

FILED/ENDORSED

MAY 04 2021

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO**

RONIEL SINGH, on behalf of the State
of California, as a private attorney
general,

Plaintiff,

vs.

SUTTER VALLEY HOSPITALS, a
Corporation; and Does 1 through 50,
Inclusive;

Defendants.

Case No. **34-2021-00300028**

**REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. Civil Penalties Pursuant to Labor Code
§ 2699, *et seq.*, for violations of Labor
Code §§ 201, 202, 203, 204 *et seq.*, 210,
226(a), 226.7, 351, 510, 512, 558(a)(1)(2),
1194, 1197, 1197.1, 1198, 2802,
California Code of Regulations, Title 8,
Section 11040, Subdivision 5(A)-(B)

BY FAX

1 Plaintiff Roniel Singh (“PLAINTIFF”), on behalf of the people of the State of California
2 and as an “aggrieved employee” acting as a private attorney general under the Labor Code
3 Private Attorney General Act of 2004, § 2699, *et seq.* (“PAGA”) only, alleges on information
4 and belief, except for his own acts and knowledge which are based on personal knowledge, the
5 following:

6 INTRODUCTION

7 1. PLAINTIFF brings this action against SUTTER VALLEY HOSPITALS
8 (“DEFENDANT”) seeking only to recover PAGA civil penalties for himself, and on behalf of
9 all current and former aggrieved employees that worked for DEFENDANT. PLAINTIFF does
10 **not seek to recover anything other than penalties as permitted by California Labor Code**
11 **§ 2699.** To the extent that statutory violations are mentioned for wage violations, PLAINTIFF
12 does not seek underlying general and/or special damages for those violations, but simply the
13 civil penalties permitted by California Labor Code § 2699.

14 2. California has enacted the PAGA to permit an individual to bring an action on
15 behalf of himself and on behalf of others for PAGA penalties *only*, which is the precise and sole
16 nature of this action.

17 3. Accordingly, PLAINTIFF seeks to obtain all applicable relief for
18 DEFENDANT’s violations under PAGA and solely for the relief as permitted by PAGA – that
19 is, penalties and any other relief the Court deems proper pursuant to the PAGA. Nothing in this
20 complaint should be construed as attempting to obtain any relief that would not be available in
21 a PAGA-only action.

22 THE PARTIES

23 4. Defendant Sutter Valley Hospitals (“DEFENDANT”) is a Corporation that at all
24 relevant times mentioned herein conducted and continues to conduct substantial and regular
25 business throughout California.

26 5. DEFENDANT is a not for profit hospital company, part of the Sutter Health
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1 network, providing health care services to patients in Sacramento.

2 6. PLAINTIFF was employed by DEFENDANT in California as a non-exempt
3 employee in the position of Radiological technologist entitled to overtime pay and meal and rest
4 periods from October of 2012 to October of 2020. PLAINTIFF was at all times relevant
5 mentioned herein classified by DEFENDANT as a non-exempt employee paid in whole or in
6 part on an hourly basis.

7 7. PLAINTIFF, and such persons that may be added from time to time who satisfy
8 the requirements and exhaust the administrative procedures under the Private Attorney General
9 Act, brings this Representative Action on behalf of the State of California with respect to
10 himself and all individuals who are or previously were employed by DEFENDANT in
11 California and classified as non-exempt employees, excluded from this definition of
12 "AGGRIEVED EMPLOYEES" are employees who held the job position of a surgical
13 technician ("AGGRIEVED EMPLOYEES") during the time period of October 16, 2019 until
14 a date as determined by the Court (the "PAGA PERIOD").

15 8. PLAINTIFF, on behalf of himself and all AGGRIEVED EMPLOYEES presently
16 or formerly employed by DEFENDANT during the PAGA PERIOD, brings this representative
17 action pursuant to Labor Code § 2699, *et seq.* seeking fixed civil penalties for DEFENDANT's
18 violation of California Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510,
19 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8,
20 Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s) and thereby gives rise
21 to civil penalties as a result of such conduct.¹ Based upon the foregoing, PLAINTIFF and all
22 AGGRIEVED EMPLOYEES are aggrieved employees within the meaning of Labor Code §
23 2699, *et seq.*

24 9. The true names and capacities, whether individual, corporate, subsidiary,
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27 ¹Plaintiff specifically excludes and/or does not allege any claims under California Labor
28 Code §558(a)(3).

1 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
2 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant
3 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege
4 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.
5 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that
6 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are
7 responsible in some manner for one or more of the events and happenings that proximately
8 caused the injuries and damages hereinafter alleged.

9 10. The agents, servants and/or employees of the Defendants and each of them acting
10 on behalf of the Defendants acted within the course and scope of his, her or its authority as the
11 agent, servant and/or employee of the Defendants, and personally participated in the conduct
12 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
13 Consequently, the acts of each Defendant are legally attributable to the other Defendants and
14 all Defendants are jointly and severally liable to PLAINTIFF and the other AGGRIEVED
15 EMPLOYEES, for the loss sustained as a proximate result of the conduct of the Defendants'
16 agents, servants and/or employees.

17 18 **THE CONDUCT**

19 11. During the PAGA PERIOD, DEFENDANT failed and continues to fail to
20 accurately calculate and pay PLAINTIFF and the other AGGRIEVED EMPLOYEES for their
21 minimum and overtime wages. DEFENDANT unlawfully and unilaterally failed to accurately
22 calculate minimum and overtime wages for time worked by PLAINTIFF and other
23 AGGRIEVED EMPLOYEES in order to avoid paying these employees the correct
24 compensation. Also, DEFENDANT, as a matter of established company policy and procedure,
25 administered a uniform practice of rounding the actual time worked and recorded by
26 PLAINTIFF and the AGGRIEVED EMPLOYEES, always to the benefit of DEFENDANT, so
27 that during the course of their employment, PLAINTIFF and the AGGRIEVED EMPLOYEES
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1 were paid less than they would have been paid had they been paid for actual recorded time
2 rather than “rounded” time. DEFENDANT’s policy and practice not to pay PLAINTIFF and
3 other AGGRIEVED EMPLOYEES for all time worked, is evidenced by DEFENDANT’s
4 business records. DEFENDANT also underpaid sick pay wages to PLAINTIFF and other
5 AGGRIEVED EMPLOYEES by failing to pay such wages at the regular rate of pay.
6 Specifically, PLAINTIFF and other non-exempt employees regularly earn non-discretionary
7 remuneration, including but not limited to, incentives, shift differential pay, and bonuses.
8 Rather than pay sick pay at the regular rate of pay, DEFENDANT underpaid sick pay to
9 PLAINTIFF and other AGGRIEVED EMPLOYEES at their base rates of pay. As a result,
10 PLAINTIFF and the other AGGRIEVED EMPLOYEES forfeited wages due them for working
11 without compensation at the correct minimum wage and overtime rates. DEFENDANT’s policy
12 and practice to not pay the AGGRIEVED EMPLOYEES the correct compensation for all time
13 worked in accordance with applicable law is evidenced by DEFENDANT’s business records.
14 This policy and practice of DEFENDANT was intended to purposefully avoid the payment of
15 the correct compensation as required by California law which allowed DEFENDANT to
16 illegally profit and gain an unfair advantage over competitors who complied with the law.

17 12. During the PAGA PERIOD, DEFENDANT failed to accurately record and pay
18 PLAINTIFF and other AGGRIEVED EMPLOYEES for the actual amount of time these
19 employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,
20 DEFENDANT is required to pay PLAINTIFF and other AGGRIEVED EMPLOYEES for all
21 time worked, meaning the time during which an employee was subject to the control of an
22 employer, including all the time the employee was permitted or suffered to permit this work.
23 DEFENDANT required these employees to work off the clock without paying them for all the
24 time they were under DEFENDANT’s control. Specifically, DEFENDANT required
25 PLAINTIFF to work while clocked out during what was supposed to be PLAINTIFF’s off-duty
26 meal break. PLAINTIFF was from time to time interrupted by work assignments. Indeed there
27 were days where PLAINTIFF did not even receive a partial lunch. Additionally, DEFENDANT
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1 also required PLAINTIFF and other AGGRIEVED EMPLOYEES to work off the clock
2 performing duties that included but were not limited to diagnostic imaging procedures, x ray
3 examinations, MRI scans and CT scans. DEFENDANT also failed to have an immutable
4 system and unilaterally modified the time records of PLAINTIFF and other AGGRIEVED
5 EMPLOYEES. This work included but was not limited to, building, fixing, and testing device
6 integration. As a result, PLAINTIFF and other AGGRIEVED EMPLOYEES forfeited
7 minimum wage and overtime compensation by working without their time being accurately
8 recorded and without compensation at the applicable minimum wage and overtime rates. To the
9 extent that the time worked off the clock did not qualify for overtime premium payment,
10 DEFENDANT failed to pay minimum wages for the time worked off-the-clock in violation of
11 Cal. Lab. Code §§ 1194, 1197, and 1197.1.

12 13. State and federal law provides that employees must be paid overtime at one-and-
13 one-half times their “regular rate of pay.” PLAINTIFF and other AGGRIEVED EMPLOYEES
14 were compensated at an hourly rate plus incentive pay that was tied to specific elements of an
15 employee’s performance.

16 14. The second component of PLAINTIFF’s and other AGGRIEVED EMPLOYEES’
17 compensation was DEFENDANT’s non-discretionary incentive program that paid PLAINTIFF
18 and other AGGRIEVED EMPLOYEES incentive wages based on their performance for
19 DEFENDANT. The non-discretionary incentive program provided all employees paid on an
20 hourly basis with incentive compensation when the employees met the various performance
21 goals set by DEFENDANT. However, when calculating the regular rate of pay in order to pay
22 overtime to PLAINTIFF and other AGGRIEVED EMPLOYEES, DEFENDANT failed to
23 include the incentive compensation as part of the employees’ “regular rate of pay” for purposes
24 of calculating overtime pay. Management and supervisors described the incentive program to
25 potential and new employees as part of the compensation package. As a matter of law, the
26 incentive compensation received by PLAINTIFF and other AGGRIEVED EMPLOYEES must
27 be included in the “regular rate of pay.” The failure to do so has resulted in a underpayment of
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1 overtime compensation to PLAINTIFF and other AGGRIEVED EMPLOYEES by
2 DEFENDANT.

3 15. In violation of the applicable sections of the California Labor Code and the
4 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT
5 intentionally and knowingly failed to compensate PLAINTIFF and the other AGGRIEVED
6 EMPLOYEES at the correct rate of pay for all overtime worked. This policy and practice of
7 DEFENDANT is intended to purposefully avoid the payment of the correct overtime
8 compensation as required by California law which allowed DEFENDANT to illegally profit and
9 gain an unfair advantage over competitors who complied with the law. To the extent equitable
10 tolling operates to toll claims by the AGGRIEVED EMPLOYEES against DEFENDANT, the
11 PAGA PERIOD should be adjusted accordingly.

12 16. As a result of their rigorous work schedules, PLAINTIFF and other
13 AGGRIEVED EMPLOYEES were from time to time unable to take off duty meal breaks and
14 were not fully relieved of duty for meal periods. PLAINTIFF and other AGGRIEVED
15 EMPLOYEES were from time to time required to perform work as ordered by DEFENDANT
16 for more than five (5) hours during a shift without receiving an off-duty meal break. Further,
17 DEFENDANT failed to provide PLAINTIFF and AGGRIEVED EMPLOYEES with a second
18 off-duty meal period from time to time in which these employees were required by
19 DEFENDANT to work ten (10) hours of work. PLAINTIFF and the other AGGRIEVED
20 EMPLOYEES therefore forfeited meal breaks without additional compensation and in
21 accordance with DEFENDANT's corporate policy and practice.

22 17. During the PAGA PERIOD, PLAINTIFF and other AGGRIEVED EMPLOYEES
23 were from time to time also required to work in excess of four (4) hours without being provided
24 ten (10) minute rest periods. Further, these employees were denied their first rest periods of at
25 least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and
26 second rest period of at least ten (10) minutes for some shifts worked of between six (6) and
27 eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some
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1 shifts worked of ten (10) hours or more from time to time. PLAINTIFF and other
2 AGGRIEVED EMPLOYEES were also not provided with one hour wages in lieu thereof. As
3 a result of their rigorous work schedules, PLAINTIFF and other AGGRIEVED EMPLOYEES
4 were periodically denied their proper rest periods by DEFENDANT and DEFENDANT's
5 managers. Additionally, the applicable California Wage Order requires employers to provide
6 employees with off-duty rest periods, which the California Supreme Court defined as time
7 during which an employee is relieved from all work related duties and free from employer
8 control. In so doing, the Court held that the requirement under California law that employers
9 authorize and permit all employees to take rest period means that employers must relieve
10 employees of all duties and relinquish control over how employees spend their time which
11 includes control over the locations where employees may take their rest period. Employers
12 cannot impose controls that prohibit an employee from taking a brief walk - five minutes out,
13 five minutes back. Here, DEFENDANT's policy restricted PLAINTIFF and other
14 AGGRIEVED EMPLOYEES from unconstrained walks and was unlawful based on
15 Defendant's rule which stated PLAINTIFF and other AGGRIEVED EMPLOYEES could not
16 leave the work premises during their rest period.

17 18. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her
18 employees with an accurate itemized wage statement in writing showing, among other things,
19 gross wages earned and all applicable hourly rates in effect during the pay period and the
20 corresponding amount of time worked at each hourly rate. DEFENDANT from time to time
21 failed to provide to PLAINTIFF and the AGGRIEVED EMPLOYEES wage statements that
22 identify the correct gross and net wages earned, the applicable number of hours worked and
23 rates of pay. Aside, from the violations listed above in this paragraph, DEFENDANT failed
24 to issue to PLAINTIFF and other AGGRIEVED EMPLOYEES an itemized wage statement that
25 lists all the requirements under California Labor Code 226 *et seq.*

26 19. Cal. Lab. Code § 204 provides that "[a]ll wages. . . earned by any person in any
27 employment are due and payable twice during each calendar month, on days designated in
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1 advance by the employer as the regular paydays.” Further, Cal. Lab. Code § 204(d) expressly
2 requires employers to pay employees all wages owed within seven (7) days of the close of the
3 payroll period. DEFENDANT from time to time failed to pay PLAINTIFF and other
4 AGGRIEVED EMPLOYEES all wages owed to them within seven (7) days of the close of the
5 payroll period.

6 20. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
7 PLAINTIFF and the other AGGRIEVED EMPLOYEES for required business expenses
8 incurred by the PLAINTIFF and other AGGRIEVED EMPLOYEES in direct consequence of
9 discharging their duties on behalf of DEFENDANT. Under California Labor Code Section
10 2802, employers are required to indemnify employees for all expenses incurred in the course
11 and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall
12 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
13 in direct consequence of the discharge of his or her duties, or of his or her obedience to the
14 directions of the employer, even though unlawful, unless the employee, at the time of obeying
15 the directions, believed them to be unlawful."

16 21. In the course of their employment PLAINTIFF and other AGGRIEVED
17 EMPLOYEES as a business expense, were required by DEFENDANT to use their own personal
18 cellular phones as a result of and in furtherance of their job duties as employees for
19 DEFENDANT but were not reimbursed or indemnified by DEFENDANT for the cost
20 associated with the use of their personal cellular phones for DEFENDANT's benefit.
21 Specifically, PLAINTIFF and other AGGRIEVED EMPLOYEES were required by
22 DEFENDANT to use their personal cellular phones for work related issues. Additionally, these
23 employees were also required to use their home offices to conduct work for Defendant and
24 Defendant failed to reimburse them for their home office expenses. As a result, in the course
25 of their employment with DEFENDANT, PLAINTIFF and other AGGRIEVED EMPLOYEES
26 incurred unreimbursed business expenses which included, but were not limited to, costs related
27 to the use of their personal cellular phones and home offices all on behalf of and for the benefit
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1 of DEFENDANT.

2 22. By reason of this conduct applicable to PLAINTIFF and all AGGRIEVED
3 EMPLOYEES, DEFENDANT engaged in a company-wide policy and procedure which failed
4 to accurately calculate and record the correct overtime rate for the overtime worked by
5 PLAINTIFF and other AGGRIEVED EMPLOYEES. The proper calculation of these
6 employees' overtime hour rates is the DEFENDANT's burden. As a result of DEFENDANT's
7 intentional disregard of the obligation to meet this burden, DEFENDANT failed to properly
8 calculate and/or pay all required overtime compensation for work performed by the
9 AGGRIEVED EMPLOYEES and violated the California Labor Code and regulations
10 promulgated thereunder as herein alleged.

11 23. All of the conduct and violations alleged herein occurred during the
12 PAGA PERIOD. To the extent that any of the conduct and violations alleged herein did not
13 affect PLAINTIFF during the PAGA PERIOD, PLAINTIFF seeks penalties for those violations
14 that affected other AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.*
15 2018 AJDAR 12157 (Certified for Publication 12/19/18).

16 **JURISDICTION AND VENUE**

17 24. This Court has jurisdiction over this Action pursuant to California Code of Civil
18 Procedure, Section 410.10.

19 25. Venue is proper in this Court pursuant to California Code of Civil Procedure,
20 Sections 395 and 395.5, because DEFENDANT (i) currently maintains and at all relevant times
21 maintained offices and facilities in this County and/or conducts substantial business in this
22 County, and (ii) committed the wrongful conduct herein alleged in this County against
23 PLAINTIFF and the AGGRIEVED EMPLOYEES.

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1 **FIRST CAUSE OF ACTION**

2 **For Violation of the Private Attorneys General Act**

3 **[Cal. Lab. Code §§ 2698, *et seq.*]**

4 **(By PLAINTIFF and Against All Defendants)**

5 26. PLAINTIFF incorporates by reference, as though fully set forth herein, the prior
6 paragraphs of this Complaint.

7 27. PAGA is a mechanism by which the State of California itself can enforce state
8 labor laws through the employee suing under the PAGA who do so as the proxy or agent of the
9 state's labor law enforcement agencies. An action to recover civil penalties under PAGA is
10 fundamentally a law enforcement action designed to protect the public and not to benefit private
11 parties. The purpose of the PAGA is not to recover damages or restitution, but to create a
12 means of "deputizing" citizens as private attorneys general to enforce the Labor Code. In
13 enacting PAGA, the California Legislature specified that "it was ... in the public interest to
14 allow aggrieved employees, acting as private attorneys general to recover civil penalties for
15 Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be
16 subject to arbitration.

17 28. PLAINTIFF, and such persons that may be added from time to time who satisfy
18 the requirements and exhaust the administrative procedures under the Private Attorney General
19 Act, brings this Representative Action on behalf of the State of California with respect to
20 himself and all individuals who are or previously were employed by DEFENDANT in
21 California and classified as non-exempt employees, excluded from this definition of
22 "AGGRIEVED EMPLOYEES" are employees who held the job position of a surgical
23 technician ("AGGRIEVED EMPLOYEES") during the time period of October 16, 2019 until
24 a date as determined by the Court (the "PAGA PERIOD").

25 29. On October 16, 2020, PLAINTIFF gave written notice by electronic mail to the
26 Labor and Workforce Development Agency (the "Agency") and by certified mail to the
27 employer of the specific provisions of this code alleged to have been violated as required by
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1 Labor Code § 2699.3. On December 14, 2020, PLAINTIFF gave amended written notice by
2 electronic mail to the Labor and Workforce Development Agency (the "Agency") and by
3 certified mail to the employer of the specific provisions of this code alleged to have been
4 violated as required by Labor Code § 2699.3. The statutory waiting period for PLAINTIFF to
5 add these allegations to the Complaint has expired. As a result, pursuant to Section 2699.3,
6 PLAINTIFF may now commence a representative civil action under PAGA pursuant to Section
7 2699 as the proxy of the State of California with respect to all AGGRIEVED EMPLOYEES
8 as herein defined.

9 30. The policies, acts and practices heretofore described were and are an unlawful
10 business act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the other
11 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record
12 and provide legally required meal and rest periods, (c) failed to pay overtime wages, (d) failed
13 to pay minimum wages, (e) failed to reimburse for required expenses, and (f) failed to provide
14 wages when due, all in violation of the applicable Labor Code sections listed in Labor Code §§
15 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1,
16 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and
17 the applicable Industrial Wage Order(s), and thereby gives rise to civil penalties as a result of
18 such conduct.² PLAINTIFF hereby seeks recovery of only civil penalties as prescribed by the
19 Labor Code Private Attorney General Act of 2004 as the representative of the State of
20 California for the illegal conduct perpetrated on PLAINTIFF and the other AGGRIEVED
21 EMPLOYEES.

22
23 **PRAYER FOR RELIEF**

24 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and
25 severally, as follows:

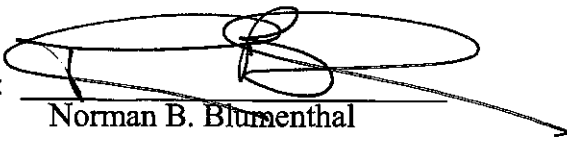
26 _____
27 ²Plaintiff specifically excludes and/or does not allege any claims under California Labor
28 Code §558(a)(3).

1 1. On behalf of the State of California and with respect to all AGGRIEVED
2 EMPLOYEES:

3 A) Recovery of civil penalties as prescribed by the Labor Code Private
4 Attorneys General Act of 2004; and,

5 B) An award of attorneys' fees and cost of suit, as allowable under the
6 law, including, but not limited to, pursuant to Labor Code §2699.

7
8 Dated: May 3, 2021 **BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

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11 By: Norman B. Blumenthal
12 Attorneys for Plaintiff