergoing the initial TB test. Each time, she would then
4 be required to return to the facility 2-3 days later and wait approximately one (1) hour in order
5 to have her TB test results read. Plaintiff and other non-party Aggrieved Employees were
6 required to travel in their own personal vehicles and spend time undergoing Defendants'
7 physical examinations, TB testing, and/or drug testing.

8 113. However, Defendants did not compensate Plaintiff and other non-party
9 Aggrieved Employees for the time they spent traveling to and from their drug testing, TB
10 testing, and/or physical examinations, for the time they spent undergoing the testing and/or
11 examinations, or reimburse them for the travel expenses they incurred getting to and from the
12 medical facilities. Defendants' policy and/or practice of not paying for all costs Plaintiff and
13 other non-party Aggrieved Employees incurred obtaining mandatory drug testing, TB testing,
14 and physical examinations tests is in violation of California Labor Code section 222.5.

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

17 **FAILURE TO PAY REPORTING TIME PAY**

18 **VIOLATION OF LABOR CODE SECTION 1198**

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

24 116. California Code of Regulations, Title 8, section 11050(5)(A) provides that
25 "[e]ach workday an employee is required to report for work and does report, but is not put to
26 work or is furnished less than half said employee's usual or scheduled day's work, the
27 employee shall be paid for half the usual or scheduled day's work, but in no event for less
28 than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which

1 shall not be less than the minimum wage.” The “primary purpose of the reporting time
2 regulation” is “to guarantee at least partial compensation for employees who report to work
3 expecting to work a specified number of hours, and who are deprived of that amount because
4 of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch*
5 *Cellular*, 209 Cal. App. 4th 556 (2012)

6 117. Upon information and belief, during the relevant time period, Defendants
7 violated California Labor Code section 1198 and California Code of Regulations, Title 8,
8 section 11050(5), because Defendants failed to pay other non-party Aggrieved Employees
9 reporting time pay when they reported to work for their scheduled shift but were put to work
10 for less than half of the regular schedule.

11 118. Defendants had a company-wide practice of sending other non-party Aggrieved
12 Employees home early from their shifts, including before they had worked at least half of their
13 regular shift, but would not pay other non-party Aggrieved Employees for half of their
14 scheduled shifts. For example, other non-party Aggrieved Employees would report to work
15 for their scheduled shifts and be sent home because the hospital was purportedly receiving
16 fewer patient admissions than expected. When other non-party Aggrieved Employees were
17 sent home, they did not receive the reporting time pay to which they were entitled. Although
18 other non-party Aggrieved Employees would report to work based on the schedule that
19 Defendants provided to them, Defendants would send them home before they had worked at
20 least half of their scheduled shifts without giving them reporting time pay. Accordingly, other
21 non-party Aggrieved Employees were not properly compensated with reporting time pay in
22 violation of California Labor Code section 1198.

23 119. Other non-party Aggrieved Employees are therefore entitled to recover civil
24 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

25 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

26 **VIOLATION OF LABOR CODE SECTION 2802**

27 120. At all times herein set forth, California Labor Code section 2802 provides that
28 an employer must reimburse employees for all necessary expenditures and losses incurred by

1 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
2 to prevent employers from passing off their cost of doing business and operating expenses on
3 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
4 (2014). The applicable wage order, IWC Wage Order 5-2001, provides that: "[w]hen the
5 employer requires the use of tools or equipment or they are necessary to the performance of a
6 job, such tools and equipment shall be provided and maintained by the employer, except that
7 an employee whose wages are at least two (2) times the minimum wage may provide and
8 maintain hand tools and equipment customarily required by the particular trade or craft."

9 121. First, during the relevant time period, Defendants had a company-wide policy
10 of requiring Plaintiff and other non-party Aggrieved Employees to utilize their own personal
11 cellular phones and cellular data to carry out their job duties, but Defendants failed to
12 reimburse them for the costs of their work-related cellular phone expenses. Plaintiff and other
13 non-party Aggrieved Employees were required to use their personal cellular phones to
14 complete their work-related tasks, such as discussing upcoming work assignments with
15 managers and communicating with other hospital employees. For example, Plaintiff was
16 forced to use her personal cellular phone 15 minutes per day to provide updates to her
17 supervisor or send picture messages to doctors and other hospital staff at her supervisor's
18 request. Although Defendants required Plaintiff and other non-party Aggrieved Employees to
19 utilize their personal cellular phones to carry out their work-related responsibilities,
20 Defendants failed to reimburse them for this cost.

21 122. Second, as stated above, Defendants, on a company-wide basis, required
22 Plaintiff and other non-party Aggrieved Employees use their own personal vehicles to carry
23 out company business, such as attending requisite trainings, but failed to reimburse them for
24 all costs of travel, including mileage. For example, Plaintiff periodically drove 100 miles
25 roundtrip in her personal vehicle from her home to Ontario, California, to attend mandatory
26 in-person training courses, but was never reimbursed for her mileage to and from these
27 trainings. Although Defendants required Plaintiff and other non-party Aggrieved Employees
28 to utilize their own vehicles and complete these tasks as part of their job duties, Defendants

1 never reimbursed them for all of their travel expenses.

2 123. Third, Defendants also had a company-wide policy of requiring Plaintiff and
3 other non-party Aggrieved Employees to travel in their own personal vehicles to medical
4 facilities to obtain mandatory physical examinations, TB testing, and/or drug testing, but did
5 not reimburse them for their travel expenses, including mileage. Defendants maintained and
6 implemented a company-wide policy of requiring all employees to travel to medical facilities
7 on their own time and using their own personal vehicles to undergo mandatory physical
8 examinations, TB testing, and/or drug testing. At all times, Defendants were in control of
9 scheduling the date and time for the testing and/or physical examinations, selecting the
10 provider or facility where the testing and/or physical examinations were to take place, and
11 determining the scope of the testing and/or physical examinations.

12 124. For example, Defendants gave Plaintiff and other non-party Aggrieved
13 Employees strict instructions to undergo physical examinations, annual tuberculin (TB)
14 testing, and/or drug testing, and Plaintiff underwent the examination and testing for the sole
15 benefit of Defendants. In order to undergo Defendants' mandatory drug tests and physical
16 examinations, other non-party Aggrieved Employees followed Defendants' instructions and
17 traveled in their personal vehicles to and from designated medical facilities. Additionally, in
18 order to undergo the annual TB testing as instructed by Defendants, each time, Plaintiff
19 traveled 10-12 miles, for approximately 30 minutes, to and from the medical facility
20 authorized by Defendants, and spent approximately one (1) hour waiting at the medical
21 facility and undergoing the initial TB test. Each time, she would then be required to return to
22 the facility 2-3 days later and wait approximately one (1) hour in order to have her TB test
23 results read. However, Defendants did not compensate Plaintiff and other non-party
24 Aggrieved Employees for the time they spent traveling to and from the medical facilities and
25 undergoing the mandatory physical examinations, TB testing, and/or drug testing. Although
26 Defendants required other non-party Aggrieved Employees to use their own vehicles or obtain
27 alternate transportation to undergo physical examinations, TB testing, and/or drug testing,
28 Defendants never reimbursed them for all their travel expenses.

1 125. Fourth, during the relevant time period, Defendants, on a company-wide basis,
2 forced Plaintiff and other non-party Aggrieved Employees to purchase basic office supplies
3 that were necessary for completion of their work-related duties. For example, Plaintiff was
4 required to purchase her own pens for \$10.00 in order to record patients' vitals and complete
5 patient paperwork, but was never reimbursed for this expense. Although Defendants required
6 Plaintiff and other non-party Aggrieved Employees to purchase and use their own office
7 supplies on the job, Defendants did not reimburse them for these expenses.

8 126. Defendants could have provided Plaintiff and other non-party Aggrieved
9 Employees with the actual tools for use on the job, such as company phones, company
10 vehicles, and office supplies to be used for fulfilling work-related tasks, or Defendants could
11 have reimbursed employees for the costs of their cellular phone usage, mileage, travel
12 expenses, and office supply expenses. Instead, Defendants passed these operating costs off
13 onto Plaintiff and other non-party Aggrieved Employees.

14 127. Defendants' company-wide policy and/or practice of passing on their operating
15 costs to Plaintiff and other non-party Aggrieved Employees violates California Labor Code
16 section 2802. Defendants have intentionally and willfully failed to reimburse Plaintiff and
17 other non-party Aggrieved Employees for necessary business-related expenses and costs.

18 128. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
19 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

20 **REQUEST FOR JURY TRIAL**

21 Plaintiff requests a trial by jury.

22 **PRAYER FOR RELIEF**

23 Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and
24 judgment against Defendants, jointly and severally, as follows:

25 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
26 (\$25,000). Plaintiff reserves the right to amend her prayer for relief to seek a different amount.

27 **As to the First Cause of Action**

28 2. That the Court declare, adjudge and decree that Defendants violated the

1 following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved
2 Employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197,
3 and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512, 516,
4 and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize
5 and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
6 statements and maintain accurate payroll records); 201, 202, and 203 (by failing timely to pay
7 all earned wages upon termination); 204 (by failing timely to pay all earned wages during
8 employment); 222.5 (by failing to pay the costs of mandatory drug testing and/or physical
9 examinations); 1198 (by failing to provide reporting time pay); and 2802 (by failing to
10 reimburse business expenses).

11 3. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 256,
12 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections 201, 202,
13 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, and
14 2802;

15 4. For attorneys' fees and costs pursuant to California Labor Code section
16 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
17 Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d),
18 1182.12, 1194, 1197, 1198, and 2802;

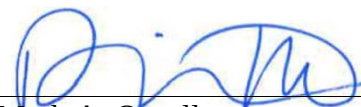
19 5. For pre-judgment and post-judgment interest as provided by law; and

20 6. For such other and further relief as the Court may deem equitable and
21 appropriate.

22
23 Dated: June 25, 2020

Respectfully submitted,

24 Capstone Law APC

25
26 By: 

27 Mark A. Ozzello
Brandon K. Brouillette
28 Brooke W. Waldrop

Attorneys for Plaintiff Julie Filamore-Angel

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EXHIBIT 1

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

April 8, 2020

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/266>)

Subject: *Julie Filamore-Angel v. Victor Valley Hospital Acquisition, Inc., et al.*

Dear PAGA Administrator:

This office represents Julie Filamore-Angel in connection with her claims under the California Labor Code. Ms. Filamore-Angel was an employee of VICTOR VALLEY HOSPITAL ACQUISITION, INC.; KPC HEALTHCARE, INC.; and/or KPC HEALTHCARE HOLDINGS, INC. For the purpose of this letter, Ms. Filamore-Angel collectively refers to these entities as “KPC.”

The employer may be contacted directly at the addresses below:

VICTOR VALLEY HOSPITAL
ACQUISITION, INC.
15248 ELEVENTH STREET
VICTORVILLE, CA 92395

KPC HEALTHCARE, INC.
1301 NORTH TUSTIN AVENUE
SANTA ANA, CA 92705

KPC HEALTHCARE HOLDINGS, INC.
9 KPC PKWY STE 301
CORONA, CA 92879

Ms. Filamore-Angel intends to seek civil penalties, attorney’s fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”). Ms. Filamore-Angel seeks relief on behalf of herself, the State of California, and other persons who are or were employed by KPC in California as a non-exempt, hourly paid employee and who received at least one wage statement (“aggrieved employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

KPC employed Ms. Filamore-Angel as a non-exempt, hourly paid Registered Nurse full time from approximately February 2019 to October 2019, and per diem (i.e. part-time) from approximately November 2019 to March 2020. Ms. Filamore-Angel worked for KPC at the Victor Valley Global Medical Center in Victorville, California. Ms. Filamore-Angel typically worked twelve (12) hours or

more per day, three (3) to four (4) days per week, from 2:00 p.m. to 2:00 a.m. Ms. Filamore-Angel's primary job duties included, without limitation, receiving patients from ambulances, administering medication, charting vitals, and assisting patients.

KPC has committed one or more of the following Labor Code violations against Ms. Filamore-Angel, the facts and theories of which follow, making her an "aggrieved employee" pursuant to California Labor Code section 2699(c):¹

KPC's Company-Wide and Uniform Payroll and HR Practices

VICTOR VALLEY HOSPITAL ACQUISITION, INC. and KPC HEALTHCARE HOLDINGS, INC. are California corporations, while KPC HEALTHCARE, INC. is a Nevada corporation. Together they are a regional provider of acute care medical centers, operating seven hospitals across southern California. Upon information and belief, KPC maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Victorville, Santa Ana, or Corona, California for all non-exempt, hourly paid employees working for KPC in California, including Ms. Filamore-Angel and other aggrieved employees. At all relevant times, KPC issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Filamore-Angel and other aggrieved employees, regardless of their location or position.

Upon information and belief, KPC maintains a centralized Payroll department at its corporate headquarters in Victorville, Santa Ana, or Corona, California which processes payroll for all non-exempt, hourly paid employees working for KPC in California, including Ms. Filamore-Angel and other aggrieved employees. Further, KPC issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Filamore-Angel and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, KPC utilized the same methods and formulas when calculating wages due to Ms. Filamore-Angel and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration

¹ These facts, theories, and claims are based on Ms. Filamore-Angel's experience and counsel's review of those records currently available relating to Ms. Filamore-Angel's employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law's requirements, the employer misinformed its employee of the law's requirements, or because the employer effectively hid the violations). Thus, Ms. Filamore-Angel reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

KPC willfully failed to pay all overtime wages owed to Ms. Filamore-Angel and other aggrieved employees. During the relevant time period, Ms. Filamore-Angel and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant period, KPC had a policy and/or practice of discouraging and impeding Ms. Filamore-Angel and other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. On information and belief, this policy of limiting overtime, coupled with KPC's understaffing and assigning heavy workloads (*see infra*), led Ms. Filamore-Angel and other aggrieved employees to work off-the-clock before or after their scheduled shift times in order to complete their assigned tasks. For example, 3-4 times per week, Ms. Filamore-Angel would spend 15-20 minutes prior to the start of her scheduled shift locating a computer station, accessing patient reports, and preparing for patient supervision and treatment. Similarly, 1-2 times per week, Ms. Filamore-Angel would spend 10-20 minutes after clocking out to finish charting patient vitals and/or remain on duty to transition patients to another nurse. Moreover, on information and belief, KPC had a policy of improperly adjusting Ms. Filamore-Angel's and other aggrieved employees' clock-in and clock-out duration times in its timekeeping system. KPC's time-shaving policy resulted in the failure to compensate Ms. Filamore-Angel and other aggrieved employees fully for all hours worked, causing Ms. Filamore-Angel and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. Thus, KPC failed to track this time spent working before and after scheduled shifts, and Ms. Filamore-Angel and other aggrieved employees received no compensation for this time.

Additionally, in conjunction with its policy of limiting overtime accrual, KPC had, and continues to have, a company-wide policy and/or practice of requiring employees to complete work-related tasks while off-the-clock. KPC required Ms. Filamore-Angel and other aggrieved employees to complete online training modules from home but did not compensate them for all of the time spent completing them. For example, Ms. Filamore-Angel sometimes spent approximately 2-4 hours completing KPC's requisite online training modules, but was not paid for all of this time. Furthermore, Ms. Filamore-Angel and other aggrieved employees were required to work on their off-days traveling to attend mandatory training or meetings. For example, Ms. Filamore-Angel was required to drive her own vehicle for three (3) hours roundtrip to and from mandatory trainings three (3) separate times in Ontario, California, but was not paid for the time she spent traveling to and from the meetings. Thus, KPC failed to track the time Ms. Filamore-Angel and other aggrieved employees spent working outside of their scheduled shifts, completing online trainings and traveling to attend mandatory training sessions, time for which they were not fully compensated.

Second, KPC had a company-wide policy and/or practice of improperly rounding employee clock-in and clock-out duration times to the nearest quarter-hour in their timekeeping system. For example, Ms. Filamore-Angel's supervisor informed her that she was required to clock in no more than seven (7) minutes before the beginning of her scheduled shift, and no more than seven (7) minutes after the end of her scheduled shift, or she would be reprimanded for accruing overtime pay (*see supra*). KPC's rounding policy resulted in the failure to compensate Ms. Filamore-Angel and other aggrieved employees fully for all hours worked, causing Ms. Filamore-Angel and other aggrieved employees to

not be paid overtime wages for all of the overtime hours they actually worked. Upon information and belief, KPC's rounding policy is, and continues to be, unfair and has, over time, resulted in the underpayment of wages to Ms. Filamore-Angel and other aggrieved employees. To the extent KPC's rounding policy has taken away time worked that was eligible for overtime, Ms. Filamore-Angel and other aggrieved employees were denied overtime pay for all hours worked.

Third, KPC had, and continues to have, a company-wide policy and/or practice of understaffing its hospitals, while assigning heavy workloads and implementing strict deadlines, resulting in a failure to provide Ms. Filamore-Angel and other aggrieved employees with adequate meal period coverage. As a result of this lack of meal period coverage, Ms. Filamore-Angel and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. For example, Ms. Filamore-Angel regularly missed meal periods 1-2 times per week to respond to direct requests from supervisors or meet the rigorous demands and deadlines of simultaneously caring for ten or more patients, while ensuring that she was meeting KPC's standards of taking vital signs from patients, administering medication, and charting vital signs into the system every hour. Thus, Ms. Filamore-Angel and other aggrieved employees missed or had meal periods interrupted in order to complete their assigned workloads. KPC did not pay Ms. Filamore-Angel and other aggrieved employees for the time they continued to perform tasks during meal periods.

Fourth, KPC, on a company-wide basis, had a practice of failing to adhere to a schedule of meal periods, which further caused Ms. Filamore-Angel and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result of these policies and/or practices, Ms. Filamore-Angel and other aggrieved employees were required to work through and/or to return early from meal periods, in order to complete their assigned tasks. Further, on information and belief, because KPC frowned upon employees accruing meal period penalties, KPC pressured Ms. Filamore-Angel and other aggrieved employees to clock out for meal periods and/or adjusted employee time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that KPC would otherwise owe. Thus, Ms. Filamore-Angel and other aggrieved employees performed work during meal periods for which they were not paid.

KPC knew or should have known that, as a result of these company-wide practices and/or policies, Ms. Filamore-Angel and other aggrieved employees were performing their assigned duties during their meal periods and performing work off-the-clock before or after their shifts, and were suffered or permitted to perform work for which they were not paid. KPC also knew, or should have known, that it did not compensate Ms. Filamore-Angel and other aggrieved employees applicable overtime rates of pay for overtime hours that they worked.

Because Ms. Filamore-Angel and other aggrieved employees regularly worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Filamore-Angel and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked. KPC's failure to pay Ms. Filamore-Angel and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198.

Furthermore, KPC did not pay Ms. Filamore-Angel and other aggrieved employees the correct overtime rates for the recorded overtime hours that they generated. In addition to an hourly wage, KPC paid Ms. Filamore-Angel and other aggrieved employees shift differential pay, incentive pay,

nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, KPC failed to incorporate all remunerations, including shift differential pay, incentive pay and/or nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when Ms. Filamore-Angel and other aggrieved employees worked overtime and received these other forms of pay, KPC failed to pay all overtime wages by paying a lower overtime rate than required.

Ms. Filamore-Angel and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 5 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work for the employer, whether or not required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards Act.” Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining “Hours Worked”).

As set forth above, during the relevant time period, as a result of KPC's policy of limiting the amount of overtime employees could accrue and time-shaving, Ms. Filamore-Angel and other aggrieved employees were required to work off-the-clock before and after their scheduled shift start and end times to complete assigned job duties. Ms. Filamore-Angel and other aggrieved employees were also required to work off-the-clock outside of their scheduled shifts on their off-days completing online training modules and traveling to attend mandatory trainings, time for which they were not paid. Additionally, due to KPC's policy of rounding Ms. Filamore-Angel's and other aggrieved employees' clock-in and clock-out duration times to the quarter-hour in its timekeeping system, KPC failed to compensate Ms. Filamore-Angel and other aggrieved employees fully for all hours worked. Also, due to KPC's policy and/or practice of understaffing while assigning heavy workloads and deadlines and failing to adhere to a schedule of meal periods, Ms. Filamore-Angel and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock.

Moreover, KPC maintained and implemented a company-wide policy of requiring employees to travel to a medical facility on their own time and using their own personal vehicles to undergo mandatory physical examinations, tuberculin (TB) testing, and/or drug testing. At all times, KPC was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. For example, KPC instructed Ms. Filamore-Angel to undergo a drug test and physical examination, and Ms. Filamore-Angel underwent the testing and examination for the sole benefit of KPC. Ms. Filamore-Angel followed the instruction of KPC and traveled to the designated medical facility in Victorville, California. Ms. Filamore-Angel spent 15 minutes driving to the medical facility designated by KPC, almost four (4) hours waiting, 45 minutes undergoing the requisite testing, and 15 minutes driving home from the facility. However, KPC did not compensate Ms. Filamore-Angel and other aggrieved employees for the time they spent traveling to and from the medical facilities and undergoing the mandatory physical examinations, TB testing, and/or drug testing.

Thus, KPC did not pay minimum wages for all hours worked by Ms. Filamore-Angel and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, KPC did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Accordingly, KPC regularly failed to pay at least minimum wages to Ms. Filamore-Angel and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Ms. Filamore-Angel and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal and rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012).

Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived. The applicable IWC Wage Order further provides that employees in the health care industry who work shifts in excess of eight (8) hours in a workday may waive one of their two meal periods, if the waiver is signed by both the employee and employer. Cal. Code. Regs. tit. 8, § 11050(11)(D).

First, as stated, KPC's company-wide policies and/or practices of understaffing its hospitals while assigning heavy workloads and deadlines, lack of adequate meal period coverage, and failure to adhere to a schedule of meal periods prevented Ms. Filamore-Angel and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. As a result of KPC's practices and/or policies, Ms. Filamore-Angel and other aggrieved employees were forced to work in excess of five (5) hours before taking a meal period. And, for the same reasons, Ms. Filamore-Angel and other aggrieved employees had their meal periods interrupted and/or had to forgo their meal periods altogether. For example, during her employment, Ms. Filamore-Angel had to forego her meal periods 1-2 times per week in order to ensure she was meeting KPC's standards of taking vital signs from patients, administering medication, and charting vital signs into the system every hour. She was never permitted to take a meal period until ten (10) hours into her shift, and even then, was interrupted 2-3 times per month and called back early from a meal period to assist patients with medical emergencies.

Second, on information and belief, because KPC frowned upon employees accruing meal period penalties, KPC's management would adjust Ms. Filamore-Angel's and other aggrieved employees' time records and/or pressured employees to clock out for meal periods to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that would need to be paid by KPC. For example, Ms. Filamore was pressured by her supervisor to clock out and continue working during her meal periods, would be verbally reprimanded by her supervisor, who would then adjust her time records when she failed to do so. Ms. Filamore-Angel and other aggrieved employees worked through meal periods or had their meal periods interrupted, because there were not enough employees on duty to handle the workload.

Third, KPC did not provide Ms. Filamore-Angel and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. For example, Ms. Filamore-Angel was never given a second meal periods even though she regularly worked shifts of 12 or more hours. Ms. Filamore-Angel and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

As a result of KPC's practices and/or policies, Ms. Filamore-Angel and other aggrieved employees were forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods interrupted, and/or had to forgo their meal periods altogether. KPC knew or should have known that as a result of its policies, Ms. Filamore-Angel and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. KPC further knew or should have known that it did not pay Ms. Filamore-Angel and other aggrieved employees meal period premium wages when meal periods were missed, late, short, and/or interrupted, because KPC adjusted employee time records to reflect compliant meal periods, even if none were taken.

KPC also has engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Filamore-Angel and other aggrieved employees have not received premium pay for missed, late, and interrupted meal periods. Alternatively, to the extent that KPC did pay meal period premium wages to Ms. Filamore-Angel and other aggrieved employees, it did so at the incorrect rates. Because KPC did not properly calculate Ms. Filamore-Angel's and other aggrieved employees' regular rates of pay by including all remunerations, such as shift differential pay, incentive pay, and/or nondiscretionary bonuses, any premiums paid for meal period violations were also paid at an incorrect rate and resulted in an underpayment of meal period premium wages.

Accordingly, KPC failed to provide all meal periods in violation of California Labor Code sections 226.7, 512, 516, and 1198. Ms. Filamore-Angel and other aggrieved employees are therefore entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

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. The applicable IWC Wage Order provides that "[e]very 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 (3½) hours.

To comply with its obligation to authorize and permit 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 remain 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).

During the relevant time period, KPC regularly failed to authorize and permit Ms. Filamore-Angel and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, KPC’s company-wide practices, including understaffing its hospitals while assigning heavy workloads and deadlines prevented Ms. Filamore-Angel and other aggrieved employees from being relieved of all duty to take compliant rest periods. Additionally, KPC failed to schedule rest periods, which, coupled with KPC’s failure to provide adequate rest period coverage, further led to Ms. Filamore-Angel and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Furthermore, KPC maintained and implemented a company-wide practice and/or policy requiring that Ms. Filamore-Angel and other aggrieved employees remain on the work premises during their rest periods. Because Ms. Filamore-Angel and other aggrieved employees were restricted from leaving the work premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes. Thus, KPC effectively maintained control over Ms. Filamore-Angel and other aggrieved employees during rest periods, and, as a result of this rest period policy, KPC did not relinquish control over Ms. Filamore-Angel and other aggrieved employees during rest periods.

As a result of KPC’s practices and policies, Ms. Filamore-Angel and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout her employment, Ms. Filamore-Angel did not receive her rest periods, due to KPC’s policy of assigning heavy workloads and deadlines and failing to provide sufficient coverage.

KPC also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Filamore-Angel and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that KPC did pay rest period premium wages to other aggrieved employees, it did so at the incorrect rates. Because KPC did not properly calculate Ms. Filamore-Angel’s and other aggrieved employees’ regular rates of pay by including all forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, any premiums paid for rest period violations were also paid at an incorrect rate and resulted in an underpayment of rest period premium wages.

Accordingly, KPC failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Filamore-Angel and other aggrieved employees are therefore entitled to civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. KPC has not provided Ms. Filamore-Angel and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, KPC has knowingly and intentionally provided Ms. Filamore-Angel and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, KPC issued uniform wage statements to Ms. Filamore-Angel and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; the correct name of the legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, KPC violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

First, because KPC did not record the time Ms. Filamore-Angel and other aggrieved employees spent working off-the-clock, underreported their hourly clock-in and clock-out times in their timekeeping system, and improperly rounded their total hours worked, KPC did not list the correct amount of gross wages and net wages earned by Ms. Filamore-Angel and other aggrieved employees, in compliance with section 226(a)(1) and 226(a)(5), respectively. For the same reason, KPC failed to accurately list the total number of the hours worked by Ms. Filamore-Angel and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Second, because KPC did not calculate Ms. Filamore-Angel's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, KPC did not list the correct amount of gross wages earned by Ms. Filamore-Angel and other aggrieved employees in compliance with section 226(a)(1) and did not list the correct amount of net wages earned by Ms. Filamore-Angel and other aggrieved employees in violation of section 226(a)(5). KPC also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of pay for premium wages, in violation of section 226(a)(9).

Third, and separate from these violations, KPC issued uniform wage statements to Ms. Filamore-Angel and other aggrieved employees that failed to correctly list the name of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment in the future for various reasons, including filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc. Ms. Filamore-Angel's and other aggrieved employees' wage statements

incorrectly list the employer as “Victor Valley Hospital Acquisition Inc,” but, according to the California Secretary of State’s website, there is no such entity by that name. However, a similarly named entity, “Victor Valley Hospital Acquisition, Inc.,” is listed on the California Secretary of State’s website with the same address. *See example paystub below.*

VICTOR VALLEY	Period Beginning:	02/17/2019
HOSPITAL ACQUISITION INC	Period Ending:	03/02/2019
15248 ELEVENTH STREET	Pay Date:	03/08/2019
VICTORVILLE, CA 92395		
Taxable Marital Status: [REDACTED]	JULIE FILAMORE-ANGEL	
Exemptions/Allowances:	[REDACTED]	
Federal:		
CA:		

The wage statement deficiencies also include, without limitation, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of her or her social security number or an employee identification number other than a social security number; failing to list the address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall ... [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments...” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), KPC willfully failed to maintain accurate payroll records for Ms. Filamore-Angel and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked, underreporting Ms. Filamore-Angel’s and other aggrieved employees’ hourly clock-in and clock-out times in their timekeeping system, and improperly rounding Ms. Filamore-Angel’s and other aggrieved employees’ total hours worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. At all relevant times, as stated, KPC engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Filamore-Angel and other aggrieved employees. Also, as stated, KPC engaged in a company-wide practice and/or policy of falsifying Ms. Filamore-Angel’s and other aggrieved employees’ time records by recording that compliant meal periods were taken regardless of if or

when meal periods were actually taken, and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Filamore-Angel and other aggrieved employees. Furthermore, in light of KPC's failure to provide Ms. Filamore-Angel and other aggrieved employees with second 30-minute meal periods to which they were entitled, KPC kept no records of meal start and end times for second meal periods.

Because KPC failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Filamore-Angel and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Filamore-Angel and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Filamore-Angel and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, KPC failed to pay Ms. Filamore-Angel and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, reporting time pay, and/or meal and rest period premium wages, within any time period specified by California Labor Code section 204.

Ms. Filamore-Angel and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves her or her employment, her or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of her or her intention to quit, in which case the employee is entitled to her or her wages at the time of quitting.

KPC willfully failed to pay Ms. Filamore-Angel and other aggrieved employees who are no longer employed by KPC all their earned wages, including, but not limited to, overtime wages, minimum wages, reporting time pay, and/or meal and rest period premium wages, either at the time of discharge, or within seventy-two (72) hours of their leaving KPC's employ in violation of California Labor Code sections 201, 202, and 203.

Ms. Filamore-Angel and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 222.5 – Failure to Pay for Costs of Mandatory Physical Exams and/or Drug Testing

At all times herein set forth, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

During the relevant time period, KPC implemented, on a company-wide basis, an employer-imposed requirement that Ms. Filamore-Angel and other aggrieved employees undergo mandatory physical examinations, TB testing, and/or drug testing, but required them to do so at their own expense. As stated, KPC had a company-wide policy requiring that Ms. Filamore-Angel and other aggrieved employees travel to a specified medical facility on their own time and use their own means of transportation to undergo physical examinations, TB testing, and/or drug testing. At all times, KPC was in control of scheduling the date and time for the examinations and/or testing, selecting the provider/facility where the examinations and/or testing were to take place, and determining the scope of the examinations and/or testing.

For example, Ms. Filamore-Angel was instructed by KPC to travel to designated medical facility in Victorville, California and obtain a drug test and physical examination. Ms. Filamore-Angel followed KPC's instructions, traveled to the medical facility authorized by KPC, and underwent the drug testing and physical examination. Ms. Filamore-Angel was required to travel to and from the medical facilities selected by KPC using her own vehicle. Ms. Filamore-Angel followed KPC's instructions and spent 15 minutes driving to medical facility designated by KPC, almost four (4) hours waiting at the medical facility, 45 minutes undergoing the requisite treatment and testing, and 15 minutes driving home from the facility.

However, KPC did not compensate Ms. Filamore-Angel and other aggrieved employees for the time they spent traveling to and from the medical facilities, for the time they spent undergoing the physical examinations, TB testing, and/or drug testing, or reimburse them for the travel expenses they incurred getting to and from the medical facilities. KPC's policy and/or practice of not paying for all costs Ms. Filamore-Angel and other aggrieved employees incurred obtaining mandatory physical examinations, TB testing, and/or drug testing violates California Labor Code section 222.5.

Ms. Filamore-Angel and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further 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.”

California Code of Regulations, Title 8, section 11050(5)(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

KPC violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5), because KPC failed to pay Ms. Filamore-Angel and other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the regular schedule.

KPC had a company-wide practice of sending Ms. Filamore-Angel and other aggrieved employees home immediately from their shifts, including before they had worked at least half of their regular shift, but would not pay Ms. Filamore-Angel and other aggrieved employees for half of their scheduled shift. For example, Ms. Filamore-Angel would frequently report to work for her scheduled 12-hour shift and be sent home because the hospital was purportedly receiving fewer patient admissions than expected. When she was sent home, she did not receive the reporting time pay to which she was entitled. Although Ms. Filamore-Angel and other aggrieved employees would report to work based on the schedule that KPC provided to them, KPC would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay. Accordingly, Ms. Filamore-Angel and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198.

Ms. Filamore-Angel and other aggrieved employees are therefore entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of her or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2)

times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

First, during the relevant time period, KPC had a company-wide policy of requiring Ms. Filamore-Angel and other aggrieved employees to utilize their own personal cellular phones and cellular data to carry out their job duties, but KPC failed to reimburse them for the costs of their work-related cellular phone expenses. Ms. Filamore-Angel and other aggrieved employees were required to use their personal cellular phones to complete their work-related tasks, such as discussing upcoming work assignments with managers and communicating with other hospital employees. For example, Ms. Filamore-Angel was forced to use her personal cellular phone 15 minutes per day to provide updates to her supervisor or text message pictures to doctors and other hospital staff at her supervisor’s request. Although KPC required Ms. Filamore-Angel and other aggrieved employees to utilize their personal cellular phones to carry out their work-related responsibilities, KPC failed to reimburse them for this cost.

Second, as stated above, KPC, on a company-wide basis, required Ms. Filamore-Angel and other aggrieved employees use their own personal vehicles to carry out company business, such as attending requisite trainings, but failed to reimburse them for all costs of travel, including mileage. For example, Ms. Filamore-Angel periodically drove 100 miles roundtrip in her personal vehicle from her home to Ontario, California, to attend mandatory in-person training courses, but was never reimbursed for her mileage to and from the trainings. Although KPC required Ms. Filamore-Angel and other aggrieved employees to utilize their own vehicles and complete these tasks as part of their job duties, KPC never reimbursed them for all of their travel expenses.

Third, KPC also had a company-wide policy of requiring Ms. Filamore-Angel and other aggrieved employees to travel in their own personal vehicles to medical facilities to obtain mandatory physical examinations, TB testing, and/or drug testing, but did not reimburse them for their travel expenses, including mileage. For example, Ms. Filamore-Angel followed KPC’s instructions, traveled 20 miles roundtrip in her personal vehicle, and underwent KPC’s mandatory drug test and physical examination, but was not reimbursed for her mileage to and from the authorized medical facility. Although KPC required Ms. Filamore-Angel and other aggrieved employees to use their own vehicles or obtain alternate transportation to undergo physical examinations, TB testing, and/or drug testing, KPC never reimbursed them for all their travel expenses.

Fourth, during the relevant time period, KPC, on a company-wide basis, forced Ms. Filamore-Angel and other aggrieved employees to purchase basic office supplies that were necessary for completion of their work-related duties. For example, Ms. Filamore-Angel was required to purchase her own pens for \$10.00 in order to record patients’ vitals and complete patient paperwork, but was never reimbursed for this expense. Although KPC required Ms. Filamore-Angel and other aggrieved employees to purchase and use their own office supplies on the job, KPC did not reimburse them for these expenses.

KPC could have provided Ms. Filamore-Angel and other aggrieved employees with the actual tools for use on the job, such as company phones, company vehicles, and office supplies to be used for fulfilling work-related tasks, or KPC could have reimbursed employees for the costs of their cellular phone, mileage, travel expenses, and supply expenses. Instead, KPC passed these operating costs off onto Ms. Filamore-Angel and other aggrieved employees.

Thus, KPC had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Filamore-Angel and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

KPC failed to provide Ms. Filamore-Angel and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). KPC's failure to provide Ms. Filamore-Angel and other aggrieved employees with written notice of basic information regarding their employment with KPC is in violation of Labor Code section 2810.5.

Ms. Filamore-Angel and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid" Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." KPC, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Filamore-Angel's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Filamore-Angel seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Filamore-Angel, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for herself, all other aggrieved employees, and the State of California against KPC for violations of California Labor Code sections 201, 202, 203, 204,

222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Filamore-Angel seeks all applicable penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Ms. Filamore-Angel's reasonable attempt to settle her dispute with KPC prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform KPC of Ms. Filamore-Angel's aforementioned grievances and the proposed remedies as detailed below, while affording KPC a reasonable opportunity to satisfy Ms. Filamore-Angel's demands.

Demand is hereby made that KPC shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. KPC shall pay Ms. Filamore-Angel and all other aggrieved employees employed by KPC at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. KPC shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked, provided lawful meal and rest periods, and paid reporting time pay.
3. KPC shall conduct a survey or interview all current and former aggrieved employees in California who worked for KPC in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; and the number of employees who were required to pay for travel, cellular phone, and office supply expenses, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. KPC shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512, 516, and 1198. KPC also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. KPC shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for KPC's benefit, including, but not limited to, costs of travel, cellular phone, and office supply expenses, as required by Labor Code sections 2802.
6. KPC shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.

7. KPC shall provide Ms. Filamore-Angel and all aggrieved employees employed by KPC at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. KPC shall provide all aggrieved employees written notice of basic information regarding their employment that includes the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
9. KPC shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.

KPC shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, 1199, and 2699, and Wage Order No. 5-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Mao Shiokura
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read "Mao Shiokura", with a stylized flourish at the end.

Mao Shiokura

Copy: VICTOR VALLEY HOSPITAL ACQUISITION, INC. (via U.S. Certified Mail); KPC HEALTHCARE, INC. (via U.S. Certified Mail); KPC HEALTHCARE HOLDINGS, INC. (via U.S. Certified Mail)