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*Attorneys for Plaintiff
Aries Ericia, in his capacity as a
Private Attorney General Representative*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

ARIES ERICIA, on behalf of himself and
others similarly situated and as a Private
Attorney General Representative,

Plaintiffs,

vs.

US HEALTHCARE SOLUTIONS, INC., a
Montana corporation; KHALIL
SANDOVAL, an individual; and DOES 1-50,
inclusive.

Defendants.

CASE NO.: 21CV392470

[REPRESENTATIVE AND CLASS ACTION]

**COMPLAINT FOR CIVIL PENALTIES UNDER
THE PRIVATE ATTORNEYS GENERAL ACT
OF 2004, CALIFORNIA LABOR CODE § 2698 *et*
seq. ("PAGA")**

1. Violation of California Labor Code § 510, 1194, 1198, and 1199 (Failure to Pay Overtime)
2. Violation of California Labor Code § 226.7 (Meal Breaks)
3. Violation of California Labor Code § 226.7 (Rest Breaks)
4. Violation of California Labor Code § 226 (Inaccurate Wage Statements)
5. Violation of California Labor Code § 203 (Waiting Time)
6. Violation of California Labor Code § 2800 and 2802 (Unreimbursed Business Expenses)
7. California Business and Professions Code § 17200 *et seq.*

[JURY TRIAL DEMANDED]

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INTRODUCTION

1. This case is brought by Aries Ericia (“Plaintiff”), individually and on behalf of the state of California and other similarly situated aggrieved individuals who have worked for Defendants US Healthcare Solutions, Inc., and Defendants Does 1-50 (collectively referred to as “Defendant” or “Defendants”) as Registered Nurses in California. Defendants are engaged in the business of health care and hospital services for private, nonprofit, and public organizations. Defendants are headquartered in San Jose, California, and do business across the United States.

2. As described below, this is an action for Defendants’ willful failure to pay overtime wages to Plaintiff and all similarly situated aggrieved workers (collectively “Workers” or “Registered Nurses”) in violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.* (“UCL”), Cal. Bus. & Prof. Code § 17500, the California Labor Code, as penalized under the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”).

3. Defendants willfully failed to pay workers the required overtime wages for all hours worked in violation of Cal. Lab. Code §§ 510, 1194, 1198, and 1199 and has not paid appropriate overtime premiums for hours worked in excess of eight hours per day or forty hours per week, in violation of Cal. Lab. Code §§ 1194, 1198, 510, and 554.

4. Plaintiff brings these claims pursuant to PAGA on behalf of the state of California and all other similarly situated aggrieved workers who have been Defendant’s employees as Registered Nurses in California during the applicable time period. Plaintiff brings this action to recover civil penalties, fees and costs, and any other remedies to which he may be entitled under PAGA, Cal. Lab. Code § 2699 *et seq.*

PARTIES

5. Plaintiff Aries Ericia is an adult resident of Dallas, Texas and formerly resided in Contra Costa County, California, where he has worked as a Registered Nurse for Defendants at a correctional facility located in San Quentin, Marin County, California.

6. Similarly situated aggrieved workers are current and former Registered Nurses that work or worked for Defendants.

7. Plaintiff along with other current and former Registered Nurses all worked for

1 Defendants in the State of California.

2 8. Defendant US Healthcare Solutions, Inc. is a Montana corporation headquartered in San
3 Jose, California. Defendant's registered agent is 2880 Zanker Road, Suite 203, San Jose, CA 95134.

4 9. Defendant Khalil J. Sandoval is an adult individual and registered nurse currently
5 residing at 4009 Sabio Drive, Unit 318, Austin, Texas 78749. At all relevant times, Mr. Sandoval was
6 Defendant US Healthcare Solutions' president or vice president.

7 10. Plaintiff started working for Defendants in March 2020. Plaintiff stopped working for
8 the Defendants in August 2020.

9 11. Other than the manner in which Defendants are presently identified, Defendants by the
10 name of DOES 1 through 50, are legally responsible for the wrongful conduct allege herein. Plaintiff is
11 unaware of these Defendants' true names, capacities, relationships, and extent of participation in the
12 conduct alleged herein, and therefore sue these Defendants by such fictitious names. Plaintiff will amend
13 this Complaint when their true names and capacities are ascertained.

14 12. Plaintiff alleges that each Defendant, directly or indirectly, or through agents, affiliates,
15 or other persons, employed Plaintiff and other similarly situated aggrieved workers ("Class Members"),
16 and exercised control over their wages, hours, and working conditions. Each Defendant acted in all
17 respects pertinent to this action as the agent of the other Defendants, to willfully operate and participate
18 in a joint scheme, producing a business model allowing for the unlawful conduct alleged; thus, the acts
19 of each Defendant are legally attributable to the other Defendants.

20 13. At all times relevant, the policies and practices that are complained of in this Complaint
21 have occurred throughout the class period and are currently applied by Defendants throughout
22 California.

23 JURISDICTION AND VENUE

24 14. This Court has jurisdiction over Plaintiff's claims for civil penalties under the Private
25 Attorneys General Act ("PAGA"), Cal. Labor Code § 2699 *et seq.*

26 15. Venue is proper under California Code of Civil Procedure § 395 and under California
27 Government Code § 12965(b), in that Defendant is headquartered in the county of Santa Clara, California.

STATEMENT OF FACTS

16. Plaintiff was hired by Defendants as a registered nurse reporting to work in San Quentin, California.

17. During the entire period of Plaintiff's employment with Defendants, Plaintiff was a dedicated and exemplary employee, and performed Plaintiff's duties as a registered nurse for Defendants in a diligent and thorough manner.

18. Plaintiff received a letter on July 20, 2020, explaining that he was going to be terminated for not showing up to work since July 7, 2020, when Plaintiff's first day of employment was on July 8, 2020.

19. Plaintiff has signed hour sheets working after July 7, 2020, by a supervisor from the workplace in San Quentin, California.

20. Defendants had reserved hotel rooms for Plaintiff until August 20, 2020, after informing him on July 20, 2020, that he had not shown up since before his contract period began on July 8, 2020.

21. Plaintiff's employment contract was terminated by Defendants for quarantining due to the fact that Plaintiff had contracted COVID-19.

22. Plaintiff tried to call Defendants to explain he was hospitalized, but no one answered or returned his calls.

23. While employed by Defendants, Plaintiff and Class Members were regularly required to work shifts in excess of eight hours a day and 40 hours a week.

24. Defendants have consistently failed to pay for overtime hours after 8 hours of work in a workday by Defendants in California in violation of California law.

25. Moreover, Defendants provided wage statements that listed the incorrect earnings as a result of their failure to pay overtime after 8 hours of work in a workday. Therefore, the total gross and net earnings, as well as regular time and overtime hours listed on the employee's pay stubs are incorrect as they do not pay overtime after 8 hours in a workday even though employees were regularly scheduled and encouraged to work over 12-hour shifts.

26. Plaintiff and Class Members seek compensation for all sustained damages, including loss of earnings for all hours of overtime worked; all penalties pursuant to Cal. Lab. Code § 510,

1 liquidated damages, or other damages permitted by law; restitution or disgorgement of all benefits
2 obtained by Defendants from their unlawful business practices; injunctive and declaratory relief; all
3 forms of equitable relief permitted by law; prejudgment interest and reasonable attorneys' fees and
4 costs.

5 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

6 27. Plaintiff reasserts the allegations in the paragraphs above as though fully set forth at
7 length herein.

8 28. Prior to filing this complaint, Plaintiff complied with notice requirements pursuant to
9 California Labor Code § 2699.3. A copy of the letter sent to the Labor & Workforce Development
10 Agency ("LWDA") is attached hereto as **Exhibit A**, indicating that the LWDA and Defendants had
11 notice of the claims alleged here and that the notice requirement has been satisfied. Sixty-five (65) or
12 more days have passed and the LWDA has not indicated intent to investigate claims. Therefore, Plaintiff
13 may proceed with this action in a representative capacity. Plaintiff also sent a copy of this PAGA
14 Representative Action Complaint to the LWDA, providing timely notice to the LWDA for the substance
15 and violations set forth in this Complaint.

16 29. Plaintiff and Class Members are aggrieved employees as defined in California Labor
17 Code § 2699(a). Plaintiff brings this cause of action on behalf of all current and former non-exempt
18 employees of Defendants in the State of California.

19 30. On September 13, 2021, Plaintiff gave written notice of Defendants' violations of the
20 California Labor Code as alleged in this Complaint in Intervention to the Labor and Workforce
21 Development Agency ("LWDA") via online filing (LWDA-CM-844441-21) and to Defendants via
22 certified mail. LDWA has not provided notice indicating an intent to investigate the alleged violations
23 and it is Plaintiff's position that, barring extraordinary circumstances, the lack of notice by the LWDA
24 can be interpreted as a decision not to investigate the alleged violations.

25 31. Plaintiff and similarly situated aggrieved workers allege the following:

26 **Penalties Pursuant to Labor Code Private Attorneys General Act of 2004**

27 **Violations of Cal. Lab. Code § 2698, *et seq.***

28 32. Plaintiff and all similarly situated aggrieved workers re-allege and incorporate all

1 previous paragraphs as fully set forth herein. Plaintiff is an “aggrieved employee” as defined by
2 California Labor Code § 2699(c) as he was employed by Defendants during the applicable statutory
3 period and suffered injury as a result of Defendants’ various violations of the California Labor Code.
4 Accordingly, Plaintiff seeks to recover, on behalf of the State of California as well as himself and all
5 other current and former aggrieved employees of Defendants who have worked in California, the civil
6 penalties provided by PAGA, plus reasonable attorney’s fees and costs.

7 33. Plaintiff and all similarly situated aggrieved workers are entitled to penalties under
8 PAGA for Defendant’s following violations:

9 **CLASS ACTION ALLEGATIONS**

10 34. Plaintiffs bring this action on behalf of themselves and all others similarly situated as a
11 class action pursuant to Section 382 of the California Code of Civil Procedure.

12 35. Plaintiffs seek to represent Classes composed of and defined as follows:

13 **Failure to Pay Overtime Class.** All persons who are employed or have
14 been employed by Defendants in California in a non-exempt position who
are or were not paid overtime for all work after 8 hours in a workday.

15 **Failure to Provide Adequate Meal and Rest Breaks Class.** All persons
16 who are or were employed by Defendants in California in a non-exempt
17 position who did not receive adequate meal breaks for work in excess of
five hours and did not receive rest breaks after working in excess of four
hours.

18 **Waiting Time Penalties Class.** All persons who are employed or were
19 employed by Defendants in California in a non-exempt position who did
not receive all wages owed to them at the time of their termination.

20 36. Plaintiffs also seek to represent a Class composed of and defined as follows:

21 **Itemized Wage Statement Class.** All persons who are employed or have
22 been employed by Defendants in California in a non-exempt position who
23 did not receive an itemized wage statement that listed the correct straight
and overtime hours that the employee worked in the pay period or the
correct gross and net wages earned.

24 37. This action has been brought and may be properly maintained as a class action under the
25 provisions of Section 382 of the California Code of Civil Procedure because there is a well-defined
26 community of interest in the litigation and the proposed Classes are easily ascertainable.
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1 **A. Numerosity**

2 38. The potential members of the Classes as defined are so numerous that joinder of all the
3 members of the Classes is impracticable. While the precise number of class members for each Class has
4 not been determined at this time, Plaintiffs are informed and believe that Defendants currently employ,
5 and during the relevant period employed, hundreds of employees in the State of California, in non-
6 exempt positions who are or have been affected by Defendants' unlawful and uniform policies of: (1)
7 failing to pay for all overtime worked after 8 hours in a workday or over 40 hours in a week; (2) failing
8 to provide adequate meal breaks for work in excess of 5 hours and rest breaks for work in excess of 4
9 hours; (3) failing to pay all wages owed at termination; and (4) failure to provide accurate itemized wage
10 statements.

11 39. Plaintiffs allege that Defendant's employment records will provide information as to the
12 number and location of all members of the Classes. Joinder of all members of the proposed Classes is
13 not practicable.

14 **B. Commonality**

15 40. There are questions of law and fact common to the Classes that predominate over any
16 questions affecting only individual Class Members. These common questions of law and fact include,
17 without limitation:

- 18 a. Whether Defendants violated California Labor Code §§ 510, 1194, 1198 and
19 1199 by failing to pay proper overtime wages to the putative Class Members;
20 b. Whether Defendants violated California Labor Code § 226.7 in failing to provide
21 adequate meal and rest breaks to the putative Class Members;
22 c. Whether Defendants violated California Labor Code § 226 for failure to furnish
23 its employees with a complete and accurate itemized wage statement; and
24 d. Whether Defendants violated California Labor Code § 203 by failing to pay
25 overtime wages due and owing at the time of termination of employment for the
26 putative Class Members.

27 **C. Typicality**

28 41. The claims of the Plaintiffs are typical of the claims of the Classes. Plaintiffs and all

1 members of the Classes sustained injuries and damages arising out of and caused by Defendants'
2 common course of conduct in violation of the law as alleged therein.

3 **D. Adequacy of Representation**

4 42. Plaintiffs will fairly and adequately represent and protect the interests of the members of
5 the Classes. Counsel who represents the Plaintiffs are competent and experienced class action litigators.

6 **E. Superiority of Class Action**

7 43. A class action is superior to other available means for the fair and efficient adjudication
8 of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and
9 fact common to the Classes predominate over any questions affecting only individual members of the
10 Classes. Each member of each Class has been damaged and is entitled to recovery by reason of
11 Defendants' illegal policy and practice of failing to properly compensate Class Members as alleged
12 above.

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

17 **FIRST CAUSE OF ACTION**

18 **Failure to Pay Overtime**

19 **Violation of Cal. Lab. Code § 510, 1194, 1198, 1199**

20 45. Plaintiff reasserts the allegations in the paragraphs above as though fully set forth at
21 length herein.

22 46. During the relevant time period, Plaintiff and Class Members often worked in excess of
23 eight hours in a workday, and 40 hours in a workweek.

24 47. During the class period, Defendants failed to compensate Plaintiff and Class Members
25 for some or all of the overtime worked, in violation of California Labor Code § 510.

26 48. Defendant's willful conduct, as set forth herein, in failing to pay its Registered Nurses
27 who have worked in California one and one-half their regular rate of pay for all hours worked beyond
28 forty hours per week as required by California law, violates Cal. Lab. Code § 510.

1 49. At all relevant times, Defendants were aware of, and was under a duty to comply with,
2 various provisions of the California Labor Code.

3 50. At all relative times, Defendants were aware of, and had a duty to comply with, the
4 provision of California Labor Code § 510. California Labor Code § 510 includes:

- 5 a. California Labor Code § 510: “Eight hours of labor constitutes a day’s work. Any work in excess
6 of eight hours in one workday and any work in excess of 40 hours in any one workweek and the
7 first eight hours worked on the seventh day or work in any one workweek shall be compensated
8 at the rate of no less than one and one-half times the regular pay for an employee...”
- 9 b. California Labor Code § 1194: “Notwithstanding any agreement to work for a lesser wage, any
10 employee receiving less than ... the legal overtime compensation applicable to the employee is
11 entitled to recover in a civil action the unpaid balance of the full amount of this ... overtime
12 compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”
- 13 c. California Labor Code § 1198: “The maximum hours of work and the standard conditions of
14 labor fixed by the commission shall be the maximum hours of work and the standard conditions
15 of labor for employees. The employment of any employee for longer hours than those fixed by
16 the order or under conditions of labor prohibited by the order is unlawful.”
- 17 d. California Labor Code § 1199: “Every employer or other person acting either individually or as
18 an officer, agent, or employee of another person is guilty of a misdemeanor and is punishable by
19 a fine of not less than one hundred dollars (\$100) or by imprisonment for not less than 30 days,
20 or by both, who does any of the following: (a) Requires or causes any employee to work for
21 longer hours than those fixed, or under conditions of labor prohibited by an order of the
22 commission... [or] (c) Violates or refuses or neglects to comply with any provision of this
23 chapter or any order of the commission.”

24 51. By refusing to compensate Plaintiffs and Class Members for overtime wages earned,
25 Defendants violated the California Labor Code cited herein.

26 52. As a direct and proximate result of Defendants’ unlawful conduct, as set forth herein,
27 Plaintiff and Class Members have sustained damages, including loss of earnings for hours of overtime
28 worked on behalf of Defendants in an amount to be established at trial. As a further direct and proximate

1 result of Defendants' unlawful conduct, as set forth herein, Plaintiff and Class Members are entitled to
2 recover interest on the overtime wages earned but not paid, at a rate of 10% per year, as well as attorney's
3 fees and costs (California Labor Code § 218.5 and 1194), and the assessment of any other statutory
4 penalties provided by the California Labor Code.

5 **SECOND CAUSE OF ACTION**

6 **Failure to Provide Adequate Meal Breaks**

7 **Violation of Cal. Lab. Code § 226.7**

8 53. Plaintiffs reassert the allegations in the paragraphs above as though fully set forth at
9 length herein.

10 54. Plaintiffs and Class Members regularly work in excess of five (5) hours per day without
11 afforded a meal period of not less than 30 minutes as required by California Labor Code § 226.7.

12 55. California Labor Code § 512 provides that an employer may not employ an employee for
13 a work period of more than five (5) hours per day without providing the employee with a meal period
14 of not less than 30 minutes.

15 56. Furthermore, California Labor Code § 226.7 provides:

- 16 a. An employer shall not require an employee to work during a meal or rest or
17 recovery period mandated pursuant to an applicable statute, or applicable
18 regulation, standard, or order of the Industrial Welfare Commission, the
19 Occupational Safety and Health Standards Board, or the Division of Occupational
20 Safety and Health.
- 21 b. If an employer fails to provide an employee a meal or rest or recovery period in
22 accordance with a state law, including, but not limited to, an applicable statute or
23 applicable regulation, standard, or order of the Industrial Welfare Commission,
24 the Occupational Safety and Health Standards Board, or the Division of
25 Occupational Safety and Health, the employer shall pay the employee one
26 additional hour of pay at the employee's regular rate of compensation for each
27 workday that the meal or rest or recovery period is not provided.

28 57. As a consequence of Defendants' conduct in not providing for adequate meal periods,

1 Class Members are entitled to one additional hour of pay at their regular rate as a penalty under
2 California Labor Code § 226.7 for each day in which the proper meal period was not provided. In
3 addition, Plaintiffs and Class Members are entitled to interests, penalties, attorney's fees and costs
4 pursuant to California Labor Code § 218.5.

5 **THIRD CAUSE OF ACTION**

6 **Failure to Provide Adequate Rest Breaks**

7 **Violation of Cal. Lab. Code § 226.7**

8 58. Plaintiffs reassert the allegations in the paragraphs above as though fully set forth at
9 length herein.

10 59. Plaintiffs and Class Members regularly work in excess of four (4) hours per day without
11 being afforded a rest period of not less than 10 minutes as required by California Labor Code § 226.7.

12 60. California Labor Code § 226.7 mandates that no employer shall require any employee to
13 work during any meal or rest period.

14 61. California Labor Code § 226.7 provides that:

15 a. An employer shall not require an employee to work during a meal or rest or
16 recovery period mandated pursuant to an applicable statute, or applicable
17 regulation, standard, or order of the Industrial Welfare Commission, the
18 Occupational Safety and Health Standards Board, or the Division of Occupational
19 Safety and Health.

20 b. If an employer fails to provide an employee a meal or rest or recovery period in
21 accordance with a state law, including, but not limited to, an applicable statute or
22 applicable regulation, standard, or order of the Industrial Welfare Commission,
23 the Occupational Safety and Health Standards Board, or the Division of
24 Occupational Safety and Health, the employer shall pay the employee one
25 additional hour of pay at the employee's regular rate of compensation for each
26 workday that the meal or rest or recovery period is not provided.

27 62. As a consequence of Defendants' conduct in not providing for adequate rest periods,
28 Class Members are entitled to one additional hour of pay at their regular rate as a penalty under

1 California Labor Code § 226.7 for each day in which the proper rest period was not provided. In addition,
2 Plaintiffs and Class Members are entitled to interests, penalties, attorney's fees and costs pursuant to
3 California Labor Code § 218.5.

4 **FOURTH CAUSE OF ACTION**

5 **Failure to Provide Itemized Wage Statements**

6 **Violation of Cal. Lab. Code § 226**

7 63. Plaintiffs reassert the allegations in the paragraphs above as though fully set forth at
8 lengthen herein.

9 64. Section 226 of the California Labor Code requires Defendants to provide itemized wage
10 statements at the time of payment of wages, which include but are not limited to the following: the
11 correct wages earned, the correct total hours worked by the employee, the correct net wages earned, the
12 inclusive dates of the period for which the employee is paid, and all applicable hourly rates in effect
13 during the pay period and the corresponding correct number of hours worked at each hourly rate by the
14 employee.

15 65. Defendants did not provide itemized wage statements to Plaintiffs and Class members
16 which detailed the correct overtime wages earned, the correct overtime hours worked, and the correct
17 applicable overtime hourly rate, among other failings, at the time of payment of wages, in violation of
18 California Labor Code § 226.

19 66. Plaintiffs and putative Class Members have been injured by Defendants' failure to
20 provide all of the requisite information on its itemized wage statements in that such failure masks
21 possible and actual underpayments to Defendants' employees and makes it difficult for Defendants'
22 employees to verify that they have in fact been paid the proper amounts owed for all hours worked. This
23 conduct was done knowingly and intentionally, as Defendants are aware of California law and that it
24 was not paying its employees for all overtime hours worked with the design to harm Plaintiffs and the
25 putative Class Members.

1 **FIFTH CAUSE OF ACTION**

2 **Failure to Pay Waiting Time Penalties**

3 **Violation of Cal. Lab. Code § 203**

4 67. Plaintiffs reassert the allegations in the paragraphs above as though fully set forth at
5 lengthen herein.

6 68. California Labor Code § 201 requires an employer who discharges an employee to pay
7 all compensation due and owing to that employee immediately upon discharge.

8 69. California Labor Code § 203 provides that if an employer willfully fails to pay
9 compensation promptly upon separation from employment, as required by either section 201 or 202,
10 then the employer is liable for waiting time penalties in the form of continued compensation for up to
11 thirty (30) workdays.

12 70. Defendants willfully failed and refused to timely pay overtime compensation to putative
13 Class Members whose employment terminated. Therefore, Defendants are liable to these putative Class
14 Members for waiting time penalties, together with costs, under California Labor Code § 203.

15 71. As a result of Defendants' unlawful conduct, Plaintiffs and putative Class Members have
16 suffered damages, as they were not paid all wages due. The precise amount of unpaid wages is not
17 presently known to Plaintiff but can be determined directly from Defendants' records.

18 72. As a result of these violations, Plaintiffs and the members of the Class have been
19 damaged in an amount at the time of trial, an amount which at this time is less than \$5,000,000 but still
20 in excess of the minimum jurisdiction of this Court.

21 **SIXTH CAUSE OF ACTION**

22 **Failure to Pay Unreimbursed Business Expenses**

23 **Violation of Cal. Lab. Code § 2800 and 2802**

24 73. Plaintiff reasserts the allegations in the paragraphs above as though fully set forth at
25 length herein.

26 74. Section 2800 and 2802 of the California Labor Code requires the Defendants to
27 reimburse employees for expenses Plaintiff and Class Members have paid that should have been borne
28 by their employer.

75. Plaintiff and Class Members suffered harm by incurring costs that were not reimbursed by the Defendants, including, but not limited to, transportation costs.

76. Defendants willfully failed and refused to timely reimburse Plaintiff and putative Class Members for necessary expenses related to the employment. Therefore, Defendants are liable to the Plaintiff and putative Class Members for failure to reimburse business expenses, under California Labor Code § 2800 and 2802.

SEVENTH CAUSE OF ACTION

Violation of the Unfair Competition Law

Bus. and Prof. Code § 17200

77. Plaintiff reasserts the allegations in the paragraphs above as though fully set forth at length herein.

78. Defendants' aforementioned conduct in failing to pay the Plaintiffs and Class Members all wages due, as well as the violations described, constitutes unfair and deceptive practices in violation of the UCL.

79. Specifically, Defendants' conduct violates the deceptive, unfair, and unlawful prong of the UCL.

80. Violations of the California Labor Code are unlawful acts which are independently actionable under the UCL. *See Farmers Ins. Exchange v. Superior Court*, 2 Cal. 4th 377, 383, 826 P.2d 730 (Cal. 1992).

81. Plaintiff brings this claim on behalf of Class Members pursuant to the UCL, which prohibits unfair competition, defined as “any unlawful, unfair or fraudulent business act or practice.” On behalf of Class Members, Plaintiff seeks compensation for the loss of their property and the personal financial impacts they have suffered as a result of Defendants’ unfair business practices. Defendants’ conduct, as described above, has been and continues to be deleterious to the Class Members, and Plaintiff seeks to enforce important rights affecting the public interest within the meaning of California Code of Civil Procedure § 1021.5.

82. By failing to pay overtime compensation, in violation of California Labor Code §§ 510, 1194, 1198, and 1199, Defendants engaged in unlawful, unfair, unconscionable, or fraudulent business

1 acts or practices in violation of the UCL.

2 83. The acts complained of herein, and each of them, constitute unlawful, unfair,
3 unconscionable, or fraudulent business acts or practices in violation of California Business &
4 Professions Code § 17200, et seq. Defendants' acts and practices described herein offend established
5 public policies, including, but not limited to those set forth in the California Labor Code, and involve
6 business practices that are immoral, unethical, oppressive, or unscrupulous.

7 84. The unfair business practices set forth above have and continue to injure the Class and
8 the general public and cause injury and the loss of money, as described further within. These violations
9 have unjustly enriched the Defendants at the expense of Class Members. As a result, Class Members are
10 entitled to restitution.

11 **APPLICABLE CIVIL PENALTIES**

12 85. Plaintiff seeks an award for the failure to ensure that all Workers received the appropriate
13 overtime premium pay for all overtime hours worked in excess of 40 per week or eight per day in
14 violation of California Labor Code § 510, 554, 1194, and 1198.

15 86. California Labor Code § 2699(f) provides for civil penalties for Labor Code violations
16 for which no civil penalty is specifically provided. There is no specified civil penalty for violations of
17 California Labor Code § 2802.

18 87. Plaintiff seeks an award for the failure of overtime pay violations under California Labor
19 Code §§ 510 and 558 a statutory civil penalty in addition to any other penalty provided by law of fifty
20 dollars (\$50) for initial violations (per employee per pay period in which that employee is underpaid) in
21 addition to an amount sufficient to recover the balance of unpaid wages. The statute orders an additional
22 penalty of one hundred dollars for subsequent violations for each underpaid employee for each pay
23 period in which the employee was underpaid, in addition to an amount sufficient to recover the balance
24 of unpaid wages.

25 88. Plaintiff seeks an award for violations of California Labor Code § 226.8, § 226.8(b)
26 imposes a civil penalty of a minimum of \$5,000 and not more than \$15,000 per violation.

27 89. Plaintiff seeks an award for violations of California Labor Code §§ 201-204, California
28 Labor Code § 210 imposes a civil penalty in addition to any other penalty provided by law of one

1 hundred dollars (\$100) per aggrieved employee for the first violation and two hundred dollars (\$200)
2 per aggrieved employee plus twenty-five percent (25%) of the amount unlawfully withheld for
3 subsequent violations.

4 90. Plaintiff seeks an award for violations of California Labor Code § 1174(d), California
5 Labor Code § 117.5 imposes a civil penalty of \$500 per aggrieved employee for each willful failure to
6 maintain proper records.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff prays for judgement and the following specific relief against Defendants
9 as follows:

- 10 A. An award of civil penalties pursuant to PAGA;
11 B. For unpaid wages pursuant to the California Labor Code as set forth above;
12 C. For damages, liquidated damages, statutory damages, and penalties pursuant to the
13 California Labor Code, including the Private Attorney General Act (“PAGA”), Labor Code § 2698 *et*
14 *seq.*, as set forth above;
15 D. For restitution;
16 E. For private and public injunctive relief;
17 F. For declaratory relief;
18 G. For pre-judgment and post-judgment interest pursuant for California Civil Code § 3287
19 and § 3288;
20 H. For attorneys’ fees, interests, and costs incurred by Plaintiff in filing this action pursuant
21 to Labor Code § 218.5 and 1194(a), Code of Civil Procedure § 1021.5, or other applicable laws or
22 common law; and
23 I. Such further relief as this court deems appropriate.
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DEMAND FOR JURY TRIAL

NOW COMES Plaintiff, by and through his Attorneys, and hereby demands a trial by jury on all issues triable by jury.

Respectfully submitted,
ZIMMERMAN REED LLP

Dated: December 20, 2021

By:



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[Exhibit A] – LWDA Notice Letter

September 13, 2021

Via Electronic Submission

REPLY TO LOS ANGELES

Labor and Workforce Development Agency
320 W. Fourth Street, Suite 450
Los Angeles, CA 90013

Via Certified Mail with Return Receipt Requested

US Healthcare Solutions Inc.
2880 Zanker Rd Suite 203
San Jose, CA 95134

***RE: Notice of Violations of the California Labor Code Pursuant to the
Private Attorneys General Act, Labor Code § 2698 et seq***

To Whom It May Concern:

Please be advised that Zimmerman Reed LLP represents Aries Ericia (“Employee”), an employee of US Healthcare Solutions Inc. (“Company”). Employee intends to file claims for violations of Labor Code Private Attorneys General Act (“PAGA”), Labor Code § 2698 *et seq.* against Company.

Employee’s claims include numerous violations of the California Labor Code, including those under the Labor Code Private Attorneys General Act (“PAGA”), Labor Code § 2698 *et seq.* PAGA authorizes aggrieved employees to file lawsuits to recover civil penalties on behalf of themselves, other employees, and the State of California for Labor Code violations. Please consider this communication as notice of the claims detailed below pursuant to PAGA. PAGA requires that new claim notices, responses, and certain court documents be filed with the Labor and Workforce Development Agency (LWDA) prior to filing suit.

Claim Background

Employee worked for US Healthcare Solutions Inc. as a Registered Nurse in 2020. During that time, Employee worked more 8 hours in a 24-hour period and was not paid overtime wages in violation of California Labor Code § 1194(a) and §2699(a). In the event, Employee is subject to an Alternative Workweek Schedule authorized under California Labor Code § 511, Employee and the other employees did not vote to implement such a schedule and were required to work different hours other than those outlined under the Alternative Workweek Schedule. As a result, Employee seeks to recover unpaid wages, damages, interest, penalties, and attorneys’ fees as permitted by the Labor Code.

Notice of Labor Code Violations

Employee seeks the maximum civil penalties available under the following sections of the Labor Code:

§ 1194

- (a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

§204

- (a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.

§210

- (a) In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows:
- (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee.
 - (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.
 - (3) The penalty shall be recovered by the Labor Commissioner as part of a hearing held to recover unpaid wages and penalties pursuant to this chapter or in an independent civil action. The action shall be brought in the name of the people of the State of California and the Labor Commissioner and the attorneys thereof may proceed and act for and on behalf of the people in bringing these actions. Twelve and one-half percent of the penalty recovered shall be paid into a fund within the Labor and Workforce Development Agency dedicated to educating employers about state labor laws, and the remainder shall be paid into the State Treasury to the credit of the General Fund.

§ 221

It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.

§ 225.5

In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty as follows:

- (a) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee.
- (b) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

- **§ 226**

- (a) An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. For purposes of this subdivision, "copy" includes a duplicate of the itemized statement provided to an employee or a computer-generated record that accurately shows all of the information required by this subdivision.

- **§ 226.2**

- This section shall apply for employees who are compensated on a piece-rate basis for any work performed during a pay period. This section shall not be construed to limit or alter minimum wage or overtime compensation requirements, or the obligation to compensate employees for all hours worked under any other statute or local ordinance. For the purposes of this section, "applicable minimum wage" means the highest of the federal, state, or local minimum wage that is applicable to the employment, and "other nonproductive time" means time under the employer's control, exclusive of rest and recovery periods, that is not directly related to the activity being compensated on a piece-rate basis.
- (a) For employees compensated on a piece-rate basis during a pay period, the following shall apply for that pay period:
- (1) Employees shall be compensated for rest and recovery periods and other nonproductive time separate from any piece-rate compensation.

- (2) The itemized statement required by subdivision (a) of Section 226 shall, in addition to the other items specified in that subdivision, separately state the following, to which the provisions of Section 226 shall also be applicable:
 - (A) The total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period.
 - (B) Except for employers paying compensation for other nonproductive time in accordance with paragraph (7), the total hours of other nonproductive time, as determined under paragraph (5), the rate of compensation, and the gross wages paid for that time during the pay period.
- (3)(A) Employees shall be compensated for rest and recovery periods at a regular hourly rate that is no less than the higher of:
 - (i) An average hourly rate determined by dividing the total compensation for the workweek, exclusive of compensation for rest and recovery periods and any premium compensation for overtime, by the total hours worked during the workweek, exclusive of rest and recovery periods.
 - (ii) The applicable minimum wage.

Non-Spoliation Notice

Please be advised that Company is under a legal duty to maintain, preserve, retain, protect, and not destroy any and all documents and data, both electronic and hard copy, which may be relevant to Employee's claims as set forth herein. The failure to preserve and retain the electronic data and evidence outlined in this notice may constitute spoliation of evidence which may subject you to legal claims for damages and/or evidentiary and monetary sanctions. For purposes of this notice, electronic data or electronic evidence shall include, but not be limited to, all text files (including word-processing documents), presentation files (such as PowerPoint), financial data, spreadsheets, e-mail files and information concerning e-mail files (including logs of e-mail history and usage, header information, and deleted files), internet history files and preferences, graphical files in any format, databases, calendar and scheduling information, task lists, voice mail, instant messaging and other electronic communications, telephone logs, contact managers, computer system activity logs, and all file fragments, internet usage files, offline storage or information stored on removable media or storage media, information contained on laptops, or other portable devices, network access information and backup files containing electronic data or electronic evidence, SMS messages, any other electronic communications, including, but not limited to Google Apps, Google Mail, Confide, WhatsApp, and Telegram. Specifically, you are instructed not to destroy, disable, erase, encrypt, alter, or otherwise make unavailable any electronic data and/or evidence relevant to the Employee's claims, and you are further instructed to take reasonable efforts to preserve such data and/or evidence.

To meet this burden, you are instructed by way of example and not limitation, to:

- Preserve all data storage backup files (i.e., not overwrite any previously existing backups);
- Preserve and retain all electronic data generated or received by employees who may have personal knowledge of the facts involved in the claims against the Defendant as set forth herein;
- Refrain from operating, removing or altering, fixed or external drives and media attached to any workstations or laptops, voice mail systems, and cell phones, copy machines that are reasonably thought to have data related to the claims, including but not limited to the workstations and/or laptops used by any employee or contractor;
- Preserve and retain all data from servers and networking equipment logging network access activity and system authentication;
- Preserve and retain all electronic data in any format, media, or location relating to the claims, including data on hard drives, hard disks, floppy disks, zip drives, CD-ROMs, CD-RWs, DVDs, backup tapes, PDAs, cell phones, smart phones, memory cards/sticks, or digital copiers or facsimile machines;
- Prevent employees from deleting or overwriting any electronic data related to the Employees claims including data stored on social-media websites and services such as Facebook, Instagram, Snapchat detailing purchases made with payments from Defendant; and
- Take such other security measures, including, but not limited to, restricting physical and electronic access to all electronically stored data directly or indirectly related to the Employee s claims.

In addition, you are required to instruct all current and former employees and contractors to preserve the following for all electronic devices in their possession including but not limited to a cell phone, smartphone, tablet, iPad, laptop, and GPS:

- Maintain and preserve the actual electronic device(s) that were used and/or owned during the time they worked for Defendant;
- Maintain their cell phone and/or data usage records during the time they worked for Defendant; and
- Preserve all calls, voicemails, text messages, emails, instant messages, social-media messages, social- media posts, internet searches, GPS data, and other electronic communication or data during the time they worked for Defendant.

You are instructed not to alter, delete, destroy or discharge any of your electronic devices and/or the above-requested data until we have had an opportunity to have them inspected by an expert. To facilitate the retrieval of said data, be advised that a forensic accounting firm may be retained to forensically acquire the hard drives and other media that may contain electronic data related to the action. Please be advised that failure to preserve evidence may be considered spoliation of evidence and could result in penalties assigned by the Court.

Conclusion

Employee is entitled to recover unpaid wages, damages, interest, penalties, and attorneys' fees as permitted by the Labor Code. They intend to bring an action against Us Healthcare Solutions Inc. pursuant to the Private Attorneys General Act ("PAGA") and other state laws to recover wages,

September 13, 2021

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damages, restitution, interest, penalties, and attorneys' fees and costs. If permitted, Employee will seek any and all amounts capable of being collected by the Commission pursuant to Labor Code Section 2699.3 *et seq.*

If you have any questions or concerns, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'C' followed by a series of loops and a final flourish.

Caleb Marker

Partner | 877.500.8780 | caleb.marker@zimmreed.com