DIVERSITY LAW GROUP, P.C.
Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Simon L. Yang (State Bar No. 260286)
sly@diversitylaw.com
515 South Figueroa Street, Suite 1250
Los Angeles, California 90071
Telephone: (213) 488-6555
Facsimile: (213) 488-6554

Attorneys for Plaintiffs Nasr and Samonte and the Class

[*Additional Counsel on Following Page*]

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MADERA

JASON NASR, JACK SAMONTE, GIL MICHAELI, and MYESHA WILLIAMS, as individuals and on behalf of all others similarly situated, and as private attorneys general,

Plaintiff,

vs.

SAN JOAQUIN VALLEY REHABILITATION HOSPITAL;
VIBRA HEALTHCARE LLC;
VIBRA REHABILITATION HOSPITAL OF RANCHO, LLC d/b/a VIBRA REHABILITATION HOSPITAL OF RANCHO MIRAGE;
1125 SIR FRANCIS DRAKE BOULEVARD OPERATING COMPANY, LLC d/b/a KENTFIELD HOSPITAL;
KENTFIELD REHABILITATION HOSPITAL FOUNDATION;
VIBRA HOSPITAL OF NORTHERN CALIFORNIA;
VIBRA HOSPITAL OF SACRAMENTO;
GALE HEALTHCARE SOLUTIONS LLC;
REALTIME PEO II, LLC;
and DOES 1 through 50, inclusive,

Defendants.

Case No. MCV084862

***AMENDED* SECOND AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT**

(1) Unpaid Wages and Overtime (Lab. Code §§ 510, 1182.12, 1197, 1198);
(2) Unpaid Sick Pay Wages (Lab. Code §§ 201-204, 233, 246);
(3) Rest Period Violations (Lab. Code § 226.7);
(4) Meal Period Violations (Lab. Code §§ 226.7, 512);
(5) Inaccurate Itemized Wage Statements (Lab. Code § 226(a));
(6) Unreimbursed Business Expenses (Lab. Code § 2802);
(7) Unfair or Unlawful Business Practices (Bus. & Prof. Code §§ 17200 et seq.);
(8) Violations of the California Labor Code (Lab. Code §§ 2698 et seq.); and
(9) Violation of Fair Credit Reporting Act (15 U.S.C. §§ 1681b(b)(2)(A))

DEMAND OVER $35,000.00

POLARIS LAW GROUP
William L. Marder (State Bar No. 170131)
bill@polarislawgroup.com
501 San Benito Street, Suite 200
Hollister, California 95023
Telephone: (831) 531-4214
Facsimile: (831) 634-0333

Attorneys for Plaintiff Samonte and the Class

Shaun Setareh (SBN 204514)
shaun@setarehlaw.com
Eric Y. Hahn (SBN 311771)
eric@setarehlaw.com
Victoria Mas (SBN 365986)
vmas@setarehlaw.com
SETAREH LAW GROUP
420 North Camden Drive
Beverly Hills, California 90210
Telephone: (310) 888-7771
Facsimile: (310) 888-0109

Attorneys for Plaintiff Michaeli and the Class

Carolyn Hunt Cottrell (SBN 166977)
Ori Edelstein (SBN 268145)
SCHNEIDER WALLACE COTTRELL KONECKY LLP
2000 Powell Street, Suite 1400
Emeryville, California 94608
Tel: (415) 421-7100
Fax: (415) 421-7105
ccottrell@schnelderwallace.com
oedlestein@schneiderwallace.com

Attorneys for Plaintiff Williams and the Class

On behalf of themselves and other similarly situated current and former employees of Defendants, and as proxies for the State of California, Plaintiffs Jason Nasr, Jack Samonte, Gil Michaeli, and Myesha Williams submit this Second Amended Class and Representative Action Complaint (the "Complaint") against Defendants Vibra Healthcare LLC; Vibra Rehabilitation Hospital of Rancho, LLC d/b/a Vibra Rehabilitation Hospital of Rancho Mirage; San Joaquin Valley Rehabilitation Hospital; 1125 Sir Francis Drake Boulevard Operating Company, LLC d/b/a Kentfield Hospital; Kentfield Rehabilitation Hospital Foundation; Vibra Hospital of Northern California, and Vibra Hospital of Sacramento, Gale Healthcare Solutions LLC, and Realtime PEO II, LLC, and Does 1 through 50 (collectively, "Defendants").

INTRODUCTION

1. This class and representative action challenges systemic employment practices resulting in violations of the California Labor Code against individuals who worked for Defendants. The Complaint addresses Defendants' violations of Labor Code sections 201-204, 223, 224, 226, 226.7, 233, 246, 510, 512, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2698 et seq., and the Unfair Competition Law, codified at Business and Professions Code sections 17200 et seq. (the "UCL").[1]

2. Plaintiffs are informed and believe that Defendants have jointly and severally acted intentionally and with deliberate indifference and conscious disregard to the rights of employees by failing to pay wages and overtime (or making unlawful deductions from wages), pay sick pay wages, authorize and permit duty-free rest periods, provide duty-free meal periods, pay all premium wages for such missed rest periods and meal periods, provide accurate itemized wage statements, and reimburse necessary business expenses.

3. Defendants routinely underpay wages, overtime wages, and sick pay wages. Specifically, Plaintiffs and other non-exempt employees were required to perform work after working hours, off the clock. Moreover, Plaintiffs and other non-exempt employees earn non-discretionary remuneration, including for example bonuses, that Defendants fail to consider when calculating the regular rate of pay for purposes of paying overtime wages. Likewise, rather than pay sick pay wages at the regular rate of

[1] Except as otherwise noted, all "Section" references are to the Labor Code.

pay, Defendants underpay sick pay wages to Plaintiffs and other non-exempt employees at their base rates of pay.

4. Defendants routinely fail to authorize and permit Plaintiffs and other non-exempt employees to take duty-free 10-minute rest periods for every four hours worked, or major fraction thereof. On shifts exceeding five hours of work, Defendants also routinely fail to provide Plaintiffs and other non-exempt employees with a duty-free 30-minute meal period within the first five hours of work or a second duty-free 30-minute meal period after 10 hours of work. Specifically, due to Defendants' staffing practices, Plaintiffs and other non-exempt employees were routinely not allowed to take their rest periods, and they were routinely not allowed to take a full 30 minutes for their meal periods within the first five hours of their work shifts. Plaintiffs and other non-exempt employees also were routinely not allowed to take a second full 30 minute meal period when working more than ten hours. Despite not permitting duty-free rest periods and meal periods, Defendants also routinely failed to pay Plaintiffs and other non-exempt employees the requisite rest period and meal period premium pay of an additional hour of wages. Moreover, when meal period and rest period premium wages were paid, such premiums failed to consider non-discretionary remuneration and were not paid at the regular rate of compensation.

5. Defendants also improperly deduct a check preparation fee from Plaintiffs and other non-exempt employees' wages. Defendants require Plaintiffs and other non-exempt employees to pay $2.00 out of pocket in order to receive their daily paystubs. Plaintiffs' wage statements reflect that this fee is listed as a "check fee." Such deductions amount to hundreds of dollars being improperly withheld from Plaintiffs and other non-exempt employees' wages. Plaintiffs and other non-exempt employees are therefore deprived of substantial amounts of pay due to Defendants' practice of charging its employees check preparation fees in violation of California law.

6. Because Plaintiffs and other non-exempt employees are not paid all of their wages, Defendants also routinely fail to timely pay Plaintiffs and other non-exempt employees all wages during employment and fail to timely pay all due wages upon separation of employment. Likewise, Defendants also routinely fail to provide accurate itemized wage statements to Plaintiffs and other non-exempt employees. Specifically, as a result of the above practices, Defendants fail to furnish Plaintiffs and other non-exempt employees with wage statements that accurately showed and itemized all applicable hourly

rates and the corresponding number of hours worked at each rate, the total hours worked, the gross wages earned, and the net wages earned, including all overtime wages, sick pay wages, and premium wages earned for missed rest periods and meal periods.

7. Plaintiffs are informed and believe that Defendants have engaged in, among other things, a system of willful violations of the Labor Code by creating and maintaining policies, practices, and customs that knowingly deny its employees the above stated rights and benefits.

8. The policies, practices, and customs of Defendants resulted in unjust enrichment of Defendants and an unfair business advantage over businesses that comply with the Labor Code.

9. This class action also alleges violations of the Fair Credit Reporting Act ("FCRA") and similar California laws. Plaintiffs allege that Defendants routinely acquire criminal, consumer, and investigative consumer and/or consumer credit reports (referred to collectively as "background reports") to conduct background checks on Plaintiffs and other prospective, current and former employees and use information from background reports in connection with their hiring process without providing proper disclosures and obtaining proper authorization in compliance with the law.

10. Defendants did not provide legally compliant disclosure and authorization forms to Plaintiffs and the putative class as they contained extraneous and superfluous language. Additionally, the inclusion of the extraneous provisions causes the disclosure to fail to be "clear and conspicuous" and "clear and accurate," and thus violates Sections 1681b(b)(2)(A) and 1681d(a). Specifically, the disclosure does not comply with the "clear and conspicuous" requirement because (1) the disclosure is not in all capital letters; (2) the disclosure is not in boldface to set off the required disclosure; (3) the disclosure is part of an employment application and is therefore not a standalone documents; and (4) the disclosure describes multi-state law differences which is not a permissible element in an FCRA disclosure and reduces clarity as to what rights each applicant or employee possesses.

11. Furthermore, the disclosure failed to identify the consumer reporting agency that would be providing the background information sought. In fact, the disclosure does not even specify if, when, or even if a background check would be run. The disclosure further requires an ongoing authorization to precure the investigative report(s) continuously.

12. The FCRA disclosure should be a standalone document and, if desired, a bare authorization to obtain information, without being weighed down by irrelevant state law references, confusing and contradictory rights summaries, and impermissible references to side documents containing information not set forth in the attempted disclosure.

JURISDICTION AND VENUE

13. The Complaint seeks relief exceeding $35,000.00. The Court has jurisdiction of Defendants' violations of Sections 201-204, 226, 226.7, 233, 246, 510, 512, 1174, 1182.12, 1197, and 1198, and the UCL.

14. Venue is proper in the County of Madera. Plaintiff Nasr is located in Madera, California, as are numerous aggrieved employees.

PARTIES

15. Plaintiff Nasr began working for Defendants in or about May of 2020 and worked in California for Defendants for 30 or more days within a year. Until his employment as a clinic liaison ended in or about December of 2020, Plaintiff Nasr was paid on an hourly basis as a non-exempt employee, accrued and actually used sick leave, worked more than eight hours in a workday or 40 hours in a workweek, and earned non-discretionary renumeration, including for example bonuses. Such payments were not considered when calculating Plaintiff Nasr's regular rate of pay for purposes of paying either overtime wages or sick pay wages. Plaintiff Nasr also was not provided a duty-free, 10-minute rest period for every four hours or major fraction thereof worked, a duty-free 30-minute meal periods within the first five hours of work, or premium pay of an additional hour of wages for missed rest periods and meal periods. Plaintiff Nasr also received wage statements that inaccurately stated the applicable hourly rates, gross wages earned, and net wages earned.

16. Plaintiff Samonte began working for Defendants in or about April of 2014 and worked in California for Defendants for 30 or more days within a year. Until his employment as a respiratory therapist ended in or about October of 2020, Plaintiff Samonte was paid on an hourly basis as a non-exempt employee who regularly worked more than eight hours in a workday and 40 hours in a workweek. Plaintiff Samonte regularly earned non-discretionary incentives, shift differentials, or premium payments. When Plaintiff Samonte earned such compensation during weeks in which he also

was paid sick pay, his sick pay was paid at his base rate of pay. When Plaintiff Samonte earned such compensation during weeks in which he worked overtime or double-time hours, Defendants did not consider such compensation when calculating the regular rate of pay for overtime and double-time purposes. Plaintiff Samonte was thus not timely paid or ever paid all sick pay, overtime, and double-time wages due. Plaintiff Samonte also was not provided a duty-free, 10-minute rest period for every four hours or major fraction thereof worked, a duty-free 30-minute meal periods within the first five hours of work, or premium pay of an additional hour of wages for missed rest periods and meal periods. Moreover, Plaintiff Samonte received inaccurate wage statements that did not itemize the correct hourly rates of pay, gross wages earned, net wages earned, or total hours worked.

17. Plaintiff Michaeli worked for Defendants as a non-exempt, hourly employee. Plaintiff Michaeli was not provided with rest periods of at least 10 minutes for each four hour work period or major fraction thereof and was not provided with meal periods of at least 30 minutes for each five hour work period, due to Defendants' policy of (i) not scheduling each meal period as part of each work shift, (ii) chronically understaffing each work shift with not enough workers, (iii) imposing so much work on each employee such that it made it unlikely that an employee would be able to take their breaks if they wanted to finish their work on time; and (iv) failing to provide a formal written meal and rest period policy that encouraged employees to take their meal and rest periods or properly informed Plaintiff Michaeli of his meal and rest period rights. Plaintiff Michaeli was also subject to Defendant's policy of automatically deducting thirty minutes from Plaintiff Michaeli's work time, regardless of whether a meal period was taken or not. Plaintiff Michaeli was required to perform work off the clock. Plaintiff Michaeli also was not reimbursed for business expenses, since Plaintiff Michaeli was required to purchase and maintain uniforms as well as stethoscopes in executing his duties under Defendants' employ.

18. Plaintiff Williams was employed as a licensed vocational nurse by Defendants from approximately December 2019 through November 2020 and was compensated at an hourly rate of $36.00. Plaintiff was recruited and hired by Gale Healthcare and was assigned to work for Vibra at Vibra Rancho located in Rancho Mirage, California. Plaintiff Williams worked approximately twelve

hours per day and five to seven shifts per week. Plaintiff Williams worked approximately sixty to eighty-four hours per week.

19. Plaintiffs thus are victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived them of the rights guaranteed by the Labor Code and the UCL.

20. Plaintiffs are informed and believe that San Joaquin Valley Rehabilitation Hospital, a fictitious business name of 7173 North Sharon Avenue Operating Company, LLC, was and is a Delaware limited liability company. Plaintiffs are informed and believe that at all times herein mentioned named defendants and Does 1 through 50, were and are corporations, business entities, individuals, or partnerships that are and were licensed to do business and actually doing business in the State of California.

21. Plaintiffs are informed and believe that 1125 Sir Francis Drake Boulevard Operating Company, LLC d/b/a Kentfield Hospital and Kentfield Rehabilitation Hospital Foundation were and are Delaware limited liability companies. Plaintiffs are informed and believe that at all times herein mentioned it and Does 1 through 50, were and are business entities, individuals, or partnerships that were and are licensed to do business and actually doing business in the State of California.

22. Defendant Vibra Healthcare is and was at all times relevant herein a Delaware limited liability corporation with its principal place of business located in Mechanicsburg, Pennsylvania. Vibra Healthcare does business in the State of California, and employs workers, including Plaintiffs and other non-exempt employees, in the state of California through its subsidiaries Vibra Rehabilitation Hospital of Rancho, LLC, Vibra Rehabilitation Hospital of Sacramento, LLC, Vibra Hospital of San Diego, LLC, Vibra Hospital of San Bernardino LLC, Vibra Hospital of Sacramento, LLC, and Kentfield Rehabilitation Hospital Pharmacy Limited Partnership.

23. Plaintiffs are informed and believe that Vibra owns and operates healthcare facilities, including, without limitations, hospitals and rehabilitation centers, throughout California, including in San Francisco County. Plaintiffs are informed and believe that Defendants employ Aggrieved Employees, throughout California, including in San Francisco County.

24. Defendant Vibra Rancho is and was at all times relevant herein a Delaware limited liability company with its principal place of business located in Mechanicsburg, Pennsylvania. Vibra Rancho is registered to do business in the State of California, does business in the State of California, and employs workers, including Plaintiffs and other non-exempt employees in the State of California. Vibra Rancho is owned and operated by Vibra Healthcare.

25. Plaintiffs are informed and believe that Defendant Vibra Rancho is part of the general medical and surgical hospitals industry. Plaintiffs are informed and believe that Vibra Rancho is a medical rehabilitation facility located in Rancho Mirage, California. Vibra Rancho is a rehabilitation hospital that focuses on treating people recovering from debilitating injuries, illnesses, surgeries, and chronic medical conditions. Vibra Rancho conducts extensive activities and employs hundreds of workers in California.

26. Defendant Realtime PEO is and was at all times relevant herein a Florida limited liability company with its principal place of business located in Winter Park, Florida. Realtime PEO is registered to do business in the State of California, does business in the State of California, and employs workers, including Plaintiffs and other non-exempt employees in the State of California.

27. Plaintiffs are informed and believe that Defendant Realtime PEO is part of the management, scientific, and technical consulting services industry. Realtime PEO provides payroll administration, human resources, employee benefits, and risk management services to small and medium sized businesses, including Vibra, throughout the United States and the State of California. Realtime PEO conducts extensive activities in the State of California.

28. Defendant Gale Healthcare is and was at all times relevant herein a Florida limited liability company with its principal place of business located in Tampa, Florida. Gale Healthcare is registered to do business in the state of California, does business in the State of California, and employs workers, including Plaintiffs and other non-exempt employees in the State of California.

29. Plaintiffs are informed and believe that Gale Healthcare is a staffing agency that contracts with several healthcare facilities in need of clinical support throughout the United States, including California, to provide staffing services by hiring healthcare workers and assigning them to work for one of the several corporations with which it contracts. Gale Healthcare employs and assigns

hundreds of workers at healthcare facilities located in California, including at Vibra's healthcare facilities.

30. Plaintiffs do not know the true names or capacities of the defendants sued herein as Does 1 through 50, whether individual, partner, or corporate, and for that reason, said defendants are sued under such fictitious names. Plaintiffs pray for leave to amend this Complaint when the true names and capacities are known. Plaintiffs are informed and believe that each of said fictitious defendants was responsible in some way for the matters alleged herein and proximately caused the illegal employment practices, wrongs, and injuries complained of herein.

31. At all times herein mentioned, each of said Defendants participated in the doing of the acts alleged herein. Defendants, and each of them, were the agents, servants, or employees of each of the other Defendants, as well as the agents of all Defendants, and were acting within the course and scope of said agency and employment.

32. Plaintiffs are informed and believe that at all times material hereto, each of said Defendants was the agent, employee, alter ego, or joint venturer of, or was working in concert with, each of the other Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, or omissions were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, or omissions of the acting Defendants.

33. Plaintiffs are informed and believe that at all times material hereto each of the Defendants (i) aided and abetted the acts and omissions of each of the other Defendants in proximately causing the alleged harms, or (ii) were members of, engaged in, and acting within the course and scope of, and in pursuance of, a joint venture, partnership, or common enterprise.

CLASS ACTION ALLEGATIONS

34. **Definition:** Pursuant to Code of Civil Procedure section 382. Plaintiffs seek class certification of the following classes of "Class Members," which means any member of the "Wage and Hour Class" or "FCRA Class." The "Wage and Hour Class" means all current and former non-exempt employees employed by any of the Defendants in the State of California at any time between May 24, 2018, and December 31, 2023. The "FCRA Class" means all current and former non-exempt employees

employed by any of the Defendants in the State of California at any time between February 11, 2016, and December 31, 2023

35. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identities of the members of the Class are readily ascertainable by review of Defendants' records, including payroll records. Plaintiffs are informed and believe that Defendants violated Sections 201-204, 223, 224, 226, 226.7, 233, 246, 510, 512, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2698 et seq., and the UCL, as well as the FCRA.

36. **Adequacy of Representation:** Plaintiffs are fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiffs' attorneys are ready, willing, and fully and adequately able to represent Plaintiffs and the Class. Plaintiffs' attorneys have prosecuted and settled wage-and-hour class actions in the past and continue to litigate numerous wage-and-hour class actions currently pending in California state and federal courts.

37. **Common Question of Law and Fact:** There are predominant common questions of law and fact and a community of interest amongst the claims of Plaintiffs and of the Class. Plaintiffs are informed and believe that Defendants uniformly administer a corporate policy and practice of routinely failing to (i) pay wages and overtime (or making unlawful deductions from wages), (ii) pay sick pay wages, (iii) authorize and permit duty-free rest periods, (iv) provide duty-free meal periods, (v) pay all premium wages for such missed rest periods and meal periods, (vi) provide accurate itemized wage statements, and (vii) reimburse necessary business expenses, as well as violating the FCRA.

38. **Typicality:** The claims of Plaintiffs are typical of the claims of all members of the Class in that Plaintiffs suffered the alleged harms in a similar and typical manner as other members of the Class suffered. For example, Plaintiffs were paid on an hourly basis as non-exempt employees, accrued and actually used sick leave, worked more than eight hours in a workday or 40 hours in a workweek, and earned non-discretionary renumeration, including for example bonuses. Such payments were not considered when calculating Plaintiffs' regular rates of pay for purposes of paying either overtime wages or sick pay wages. Plaintiffs also were not provided a duty-free, 10-minute rest period for every four hours or major fraction thereof worked, a duty-free 30-minute meal periods within the first five

hours of work, or premium pay of an additional hour of wages for missed rest periods and meal periods. Plaintiffs also received wage statements that inaccurately stated the applicable hourly rates and corresponding number of hours worked at such rates, the total hours worked, gross wages earned, and net wages earned. Plaintiffs thus are members of the Class and have suffered the alleged violations of the Labor Code.

39. The Labor Code is broadly remedial in nature. Its laws serve an important public interest in establishing minimum working conditions and requirements in California. These labor standards protect employees from onerous terms and conditions of employment or exploitation by employers who have superior economic and bargaining power.

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

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

42. Defendants' pattern, practice, and uniform administration of corporate policy in violation of the Labor Code is unlawful. Proof of a common business practice or factual pattern will establish the

rights of Plaintiffs and the Class under Sections 201-204, 223, 224, 226, 226.7, 233, 246, 510, 512, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2698 et seq., applicable IWC Wage Orders, the UCL, and Code of Civil Procedure section 1021.5, as well as the FCRA, to recover damages and restitution, including unpaid wages and premium wages and interest thereon, applicable penalties, liquidated damages, reasonable attorneys' fees, and costs of suit.

43. This action is brought for the benefit of the Class, which is commonly entitled to a specific fund with respect to the compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to restitution of those funds being improperly withheld by Defendant.

FIRST CAUSE OF ACTION

Unpaid Wages and Overtime (Lab. Code §§ 510, 1182.12, 1197, and 1198)

(By Plaintiffs and the Class Against All Defendants)

44. The preceding paragraphs are re-alleged and incorporated by this reference.

45. Sections 1182.12 and 1197 provide a minimum wage to be paid to employees and make unlawful the payment of a lesser wage. The applicable IWC Wage Order defines compensable time 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, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11040(2)(K) (defining "Hours Worked"). California law thus generally requires that employers pay employees at least the minimum wage for all hours worked.

46. Section 510 and the applicable IWC Wage Order provide that "[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee" and that "[a]ny work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee." Section 1198 makes unlawful conditions of labor that are prohibited by the applicable IWC Wage Order.

47. As a matter of policy and practice, Defendants fail to pay all overtime wages to Plaintiffs and the Class. Plaintiffs and the Class earn non-discretionary remuneration, including for example bonuses, that Defendants fail to consider when calculating the regular rate of pay for purposes of paying

overtime wages. Defendants underpay overtime wages by failing to consider non-discretionary remuneration, including for example bonuses, that Plaintiffs and the Class earn. As such, Plaintiffs and the Class are owed underpaid overtime wages.

48. Moreover, Section 204 provides that wages are generally due and payable no later than seven days after the end of a pay period or at least twice during each calendar month, on days designated in advance as the regular paydays. Section 201 provides if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Section 202 provides that an employee is entitled to receive all unpaid wages no later than 72 hours after an employee quits his or her employment, 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. Section 203 provides that if an employer willfully fails to pay wages owed in accordance with Sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date, and at the same rate until paid, but the wages shall not continue for more than thirty (30) days.

49. Based on Defendants' failure to pay all overtime wages to Plaintiffs and the Class and as a matter of policy and practice, Defendants fail to timely pay all due wages and fail to timely pay all due wages upon separation of employment. On information and belief, Defendants were advised by skilled lawyers and knew, or should have known, of the mandates of the Labor Code as it relates to Plaintiffs' allegations. Because Defendants willfully fail to timely pay Plaintiffs and the Class all overtime wages due, Defendants are subject to applicable penalties.

50. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles Plaintiffs and the Class to recover underpaid wages and overtime, including interest thereon, liquidated damages, applicable penalties, including waiting time penalties, attorneys' fees, and costs of suit.

SECOND CAUSE OF ACTION

Unpaid Sick Pay Wages (Lab. Code §§ 201-204, 210, 233, 246)

(By Plaintiffs and the Class Against All Defendants)

51. The preceding paragraphs are re-alleged and incorporated by this reference.

52. Section 233 provides that an employer must permit an employee to use accrued sick leave in accordance with Section 246.5 at the employee's then current rate of entitlement. Section 246 provides that an employee is entitled to sick pay wages for use of accrued sick leave pursuant to Section 246.5. Specifically, once accrued sick leave is used as paid sick time, an employee has a vested right to sick pay wages, which an employer must calculate and compensate based on one of two calculations: (i) "Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek," or (ii) "Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment." Under Sections 218 and 233, employees may sue to recover underpaid sick pay wages as damages.

53. As a matter of policy and practice, Defendants pay sick pay wages to Plaintiffs and the Class at the incorrect rate of pay. Plaintiffs and the Class regularly use accrued sick leave in workweeks in which they also earn non-discretionary remuneration, including for example bonuses. As a matter of policy and practice, Defendants pay sick pay wages to Plaintiffs and the Class at the base hourly rate of pay, as opposed to the regular rate of pay, which would consider all non-discretionary remuneration in addition to base hourly wages, or the rate resulting from dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment. As a result, Defendants underpay sick pay wages to Plaintiffs and the Class.

54. Section 204 provides that wages generally are due and payable twice during each calendar month and are to be paid no later than the payday for the next regular payroll period. Consistent with Section 204, Section 246 specifically requires that, upon use of accrued sick leave, vested sick pay wages are due and to be paid no later than the payday for the next regular payroll period after accrued sick leave is used as paid sick time. Similarly, Section 201 provides that if an employer discharges an employee, wages earned and unpaid at the time of discharge are due and payable immediately. Section 202 provides that an employee is entitled to receive all unpaid wages no later than 72 hours after an employee quits his or her employment, unless the employee has given 72-hour 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. The Labor Code penalizes untimely payments. For example, Section 203 provides that if an employer willfully fails to pay wages owed in accordance with Sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date, and at the same rate until paid, but the wages shall not continue for more than thirty (30) days. Likewise, Section 210 provides penalties for violations of Section 204 and untimely payments during employment. Under Sections 203, 210, and 218, employees may sue to recover applicable penalties.

55. As alleged herein and as a matter of policy and practice, Defendants routinely underpay sick pay wages and thus do not timely pay Plaintiffs and the Class all owing and underpaid sick pay wages. As a result, Defendants violate Sections 201-204, 210, 233, and 246, among other Labor Code provisions. Plaintiffs are informed and believe that Defendants were advised by skilled lawyers and knew, or should have known, of the mandates of the Labor Code as it relates to Plaintiffs' allegations, especially since the California Supreme Court has explained that "[c]ourts have recognized that 'wages' also include those benefits to which an employee is entitled as a part of his or her compensation, including money, room, board, clothing, vacation pay, *and sick pay*." *Murphy v. Kenneth Cole Prods., Inc.*, 40 Cal. 4th 1094, 1103 (2007) (emphasis added). Because Defendants willfully fail to timely pay Plaintiffs and the Class all sick pay wages due, Defendants are subject to applicable penalties.

56. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles Plaintiffs and the Class to underpaid sick pay wages, including interest thereon, applicable penalties, attorneys' fees, and costs of suit.

THIRD CAUSE OF ACTION

Rest Period Violations (Lab. Code § 226.7)

(By Plaintiffs and the Class Against All Defendants)

57. The preceding paragraphs are re-alleged and incorporated by this reference.

58. Because Plaintiffs and the Class were non-exempt employees, Defendants were required to comply with Section 226.7 and the applicable IWC Wage Order. The applicable laws generally require an employer to provide a duty-free, 10-minute rest period for every four hours worked, or major fraction thereof. Section 226.7(b) provides that an employer shall not require an employee to work

during a rest period. Section 226.7(c) states that "the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

59. As a matter of policy and practice, Defendants fail to permit off-duty rest periods to Plaintiffs and the Class. As a matter of policy and practice, Defendants also fail to pay an additional hour of pay at the regular rate of compensation for each rest period missed by Plaintiffs and the Class. Specifically, due to Defendants' staffing practices, Plaintiffs and the Class were routinely not allowed to take their rest periods during their shifts of at least 3.5 hours. Despite not permitting duty-free rest periods, Defendants fail to pay Plaintiffs and the Class the requisite rest period premium pay of an additional hour of wages at the regular rate of compensation. Defendants thus violate Section 226.7 and the applicable IWC Wage Order. Despite not permitting duty-free rest periods, Defendants fail to pay Plaintiffs and the Class the requisite rest period premium pay of an additional hour of wages at the regular rate of compensation.

60. Based on Defendants' failure to pay rest period premium pay to Plaintiffs and the Class and as a matter of policy and practice, Defendants fail to timely pay Plaintiffs and the Class all due wages. On information and belief, Defendants were advised by skilled lawyers and knew, or should have known, of the mandates of the Labor Code as it relates to Plaintiffs' allegations. Because Defendants willfully fail to timely pay Plaintiffs and the Class all rest period premium pay due, Defendants are subject to applicable penalties.

61. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles Plaintiffs and the Class to recover unpaid rest period premium pay, including interest thereon, applicable penalties, attorneys' fees, and costs of suit.

FOURTH CAUSE OF ACTION

Meal Period Violations (Lab. Code §§ 226.7, 512)

(By Plaintiffs and the Class Against All Defendants)

62. The preceding paragraphs are re-alleged and incorporated by this reference.

63. Because Plaintiffs and the Class were non-exempt employees, Defendants were required to comply with Sections 226.7 and 512 and the applicable IWC Wage Order. Section 512(a) generally

prohibits employment of an individual for a work period of more than five hours per day without providing the employee with an uninterrupted, duty-free meal period of at least 30 minutes. Section 226.7(b) provides that an employer shall not require an employee to work during a meal period. Section 226.7(c) states that "the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

64. As a matter of policy and practice on shifts exceeding five hours of work, Defendants fail to provide Plaintiffs and the Class with a duty-free 30-minute meal period within the first five hours of work. As a matter of policy and practice, Defendants also do not pay an additional hour of pay at the regular rate of compensation for each meal period missed By Plaintiffs and the Class. Specifically, due to Defendants' staffing practices, Plaintiffs and the Class were routinely not allowed to take a full 30 minutes for their meal periods within the first five hours of their work shifts. Despite not permitting duty-free meal periods, Defendants fail to pay Plaintiffs and the Class the requisite meal period premium pay of an additional hour of wages at the regular rate of compensation.

65. Based on Defendants' failure to pay meal period premium pay to Plaintiffs and the Class and as a matter of policy and practice, Defendants fail to timely pay Plaintiffs and the Class all due wages. On information and belief, Defendants were advised by skilled lawyers and knew, or should have known, of the mandates of the Labor Code as it relates to Plaintiffs' allegations. Because Defendants willfully fail to timely pay Plaintiffs and the Class all meal period premium pay due, Defendants are subject to applicable penalties.

66. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles Plaintiffs and the Class to recover unpaid meal period premium pay and unpaid wages for on-duty hours worked, including interest thereon, applicable penalties, attorneys' fees, and costs of suit.

FIFTH CAUSE OF ACTION

Inaccurate Itemized Wage Statements (Lab. Code § 226(a))

(By Plaintiffs and the Class Against All Defendants)

67. The preceding paragraphs are re-alleged and incorporated by this reference.

68. Section 226(a) requires an employer to furnish to its employees itemized wage statements that show accurate information, including without limitation, the applicable hourly rates in

effect during the pay period and the corresponding number of hours worked at such rates, the total hours worked, gross wages earned, and net wages earned.

69. As a result of Defendants' failure to pay all wages, including overtime wages, sick pay wages, and premium pay, and as a matter of policy and practice, Defendants fail to provide accurate itemized wage statements to Plaintiff and the Class. Specifically, Defendants furnish Plaintiffs and the Class with wage statements that inaccurately state the applicable hourly rate for overtime, sick pay wages, and premium pay, as well as the gross wages earned and net wages earned, corresponding number of hours worked at such rates, and the total hours worked.

70. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles Plaintiffs and the Class to recover applicable penalties, attorneys' fees, and costs of suit.

SIXTH CAUSE OF ACTION

Unreimbursed Business Expenses (Lab. Code § 2802)

(By Plaintiffs and the Class Against All Defendants)

71. The preceding paragraphs are re-alleged and incorporated by this reference.

72. Section 2802 requires that an employer must reimburse employees for all necessary expenditures and losses incurred in the performance of their jobs. Section 2802 is intended to prevent employers from placing their operating expenses and cost of doing business on employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014).

73. As a matter of policy and practice, Defendants fail to reimburse Plaintiffs and the Class for necessary business expenses incurred in performing their work for Defendants. As a matter of policy and practice, Plaintiffs and the Class were required to purchase and maintain uniforms as well as stethoscopes to perform their job duties, and also were required to use personal cell phones. Although Plaintiffs and the Class were required to purchase and maintain uniforms as well as stethoscopes to perform their job duties, , and also were required to use personal cell phones, Defendants did not sufficiently reimburse Plaintiffs and the Class for their expenses.

74. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles Plaintiffs and the Class to recover unreimbursed expenses, including interest thereon, attorneys' fees, and costs of suit.

SEVENTH CAUSE OF ACTION

Unfair or Unlawful Business Practices (Bus. & Prof. Code §§ 17200 et seq.)

(By Plaintiff and the Class Against All Defendants)

75. The preceding paragraphs are re-alleged and incorporated by this reference.

76. Plaintiffs are informed and believe that at Defendants have engaged and continue to engage in unfair and unlawful business practices in California by utilizing the employment policies and practices alleged herein.

77. Defendants' utilization of such unfair and unlawful business practices constitutes unfair and unlawful competition and provides an unfair advantage over Defendants' competitors, as proscribed by the UCL. Defendants have deprived Plaintiffs and the Class the minimum working condition standards and conditions due to them under the Labor Code and applicable IWC Wage Orders.

78. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles Plaintiffs and the Class to full restitution of all monies withheld, acquired, or converted by Defendants by means of the unfair practices complained of herein, including interest thereon, attorneys' fees, and costs of suit.

EIGHTH CAUSE OF ACTION

Violations of the California Labor Code (Lab. Code §§ 2698 et seq.)

(By Plaintiffs and Aggrieved Employees Against All Defendants)

79. The preceding paragraphs are re-alleged and incorporated by this reference.

80. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698 et seq. ("PAGA"), Plaintiffs bring this cause of action as a proxy for the State of California. In this capacity, Plaintiff seeks penalties for Defendants' violations of Sections 201-205.5, 210, 216, 218, 218.5, 218.6, 223, 224, 226, 226.3, 226.7, 233, 246, 245-248.5, 256, 432.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2699 and 2802 committed since October 13, 2019, against all aggrieved employees. Under Section 2699(c), Plaintiffs are an "aggrieved employee," as one or more of the alleged violations was committed against Plaintiff as an employee of Defendants.

81. As stated herein, Defendants fail to (i) pay wages and overtime (or making unlawful deductions from wages), (ii) pay sick pay wages, (iii) authorize and permit duty-free rest periods, (iv)

provide duty-free meal periods, (v) pay all premium wages for such missed rest periods and meal periods, (vi) provide accurate itemized wage statements, and (vii) reimburse necessary business expenses. Moreover, Defendants also violate Sections 1174, 1198, and 1199, and sections 7 & 11 of the applicable IWC Wage Order by failing to maintain accurate time records showing when Plaintiffs and aggrieved employees begin and end their work shifts. Specifically, Defendants do not allow Plaintiffs and aggrieved employees to record the exact times that they begin and end their meal periods.

82. As such, pursuant to Section 2699(a), (f), and (g), Plaintiffs seeks recovery of all applicable penalties for Defendants' violations against all aggrieved employees for the period described above.

NINTH CAUSE OF ACTION

Violation of Fair Credit Reporting Act (15 U.S.C. §§ 1681b(b)(2)(A))

(By Plaintiffs and the Class Against All Defendants)

83. The preceding paragraphs are re-alleged and incorporated by this reference.

84. Defendants are "persons" as defined by Section 1681a(b) of the FCRA.

85. Plaintiffs and class members are "consumers" within the meaning of Section 1681a(c) of the FCRA because they are "individuals."

86. Section 1681a(d)(1) of the FCRA defines "consumer report" as:

> The term "consumer report" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for–
>
> (A) credit or insurance to be used primarily for personal, family, or household purposes;
>
> (B) employment purposes; or
>
> (C) any other purpose authorized under section 1681b of this title.

Accordingly, a credit and background report qualifies as a consumer report.

87. Section 1681a(e) of the FCRA defines "investigative consumer report" as:

> The term 'investigative consumer report' means a consumer report or portion thereof in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items off information. However, such information shall not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.

88. Section 1681b(b)(2)(A) of the FCRA provides:

> Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless–
>
> (i) A ***clear and conspicuous*** disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that ***consists solely of the disclosure***, that a consumer report may be obtained for employment purposes; and
>
> (ii) The consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report by that person. (Emphasis added.)

89. Section 1681b(b)(2)(A)(i) requires that a clear and conspicuous disclosure be made in writing.

90. Because Defendants' disclosures do not meet the requirement of 15 U.S.C. section 7001(c), the disclosures do not satisfy the written requirement.

91. Plaintiffs allege, upon information and belief, that in evaluating their and other class members for employment, Defendants procured or caused to be procured credit and background reports

(i.e. a consumer report and/or investigative consumer report as defined by 15 U.S.C. section 1681a(d)(1)(B) and 15 U.S.C. section 1681a(e)).

92. The purported disclosures do not meet the requirements under the law because they are embedded with extraneous information and are not clear and unambiguous disclosures in stand-alone documents.

93. Under the FCRA, it is unlawful to procure or caused to be procured, a consumer report or investigative consumer report for employment purposes unless the disclosure is made in a document that consists solely of the disclosure and the consumer has authorized, in writing, the procurement of the report. (15 U.S.C. § 1681b(b)(2)(A)(i)-(ii).) The inclusion of extraneous information therefore violates section 1681b(b)(2)(A) of the FCRA.

94. Although the disclosure and authorization may be combined in a single document, the Federal Trade Commission ("FTC") has warned that the form should not include any extraneous information or be part of another document. For example, in response to an inquiry as to whether the disclosure may be set forth within an application for employment or whether it must be included in a separate document, the FTC stated: "The disclosure may not be part of an employment application because the language [of 15 U.S.C. section 1681b(b)(2)(A) is] intended to ensure that it appears conspicuously in a document not encumbered by any other information. The reason for requiring that the disclosure be in a stand-alone document is to prevent consumers from being distracted by other information side-by-side within the disclosure."

95. The plain language of the statute also clearly indicates that the inclusion of a liability release in a disclosure form violates the disclosure and authorization requirements of the FCRA, because such a form would not consist "solely" of the disclosure. In fact, the FTC expressly warned that the FCRA notice may not include extraneous information such as a release. In a 1998 opinion letter, the FTC stated: "[W]e note that your draft disclosure includes a waiver by the consumer of his or her rights under the FCRA. The inclusion of such a waiver in a disclosure form will violate section 604(b)(2)(A) of the FCRA, which requires that a disclosure consist 'solely' of the disclosure that a consumer report may be obtained for employment purposes."

96. In a report dated July 2011, the FTC reiterated that "the notice [under 15 U.S.C. section 1681b(b)(2)(A))] may not include extraneous or contradictory information, such as a request for a consumer's waiver of his or her rights under the FCRA."

97. By including extraneous and unlawful information, Defendants willfully disregarded the FTC's regulatory guidance and violated section 1681b(b)(2)(A) of the FCRA. Additionally, the inclusion of the extraneous provisions causes the disclosure to fail to be "clear and conspicuous" and "clear and accurate" and therefore violates sections 1681b(b)(2)(A) and 1681d(a).

98. Defendants' conduct in violation of section 1681b(b)(2)(A) of the FCRA was and is willful. Defendants acts in deliberate or reckless disregard of their obligations and the rights of applicants and employees, including Plaintiff and class members. Defendants' willful conduct is reflected by, among other things, the following facts:

- Defendants are a large corporation with access to legal advice;
- Defendants required a purported authorization to perform credit and background checks in the process of employing the class members which, although defective, evidences Defendants' awareness of and willful failure to follow the governing laws concerning such authorizations;
- The plain language of the statute unambiguously indicates that inclusion of unlawful and extraneous information in a disclosure form violates the disclosure and authorization requirements; and
- The FTC's express statements, pre-dating Defendants' conduct, which state that it is a violation of section 1681b(b)(2)(A) of the FCRA to include a liability waiver in the disclosure form.

99. Based upon the facts likely to have evidentiary support after a reasonable opportunity to further investigation and discovery, Plaintiffs allege that Defendants have a policy and practice of procuring investigative consumer reports or causing investigative consumer reports to be procured for applicants and employees without informing them of their right to request a summary of their rights under the FCRA at the same time as the disclosure explaining that an investigative consumer report may be made. Pursuant to that policy and practice, Defendants procured investigative consumer reports or

caused investigative consumer reports to be procured for Plaintiffs and class members, as described above, without informing class members of their rights to request a written summary of their rights under the FCRA.

100. Accordingly, Defendants willfully violated and continue to violate the FCRA, including but not limited to, sections 1681b(b)(2)(A) and 1681d(a). Defendants' willful conduct is reflected by, among other things, the facts set forth above.

101. Plaintiffs, on behalf of themselves and all class members, seeks all statutory remedies pursuant to 15 U.S.C. section 1681n, including statutory penalties, punitive damages, and attorneys' fees and costs.

102. In the alternative to Plaintiffs' allegation that these violations were willful, Plaintiffs allege that the violations were negligent and seeks the appropriate remedy, if any, under 15 U.S.C. section 1681o, including statutory damages and attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment for themselves and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. For an order certifying the proposed Class;

2. For an order appointing Plaintiff as the representative of the Class;

3. For an order appointing Counsel for Plaintiff as Class Counsel;

4. Upon the First Cause of Action for damages, including unpaid overtime wages and interest thereon, and penalties;

5. Upon the Second Cause of Action for damages, including sick pay wages and interest thereon, penalties, and costs and attorneys' fees;

6. Upon the Third Cause of Action for damages, including unpaid rest period premium pay and interest thereon, and penalties, and for costs and attorneys' fees;

7. Upon the Fourth Cause of Action for damages, including unpaid meal period premium pay, unpaid wages, and interest thereon, and penalties, and for costs and attorneys' fees;

8. Upon the Fifth Cause of Action for penalties pursuant to Section 226, and for costs and attorneys' fees;

9. Upon the Sixth Cause of Action for damages, including interest thereon, and attorneys' fees and costs;

10. Upon the Seventh Cause of Action for restitution of all funds unlawfully acquired by Defendants by any acts or practices declared to be in violation of the UCL, including interest thereon, and for costs and attorneys' fees;

11. Upon the Eighth Cause of Action for penalties pursuant to Section 2699(a), (f), and (g), and for costs and attorneys' fees;

12. Upon the Ninth Cause of Action for punitive damages, declaratory relief, and penalties, and for costs and attorneys' fees;

13. Upon each cause of action for attorneys' fees and costs as provided by the Labor Code, UCL, and Code of Civil Procedure section 1021.5; and

14. For such other and further relief that the Court may deem just and proper.

DATED: May 28, 2026

DIVERSITY LAW GROUP, P.C.

By:______________________________
Larry W. Lee
Simon L. Yang
Attorneys for Plaintiffs

PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

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

On June 4, 2026, I served the following document(s) described as: **AMENDED SECOND AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action as follows:

JACKSON LEWIS, P.C. Donald P. Sullivan 50 California Street, 9th Floor San Francisco, CA 94111-4615	*Attorney for Defendant San Joaquin Valley Rehabilitation Hospital* Donald.sullivan@jacksonlewis.com
Carolyn B. Hall OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C. One Embarcadero Center, Suite 900 San Francisco, CA 94111	*Attorneys for Defendants Gale Healthcare Solutions LLC and Realtime PEO II, LLC* carolyn.hall@ogletree.com
SETAREH LAW GROUP Shaun Setareh Eric Y. Hahn Victoria Mas 420 N. Camden Drive Beverly Hills, CA 90210	*Attorneys for Plaintiff Michaeli and the Class* shaun@setarehlaw.com eric@setarehlaw.com vmas@setarehlaw.com
SCHNEIDER WALLACE COTTRELL KIM LLP Carolyn Hunt Cottrell Ori Edelstein Michelle S. Lim 2000 Powell Street, Suite 1400 Emeryville, Ca 94608	*Attorneys for Plaintiff Williams and the Class* ccottrell@schnelderwallace.com oedlestein@schneiderwallace.com mlim@schneiderwallace.com
POLARIS LAW GROUP William L. Marder	*Attorneys for Plaintiff Samonte and the Class*

501 San Benito Street, Suite 200 bill@polarislawgroup.com
Hollister, CA 95023

X BY ELECTRONIC MAIL: by personally sending a true and correct copy of the above-described document(s) to the party(ies) listed above or on the attached mailing list from the e-mail server diversitylaw.com, to the electronic transmission address of the recipient(s) indicated above or on the attached mailing list. I certify that said electronic transmission was completed and that all pages were received by the party(ies) identified herein or on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 4, 2026, at Los Angeles, California.

Erika Mejia