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ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 1/24/2022 8:58 AM
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY**

SHARON MORRIS, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

COMMUNITY HOSPITAL OF THE
MONTEREY PENINSULA, a California
nonprofit corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 21CV001953

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

- (1) VIOLATION OF LABOR CODE § 246
- (2) VIOLATION OF LABOR CODE §§ 201-203
- (3) VIOLATION OF LABOR CODE § 226.7;
- (4) VIOLATION OF LABOR CODE §§ 226.7 AND 512;
- (5) VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, *ET SEQ.*; AND
- (6) VIOLATION OF LABOR CODE § 2698, *ET SEQ.*, THE PRIVATE ATTORNEYS GENERAL ACT

DEMAND OVER \$25,000

Complaint Filed: June 16, 2021
Trial Date: None

1 Plaintiff Sharon Morris (“Plaintiff”) hereby submits this Second Amended Class and
2 Representative Action Complaint (“Complaint”) against Defendant Community Hospital of the
3 Monterey Peninsula (“Defendant”), and Does 1-50 (collectively, “Defendants”), as an individual
4 and on behalf of all other similarly situated current and former employees of Defendants for
5 damages and penalties under the California Labor Code and California Business & Professions
6 Code, for failure to pay sick pay at the regular rate of pay and failure to pay meal and rest period
7 premiums at the regular rate of pay, as follows:

8 **INTRODUCTION**

9 1. This Complaint is within the Court’s jurisdiction under California Labor Code
10 §§ 201-203, 226.7, 246, 512, and 2698, *et seq.*, the California Unfair Competition Law (“UCL”),
11 Business & Professions Code § 17200, *et seq.*, and the California Industrial Welfare
12 Commission’s (“IWC”) Wage Orders.

13 2. This Complaint challenges systemic illegal employment practices resulting in
14 violations of the California Labor Code and the UCL against employees of Defendants.

15 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants
16 jointly and severally have acted intentionally and with deliberate indifference and conscious
17 disregard to the rights of all employees by failing to pay sick pay and meal and rest period
18 premiums at the regular rate of pay.

19 4. Plaintiff is informed and believes and based thereon alleges that Defendants have
20 engaged in, among other things a system of willful violations of the California Labor Code, the
21 UCL, and applicable IWC Wage Orders by creating and maintaining policies, practices and
22 customs that knowingly deny employees the above stated rights and benefits.

23 5. The policies, practices, and customs of Defendants described above and below
24 have resulted in unjust enrichment of Defendants and an unfair business advantage over
25 businesses that routinely adhere to the strictures of the California Labor Code and the UCL.

26 **JURISDICTION AND VENUE**

27 6. The Court has jurisdiction over the violations of the California Labor Code
28 §§ 201-203, 226.7, 246, 512, and 2698, *et seq.*, and the UCL.

7. Venue is proper in Monterey County because Defendant is located in and does business in Monterey County, and Plaintiff worked at Defendant's facilities in Monterey County.

PARTIES

8. Plaintiff is a former employee of Defendant. Plaintiff was employed by Defendant from on or about September 28, 1987, until on or about May 6, 2021, as a Chemical Dependency Counselor. Throughout her employment with Defendant, Plaintiff was a non-exempt employee.

9. During her employment with Defendant, Plaintiff was paid non-discretionary incentive wages, including without limitation, shift differentials. During her employment with Defendant, Plaintiff was also paid wages for sick time.

10. During her employment with Defendant, Plaintiff did not receive meal and rest period premium pay based on her regular rate of pay that factored in non-discretionary incentive wages, including without limitation, shift differentials. Rather, during pay periods where Plaintiff was paid said non-discretionary incentive wages, Plaintiff only received meal and rest period premium pay at the base rate of pay.

11. Plaintiff was and is the victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived her of the rights guaranteed by California Labor Code §§ 201-203, 226.7, 246, 512, and 2698, *et seq.*, the UCL, and the applicable IWC Wage Orders.

12. Plaintiff is informed and believes and based thereon alleges that Defendant was and is a California nonprofit corporation doing business in the State of California. Defendant is a hospital that provides medical and healthcare services in Monterey County.

13. Plaintiff is informed and believes and based thereon alleges that at all times herein mentioned Defendant and DOES 1 through 50 are and were business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California.

14. As such, and based upon all the facts and circumstances incident to Defendants' business in California, Defendants are subject to California Labor Code §§ 201-203, 226.7, 246, 512, and 2698, *et seq.*, the UCL, and the IWC Wage Orders.

1 15. Plaintiff does not know the true names or capacities, whether individual, partner
2 or corporate, of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason,
3 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
4 Complaint when the true names and capacities are known. Plaintiff is informed and believes and
5 based thereon alleges that each of said fictitious Defendants were responsible in some way for
6 the matters alleged herein and proximately caused Plaintiff and members of the general public
7 and class to be subject to the illegal employment practices, wrongs and injuries complained of
8 herein.

9 16. At all times herein mentioned, each of said Defendants participated in the doing
10 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
11 Defendants, and each of them, were the agents, servants and employees of each of the other
12 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
13 acting within the course and scope of said agency and employment.

14 17. Plaintiff is informed and believes and based thereon alleges that at all times
15 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
16 joint venturer of, or working in concert with each of the other co-defendants and was acting
17 within the course and scope of such agency, employment, joint venture, or concerted activity.
18 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
19 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
20 Defendants.

21 18. At all times herein mentioned, Defendants, and each of them, were members of,
22 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
23 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

24 19. At all times herein mentioned, the acts and omissions of various Defendants, and
25 each of them, concurred and contributed to the various acts and omissions of each and all of the
26 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
27 herein mentioned, Defendants, and each of them, ratified each and every act or omission
28 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided

1 and abetted the acts and omissions of each and all of the other Defendants in proximately causing
2 the damages as herein alleged.

3 **CLASS ACTION ALLEGATIONS**

4 20. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
5 California Code of Civil Procedure § 382, of the following Class: All non-exempt employees of
6 Defendants in the State of California at any time from June 16, 2017, through the present (the
7 “Class”).

8 21. **Numerosity and Ascertainability:** The members of the Class are so numerous
9 that joinder of all members would be impractical, if not impossible. The identity of the members
10 of the Class is readily ascertainable by review of Defendants’ records, including payroll records.
11 Plaintiff alleges that Defendants (a) failed to pay Class Members sick pay at the regular rate of
12 pay in violation of Labor Code §§ 201-203 and 246; (b) failed to pay rest period premium at the
13 regular rate of pay, in violation of Labor Code §§ 201-203, 226.7; (c) failed to pay meal period
14 premium at the regular rate of pay, in violation of Labor Code §§ 201-203, 226.7, and 512; and
15 (d) engaged in unfair business practices in violation of the California Labor Code and the UCL.

16 22. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
17 necessary steps to represent fairly and adequately the interests of the Class defined above.
18 Plaintiff’s attorneys are ready, willing and able to fully and adequately represent the Class and
19 individual Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class
20 actions in the past and currently have a number of wage-and-hour class actions pending in
21 California courts.

22 23. Defendants uniformly administered a corporate policy and practice of failing to
23 pay employees sick pay and meal and rest period premium pay at their regular rate of pay, in
24 violation of Labor Code §§ 201-203, 226.7, 246, and 512, and the UCL, Business & Professions
25 Code § 17200.

26 24. **Common Question of Law and Fact:** There are predominant common questions
27 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
28 concerning Defendants’ policy and practice of: (a) failing to pay Class Members sick pay at the

1 regular rate of pay in violation of Labor Code §§ 201-203 and 246; (b) failing to pay rest period
2 premium at the regular rate of pay, in violation of Labor Code §§ 201-203, 226.7; (c) failing to
3 pay meal period premium at the regular rate of pay, in violation of Labor Code §§ 201-203,
4 226.7, and 512; and (d) engaging in unfair business practices in violation of the California Labor
5 Code and the UCL.

6 25. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
7 Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar and typical
8 manner as the Class Members. As with other Class Members, Plaintiff was a non-exempt
9 employee and was paid hourly. Plaintiff routinely earned non-discretionary incentive wages,
10 including without limitation shift differential wages, such as “PMDiff” wages, that increased her
11 regular rate of pay. However, whenever sick pay was paid to Plaintiff, it was paid at Plaintiff’s
12 base rate of pay rather than the correct, higher regular rate of pay that included any non-
13 discretionary incentive wages. Furthermore, whenever meal and rest period premium pay were
14 paid to Plaintiff, said wages were paid at the base rate of pay. Defendants did not incorporate
15 non-discretionary incentive wages, including without limitation shift differential wages, such as
16 “PMDiff” wages, into the regular rate of pay when paying meal and rest period premium pay.
17 To date, Plaintiff has yet to receive the underpaid sick pay wages and meal and rest period
18 premium compensation owed to her. As such, Plaintiff is a member of the Class and has
19 suffered the alleged violations of California Labor Code §§ 201-203, 226.7, 246, 512, and the
20 UCL.

21 26. The California Labor Code and upon which Plaintiff bases these claims is broadly
22 remedial in nature. These laws and labor standards serve an important public interest in
23 establishing minimum working conditions and standards in California. These laws and labor
24 standards protect the average working employee from exploitation by employers who may seek
25 to take advantage of superior economic and bargaining power in setting onerous terms and
26 conditions of employment.

27 27. The nature of this action and the format of laws available to Plaintiff and
28 members of the Class identified herein make the class action format a particularly efficient and

1 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
2 file an individual lawsuit, the corporate Defendant would necessarily gain an unconscionable
3 advantage since it would be able to exploit and overwhelm the limited resources of each
4 individual Plaintiff with Defendant's vastly superior financial and legal resources. Requiring
5 each Class member to pursue an individual remedy would also discourage the assertion of lawful
6 claims by employees who would be disinclined to file an action against their former and/or
7 current employer for real and justifiable fear of retaliation and permanent damage to their careers
8 at subsequent employment.

9 28. The prosecution of separate actions by the individual class members, even if
10 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
11 to individual Class members against Defendants and which would establish potentially
12 incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to
13 individual Class members which would, as a practical matter, be dispositive of the interest of the
14 other Class members not parties to the adjudications or which would substantially impair or
15 impede the ability of the Class members to protect their interests. Further, the claims of the
16 individual members of the Class are not sufficiently large to warrant vigorous individual
17 prosecution considering all of the concomitant costs and expenses.

18 29. Such a pattern, practice and uniform administration of corporate policy regarding
19 illegal employee compensation described herein is unlawful and creates an entitlement to
20 recovery by the Plaintiff and the Class identified herein, in a civil action, for all applicable
21 penalties and/or damages, reasonable attorneys' fees, and costs of suit according to the mandate
22 of California Labor Code §§ 218.5 and 1194, and Code of Civil Procedure § 1021.5.

23 30. Proof of a common business practice or factual pattern, which the named Plaintiff
24 experienced and is representative of, will establish the right of each of the members of the Class
25 to recovery on the causes of action alleged herein.

26 31. The Class is commonly entitled to a specific fund with respect to the
27 compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to
28 restitution of those funds being improperly withheld by Defendants. This action is brought for

the benefit of the entire Class and will result in the creation of a common fund.

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE § 246

(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)

32. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

33. Labor Code § 246(l)(1) provides that paid sick time for non-exempt employees 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.”

34. Labor Code § 246(l)(2) further provides that paid sick time for non-exempt employees 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.”

35. Defendants violated Labor Code § 246 by failing to pay sick pay at the regular rate of pay. Plaintiff and Class Members routinely earned non-discretionary incentive wages, including without limitation, shift differential wages, thereby increasing their regular rates of pay to amounts that were higher than their base rates of pay. However, whenever sick pay was paid to Plaintiff and Class Members, it was paid at their base rates of pay rather than the correct, higher regular rates of pay, as required under Labor Code § 246.

36. As a pattern and practice, Defendants regularly failed to pay Plaintiff and Class Members their correct sick pay wages. Further, Plaintiff is informed and believes and based thereon alleges that such failure to pay sick pay at the correct regular rate was willful, such that Plaintiff and Class Members whose employment has separated are entitled to waiting time penalties pursuant to Labor Code §§ 201-203.

37. Such a pattern, practice and uniform administration of corporate policy regarding illegal employee compensation as described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class identified herein, in a civil action, for the unpaid balance

1 of the full amount of damages and penalties, attorneys' fees, and costs of suit according to the
2 mandate of California Labor Code §§ 201-203, 218.5, and 1194.

3 **SECOND CAUSE OF ACTION**

4 **VIOLATION OF LABOR CODE §§ 201-203**

5 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

6 38. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
7 though fully set forth herein.

8 39. Labor Code § 246(l)(1) provides that paid sick time for non-exempt employees be
9 "calculated in the same manner as the regular rate of pay for the workweek in which the
10 employee uses paid sick time, whether or not the employee actually works overtime in that
11 workweek."

12 40. Labor Code § 246(l)(2) further provides that paid sick time for non-exempt
13 employees be "calculated by dividing the employee's total wages, not including overtime
14 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days
15 of employment."

16 41. Defendants violated Labor Code § 246 by failing to pay sick pay at the regular
17 rate of pay. Plaintiff and Class Members routinely earned non-discretionary incentive wages,
18 including without limitation, shift differential wages, thereby increasing their regular rates of pay
19 to amounts that were higher than their base rates of pay. However, whenever sick pay was paid
20 to Plaintiff and Class Members, it was paid at their base rates of pay rather than the correct,
21 higher regular rates of pay, as required under Labor Code § 246.

22 42. As a pattern and practice, Defendants regularly failed to pay Plaintiff and Class
23 Members their correct wages and accordingly owe waiting time penalties pursuant to Labor
24 Code § 203. Further, Plaintiff is informed and believes and based thereon alleges that such
25 failure to pay sick pay at the correct regular rate was willful, such that Plaintiff and Class
26 Members whose employment has separated are entitled to waiting time penalties pursuant to
27 Labor Code §§ 201-203.

28 43. Such a pattern, practice and uniform administration of corporate policy regarding

1 illegal employee compensation as described herein is unlawful and creates an entitlement to
2 recovery by the Plaintiff and the Class identified herein, in a civil action, for the unpaid balance
3 of the full amount of damages and penalties, attorneys' fees, and costs of suit according to the
4 mandate of California Labor Code §§ 201-203, 218.5, and 1194.

5 **THIRD CAUSE OF ACTION**

6 **VIOLATION OF LABOR CODE § 226.7**

7 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

8 44. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
9 though fully set forth herein.

10 45. This cause of action is brought pursuant to Labor Code § 226.7, which provides
11 that "the employer shall pay the employee an additional hour of pay at the employee's regular
12 rate of compensation for each workday the meal or rest or recovery period is not provided."

13 46. As a matter of corporate policy and practice, Defendants regularly failed to pay
14 rest period premiums to Plaintiff and Class Members at the regular rate of pay. Defendants, as a
15 matter of corporate policy and practice, failed to correctly calculate such premium compensation
16 for each rest period Plaintiff and the Class Members missed in accordance with the California
17 Labor Code.

18 47. Specifically, Plaintiff and Class Members were regularly paid non-discretionary
19 incentive wages, including without limitation, shift differential wages. However, Defendants did
20 not factor said non-discretionary incentive wages into the regular rate of pay for purposes of
21 paying rest period premiums to Plaintiff and Class Members. Instead, during pay periods where
22 Plaintiff and Class Members were paid said non-discretionary incentive wages, Defendants
23 improperly paid the rest period premiums at the lower, base rate of pay.

24 48. Plaintiff is informed and believes, and based thereon alleges, that Defendants
25 willfully failed to include non-discretionary remuneration, into the calculation of the regular rate
26 of pay for purposes of paying rest period premiums, as required by Labor Code § 226.7, and the
27 applicable IWC Wage Order. Plaintiff further alleges that Plaintiff and Class Members are owed
28 wages for the underpaid rest period premiums as set forth above.

1 49. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 willful failure to provide all rest period premiums due and owing to Plaintiff and Class Members
3 upon separation from employment results in a continued payment of wages up to thirty (30) days
4 from the time wages were due. Therefore, Plaintiff and Class Members who have separated
5 from employment are entitled to compensation pursuant to Labor Code § 203.

6 50. Such a pattern, practice and uniform administration of corporate policy as
7 described herein is unlawful and creates an entitlement to recovery by Plaintiff and Class
8 Members identified herein, in a civil action, for the unpaid balance of the unpaid premium
9 compensation pursuant to Labor Code § 226.7 and the applicable IWC Wage Order, including
10 interest thereon, penalties, and costs of suit.

11 **FOURTH CAUSE OF ACTION**

12 **VIOLATION OF LABOR CODE §§ 226.7 AND 512**

13 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

14 51. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
15 though fully set forth herein.

16 52. This cause of action is brought pursuant to Labor Code §§ 226.7 and 512, which
17 provides that “the employer shall pay the employee an additional hour of pay at the employee’s
18 regular rate of compensation for each workday the meal or rest or recovery period is not
19 provided.”

20 53. As a matter of corporate policy and practice, Defendants regularly failed to pay
21 meal period premiums to Plaintiff and Class Members at the regular rate of pay. Defendants, as
22 a matter of corporate policy and practice, failed to correctly calculate such premium
23 compensation for each meal period Plaintiff and the Class Members missed in accordance with
24 the California Labor Code.

25 54. Specifically, Plaintiff and Class Members were regularly paid non-discretionary
26 incentive wages, including without limitation, shift differential wages. However, Defendants did
27 not factor said non-discretionary incentive wages into the regular rate of pay for purposes of
28 paying meal period premiums to Plaintiff and Class Members. Instead, during pay periods where

1 Plaintiff and Class Members were paid said non-discretionary incentive wages, Defendants
2 improperly paid the meal period premiums at the lower, base rate of pay.

3 55. Plaintiff is informed and believes, and based thereon alleges, that Defendants
4 willfully failed to include non-discretionary remuneration, into the calculation of the regular rate
5 of pay for purposes of paying meal period premiums, as required by Labor Code §§ 226.7 and
6 512, and the applicable IWC Wage Order. Plaintiff further alleges that Plaintiff and Class
7 Members are owed wages for the underpaid meal period premiums as set forth above.

8 56. Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 willful failure to provide all meal period premiums due and owing to Plaintiff and Class
10 Members upon separation from employment results in a continued payment of wages up to thirty
11 (30) days from the time wages were due. Therefore, Plaintiff and Class Members who have
12 separated from employment are entitled to compensation pursuant to Labor Code § 203.

13 57. Such a pattern, practice and uniform administration of corporate policy as
14 described herein is unlawful and creates an entitlement to recovery by Plaintiff and Class
15 Members identified herein, in a civil action, for the unpaid balance of the unpaid premium
16 compensation pursuant to Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order,
17 including interest thereon, penalties, and costs of suit.

18 **FIFTH CAUSE OF ACTION**

19 **VIOLATION OF THE UCL, BUSINESS & PROFESSIONS CODE § 17200 *ET SEQ.***

20 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

21 58. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
22 though fully set forth herein.

23 59. Defendants, and each of them, have engaged and continue to engage in unfair and
24 unlawful business practices in California by practicing, employing and utilizing the employment
25 practices outlined above, include, to wit, by: (a) failing to pay rest period premium compensation
26 at the regular rate of pay, in violation of Labor Code § 226.7; and (b) failing to pay meal period
27 premium compensation at the regular rate of pay, in violation of Labor Code §§ 226.7, and 512.

28 60. Defendants' utilization of such unfair and unlawful business practices constitutes

1 unfair, unlawful competition and provides an unfair advantage over Defendants' competitors.

2 61. Plaintiff seeks, on behalf of himself and other members of the Class similarly
3 situated, full restitution of monies, as necessary and according to proof, to restore any and all
4 monies withheld, acquired and/or converted by the Defendants by means of the unfair practices
5 complained of herein.

6 62. Plaintiff is informed and believes, and based thereon alleges, that at all times
7 herein mentioned Defendants have engaged in unlawful, deceptive and unfair business practices,
8 as proscribed by California Business and Professions Code § 17200, *et seq.*, including those set
9 forth herein above thereby depriving Plaintiff and other members of the class the minimum
10 working condition standards and conditions due to them under the California laws as specifically
11 described therein.

12 **SIXTH CAUSE OF ACTION**

13 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

14 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

15 63. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
16 though fully set forth herein.

17 64. Plaintiff brings this cause of action as a proxy for the State of California and in
18 this capacity, seeks penalties on behalf of all Aggrieved Employees from June 4, 2020, through
19 the present, for Defendants' violations of Labor Code §§ 201-203, 226.7, 246, and 512. As
20 alleged above, Defendants, as a matter of policy and practice, failed to pay Plaintiff and other
21 Aggrieved Employees sick pay and meal and rest period premiums at the regular rate of pay.

22 65. Because of Defendants' above-stated Labor Code violations, Plaintiff is an
23 "aggrieved employee" as defined in Labor Code § 2699(a). As such, Plaintiff brings this cause
24 of action on behalf of the State of California for violations committed against all similarly
25 situated Aggrieved Employees of Defendant.

26 66. On or about June 4 and November 15, 2021, Plaintiff sent written notice to the
27 California Labor & Workforce Development Agency ("LWDA") of Defendants' violations of
28 Labor Code §§ 201-203, 226.7, 246, and 512, pursuant to the PAGA. As of the date of the filing

1 of this Complaint, the LWDA has not responded to Plaintiff's written notice. In addition to the
2 LWDA, Plaintiff also sent written notice of Defendants' violations of Labor Code §§ 201-203,
3 226.7, 246, and 512 to Defendant via certified mail, pursuant to Labor Code § 2699.3.

4 67. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
5 applicable civil penalties for Defendants' violations of Labor Code §§ 201-203, 226.7, 246, and
6 512 for the time period described above, on behalf of herself and all other Aggrieved Employees.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff prays for judgment as an individual and on behalf of all others
9 that this suit is brought against Defendants, jointly and severally, as follows:

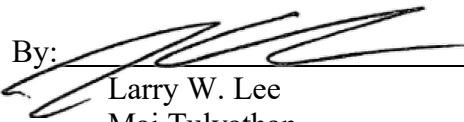
- 10 1. For an order certifying the proposed Class;
- 11 2. For an order appointing Plaintiff as the representative of the Class as described
12 herein;
- 13 3. For an order appointing counsel for Plaintiff as Class counsel;
- 14 4. Upon the First Cause of Action, for unpaid wages and/or penalties pursuant to
15 California Labor Code §§ 201-203 and 246, and for costs and attorneys' fees;
- 16 5. Upon the Second Cause of Action, for unpaid wages and/or penalties pursuant to
17 California Labor Code §§ 201-203, and for costs and attorneys' fees;
- 18 6. Upon the Third Cause of Action, for damages and/or penalties pursuant to
19 California Labor Code §§ 201-203 and 226.7, and for costs and attorneys' fees;
- 20 7. Upon the Fourth Cause of Action, for damages and/or penalties pursuant to
21 California Labor Code §§ 201-203, 226.7, and 512, and for costs and attorneys' fees;
- 22 8. Upon the Fifth Cause of Action, for restitution to Plaintiff and other similarly
23 affected members of the general public of all funds unlawfully acquired by Defendants by means
24 of any acts or practices declared by this Court to be in violation of the California Business and
25 Professions Code § 17200, *et seq.*, and for costs and attorneys' fees;
- 26 9. Upon the Sixth Cause of Action, for the full amount of civil penalties pursuant to
27 California Labor Code §§ 226.3 and 2698, *et seq.*, and for costs and attorneys' fees;
- 28 10. On all causes of action, for attorneys' fees and costs as provided by California

1 Labor Code §§ 218.5, 1194, and 2699, and Code of Civil Procedure § 1021.5; and

2 11. For such other and further relief as the Court may deem just and proper.

3
4 DATED: January 6, 2022

DIVERSITY LAW GROUP, P.C.

5 By: 

6 Larry W. Lee

Mai Tulyathan

7 Attorneys for Plaintiff, the Class, and Aggrieved
8 Employees

1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5]ss.
6 COUNTY OF LOS ANGELES]

7 I am employed in the County of Los Angeles, State of California. I am over the age of
8 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite
9 1250, Los Angeles, California 90071.

10 On January 24, 2022, I served the following document(s) described as: **SECOND**
11 **AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested
12 parties in this action as follows:

13 Elizabeth R. Leitzinger
14 eleitzinger@fentonkeller.com
15 Marco A. Lucido
16 MLucido@FentonKeller.com
17 FENTON & KELLER
2801 Monterey-Salinas Highway
Post Office Box 791
Monterey, California 93942-0791
Attorneys for Defendant
Community Hospital of the Monterey Peninsula

18 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-
19 entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website
20 www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for
21 the above-entitled case. The service transmission was reported as complete and a copy of the
22 filing receipt/confirmation will be filed, deposited, or maintained with the original document(s)
23 in this office.

24 I declare under penalty of perjury under the laws of the State of California that the above
25 is true and correct. Executed on January 24, 2022, at Los Angeles, California.

26 
27 _____
28 Christine Choo