

James R. Hawkins, Esq. SBN 192925
Isandra Fernandez, Esq. SBN 220482
Richard Barnwell, Esq. SBN 227376
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, CA 92618
TEL: (949) 387-7200
FAX: (949) 387-6676

Attorneys for Plaintiff, **ANTHONY RICE**
on behalf of himself and all others similarly situated

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

ANTHONY RICE on behalf of himself and all
others similarly situated

Plaintiff,

vs.

ALLIANCE HEALTHCARE SERVICES,
INC., a Delaware Company d/b/a ALLIANCE
HEALTHCARE RADIOLOGY, and DOES 1
through 50, inclusive,

Defendants.

Case No.

ASSIGNED FOR ALL PURPOSES TO:

JUDGE:

DEPT:

CLASS ACTION COMPLAINT

- 1) Failure to pay Lawful Wages Owed;**
- 2) Failure to provide Lawful Meal Periods or Compensation in lieu thereof;**
- 3) Failure to provide Lawful Rest Periods or Compensation in lieu thereof;**
- 4) Failure to Timely Pay Wages;**
- 5) Knowing and intentional Failure to Comply with Itemized Employee Wage Statement Provisions; and**
- 6) Violations of the Unfair Competition Law**

JURY TRIAL DEMANDED

I.

INTRODUCTION

1. Pursuant to Code of Civil Procedure section 382, ANTHONY RICE (hereinafter “Plaintiff”) asserts the following Class Action claim against ALLIANCE HEALTHCARE SERVICES, INC., a Delaware Company doing business in California as ALLIANCE HEALTHCARE RADIOLOGY and DOES 1 through 50 (hereinafter collectively “Defendants”) on behalf of himself and all Non-Exempt Employees employed by Defendants as MRI Technologists.

2. During the liability period, defined as the applicable statute of limitations for each and every cause of action contained herein, Defendants enforced shift schedules, employment policies and practices, and/or workload requirements wherein Plaintiff and Non-Exempt Employees were, amongst other statutory violations, not paid all lawful wages; not provided compliant rest and meal periods; not provided accurate itemized wage statements; and not paid timely wages at termination.

3. Plaintiff, on behalf of himself and Non-Exempt Employees, brings this action pursuant to Labor Code sections 201-203, 226, 226.7, 512, 1194, 1197, Title 8, section 11090 and any other applicable Industrial Welfare Commission (“IWC”) Wage Orders, seeking unpaid wages, unpaid compensation for rest and meal break violations, penalties, attorneys’ fees and costs and other equitable relief.

4. Plaintiff, on behalf of himself and all Non-Exempt Employees, pursuant to Business and Professions Code sections 17200-17208, also seeks restitution from Defendants based on Defendants’ violations of California Labor Code of Regulations, Title 8, section 11050 *et seq.*

II.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to the California Constitution Article VI §10, which grants the California Superior Court original jurisdiction in all causes except those given by statute to other courts. The statutes here do not give jurisdiction to any

1 other court. The monetary damages and restitution sought by Plaintiff exceed the minimum
2 jurisdiction limits of the California Superior Court and will be established according to proof at
3 trial.

4 6. Venue is proper to each Defendant pursuant to Code of Civil Procedure section
5 395 because they conduct substantial and continuous business activities in Sacramento County
6 and are within the jurisdiction of this Court for service of process purposes. Defendants employ
7 numerous Non-Exempt Employees in Sacramento and other Counties throughout California.

8 **III.**

9 **PARTIES**

10 7. Plaintiff is, and at all times mentioned was, a resident of California.

11 8. Upon information and belief, Defendants are a healthcare service provider
12 headquartered in Irvine, CA. Plaintiff believes Defendants are qualified to do business in
13 California and continue to do so.

14 9. The true names and capacities of Defendants, whether individual, corporate,
15 associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to
16 Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure
17 section 474. Plaintiff is informed and believes, and based thereon alleges that each of the
18 Defendants designated herein as a DOE is legally responsible in some manner for the unlawful
19 acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true
20 names and capacities of the Defendants designated hereinafter as DOES when such identities
21 become known.

22 10. Plaintiff is informed and believes, and based thereon alleges, that Defendants
23 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
24 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are
25 legally attributable to the other Defendants.

26 //

27 //

28 //

IV.

FACTUAL BACKGROUND

11. Plaintiff was employed as an MRI Technologist by Defendants on or about February 26, 2018 until about August 6, 2020. He typically worked 40 hours a week at the Modesto, Roseville, or Elk Grove, CA locations.

12. During the liability period, Plaintiff and Non-Exempt Employees were not paid for all lawful wages earned including minimum wages. For example, due to the demands of the work shift, Plaintiff and Non-Exempt Employees would clock-out for lunch, continue to work, then clock-in at a later time.

13. During the liability period, due to the demands of work shifts and staffing, Plaintiff and Non-Exempt Employees often worked alone and had to work in excess of five (5) hours without being provided an uninterrupted thirty (30) minute meal period by the end of the fifth hour. Further, due to demands of work shift and staffing, Plaintiff and Non-Exempt Employees did not receive a second uninterrupted thirty (30) minute meal period when working over 10-hour shift. Accordingly, Plaintiff and Non-Exempt Employees worked in excess of 5 and 10 hours without receiving compliant meal periods and were not compensated one (1) hour of pay at their regular rate of compensation for each workday that compliant meal periods were not provided.

14. During the liability period, due to the demands of work shifts, Plaintiff and Non-Exempt Employees did not receive a lawful minimum ten (10) minute rest period for every four hours worked or major fraction thereof. Nor were they compensated one (1) hour of pay at their regular rate of compensation for each workday that rest periods were not provided.

15. Defendants failed to pay Plaintiff and Non-Exempt Employees all earned wages in a timely manner; nor have they paid, upon or after termination, all compensation due, including but not limited to all wages owed and compensation for having failed to properly provide rest periods and meal periods.

16. Defendants also failed to maintain accurate itemized records reflecting total hours worked and have failed to provide Plaintiff and Non-Exempt Employees with accurate itemized wage statements reflecting total hours worked and appropriate rates of pay.

17. Upon information and belief, during the relevant period, Defendants employed over one hundred (100) employees in California as MRI Technologist.

18. Plaintiff and Non-Exempt Employees at all times pertinent hereto, have been non-exempt employees within the meaning of the California Labor Code, and the implementing rules and regulations of the IWC California Wage Orders.

V. CLASS ACTION ALLEGATIONS

19. Plaintiff seeks to represent a Class comprised of and defined as: All persons who are or were employed by Defendants in the state of California as non-exempt employees and who occupied positions of MRI technologist and similar position within four (4) years prior to the date this lawsuit is filed (“liability period”) until resolution of this lawsuit (collectively referred to as the “Class” or “Class Members”).

20. Plaintiff also seeks to represent Subclasses comprised of and defined as:

a. All Non-Exempt Employees employed by Defendants in California as MRI Technologist within the liability period who were not accurately paid all lawful wages, including minimum wages, for all hours worked;

b. All Non-Exempt Employees employed by Defendants in California as MRI Technologist within the statutory liability period who were not provided a compliant thirty (30) minute uninterrupted meal period by the end of the fifth hour when they worked over five hours in a shift and who were not provided a second similar uninterrupted meal period by the end of the tenth hour when they worked over ten hours in a shift;

c. All Non-Exempt Employees employed by Defendants in California as MRI Technologist within the liability period who were not provided a minimum ten (10) minute rest period for every four (4) hours, or major fraction thereof, worked per day and not provided compensation in lieu thereof;

d. All Non-Exempt Employees employed by Defendants in California as MRI Technologist within the liability period who were not timely paid all wages owed upon the termination of their employment; and

1 e. All Non-Exempt Employees employed by Defendants in California as
2 MRI Technologist within the liability period who were not provided with accurate and complete
3 itemized wage statements.

4 21. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to amend
5 or modify the class description with greater specificity or further division into subclasses or
6 limitation to particular issues.

7 22. This action has been brought and may properly be maintained as a class action
8 under the provisions of section 382 of the Code of Civil Procedure because there is a well-defined
9 community of interest in the litigation and the proposed Class is easily ascertainable.

10 **A. Numerosity**

11 23. The potential members of the Class as defined are so numerous that joinder of all
12 the members of the Class is impracticable. While the precise number of Non-Exempt Employees
13 has not been determined at this time, Plaintiff is informed and believes that Defendants currently
14 employ, and/or during the relevant time period employed, approximately over 100 Non-Exempt
15 Employees in California who are or have been affected by Defendants' unlawful practices as
16 alleged herein.

17 **B. Commonality**

18 24. There are questions of law and fact common to the Class predominating over
19 any questions affecting only individual Class Members. These common questions of law and
20 fact include, without limitation:

- 21 i. Whether Defendants violated Labor Codes sections 200, 1194, and 1197
22 applicable IWC Wage Orders by failing to pay all earned wages, including minimum
23 wages to for time spent working off the clock;
- 24 ii. Whether Defendants violated sections 226.7, 512 of the Labor Code and
25 applicable IWC Wage Order by failing to provide the statutory thirty (30) minute meal
26 periods to Non-Exempt Employees on days in which they worked in excess of five (5)
27 hours and failing to compensate said employees one-hour wages in lieu of meal periods
28 and failing to provide similar statutory meal period and compensation when they worked

1 in excess of ten (10) hours in a shift;

2 iii. Whether Defendants violated Labor Code section 226.7 and applicable IWC
3 Wage Orders by failing to authorize and permit minimum ten (10) minute rest periods to
4 Non-Exempt Employees for every four hours or major fraction thereof worked and
5 failing to compensate said employees one (1) hours wages in lieu of rest periods;

6 iv. Whether Defendants violated sections 201-203 of the Labor Code and applicable
7 IWC Wage Orders by failing to pay all earned wages and/or premium wages due and
8 owed at the time that any Non-Exempt Employees' employment with Defendants
9 terminated; and

10 v. Whether Defendants violated section 226 of the Labor Code and applicable IWC
11 Wage Orders by failing to, among other violations, maintain accurate records of, among
12 others, Non-Exempt Employees' earned wages, work periods, meal periods and
13 deductions;

14 **C. Typicality**

15 25. The claims of the named Plaintiff are typical of the claims of the Class. Plaintiff
16 and all members of the Class sustained injuries and damages arising out of and caused by
17 Defendants' common course of conduct in violation of California laws, regulations, and statutes as
18 alleged herein.

19 **D. Adequacy of Representation**

20 26. Plaintiff will fairly and adequately represent and protect the interests of the
21 members of the Class. Counsel who represents Plaintiff is competent and experienced in litigating
22 large employment class actions.

23 **E. Superiority of Class Action**

24 27. A class action is superior to other available means for the fair and efficient
25 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
26 questions of law and fact common to the Class predominate over any questions affecting only
27 individual members of the Class. Each member of the Class has been damaged and is entitled to
28 recovery by reason of Defendants' unlawful policy and/or practice herein complained of.

28. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

VI. CAUSES OF ACTION

First Cause of Action

Failure to Pay Lawful Wages Owed
(Lab. Code §§ 1194, 1197, IWC Wage Orders)
(Against All Defendants)

29. Plaintiff repeats and incorporates herein by reference every allegation set forth above, as though fully set forth herein.

30. Defendants violated California wage and hour law by failing to pay Plaintiff and Class Members for all time spent working under their control.

31. As alleged herein, Defendants failed to pay Plaintiff and Class Members for the time they spent working off the clock during their lunch breaks.

32. As a result of Defendants unlawful acts, Plaintiff and Class Members were deprived of compensation for all earned wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, pursuant to Labor Code section 1194.

33. WHEREFORE, Plaintiff and Class Members request relief as described herein and below.

Second Cause of Action

Failure to Provide Lawful Meal Periods
Or Compensation in Lieu Thereof
(Lab. Code §§512, 226.7, IWC Wage Orders)
(Against All Defendants)

34. Plaintiff repeats and incorporates herein by reference every allegation set forth above, as though fully set forth herein.

35. As alleged herein, Defendants' failure to provide thirty (30) minute uninterrupted meal periods by the end of the fifth hour for days which Plaintiff and Class Members worked in

1 excess of five (5) hours and a second similar meal period for days Plaintiff and Class Members
2 worked in excess of ten (10) hours and failing to provide compensation for such statutorily non-
3 compliance, they violated the provisions of Labor Code §512 and applicable IWC Wage Orders.

4 36. As a result of Defendants unlawful acts, Plaintiff and Class Members were deprived
5 of premium wages and are entitled to recovery of such amounts, plus interest and penalties thereon
6 under Labor Code §226.7.

7 37. WHEREFORE, Plaintiff and Class Members request relief as described herein and
8 below.

9 **Third Cause of Action**
10 Failure to Provide Rest Periods
11 Or Compensation in Lieu Thereof
12 (Lab. Code §§226.7, IWC Wage Orders)
13 (Against All Defendants)

14 38. Plaintiff repeats and incorporates herein by reference every allegation set forth
15 above, as though fully set forth herein.

16 39. As alleged herein, Defendants' failure to authorize and permit a minimum ten (10)
17 minute rest period for every four (4) hours or major fraction thereof worked per day by Plaintiff
18 and Class Members, and failing to provide compensation for such non-provided rest periods, they
19 violated Labor Code section 226.7 and IWC applicable Wage Orders.

20 40. As a result of Defendants unlawful acts, Plaintiff and Class Members were deprived
21 of premium wages, and are entitled to recovery of such amounts, plus interest and penalties thereon
22 under Labor Code §226.7.

23 41. WHEREFORE, Plaintiff and Class Members request relief as described herein and
24 below.

25 **Fourth Cause of Action**
26 Failure to Timely Pay Wages Due at Termination
27 Lab. Code §§ 201-203, IWC Wage Orders)
28 (Against All Defendants)

42. Plaintiff incorporates by reference and realleges every allegation contained above,
as though fully set forth herein.

1 43. Sections 201 and 202 of the California Labor Code require Defendants to pay its
2 employees all wages due within 72 hours of termination of employment. Section 203 of the Labor
3 Code provides that if an employer willfully fails to timely pay such wages the employer must, as
4 a penalty, continue to pay the subject employees' wages until the back wages are paid in full or an
5 action is commenced. The penalty cannot exceed 30 days of wages.

6 44. Plaintiff and Class Members are entitled to compensation for all forms of wages
7 earned, including compensation for all hours worked and for non-provided rest and meal periods,
8 but to date have not received such compensation therefore entitling them Labor Code section 203
9 penalties.

10 45. More than 30 days have passed since Plaintiff and Class Members have left
11 Defendants' employ, and on information and belief, have not received payment pursuant to Labor
12 Code §203. As a consequence of Defendants' willful conduct in not paying all earned wages,
13 Plaintiff and Class Members are entitled to 30 days' wages as a penalty under Labor Code section
14 203 for failure to pay legal wages.

15 46. WHEREFORE, Plaintiff and Class Members request relief as described herein and
16 below.

17
18 **Fifth Cause of Action**
19 Knowing and Intentional Failure to Comply with Itemized Employee
20 Wage Statement Provisions
21 (Lab. Code § 226, IWC Wage Orders)
22 (Against All Defendants)

23 47. Plaintiff repeats and incorporates herein by reference every allegation set forth
24 above, as though fully set forth herein.

25 48. Section 226(a) of the California Labor Code requires Defendants to furnish Plaintiff
26 and Class Members an accurate itemized statement showing, amongst other information, gross
27 wages, net wages and total hours worked. IWC Wage Orders require Defendants to furnish similar
28 itemized statement indicating deductions, reimbursements, and to accurately report total hours
worked by Plaintiff and Class Members.

49. Defendants violated Section 226 by failing to provide Plaintiff and Class Members with wage statements that accurately showed the net wages earned for regular and overtime hours worked. Defendants violated Section 226 by failing to provide Plaintiff and Class Members with wage statements that accurately show the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

50. Defendant's violations prevented Plaintiff and Class Members from the full compensation to which they were entitled under applicable provisions of the California Labor Code and applicable IWC Wage Orders.

51. Pursuant Labor Code §226, Plaintiff and Class Members are entitled up to a maximum of \$4,000.00 each for record-keeping violations.

52. WHEREFORE, Plaintiff and Class Members request relief as described herein and below.

Sixth Cause of Action
Violation of Unfair Competition Law
(Bus. & Prof. Code, §§ 17200-17208)
(Against All Defendants)

53. Business & Professions Code Section 17200 provides:

As used in this chapter, unfair competition shall mean and include any **unlawful, unfair** or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.) (Emphasis added.)

Defendants' violations of the Labor Code and Wage Order provisions set forth above constitute unlawful and/or unfair business acts or practices.

54. The actions of Defendants, as alleged within this Complaint, constitute false, fraudulent, unlawful, unfair, and deceptive business practices, within the meaning of Business and Professions Code section 17200, *et seq.*

55. Plaintiff and Class Members have been personally aggrieved by Defendants' unlawful and unfair business acts and practices alleged herein.

56. As a direct and proximate result of the unfair business practices of Defendants, and each of them, Plaintiff and Class Members are entitled to restitution of all wages which have been unlawfully withheld as a result of the business acts and practices described herein.

1 57. WHEREFORE, Plaintiff and Class Members request relief as described herein and
2 below.

3 **VII.**

4 **PRAYER**

5 WHEREFORE, Plaintiff prays for judgment as follows:

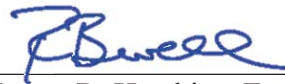
- 6 1. That the Court determine that this action may be maintained as a class action;
7 2. For compensatory damages in an amount according to proof with interest thereon;
8 3. For economic and/or special damages in an amount according to proof with interest
9 thereon;
10 4. For premium wages pursuant to Labor Code §§226.7 and 512;
11 5. For premium pay and penalties pursuant to Labor Code §§203, 226;
12 6. For attorneys' fees, interests, and costs of suit under Labor Code §§226, 1194; and
13 7. For further justifiable relief the Court deems proper.

14
15 **DEMAND FOR JURY TRIAL**

16 Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.
17

18
19 **Dated: December 21, 2020**

JAMES HAWKINS, APLC

20 

21 James R. Hawkins, Esq.
22 Richard Barnwell, Esq.
23 Attorneys for Plaintiff
24 ANTHONY RICE
25
26
27
28