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30-2021-01223132-CU-OE-CXC - ROA # 135 - DAVID H. YAMASAKI, Clerk of the Court By G. Ramirez, Deputy Clerk.

EMPLOYMENT LAWYERS GROUP
KARL GERBER (SBN 166003)
13418 VENTURA BLVD.
SHERMAN OAKS, CA. 91423
TELEPHONE: (818) 783-7300
FACSIMILE: (818) 995-7159

ATTORNEY FOR PLAINTIFFS, MAYLO BARNUEVO, NELSON BASILIO, ERIC ADRIAN ESTRELLA, ERIC BRIAN ESTRELLA, ALI KHATATBA, PATRICK SANTIAGO LIM, KAREN SAMPSON

STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

MAYLO BARNUEVO, NELSON BASILIO, ERIC ADRIAN ESTRELLA, ERIC BRIAN ESTRELLA, ALI KHATATBA, PATRICK SANTIAGO LIM, KAREN SAMPSON

Plaintiffs,

vs.

PRIME HEALTHCARE LA PALMA, LLC; DOES 1-100

Defendants

CASE NO. 30-2021-01223132-CU-NJC

SECOND AMENDED COMPLAINT FOR DAMAGES

1. CALIFORNIA MINIMUM WAGE VIOLATIONS
2. CALIFORNIA OVERTIME/DOUBLE TIME VIOLATIONS
3. DAMAGES & RELIEF UNDER CALIFORNIA CONTROLLED STANDBY LAW AND/OR REPORTING TIME LAW
4. COMMON COUNTS FOR REASONABLE VALUE OF SERVICES
5. CALIFORNIA LABOR CODE SECTION 226
6. LABOR CODE SECTION 2802
7. PAGA (LABOR CODE 2699, ET. SEQ.)
8. MEAL BREAK VIOLATIONS
9. REST BREAK VIOLATIONS
10. B&P 17200 VIOLATIONS
11. LABOR CODE 203 PENALTIES

PLAINTIFFS complain and allege as follows:

GENERAL ALLEGATIONS

(Against All Named Defendants)

1. Plaintiff, MAYLO BARNUEVO, is a resident of the State of California at all times herein mentioned.

2. Plaintiff, NELSON BASILIO, is a resident of the State of California at all times herein mentioned.

3. Plaintiff, ERIC ADRIAN ESTRELLA, is a resident of the State of California at all times herein mentioned.

4. Plaintiff, ERIC BRIAN ESTRELLA, is a resident of the State of California at all times herein mentioned.

5. Plaintiff, ALI KHATABA, is a resident of the State of California at all times herein mentioned.

6. Plaintiff, PATRICK SANTIAGO LIM, is a resident of the State of California at all times herein mentioned.

7. Plaintiff, KAREN SAMPSON, is a resident of the State of California at all times herein mentioned.

8. At all times herein mentioned, Defendant, PRIME HEALTHCARE LA PALMA, LLC has been a corporation only doing business in California and employing people in California In doing so they sent Plaintiffs to hospitals in Orange County, California located at 7901 Walker Street in La Palma, California 90623, 3033 West Orange Avenue in Anaheim, California 928041, 12601 Garden Grove Boulevard in Garden Grove, California, and 17772 Beach Boulevard in Huntington Beach, California.

9. Plaintiffs are ignorant of the true names and capacities, whether individual, corporate, or associate, of those defendants fictitiously sued as DOES 1 through 100 inclusive and so the Plaintiffs sue them by these fictitious names. Upon discovering the true names and capacities of

these fictitiously named Defendants, the Plaintiffs will amend this complaint to show the true names and capacities of these fictitiously named defendants.

10. Plaintiffs are nonexempt nurses who have worked for Defendant since 2017 or 2018.

11. Plaintiffs were required to be on call from 7 PM to 7 AM on a rotating basis. They paid a sub-minimum wage for this period when they were not at the hospital. They were required to answer their phones immediately when they called int work, and then report in immediately. Their services were needed to begin dialysis on hospital patients within 2 hours of the call for them to come into work. Given how long it would take to contact doctors concerning the orders, and prepare the dialysis machines rushing out of their homes upon getting the calls was required in order to make it into the hospitals Defendant sent Plaintiffs to within 2 hours.

12. Plaintiffs were dispatched to several hospitals per shift, per day, and not paid mileage for that. Sometimes when at the hospital they had to carry a phone and be the nurse in charge for the day meaning they were not completely relieved in order to take meal or rest breaks.

FIRST CAUSE OF ACTION
FOR MINIMUM WAGE VIOLATIONS
(AGAINST ALL NAMED DEFENDANTS AND ALL DOE DOCUMENTS)

13. Plaintiffs reallege the information set forth in Paragraphs 1-12 and incorporates those paragraphs as though fully stated in this cause of action.

14. Plaintiffs were paid a sub-minimum wage such as $6.00 per hour for being on restricted on-call/standby. They were required to answer their phones immediately when called and report into work immediately so that dialysis could being within a two hour period of time when it took a long time to se up the dialysis machines, speak to doctors concerning the orders, and prepare the patients. In addition, they made calls and answered their phones when on-call and were not paid anything for that, including, but not limited to, half their normal hours for a shift, 4 hours, or 6 hours. They were only paid for the time they were actually in the hospital. Due to the restricted nature of Plaintiffs' lives and their time on call primarily benefitting

Defendant when not being paid, California Labor Code Section 1194 was violated by not paying Plaintiff's minimum wage to wait and be available for the calls, or engage in workplace/patient conversations while not on the clock.

15. The Plaintiffs also pray for minimum wage to the extent they were clocked out and worked through meal breaks and then were not paid anything for that time.

16. Plaintiffs pray for relief under California Labor Code Sections 1194 and 1194.2 including liquidated damages to pay Plaintiffs minimum wage for all hours on call and worked, attorney fees, and costs. Plaintiffs also pray for California Labor Code Section 1197.1 civil penalties of $250.00 per pay period when not paid minimum wage for each hour worked. Plaintiffs also pray for injunctive relief that $6.00 per hour is not a legal minimum wage, it does not create a valid contract to work for that wage, and they were not in fact compensated when they are paid that wage.

SECOND CAUSE OF ACTION
FOR OVERTIME & DOUBLE TIME VIOLATIONS
(AGAINST ALL NAMED DEFENDANTS AND ALL DOE DEFENDANTS)

17. Plaintiffs reallege the information set forth in Paragraphs 1-12, Paragraphs 13-16 of the First Cause of Action, and incorporate those paragraphs as though fully stated in this cause of action.

18. Based upon the number of hours Plaintiffs worked in a day and/or were waiting to be called to work which primarily benefitted Defendant, Plaintiffs are entitled to overtime and double time for many of the hours Plaintiffs were on restricted on-call waiting to be called for work Moreover, being on call caused the hours Plaintiffs were paid for as part of a regular, non-overtime shift, to be overtime and double time hours. Plaintiffs also should be paid overtime and/or double time because they worked through meal breaks they were clocked out for and that time would create overtime and double time. Overtime and double time violations also occurred due to improper payment of overtime and double time under an alternative work week that

violates Wage Order 5. Accordingly California Labor Code Sections 1194 requires the Plaintiff to receive overtime and double time, and so does California Labor Code Section 510.

19. Plaintiffs pray for relief under California Labor Code Section 1194 including unpaid overtime, double time, attorney fees, and costs.

THIRD CAUSE OF ACTION

VIOLATION OF CALIFORNIA CONTROLLED STANDBY/AND OR REPORTING TIME LAW

(AGAINST ALL NAMED DEFENDANTS AND ALL DOE DEFENDANTS)

20. Plaintiffs reallege the information set forth in Paragraphs 1-12, Paragraphs 13-16 of the First Cause of Action, Paragraph 17-19 of the Third Cause of Action, and incorporate those paragraphs as though fully stated in this cause of action.

21. California law recognizes the concept of controlled standby being compensable pay. The 2002 Division of Labor Standards Enforcement Policies and Interpretations Manuel Section 46.6.3 and Wage Order 5 defines[1] time spent as hours in which employees must merely wait for something to happen, and specifies these hours constitute hours worked. Section 47.5.1 of the manual indicates on-call time must be paid at least at minimum wage unless there is an agreement to pay another rate which does not fall below minimum wage. A number of California cases including Seymore v. Melton, 194 Cal.App.4th 361 (2011), Mendiola v. CPS Security, 60Cal.4th 833 (2015), and Ward v. Tilly's, 31 Cal.App.5th 1167, 1182 (2019) essentially adopt these positions in the Enforcement Manual and the authorities cited above in this paragraph. Other California bases of authority for on call time being compensable include Title VIII of the California Code of Regulations Section 11050(2)(K), and California law

[1] (2)(K) of Wage order 5 states, "Hours worked" means 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

recognizes the concept of controlled standby being compensable pay.

22. In the alternative, or in addition, if allowed, Plaintiffs contends they are entitled to Reporting Time Pay which means the employee reports to work and is not put to work. California Code of Regulations Title VIII Section 11005(5) requires reporting time pay to be paid of at least 4 hours per work day or half their regularly scheduled hours for reporting in when on-cal which includes time spent answering the phone, communicating with Defendant and doctors. Plaintiffs were not paid a valid, legal minimum wage when they were on-call. Plaintiffs contend 4 hours of pay is not the measure because their work days were not merely eight hours a day but twelve or more. Plaintiffs pray for relief under these reporting time pay theories including penalties under Section 20 of 11150 which are $50 for the first violation and $100 for each subsequent violation.

23. Under this Cause of Action Plaintiffs pray for all relief available under the authorities pled in this Cause of Action in order to compensate Plaintiffs for what California recognizes as controlled standby and/or reporting time pay at their regular hourly rates and/or at least minimum wage and relevant overtime, double time. This includes, but is not limited to, attorney fees and costs under California Labor Code Section 218.5, interest under 218.6, and attorney fees and costs under California Labor Code Section 1194.

FOURTH CAUSE OF ACTION

COMMON COURT FOR WORK AND LABOR PERFORMED (QUANTUM REPORT)

(AGAINST ALL NAMED DEFENDANTS AND DOE DEFENDANTS)

24. Plaintiffs reallege the information set forth in Paragraphs 1-12, Paragraphs 13-16 of the First Cause of Action, Paragraph 17-19 of the Third Cause of Action, Paragraphs 20-23 of the Fourth Cause of Action, and incorporate those paragraphs as though fully stated in this cause of action.

25. Plaintiffs were not fully paid for all of their efforts at Defendant. These efforts include having to make themselves available for work, and a cell phone call to work on a

moments notice, when on-call. The manner in which Plaintiffs had to be available when on-call constitutes compensable time under the theory of controlled standby/on call. Although the Plaintiff's lives were severely restricted as pled earlier in this complaint, Plaintiffs were not paid any compensation for having to be available for work during their on-call rotations. This arrangement allowed Defendant to avoid paying considerable wages it would cost to have Plaintiffs waiting at the hospital ready to work for additional shifts. Defendant tied up Plaintiff's lives not allowing them to work elsewhere, travel outside of their geography, further his education, engage in chosen activities, take a pain reliever or do something that would prevent them from driving or working, or do anything that required commitment and focus while they were just waiting for an on-call work assignment. Plaintiffs also performed hours of work on the phone they were never paid for.

26. Plaintiffs were not paid any wages at all for periods of time they were clocked out for meal breaks they did not receive, or did not get. As a result Plaintiffs ere not compensated at overtime and double time rates they should have been. Nor were double time rates paid.

27. Plaintiffs pray to be compensated for the reasonable value of their services and for the work and labor Plaintiffs performed at the actual rate per hour they agreed to work and the accompanying overtime and double time rates if they applied, but Plaintiffs were not paid for every hour worked and not paid including time spent waiting to be called into work while on-call.

FIFTH CAUSE OF ACTION
FOR CALIFORNIA LABOR CODE SECTION 226 PENALTIES
(AGAINST ALL NAMED DEFENDANTS AND ALL DOE DEFENDANTS)

28. Plaintiffs reallege the information set forth in Paragraphs 1-11, Paragraphs 12-15 of the First Cause of Action, Paragraphs 16-18 of the Second Cause of Action, Paragraphs 19-22 of the Third Cause of Action, Paragraphs 23-26 of the Fourth Cause of Action, and incorporate those paragraphs as though fully stated in this cause of action.

29. Defendant violated California Labor Code Section 226 by failing to indicate the correct number of hours Plaintiffs worked on each paystub because restricted on-call and standby pay was not enumerated in terms of hours worked or hourly rate, nor were times not paid when Plaintiffs picked up a call when at home. The hours worked were wrong due to off-the-clock work. The rates of pay were all wrong. The number of hours reported were wrong for straight time, overtime, and double time. None of the computations included time spent waiting to be called into work or time spent on the phone before coming into the hospital. The paystubs also falsely claimed fewer hours worked than Plaintiffs did do to being clocked out for meal breaks while Plaintiffs worked.

30. Plaintiffs pray for statutory California Labor Code Section 226(e) damages of $50.00 for the first violation and $100.00 for each subsequent violation.

31. Plaintiffs pray for attorney fees and costs under California Labor Code Section 226(e).

SIXTH CAUSE OF ACTION
FOR CALIFORNIA LABOR CODE SECTION 2802 VIOLATIONS
(AGAINST ALL NAMED DEFENDANTS AND ALL DOE DEFENDANTS)

32. Plaintiffs reallege the information set forth in Paragraphs 1-12, Paragraphs 13-16 of the First Cause of Action, Paragraph 17-19 of the Third Cause of Action, Paragraphs 20-23 of the Fourth Cause of Action, Paragraphs 24-31 of the Fifth Cause of Action, and incorporate those paragraphs as though fully stated in this cause of action.

33. Plaintiffs used their own cellular phone for work and were not compensated for the use of their phones.

34. Plaintiffs were not reimbursed for mileage after their first commutes in for the day. Often, in a work day they would start at one hospital and be dispatched to a second one of the hospitals enumerated in Paragraph 8. They were not reimbursed for driving between the various hospitals or when called back to work when on-call after they had already reported into work

one, two, or even three times for the day.

35. Plaintiffs pray for reimbursement for cellular phone bills, cell phones, and miles driven as specified in Paragraph 34, during the period of time they were employed by Defendant within the statutory period of this California Labor Code Section 2802 cause of action which they contend is three years from the date this lawsuit was filed.

36. Plaintiffs pray for attorney fees and costs under California Labor Code Section 2802c for the purpose of enforcing their rights in this Cause of Action under California Labor Code Section 2802.

SEVENTH CAUSE OF ACTION

CALIFORNIA LABOR CODE SECTION 2699, et. seq. PAGA PENALTIES

(AGAINST ALL NAMED DEFENDANTS AND ALL DOE DEFENDANTS)

37. Plaintiffs reallege the information set forth in Paragraphs 1-12, Paragraphs 13-16 of the First Cause of Action, Paragraph 17-19 of the Third Cause of Action, Paragraphs 20-23 of the Fourth Cause of Action, Paragraphs 24-31 of the Fifth Cause of Action, Paragraphs 32-36 of the Sixth Cause of Action, and incorporate those paragraphs as though fully stated in this cause of action.

38 On September 21, 2021 the Plaintiffs named in this cause of action complied with California Labor Code Section 2699, et. Seq. by filing charges with the Labor Workforce Development Agency/Department of Industrial Relations, attaching a copy of the original version of this lawsuit that did not have Nelson Basilio in it, and the document summarizing the PAGA liability as indicated in Exhibit 1 attached hereto. The same day the Labor Workforce Development Agency indicated receipt of the charges, and then they were sent the $75.00 filing fee for filing a PAGA action. More than the sixty-five days passed after sending these charges to the Labor Workforce Development Agency and Defendant. The Labor & Workforce Development Agency did not indicate an intention to investigate, and Plaintiffs allege the corporate Defendant did not cure the violations specified in the charges. Under California Labor

Code Section 2699.3c Plaintiffs exercise their statutory right to amend their existing complaint to add this Claim arising under California Labor Code Section 2699 within 65 days after the Labor & Workforce Development Agency ceased to indicate an intention to investigate and the Defendant failed to indicate they cured their practices.

39. Plaintiffs, MAYLO BARNUEVO, ERIC ADRIAN ESTRELLA, ERIC BRIAN ESTRELLA, ALI KHATABA, PATRICK SANTIAGO LIM, and KAREN SIMPSON filed the attached PAGA charges (Exhibit 1) on behalf of themselves and similarly situated employees of Defendant, PRIME HEALTHCARE LA PALMA, LLC's California nonexempt dialysis nurses required to work on an on-call basis and/or work as a charge nurse going back one year from the date of the filing onward.

40. The underlying issues that created the original PAGA violations are having the PAGA group on-call but not paying them for the time spent waiting to be called into work, off-the-clock work for time spent talking to Defendant or necessary doctors and personnel on the phone, a failure to pay minimum reporting time pay, minium wage, overtime, or double time due to on-call work and off-the-clock work, and unpaid time when clocked out for meal breaks they could not make for reasons including, but not limited to, having to answer and respond to a phone they carried as a nurse in charge for the day. Minimum wage issues also exist because the employer required the people in the PAGA group to wait to be called into work, but they were paid sub-minimum wage for those hours resulting in a failure to pay minimum wage. These issues violate the following underlying California Labor Code Section 558 violations due to failures to pay all regular pay, overtime, and double time thereby violating California Labor Code Sections 204, 210, 215, and 216 which provide for PAGA penalties because not all wages were paid as required by these statutes.

41. Underlying California Labor Code Section 226 violations exist for which PAGA penalties are due under California Labor Code Sections 2699.3. The specific PAGA penalties at issue for the PAGA groups are: California Labor Code Sections 226.3, 226.4, and 226.6 which were violated for the reasons specified in the attached Complaint which can be summarized as failing to indicate the correct number of hours Plaintiffs worked on each paystub because

restricted on-call and standby pay was not enumerated int terms of hours worked or hourly rate, nor were times not paid when Plaintiffs picked up call when at home. The hours worked were wrong due to off-the-clock work. The rates of pay were all wrong. The number of hours reported were wrong for straight time, overtime, and double time. None of the computations included time spent waiting to be called into work or time spent on the phone before coming into the hospital. The paystubs also falsely claimed fewer hours worked than Plaintiffs did do to being clocked out for meal breaks while Plaintiffs worked.

42. Based upon further discovery, amended complaints filed during the pendency of a binding arbitration that stayed the Superior Court action, 31 days of arbitration testimony in the underlying case, additional time spent in various rulings, and information provided by the employer, MAYLO BARNUEVO, ERIC ADRIAN ESTRELLA, ERIC BRIAN ESTRELLA, ALI KHATATBA, PATRICK SANTIAGO LIM, and KAREN SAMPSON amended their earlier filed PAGA charges in LWDA-CM-845466-21 (See Exhibit 2) to allege PAGA penalties for all of PRIME HEALTHCARE LA PALMA, LLC's nonexempt hourly California employees for violations of California Labor Code Sections:

204, 208, 210, 215, 216, 226.3, 226.4, 226.6, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194.2, 1197, 1197.1, 1198, 1198.5, 2800, 2802 going back to September 21, 2020 due to underlying violations of California Labor Code Sections 200, 201, 202, 203, 226, 226.7, 510, 512, 1194, 2802, and in addition claims under Wage Order 5 for the same conduct. In general, these underlying statutes relate to: (1) failure to pay minimum wages, (2) failure to pay overtime and double time wages, (3) failure to pay standby or reporting time compensation, (4) failure to provide accurate itemized wage statements, (5) failure to reimburse reasonable and necessary business expenses, (6) failure to provide meal periods, (7) failure to provide rest breaks; (8) failure to pay all wages due when an employee quits or is fired; 9) and certain record keeping requirements relating to records about wages. Accordingly, PAGA penalties are now pled for California Labor Code Sections 204, 208, 210, 215, 216, 226.3, 226.4, 226.6, 510, 512, 516, 558 (previously a separate cause of action), 1174, 1174.5, 1182.12, 1194.2, 1197, 1197.1, 1198,

1198.5, 2800, and 2802 for all of Defendant's nonexempt California employees.

43. Plaintiffs and the group the PAGA claims are on behalf of seek California Labor Code Section 2699(f) and (g) remedies for any violation and/or remedy under California Labor Code 2699 on behalf of similarly aggrieved employees as well as themselves.

44. Plaintiffs pray for attorney fees under California Labor Code Section 2699(g) which provide for attorney fees and costs.

EIGHT CAUSE OF ACTION
FOR MEAL BREAK VIOLATIONS
(AGAINST ALL NAMED DEFENDANTS AND ALL DOE DEFENDANTS)

45. Plaintiffs reallege the information set forth in Paragraphs 1-12, Paragraphs 13-16 of the First Cause of Action, Paragraph 17-19 of the Third Cause of Action, Paragraphs 20-23 of the Fourth Cause of Action, Paragraphs 24-31 of the Fifth Cause of Action, Paragraphs 32-36 of the Sixth Cause of Action.

46. California Labor Code Section 512 specifies when employees are to get meal breaks. California Labor Code Section 226.7 sets forth the penalty scheme which the Murphy Court has interpreted to be a wage. California Labor Code Section 516 further allows the Industrial Welfare Commission to make orders about breaks and meal periods.

47. Under California Labor Code Section 226.7, Plaintiffs pray for one hour of pay for each uninterrupted 30 minute meal break they were prevented from taking because they were prevented from taking a 30 minute uninterrupted meal breaks before their fifth hour or work, and their through fourth if they worked more than ten hour shifts, up to 24 hour shifts, Plaintiffs worked. The reasons for the prevented meal breaks include, but are not limited to, Plaintiffs being assigned as the charge nurse and having to carry and answer a telephone at all times they were on shift. Plaintiffs pray for attorney fees and costs under California Labor Code Section 218.5 and interest under 218.6.

NINTH CAUSE OF ACTION

FOR REST BREAK VIOLATIONS

(AGAINST DEFENDANT AND ALL DOE DEFENDANTS)

48. Plaintiffs reallege the information set forth in Paragraphs 1-12, Paragraphs 13-16 of the First Cause of Action, Paragraph 17-19 of the Third Cause of Action, Paragraphs 20-23 of the Fourth Cause of Action, Paragraphs 24-31 of the Fifth Cause of Action, Paragraphs 32-36 of the Sixth Cause of Action, Paragraphs 45-47 of the Eighth Cause of Action as though fully alleged herein.

49. California Labor Code Section 516 allows the Industrial Welfare Commission to make orders about rest breaks and meal periods. Title 8 of the California Code of Regulations Section 11050(12) requires rest breaks be given every 4 hours, for 10 minutes. Plaintiffs were prevented from taking a 10 minute uninterrupted rest breaks every 4 hours. Plaintiffs allege they were prevented from taking numerous rest breaks for reasons that included, but are not limited to, having to answer their phones at all times when they were charge nurses.

50. Under California Labor Code Section 226.7, Plaintiffs pray for one hour of pay for each uninterrupted 10 minute rest break they were prevented from taking. Plaintiffs pray for attorney fees and costs under California Labor Code Section 218.5 and interest under 218.6.

TENTH CAUSE OF ACTION

FOR BUSINESS & PROFESSIONS CODE VIOLATIONS

(AGAINST ALL NAMED DEFENDANTS AND ALL DOE DEFENDANTS)

51. Plaintiffs reallege the information set forth in Paragraphs 1-12, Paragraphs 13-16 of the First Cause of Action, Paragraph 17-19 of the Third Cause of Action, Paragraphs 20-23 of the Fourth Cause of Action, Paragraphs 24-31 of the Fifth Cause of Action, Paragraphs 32-36 of the Sixth Cause of Action, Paragraphs 45-47 of the Eighth Cause of Action, Paragraphs 48-50 of the Ninth Cause of Action as though fully alleged herein.

52. Defendant violated California Business and Professions Code Section 17200 by violating the laws and statutes alleged in all causes of action other than common counts. These statutes are required of California employers. By violating these statutes Defendant saved millions of dollars a year in labor costs while violating the California Labor laws pled in this lawsuit. These practices allowed Defendant to underbid and undercut. They were able to promise services they could not render, without these labor law violations, compared to their competitors who complied with California Labor laws by providing 24 hour a day coverage with multiple people opposed to Defendant making their employees sit at home waiting to be called into work when not compensating for that, violating reporting time pay law, and not paying for time spent conducting work while not in the hospital. Defendant also failed to pay the Plaintiffs for their cell phone when case law has required the reimbursement for call phones and necessary business expenses including mileage reimbursements which Defendant did not pay Plaintiffs for driving between Defendant hospitals during the day or reporting into work after their first report. It was also unfair, deceptive, and fraudulent not to pay Plaintiffs for all hours worked, and to fail to pay Plaintiffs overtime and double time rates due under California law, minimum wage, and to require Plaintiffs to miss meal and rest breaks while deducting sums from their paychecks for meal breaks not taken nor allowed. Defendant paid Plaintiffs as single employees when they were getting the work of multiple employees because they were on call, they did not get meal and rest breaks, worked exceptionally long shifts, and did not get wages that reflected the time spent waiting to be called into work as overtime, double time, regular rate wages, or minimum wage.

53. Plaintiffs pray that California Business and Professions Code Section 17202 be utilized to enforce the labor laws specified in all causes of action and require Defendant to pay Plaintiffs for all unpaid wages due.

54. Under this Cause of Action, Plaintiffs also pray that equitable relief be given including disgorgement of Defendant's profits, the payment to Plaintiffs of all money earned by Defendant while violating the California Labor Code Sections specified in this lawsuit, restitutionary relief and all remedies under this Claim going back four years from the filing of

this lawsuit. Plaintiffs further prays for equitable relief in Defendant being responsible for a judgement that pays Plaintiffs for unpaid wages based upon Plaintiff's actual agreed hourly wages opposed to minimum wage and then overtime and double time based upon minium wage as well as hours of pay for each missed meal break.

ELEVENTH CAUSE OF ACTION

FOR CALIFORNIA LABOR CODE SECTION 201 & 203 PENALTIES

(AGAINST ALL DEFENDANTS AND ALL DOE DEFENDANTS)

62. Plaintiffs reallege the information set forth in Paragraphs 1-12, Paragraphs 13-16 of the First Cause of Action, Paragraph 17-19 of the Third Cause of Action, Paragraphs 20-23 of the Fourth Cause of Action, Paragraphs 24-31 of the Fifth Cause of Action, Paragraphs 32-36 of the Sixth Cause of Action, Paragraphs 45-47 of the Eighth Cause of Action, Paragraphs 48-50 of the Ninth Cause of Action as though fully alleged herein.

63. Plaintiffs were not paid all due wages due when they were fired or laid off. They were owed wages as pled in Causes of Action 1-4, 8-9.

64. California Labor Code Section 201 was violated for Karen Simpson who Defendant ended the employment of on or about October 31, 2022. California Labor Code Section 202 was violated for the Plaintiffs who quit: Nelson Basilio on or about May 24, 2022, Ali Khataba on or about September 29, 2022, Patrick Lim on or about February 17, 2022, Eric Adrian Estrella on or about December 2, 2021, Brian Adrian Estrella on or about December 7, 2021, and Maylo Barnuevo on or about December 15, 2021.

65. Plaintiffs therefore pray for California Labor Code Section 203 penalties due to violations of California Labor Code Sections 201 or 202 as they apply to the particular Plaintiff.

66. Plaintiffs pray for California Labor Code Section 203 penalties as well as attorney fees and costs under California Labor Code Section 218.5 and interest under California Labor Code Section 218.6.

WHEREFORE, the Plaintiffs prays for:

For all claims:

1. For all costs and disbursements incurred in this suit;
2. For such other and further relief as the Court deems just and proper;
3. For interest, including prejudgement interest, on all causes of action other than the Seventh, and statutory interest where allowed based upon the Causes of Action pled;

For the First Cause of Action:

4. For all unpaid minimum wages due as well as liquidated damages under California Labor Code Section 1194.2 and 1197.1 and injunctive relief;
5. Attorney fees and costs under California Labor Code Section 1194;

For the Second Cause of Action:

6. All overtime and double time compensation due under California Labor Code Section 1194 as well as all overtime and double time compensation provided by California Labor Code Section 1194 as well as all overtime and double time compensation provided by California Labor Code Section 510;
7. Attorney fees and costs under California Labor Code Section 1194;

For the Third Cause of Action:

8. For all available damages and penalties allowed for California controlled standby and/or reporting time including statutory damages under the Wage Order and all statutes enumerated in that cause of action;
9. Attorney fees and costs under California Labor Code Sections 218.5 and interest under California Labor Code Sections 218.6, and 1194;

For the Fourth Cause of Action Plaintiff prays for:

10. The reasonable value of Plaintiff's services not compensated for:

For the Fifth Cause of Action:

11. For California Labor Code Section 226 penalties up to $4,000 per Plaintiff;

12. For attorney fees and costs under California Labor Code Sections 226(e);

For the Sixth Cause of Action:

13. Reimbursement for cellular phone costs and mileage reimbursement issues alleged;

14. Attorney fees and costs under California Labor Code Section 2802c;

For the Seventh Cause of Action:

15. For California Labor Code Section 2699(f) penalties;

16. For California Labor Code Section 2699(g) fees and costs

For the Eight and Ninth Causes of Action:

15. For one hour of pay for all missed meal and rest breaks under California Labor Code Section 226.7.

16. Attorney fees and costs under California Labor Code Section 218.5 and interest under 218.6.

For the Tenth Cause of Action:

17. For all equitable relief available;

For the Eleventh Cause of Action:

18. For California Labor Code Section 203 penalties;

19. For attorney fees and costs under California Labor Code Section 218.5.

Dated: January 6, 2026

EMPLOYMENT LAWYERS GROUP

/s

KARL GERBER,
ATTORNEY FOR PLAINTIFFS

EXHIBIT 1

State of California
Labor and Workforce Development Agency / Department of Industrial Relations

Private Attorneys General Act (PAGA) - Filing

New PAGA Claim Notice

Your Information (Person Who is Filing)

Your First Name *: Karl

Your Last Name *: Gerber

Firm Name (if any) *: Karl Gerber
(Enter "in pro per" if you are representing yourself)

Your Email Address *: emplawyersgroupla@gmai

Your Street Name, Number and Suite/Apt *: 13418 Ventura Boulevard

Your Mobile Phone Number: 8187837300

Your City *: Sherman Oaks

Your Work Phone Number:

Your State *: California

Your Zip/Postal Code *: 91423

Plaintiff Information

Plaintiff/Aggrieved Employee Name *: MAYLO BARNUEVO, ERIC ADRIAN ESTI

Plaintiff/Aggrieved Employee Occupation *: Nursing/Hospital

Add Additional Plaintiffs

Employer Information

Employer Entity Type: Corporation

Employer Name *: PRIME HEALTHCARE LA PALMA, LLC
Maximum 80 Character Limit

Employer Street Name, Number and Suite/Apt *: 7901 Walker Street

Employer City *: La Palma

Employer State *
California

Employer Zip/Po. . Code *
90623

Employer Industry *
Other

Employer Industry for "Other" *
Hospital

Add additional defendants

☐ Add any entity other than an individual
☐ Add an individual/sole proprietor employer

Notice General Information

Estimated Number of Employees Impacted by Violations *
10
Please enter a number (without decimals).

Notice Violations - Check All that Apply *

- [ ] Child Labor
- [ ] Misclassification Employee Classified as Contractor
- [ ] Misclassification NonExempt Classified as Exempt
- [x] Minimum Wage
- [x] Overtime
- [x] Not paid for all hours worked
- [ ] Not paid wages due on termination
- [x] Other Unpaid Wages
- [ ] Tips or Gratuities
- [x] Payment or Reimbursement of Employee Expenses
- [ ] Improper Form of Payment Including NSF Checks
- [ ] Kickbacks
- [x] Meal and Rest Breaks
- [ ] Sick Leave
- [ ] Lactation Accommodation (Labor Code 1030-1033)
- [ ] Not providing required time off, other
- [ ] Pay Discrimination on basis of sex, (Labor Code 1197.5)
- [ ] No Wage Statements
- [x] Improper or Incomplete Wage Statements
- [ ] Other Notice or Posting or Recordkeeping
- [ ] Public Works (Labor Code 1720 - 1815)
- [ ] Apprenticeship (Labor Code 3070 - 3098)
- [ ] Occupational Safety and Health (Labor Code 6300 et seq)
- [ ] No Workers' Compensation
- [ ] Licensing, Registration, or Permit
- [ ] Unfair Immigration Activities
- [ ] Agricultural Labor Relations
- [ ] Industrial Homework
- [ ] Retaliation for Protected Status or Activity (Specify)
- [x] Other

Child Labor - Specify Ages

emplawyersgroupla@gmail.com

Provide Details of Other Violation *

See Lawsuit Attached

Other(Maybe Multiple)

- [ ] Other Violation

PAGA Claim Type – Check All that Apply *

- [x] Notice asserts one or more Labor Code violations listed in Labor Code 2699.5– not curable subject to 2699.3(a)
- [ ] Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)
- [x] Includes one or more violations not listed in Labor Code 2699.5 – curable subject to 2699.3(c)

Filing Fee

A filing fee of $75 is required to file a new PAGA claim notice.

IFP

- [ ] I wish to claim In Forma Pauperis and am attaching a Confidential Request to Waive Court Fees (Judicial Council Court Form FW-001) or similar form to this submission.

Billing information

Billing First Name * Karl

Billing Last Name * Gerber

Billing Email * employmentlawyersgroup

Billing Phone 818-783-7300

Billing Street Name, Number and Suite/Apt * 13418 Ventura Blvd.

Billing City * Sherman Oaks

Billing State * California

Billing Zip/Postal Code * 91423

Credit Card Type * Visa

Credit Card Number * 4342562377606445

CVV Number * 496

Credit Card Expiration Month * 02 (mm)

Credit Card Expiration Year * 2024 (yyyy)

Notice and Other Attachments

PAGA Claim Notice (must be a .pdf) *

Choose File prime.paga.pdf

Other Attachment – (if any) (must be a .pdf)

Choose File prime.com.pdf

Add Another Attachment

Should you have questions regarding th)line form, please contact PAGAInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☑ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

Previous Page Submit

Plaintiffs, MAYLO BARNUEVO, ERIC ADRIAN ESTRELLA, ERIC BRIAN ESTRELLA, ALI KHATATBA, PATRICK SANTIAGO LIM, and KAREN SIMPSON file these PAGA charges on behalf of themselves and similarly situated employees thereby bringing PAGA penalties against Defendant, PRIME HEALTHCARE LA PALMA, LLC'S California nonexempt dialysis nurses required to work on an on-call basis and/or work as a charge nurse going back one year from the date of this filing onward.

The underlying issues that create the PAGA violations are having the PAGA group on-call but not paying them for the time spent waiting to be called into work, off-the-clock work for time spent talking to Defendant or necessary doctors and personnel on the phone, a failure to pay minimum reporting time pay, minimum wage, overtime, or double time due to on-call work and off-the-clock work, and unpaid time when clocked out for meal breaks they could not take for reasons including, but not limited to, having to answer and respond to a phone they carried as a nurse in charge for the day. Minimum wage issues also exist because the employer required the people in the PAGA group to wait to be called into work, but they were paid sub-minimum wage for those hours resulting in a failure to pay minimum wage. These issues violate the following underlying California Labor Code Sections: 510, 516, 1194, 1194.2, and 1197.1 violations leading to California Labor Code Section 558 violations due to failures to pay all regular pay, overtime, and double time thereby violating California Labor Code Sections 204, 210, 215, and 216 which provide for PAGA penalties because not all wages were paid as required by these statutes.

Underlying California Labor Code Section 226 violations exist for which PAGA penalties are due under California Labor Code Section 2699.3. The specific PAGA penalties at issue for the PAGA groups are: California Labor Code Sections 226.3, 226.4, and 226.6 which were violated for the reasons specified in the attached Complaint which can be summarized as failing to indicate the correct number of hours Plaintiffs worked on each paystub because restricted on-call and standby pay was not enumerated in terms of hours worked or hourly rate, nor were times not paid when Plaintiffs picked up a call when at home. The hours worked were wrong due to off-the-clock work. The rates of pay were all wrong. The number of hours reported were wrong for straight time, overtime, and double time. None of the computations included time spent waiting to be called into work or time spent on the phone before coming into the hospital. The paystubs also falsely claimed fewer hours worked than Plaintiffs did do to being clocked out for meal breaks while Plaintiffs worked.

The 7 PAGA violations per pay period are worth a maximum of $1,400.00 in PAGA penalties per employee, per pay period. There are at least 8-10 people in this group now and this number may increase as time continues.

Plaintiffs and the group the PAGA claims are on behalf of seek California Labor Code Section 2699(f) and (g) remedies for any violation and/or remedy under California Labor Code 2699 on behalf of similarly aggrieved employees as well as themselves.

Plaintiffs, MAYLO BARNUEVO, ERIC ADRIAN ESTRELLA, ERIC BRIAN ESTRELLA, ALI KHATATBA, PATRICK SANTIAGO LIM, and KAREN SIMPSON file these PAGA charges on behalf of themselves and similarly situated employees thereby bringing PAGA penalties against Defendant, PRIME HEALTHCARE LA PALMA, LLC'S California nonexempt dialysis nurses required to work on an on-call basis and/or work as a charge nurse going back one year from the date of this filing onward.

The underlying issues that create the PAGA violations are having the PAGA group on-call but not paying them for the time spent waiting to be called into work, off-the-clock work for time spent talking to Defendant or necessary doctors and personnel on the phone, a failure to pay minimum reporting time pay, minimum wage, overtime, or double time due to on-call work and off-the-clock work, and unpaid time when clocked out for meal breaks they could not take for reasons including, but not limited to, having to answer and respond to a phone they carried as a nurse in charge for the day. Minimum wage issues also exist because the employer required the people in the PAGA group to wait to be called into work, but they were paid sub-minimum wage for those hours resulting in a failure to pay minimum wage. These issues violate the following underlying California Labor Code Sections: 510, 516, 1194, 1194.2, and 1197.1 violations leading to California Labor Code Section 558 violations due to failures to pay all regular pay, overtime, and double time thereby violating California Labor Code Sections 204, 210, 215, and 216 which provide for PAGA penalties because not all wages were paid as required by these statutes.

Underlying California Labor Code Section 226 violations exist for which PAGA penalties are due under California Labor Code Section 2699.3. The specific PAGA penalties at issue for the PAGA groups are: California Labor Code Sections 226.3, 226.4, and 226.6 which were violated for the reasons specified in the attached Complaint which can be summarized as failing to indicate the correct number of hours Plaintiffs worked on each paystub because restricted on-call and standby pay was not enumerated in terms of hours worked or hourly rate, nor were times not paid when Plaintiffs picked up a call when at home. The hours worked were wrong due to off-the-clock work. The rates of pay were all wrong. The number of hours reported were wrong for straight time, overtime, and double time. None of the computations included time spent waiting to be called into work or time spent on the phone before coming into the hospital. The paystubs also falsely claimed fewer hours worked than Plaintiffs did do to being clocked out for meal breaks while Plaintiffs worked.

The 7 PAGA violations per pay period are worth a maximum of $1,400.00 in PAGA penalties per employee, per pay period. There are at least 8-10 people in this group now and this number may increase as time continues.

Plaintiffs and the group the PAGA claims are on behalf of seek California Labor Code Section 2699(f) and (g) remedies for any violation and/or remedy under California Labor Code 2699 on behalf of similarly aggrieved employees as well as themselves.

EXHIBIT 2

Please review the error(s) below.

- **1. Lookup - Lookup returned no record and aborted connector execution.**

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

State of California
Labor and Workforce Development Agency / Department of Industrial Relations

Private Attorneys General Act (PAGA) - Filing

Amended PAGA Claim Notice

PAGA Number (LWDA-CM-) : * 845466-21

Please enter only the numbers after "LWDA-CM-" in the following format, "XXXXXXXXX-XX".
Search for PAGA Case number

Your Information (Attorney or Employee - Whoever is Filing)

Your First Name * Karl

Your Last Name * Gerber

Your Email Address * employmentlawyersgroup

Your Street Name, Number and Suite/Apt * 13418 Ventura Boulevard

Your Mobile Phone Numer 818-783-7300

Your City * Sherman Oaks

Your Work Phone Number 818-783-7300

Your State * California

Your Zip/Postal Code * 91423

Amended Notice Detail

Please provide the details of the amendments to the original notice. *

- [x] Adding additional claims
- [ ] Adding additional corporate defendants
- [ ] Adding additional Individual/Sole proprietor defendants
- [ ] Adding additional plaintiffs
- [x] Other (please specify)

Please specify other amended notice detail *

See Attached PDF

Notice Violations - Check All that Apply *

- [ ] Child Labor
- [ ] Misclassification Employee Classified as Contractor
- [ ] Misclassification NonExempt Classified as Exempt
- [x] Minimum Wage
- [x] Overtime
- [x] Not paid for all hours worked
- [x] Not paid wages due on termination
- [x] Other Unpaid Wages
- [ ] Tips or Gratuities
- [x] Payment or Reimbursement of Employee Expenses
- [ ] Improper Form of Payment Including NSF Checks
- [ ] Kickbacks
- [x] Meal and Rest Breaks
- [ ] Sick Leave
- [ ] Lactation Accommodation (Labor Code 1030-1033)
- [ ] Not providing required time off, other
- [ ] Pay Discrimination on basis of sex, (Labor Code 1197.5)
- [ ] No Wage Statements
- [x] Improper or Incomplete Wage Statements
- [x] Other Notice or Posting or Recordkeeping
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- [ ] No Workers' Compensation
- [ ] Licensing, Registration, or Permit
- [ ] Unfair Immigration Activities
- [ ] Agricultural Labor Relations
- [ ] Industrial Homework
- [ ] Retaliation for Protected Status or Activity (Specify)
- [x] Other

Child Labor - Specify Ages

Provide Details of Other Violation *

see attached PDF

Other(Maybe Multiple)

☐ Other Violation

PAGA Claim Type - Check All that Apply *

PAGA Claim Type - Check All that Apply *

☑ **Notice asserts one or more Labor Code violations listed in Labor Code 2699.5- not curable subject to 2699.3(a)**

☐ **Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)**

☐ **Includes one or more violations not listed in Labor Code 2699.5 - curable subject to 2699.3(c)**

Other PAGA Notices

Search for PAGA Case number

☑ I have searched LWDA's database for other PAGA claims filed against the employer(s) named in my Amended PAGA Claim Notice.

○ No, there are no other PAGA claims against the employer(s) named in my Amended PAGA Claim Notice.

◉ Yes, other PAGA claims are listed on the website, or I am aware of other PAGA claims against the employer(s) named in my Amended PAGA Claim Notice.

PAGA Notices

LWDA case number(s) of other PAGA Notices: LWDA-CM :

920390-22

Name of Plaintiff

JOY MICAL

Add Additional Notices

Amended Notice

Amended Notice *

prime.amendedpaga.pdf ☐ Upload a different file

Other Attachment (if any) (must be a .pdf)

Choose File No file chosen

Add Another Attachment

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☑ **I understand that, if I file, I must comply with the redaction rules consistent with this notice.**

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

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I'm not a robot

reCAPTCHA
Privacy - Terms

reCAPTCHA helps prevent automated form spam.

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Based upon further discovery, amended complaints filed during the pendency of a binding arbitration that stayed the Superior Court action, 31 days of arbitration testimony in the underlying case, additional time spent in various rulings, and information provided by the employer, MAYLO BARNUEVO, NELSON BASILIO, ERIC ADRIAN ESTRELLA, ERIC BRIAN ESTRELLA, ALI KHATATBA, PATRICK SANTIAGO LIM, and KAREN SAMPSON amend their earlier filed PAGA charges in LWDA-CM-845466-21 to allege PAGA penalties for all of PRIME HEALTHCARE LA PALMA, LLC's nonexempt hourly California employees for violations of California Labor Code Sections:

204, 208, 210, 215, 216, 226.3, 226.4, 226.6, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194.2, 1197, 1197.1, 1198, 1198.5, 2800, 2802 going back to September 21, 2020 due to underlying violations of California Labor Code Sections 200, 201, 202, 203, 226, 226.7, 510, 512, 1194, 2802, and in addition claims under Wage Order 5 for the same conduct. In general, these underlying statutes relate to: (1) failure to pay minimum wages, (2) failure to pay overtime and double time wages, (3) failure to pay standby or reporting time compensation, (4) failure to provide accurate itemized wage statements, (5) failure to reimburse reasonable and necessary business expenses, (6) failure to provide meal periods, (7) failure to provide rest breaks; (8) failure to pay all wages due when an employee quits or is fired; 9) and certain record keeping requirements relating to records about wages.

Thank you. If you provided an email address with your submission, a confirmation regarding your submission will be emailed to you. Otherwise, you can search for the case to verify that your submission was properly received.

Click Here to Search Case

Gmail

Search mail

Compose

Inbox 12,035
Starred
Snoozed
Important
Sent
Drafts 51
Purchases 740
Social 10,655
Updates 11,516
Forums
Promotions 28,567
More

Labels

KABCRADIO.ORG 95
Personal
More

Thank you for your Amended PAGA Claim Notice Submission.

Inbox ×

DIR PAGA Unit <no-reply@formassembly.com>
to me

01/05/2026 02:30:23 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Amended PAGA Claim

Please note that a PAGA Notice is not a complaint within the meaning of Division 5 (Labor Code §§6300 et seq.). To file a complaint abou

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

Reply Forward

PROOF OF SERVICE
ORANGE COUNTY SUPERIOR COURT
Maylo Barnuevo, et al. v. Prime Healthcare LLC. Palma, LLC.

I am employed in the City of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 13418 Ventura Blvd. Sherman Oaks CA 91423. On the below date I served the following documents:

AMENDED PAGA CLAIM NOTICE

SEYFARTH SHAW LLP
Justin T. Curley, Esq.
560 Mission Stret, 31st Floor
San Francisco, CA 94105

SEYFARTH SHAW LLP
Geoffrey C. Westbrook, Esq.
Phillip J. Ebsworth, Esq.
Yoon-Woo Nam, Esq.
400 Capitol Mall, Suite 2350
Sacramento, California 95814-4428

E-Mail Addresses: jcurley@seyfarth.com, gwestbrook@seyfarth.com, pebsworth@seyfarth.com, ynam@seyfarth.com

Attorneys for Respondent: PRIME HEALTHCARE LA PALMA, LLC.

Said documents were served in each of the following manners as indicated by an "(X)" before such mode of service

(☐) BY U.S. MAIL: I caused each such envelope with postage thereon fully prepaid, to be picked up by the United States mail at Sherman Oaks, CA on. I am familiar with the practice of my employer for collection and processing of the correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States mail the same day as it is place for collection.

(☐) BY OVERNIGHT DELIVERY: I caused such envelope to be delivered to the Federal Express Office with delivery fees fully prepaid for overnight delivery to the office(s) of the addressee(s).

(☐) BY "FAX": to the above-named person(s) on. Upon completion of said facsimile transmission, the transmitting machine issues a transmission report showing the transmission was complete and without error.

(☒)ELECTRONIC MAIL: I caused the document to be sent to the persons at the e-mail address(es) listed above on 1-5-2026

(☐) BY PERSONAL SERVICE: by delivering a copy of the document(s) listed above to the person(s) at the address(es) set forth above on

(☒) **STATE: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

(☐) FEDERAL: I declare under the laws of the United States of America that I am employed in the office of a member of the Bar of this Court at whose direction the service was made and that the foregoing is true and correct.

Executed on 1-5-2026, at Sherman Oaks, California.

Cristine Dzhabrayan