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

JUN 14 2022

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

LOUIS AMES and JAMES GUIFFRIDA,
individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

SAN ANTONIO REGIONAL HOSPITAL,
a California corporation; and DOES 1
through 20, inclusive,

Defendants.

Case No. CIVDS2018953

*Assigned for All Purposes to:
Judge David Cohn, Dept. S-26*

**SECOND AMENDED CLASS ACTION
COMPLAINT FOR:**

1. Failure to Pay Wages;
2. Failure to Provide Meal Periods;
3. Failure to Permit Rest Breaks;
4. Failure to Pay All Wages Due Within the
Required Time and Upon Separation of
Employment;
5. Failure to Furnish Accurate Wage
Statements; and
6. Violation of Business and Professions
Code §§ 17200, *et seq.*
7. Failure to Reimburse Business Expenses;
8. Enforcement of Labor Code § 2698 *et seq.*
("PAGA")

1 Plaintiffs Louis Ames and James Guiffrida, individually and on behalf of others similarly
2 situated, allege as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiffs Louis Ames and James Guiffrida (“Plaintiffs”) bring this putative class
5 and representative action pursuant to the Private Attorneys General Act of 2004, Cal. Lab. Code.
6 § 2698 *et seq.*, pursuant to California Code of Civil Procedure section 382, on behalf of Plaintiffs
7 and all non-exempt employees employed by, or formerly employed by, San Antonio Regional
8 Hospital, a California corporation; and DOES 1 through 20, inclusive (collectively, “Defendants”)
9 within the State of California.

10 2. Defendants are in the business of operating hospitals.

11 3. Through this action, Plaintiffs are alleging that Defendants have engaged in a
12 systematic pattern of wage and hour violations under the California Labor Code and Industrial
13 Welfare Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate
14 unfair competition.

15 4. Plaintiffs are informed and believe, and thereon allege, that Defendants have
16 increased their profits by violating state wage and hour laws by, among other things:

- 17 (a) Failing to pay overtime wages;
- 18 (b) Failing to provide meal periods or compensation in lieu thereof;
- 19 (c) Failing to authorize or permit rest breaks or provide compensation in lieu
20 thereof;
- 21 (d) Willfully failing to provide accurate, semi-monthly itemized wage
22 statements;
- 23 (e) Failing to pay all wages due upon separation of employment; and
- 24 (f) failing to reimburse all business expenses incurred;

25 5. Plaintiffs bring this lawsuit seeking monetary relief against Defendants on behalf
26 of themselves and all other members of the general public similarly situated in California to
27 recover, among other things, unpaid wages and benefits, interest, attorney’s fees, costs and
28 expenses and penalties (to the extent permitted by law) pursuant to Labor Code §§ 201, 202, 203,

204, 210, 226, 226.3, 226.7, 510, 511, 512, 558, 1174, 1174.5, 1194, 1198, 2800, 2802, and 2698, *et seq.*

JURISDICTION AND VENUE

6. This is a class action, pursuant to California Code of Civil Procedure § 382. The monetary damages and restitution sought by Plaintiffs exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial.

7. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those given by statutes to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

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

THE PARTIES

9. Plaintiffs are citizens of California. Plaintiffs were employed by Defendants during the Class Period in California.

10. Plaintiffs are informed and believe, and thereon allege, that Defendants were and are corporations doing business in California and, at all times hereinafter mentioned, were and are employers as defined in and subject to the Labor Code and IWC Wage Orders, whose employees are engaged throughout this county and the State of California.

11. Plaintiffs are unaware of the true names or capacities of the Defendants sued herein under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this Complaint and serve such fictitiously named Defendants once their names and capacities become known.

1 All Class members who separated their employment from Defendants at any time
2 between January 25, 2018 and the date of class certification.

3 20. Plaintiffs reserve the right to establish other or additional subclasses, or modify
4 any Class or Subclass definition, as appropriate.

5 21. Members of the class and subclass described above will be collectively referred to
6 as “class members.” Plaintiffs reserve the right to re-define the above class and subclass and add
7 additional subclasses as appropriate based on investigation, discovery and specific theories of
8 liability.

9 22. This action has been brought and may properly be maintained as a class action
10 under the California Code of Civil Procedure § 382 because there are common questions of law
11 and fact as to the Class that predominate over questions affecting only individual members
12 including, but not limited to:

- 13 a. Whether Defendants required Plaintiffs and class members to work over 8
14 hours per day, over 12 hours per day and/or over 40 hours per week and
15 failed to pay them proper overtime compensation;
- 16 b. Whether Defendants deprived Plaintiffs and class members of meal periods
17 or required Plaintiffs and class members to work through meal periods;
- 18 c. Whether Defendants deprived Plaintiffs and class members of paid rest
19 breaks or required Plaintiffs and class members to work through rest
20 breaks;
- 21 d. Whether Defendants failed to timely pay Plaintiffs and class members all
22 wages due upon termination or within 72 hours of resignation;
- 23 e. Whether Defendants failed to furnish Plaintiffs and class members with
24 accurate, itemized wage statements;
- 25 f. Whether Defendants engaged in unfair business practices in violation of
26 Business & Professions Code §§ 17200, *et seq*; and
- 27 g. Whether Defendants failed to reimburse Plaintiffs and Class Members for
28 necessary business expenses.

1 23. There is a well-defined community of interest in this litigation and the proposed
2 class and subclasses are readily ascertainable:

3 (a) Numerosity: The members of the class and subclass are so numerous that
4 joinder of all members is impractical. Although the members of the entire class
5 and subclass are unknown to Plaintiffs at this time, on information and belief, the
6 class is estimated to be greater than one hundred (100) individuals. The identities
7 of the class and subclass are readily ascertainable by inspection of Defendants'
8 employment and payroll records.

9 (b) Typicality: The claims (or defenses, if any) of Plaintiffs are typical of the
10 claims (or defenses, if any) of the class because Defendants' failure to comply
11 with the provisions of California wage and hour laws entitled each class member
12 to similar pay, benefits and other relief. The injuries sustained by Plaintiffs are
13 also typical of the injuries sustained by the class and subclass, because they arise
14 out of and are caused by Defendants' common course of conduct as alleged
15 herein.

16 (c) Adequacy: Plaintiffs will fairly and adequately represent and protect the
17 interests of all members of the class and subclass because it is in his best interests
18 to prosecute the claims alleged herein to obtain full compensation and penalties
19 due him and the class and subclass. Plaintiffs' attorneys, as proposed class
20 counsel, are competent and experienced in litigating large employment class
21 actions and versed in the rules governing class action discovery, certification and
22 settlement. Plaintiffs have incurred and, throughout the duration of this action,
23 will continue to incur attorney's fees and costs that have been and will be
24 necessarily expended for the prosecution of this action for the substantial benefit
25 of each class member.

26 (d) Superiority: The nature of this action makes use of class action adjudication
27 superior to other methods. A class action will achieve economies of time, effort
28 and expense as compared with separate lawsuits, and will avoid inconsistent

1 outcomes because the same issues can be adjudicated in the same manner and at
2 the same time for the entire class and subclass. If appropriate this Court can, and
3 is empowered to, fashion methods to efficiently manage this case as a class
4 action.

- 5 (e) Public Policy Considerations: Employers in the State of California violate
6 employment and labor laws every day. Current employees are often afraid to
7 assert their rights out of fear of direct or indirect retaliation. Former employees
8 are fearful of bringing actions because they believe their former employers might
9 damage their future endeavors through negative references and/or other means.
10 Class actions provide the class members who are not named in the complaint with
11 a type of anonymity that allows for the vindication of their rights at the same time
12 as affording them privacy protections.

13 **GENERAL ALLEGATIONS**

14 24. At all relevant times mentioned herein, Defendants employed Plaintiffs and other
15 persons as non-exempt employees.

16 25. Defendants employed Plaintiffs in a non-exempt position at Defendants'
17 California business location(s) during the relevant time period.

18 26. Defendants continue to employ non-exempt employees within California.

19 27. Plaintiffs are informed and believe, and thereon allege, that at all times herein
20 mentioned, Defendants were advised by skilled lawyers, employees and other professionals who
21 were knowledgeable about California wage and hour laws, employment and personnel practices
22 and the requirements of California law.

23 28. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
24 should have known that Plaintiffs and class members were entitled to receive certain wages for
25 overtime compensation. In violation of the Labor Code and IWC Wage Orders, Plaintiffs and
26 class members were not properly paid for all of their overtime because Defendants failed to pay
27 proper overtime. For example, Defendant failed to properly include shift premiums or other
28

1 incentive pay in the overtime rate paid to Plaintiffs and class members or failed to calculate a
2 blended overtime rate.

3 29. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
4 should have known that Plaintiffs and class members were entitled to receive all meal periods or
5 payment of one (1) additional hour of pay at Plaintiffs' and class members' regular rate of pay
6 when they did not receive a timely, uninterrupted meal period. In violation of the Labor Code and
7 IWC Wage Orders, Plaintiffs and class members did not receive all meal periods or payment of
8 one (1) additional hour of pay at Plaintiffs' and class members' regular rate of pay when they did
9 not receive a timely, uninterrupted meal period.

10 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
11 should have known that Plaintiffs and class members were entitled to receive all rest breaks or
12 payment of one (1) additional hour of pay at Plaintiffs' and class members' regular rate of pay
13 when a rest break was missed. In violation of the Labor Code and IWC Wage Orders, Plaintiffs
14 and class members did not receive all rest breaks or payment of one (1) additional hour of pay at
15 Plaintiffs' and class members' regular rate of pay when a rest break was missed.

16 31. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
17 should have known that Plaintiffs and Waiting Time Subclass members were entitled to timely
18 payment of wages due upon separation of employment. In violation of the Labor Code, Plaintiffs
19 and Waiting Time Subclass members did not receive payment of all wages including, but not
20 limited to, unpaid overtime compensation, within permissible time periods.

21 32. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
22 should have known that Plaintiffs and class members were entitled to receive complete and
23 accurate wage statements in accordance with California law. In violation of the California Labor
24 Code, Plaintiffs and class members were not furnished with complete and accurate wage
25 statements showing their accurate gross and net wages, and the number of hours worked at each
26 applicable hourly rate, among other things.

27 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
28 should have known they had a duty to compensate Plaintiffs and class members, and Defendants

1 had the financial ability to pay such compensation but willfully, knowingly and intentionally
2 failed to do so all in order to increase Defendants' profits.

3 34. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
4 should have known that Plaintiffs and class members were entitled to reimbursement for
5 necessary expenditures incurred in connection with the performance and execution of their job
6 duties. In violation of the California Labor Code, Plaintiffs and class members did not receive
7 adequate reimbursement for necessary business expenses, including but not limited to
8 reimbursement for mileage, use and depreciation of their personal vehicles,.

9 **FIRST CAUSE OF ACTION**

10 **FAILURE TO PAY WAGES**

11 (Violation of Labor Code §§ 200 *et seq.*, 510, 1194, 1198, and IWC Wage Order)

12 35. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
13 though fully set forth herein.

14 36. During the relevant time period, Defendants were required to compensate
15 Plaintiffs and class members for all hours worked, pursuant to Labor Code §§ 200 *et seq.*, 510,
16 1194, 1198, and the applicable IWC Wage Order.

17 37. Labor Code § 510 codifies the right to overtime compensation at one and one-half
18 times the regular hourly rate for hours worked in excess of eight (8) hours in a day or forty (40)
19 hours in a week or for the first eight (8) hours worked on the seventh day of work, and overtime
20 compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a
21 day or in excess of eight (8) hours in a day on the seventh day of work.

22 38. During the relevant time period, Defendants regularly failed to pay all wages to
23 Plaintiffs and class members for all hours worked at the appropriate overtime rate pursuant to
24 Labor Code §§ 510, 1194, and 1198.

25 39. As a direct and proximate result of Defendants' failure to pay Plaintiffs and class
26 members the required wages, Plaintiffs and class members are entitled to recover the unpaid
27 balance of their wages, including overtime compensation, as well as interest, costs and attorneys'
28 fees.

40. Pursuant to Labor Code § 1194.2, Plaintiffs and class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

SECOND CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(Violation of Labor Code §§ 226.7 and 512; Violation of IWC Wage Order § 11)

41. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as though fully set forth herein.

42. Labor Code § 226.7 provides that no employer shall require an employee to work during any meal period mandated by the IWC Wage Orders.

43. Section 11 of the applicable IWC Wage Order states, “no employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee.”

44. Labor Code § 512(a) provides that 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.

45. Labor Code § 512(a) also provides that an employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes, 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.

46. During the relevant time period, Plaintiffs and class members did not receive compliant meal periods for working more than five (5) and/or ten (10) hours per day because, among other things, Defendants did not provide timely meal periods for shifts over five hours, and Defendants did not provide a second meal period for shifts over 10 hours.

47. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order requires an employer to pay an employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal period is not provided.

48. At all relevant times, Defendants failed to pay Plaintiffs and class members meal period premium for missed and untimely meal periods pursuant to Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order.

49. As a result of Defendants' failure to pay Plaintiffs and class members an additional hour of pay for each day a meal period was not provided, Plaintiffs and class members suffered and continue to suffer a loss of wages and compensation.

THIRD CAUSE OF ACTION

FAILURE TO PERMIT REST BREAKS

(Violation of Labor Code § 226.7; Violation of IWC Wage Order § 12)

50. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as though fully set forth herein.

51. Labor Code § 226.7(a) provides that no employer shall require an employee to work during any rest period mandated by the IWC Wage Orders.

52. Section 12 of the applicable IWC Wage Order states “every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and the “authorized 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.

53. During the relevant time period, Plaintiffs and class members did not receive a ten (10) minute rest period for every four (4) hours or major fraction thereof worked because they were required to work through their daily rest periods and/or were not authorized to take their rest periods.

54. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order requires an employer to pay an employee one additional hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

55. At all relevant times, Defendants failed to pay Plaintiffs and class members rest period premium for missed or interrupted rest periods pursuant to Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order.

56. As a result of Defendants' failure to pay Plaintiffs and class members an additional hour of pay for each day a rest period was not provided, Plaintiffs and class members suffered and continue to suffer a loss of wages and compensation.

FOURTH CAUSE OF ACTION

FAILURE TO PAY ALL WAGES DUE UPON SEPARATION OF EMPLOYMENT

(Violations of Labor Code §§ 201, 202 and 203)

57. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as though fully set forth herein.

58. Labor Code §§ 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 employment, his 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 intention to quit, in which case the employee is entitled to his wages at the time of quitting.

59. During the relevant time period, Defendants willfully failed to pay Plaintiff and Waiting Time Subclass members who are no longer employed by Defendants all their earned wages upon termination including, but not limited to, proper overtime compensation, either at the time of discharge or within seventy-two (72) hours of their leaving Defendants' employ.

60. Defendants' failure to pay Plaintiffs and Waiting Time Subclass members who are no longer employed by Defendants all their earned wages at the time of discharge or within seventy-two (72) hours of their leaving Defendants' employ is in violation of Labor Code §§ 201 and 202.

61. Labor Code § 203 provides that if an employer willfully fails to pay wages owed immediately upon discharge or resignation in accordance with Labor Code §§ 201 and 202, then

1 the wages of the employee shall continue as a penalty from the due date at the same rate until paid
2 or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

3 62. Plaintiffs and Waiting Time Subclass members are entitled to recover from
4 Defendants the statutory penalty which is defined as Plaintiffs and class members' regular daily
5 wages for each day they were not paid, at their regular hourly rate of pay, up to a thirty (30) day
6 maximum pursuant to Labor Code § 203.

7 **FIFTH CAUSE OF ACTION**

8 **FAILURE TO FURNISH ACCURATE WAGE STATEMENTS**

9 (Violation of Labor Code § 226)

10 63. Plaintiffs hereby incorporate all previous paragraphs of this Complaint as though
11 fully set forth herein.

12 64. California Labor Code § 226(a) requires employers to furnish their employees with
13 an accurate itemized writing that shows gross wages earned, total hours worked, all deductions
14 and reimbursements, net wages earned, the inclusive dates of the period for which the employee
15 is paid, the name of the employee and the portion of his or her social security number as required
16 by law, the name and address of the legal entity that is the employer and all applicable hourly
17 rates in effect during the pay period and the corresponding number of hours worked at each
18 hourly rate by the employee.

19 65. Defendants have intentionally and willfully failed to provide Plaintiffs and class
20 members with complete and accurate wage statements. The deficiencies include, among other
21 things, the failure to correctly state the gross and net wages earned, total hours worked, and all
22 applicable hourly rates in effect and the number of hours worked at each hourly rate by Plaintiffs
23 and class members.

24 66. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiffs and
25 class members have suffered injury and damage to their statutorily protected rights. Specifically,
26 Plaintiffs and class members have been injured by Defendants' intentional violation of California
27 Labor Code § 226(a) because they were denied both their legal right to receive, and their
28 protected interest in receiving, accurate itemized wage statements under California Labor Code §

1 226(a). Plaintiff has had to file this lawsuit in order to determine the extent of the underpayment
2 of wages, thereby causing Plaintiffs to incur expenses and lost time. Plaintiffs would not have had
3 to engage in these efforts and incur these costs had Defendants provided the accurate wages
4 earned. This has also delayed Plaintiffs' ability to demand and recover the underpayment of
5 wages from Defendants.

6 67. California Labor Code § 226(a) requires an employer to pay the greater of all
7 actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurred,
8 and one hundred dollars (\$100.00) per employee for each violation in subsequent pay periods,
9 plus attorney's fees and costs, to each employee who was injured by the employer's failure to
10 comply with California Labor Code § 226(a).

11 68. Defendants' violations of California Labor Code § 226(a) prevented Plaintiffs and
12 class members from knowing, understanding and disputing the wages paid to them, and resulted
13 in an unjustified economic enrichment to Defendants. As a result of Defendants' knowing and
14 intentional failure to comply with California Labor Code § 226(a), Plaintiffs and class members
15 have suffered an injury, and the exact amount of damages and/or penalties is all in an amount to
16 be shown according to proof at trial.

17 69. Plaintiffs and class members are also entitled to injunctive relief under California
18 Labor Code § 226(g), compelling Defendants to comply with California Labor Code § 226, and
19 seek the recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

20 **SIXTH CAUSE OF ACTION**

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

22 70. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
23 though fully set forth herein.

24 71. Defendants' conduct, as alleged herein, has been and continues to be unfair,
25 unlawful and harmful to Plaintiff, class members and to the general public. Plaintiffs seek to
26 enforce important rights affecting the public interest within the meaning of Code of Civil
27 Procedure § 1021.5.

1 72. Defendants' activities, as alleged herein, violate California law and constitute
2 unlawful business acts or practices in violation of California Business and Professions Code §§
3 17200, *et seq.*

4 73. A violation of Business and Professions Code §§ 17200, *et seq.* may be predicated
5 on the violation of any state or federal law.

6 74. Defendants' policies and practices have violated state law in at least the following
7 respects:

8 (a) Failing to pay Plaintiffs and class members all overtime compensation in violation
9 of Labor Code §§ 200 *et seq.*, 510, 1194, and 1198;

10 (b) Failing to provide meal periods without paying Plaintiffs and class members
11 premium wages for every day said meal periods were not provided in violation of
12 Labor Code §§ 226.7 and 512;

13 (c) Failing to authorize or permit rest breaks without paying Plaintiffs and class
14 members premium wages for every day said rest breaks were not authorized or
15 permitted in violation of Labor Code § 226.7;

16 (d) Failing to timely pay all earned wages to Plaintiffs and Waiting Time Subclass
17 members upon separation of employment in violation of Labor Code §§ 201, 202
18 and 203; and

19 (e) Failing to provide accurate, itemized wage statements to Plaintiffs and class
20 members in violation of Labor Code § 226.

21 (f) Failed to reimburse Plaintiffs and Class Members for all business expenses
22 incurred for Defendant's benefit in violation of Labor Code §§ 2800 and 2802

23 75. Defendants intentionally avoided paying Plaintiffs' and class members' wages
24 and monies, thereby creating for Defendants an artificially lower cost of doing business in order
25 to undercut their competitors and establish and gain a greater foothold in the marketplace.

26 76. Pursuant to Business and Professions Code §§ 17200, *et seq.* Plaintiffs and class
27 members are entitled to restitution of the wages unlawfully withheld and retained by Defendants
28

1 during a period that commences on January 25, 2018; an award of attorney's fees pursuant to
2 Code of Civil Procedure § 1021.5 and other applicable laws; and an award of costs.

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7 **SEVENTH CAUSE OF ACTION**

8 **FAILURE TO REIMBURSE ALL BUSINESS EXPENSES**

9 (Violation of Labor Code §§ 2800, 2802)

10 77. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
11 though fully set forth herein.

12 78. Labor Code § 2800 states that an employer shall in all cases indemnify his
13 employee for losses.

14 79. Labor Code § 2802 requires employers to indemnify their employees for all
15 necessary expenditures or losses incurred by employees in direct consequence of the discharge
16 of their duties.

17 80. Section 9 of the applicable IWC Wage Order states that when tools or
18 equipment are required by the employer or are necessary to the performance of a job, such tools
19 and equipment shall be provided and maintained by the employer.

20 81. During the relevant time period, Defendants required Plaintiffs and class
21 members to use their personal cellular devices for business purposes, without paying Plaintiffs
22 and class members for a reasonable percentage of their cell phone bills, and required Plaintiffs
23 and class members to incur gas expenses without reimbursement.

24 82. In violation of Labor Code §§ 2800 and 2802, Defendants failed to indemnify
25 Plaintiff and class members for these expenses.

26 83. In committing the violations as herein alleged, Defendants have intentionally
27 and willfully failed to fully reimburse Plaintiffs and class members for necessary business-
28 related costs and expenses. As a direct result, Plaintiffs and class members have suffered and

1 continue to suffer substantial losses relating to the use and enjoyment of such compensation,
2 wages, expenses, and attorney's fees.

3 **EIGHTH CAUSE OF ACTION**

4 **ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. ("PAGA")**

5 84. Plaintiff Louis Ames hereby re-alleges and incorporates by reference the previous
6 paragraphs as though fully set forth herein.

7 85. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
8 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
9 ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or employees for
10 violation of the Labor Code may, as an alternative, be recovered through a civil action brought by
11 an aggrieved employee on behalf of himself or herself and other current or former employees
12 pursuant to the procedures specified in Labor Code § 2699.3.

13 86. For all provisions of the Labor Code except those for which a civil penalty is
14 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
15 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
16 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
17 period in which Defendants violated these provisions of the Labor Code.

18 87. Defendants' conduct violates numerous Wage Order and Labor Code sections,
19 including, but not limited to, the following:

- 20 (a) violation of Labor Code §§ 201-203, 204, 210, 510, 1194, 1197, and 1198
21 for failure to timely pay all earned wages (including minimum wage and
22 overtime wages) owed to Plaintiff and other aggrieved employees during
23 employment and upon separation of employment as herein alleged;
- 24 (b) violation of Labor Code §§ 226.7 and 512 for failure to provide meal
25 periods to Plaintiff and other aggrieved employees and failure to pay
26 premium wages for missed meal periods as herein alleged;
- 27
28

1 (c) violation of Labor Code § 226.7 for failure to permit rest breaks to
2 Plaintiff and other aggrieved employees and failure to pay premium wages
3 for missed rest periods as herein alleged;

4 (d) violation of Labor Code § 226 for failure to provide accurate itemized
5 wage statements to Plaintiff and other aggrieved employees as herein
6 alleged; and

7 (e) violation of Labor Code §§ 1174 and 1174.5 for failure to maintain
8 accurate and complete records showing, among other things, the hours
9 worked daily by and the wages paid to aggrieved employees.

10 88. Plaintiff is an “aggrieved employee” because he was employed by the alleged
11 violator and had one or more of the violations committed against him, and therefore is properly
12 suited to represent the interests of all other aggrieved employees.

13 89. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as
14 to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and all
15 other aggrieved employees under PAGA.

16 90. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to
17 recover civil penalties, in addition to other remedies, for violations of the Labor Code sections
18 cited above.

19 91. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred
20 herein.

21 **PRAYER FOR RELIEF**

22 Plaintiffs, on their own behalf and on behalf of all others similarly situated, pray for relief
23 and judgment against Defendants, jointly and severally, as follows:

- 24 1. For certification of this action as a class action;
25 2. For appointment of Louis Ames as the class representative;
26 3. For appointment of Aegis Law Firm, PC as class counsel for all purposes;
27 4. For compensatory damages in an amount according to proof with interest thereon;
28

1 5. For economic and/or special damages in an amount according to proof with
2 interest thereon;

3 6. For liquidated damages pursuant to Labor Code § 1194.2;

4 7. For reasonable attorney's fees, costs of suit and interest to the extent permitted by
5 law, including pursuant to Code of Civil Procedure § 1021.5, Labor Code §§ 226(e), 1194, and
6 2698 *et seq.*;

7 8. For statutory penalties to the extent permitted by law, including those pursuant to
8 the Labor Code and IWC Wage Orders;

9 9. For restitution as provided by Business and Professions Code §§ 17200, *et seq.*;

10 10. For an order requiring Defendants to restore and disgorge all funds to each
11 employee acquired by means of any act or practice declared by this Court to be unlawful, unfair
12 or fraudulent and, therefore, constituting unfair competition under Business and Professions Code
13 §§ 17200, *et seq.*;

14 11. For an award of damages in the amount of unpaid compensation including, but
15 not limited to, unpaid wages, benefits and penalties;

16 12. For pre-judgment interest;

17 13. For civil penalties; and

18 14. For such other relief as the Court deems just and proper.

19 Dated: June 14, 2022

AEGIS LAW FIRM, PC

20
21 By: _____



22 Fawn F. Bekam
23 Attorneys for Plaintiff Louis Ames and James
24 Guiffrida
25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, am employed in the County of Orange, State of California. I am over
3 the age of 18 and not a party to the within action; am employed with Aegis Law Firm PC and my
business address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

4 On June 14, 2022, I served the foregoing document entitled:

5 • **SECOND AMENDED CLASS ACTION COMPLAINT**
6 on all the appearing and/or interested parties in this action by placing ☐ the original ☒ a true
copy thereof enclosed in sealed envelope(s) addressed as follows:

7 Douglas R. Hart
8 Sheryl K. Horwitz
9 **MORGAN, LEWIS, & BOCKIUS LLP**
10 300 South Grand Avenue, 22nd Floor
11 Los Angeles, CA 90071-3132
12 Tel: 213.612.2500
Fax: 213.612.2501
Douglas.hart@morganlewis.com
Sheryl.horwitz@morganlewis.com
george.benjamin@morganlewis.com
jeremy.gloates@morganlewis.com

13 *Attorneys for Defendant:*
SAN ANTONIO REGIONAL HOSPITAL

14 ☐ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing
15 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service
16 on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of
17 business. I am aware that on motion of the party served, service is presumed invalid if postage
cancellation date or postage meter date is more than one day after date of deposit for mailing this
affidavit. (*Cal Code Civ. Proc. § 1013(a); Fed. R. Civ. Proc. 5(a); Fed. R. Civ. Proc. 5(c).*)

18 ☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business practice of
19 Aegis Law Firm PC for collection and processing correspondence for overnight delivery, and I
20 caused such document(s) described herein to be deposited for delivery to a facility regularly
maintained Federal Express for overnight delivery. (*Cal Code Civ. Proc. § 1013(c); Fed. R. Civ.
Proc. 5(c).*)

21 ☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via electronic
22 transmission to the addressee(s) listed above on the date below. (*Cal. Code Civ. Proc. § 1010.6(6);
Fed. R. Civ. Proc. 5(b)(2)(E); Fed. R. Civ. Proc. 5(b)(3).*)

23 ☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to the
addressed named above. (*Cal Code Civ. Proc. § 1011; Fed. R. Civ. Proc. 5(b)(2)(A).*)

24 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
25 and correct.

26 Executed on June 14, 2022, at Irvine, California.

27 
28 Delaney Graves