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Superior Court of California,
County of Imperial

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By: Angela Jantz, Deputy Clerk

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 FOR THE COUNTY OF IMPERIAL

13 FALESTINE ABDELMUTI, individually,
14 and on behalf of other members of the
15 general public similarly situated, and as an
aggrieved employee pursuant to the Private
Attorneys General Act ("PAGA"),

16 Plaintiff,

17 vs.

18 EL CENTRO REGIONAL MEDICAL
19 CENTER dba ECRMC, an unknown
20 business entity; EL CENTRO REGIONAL
21 MEDICAL CENTER FOUNDATION, a
California corporation; and DOES 1
through 10, inclusive,

22 Defendants.

Case No.: ECU002123

**FIRST AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (8) Violation of Labor Code § 1198 and

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- California Code of Regulations Title 8,
Section 11050 Subdivision 5(A) (Failure to
Provide Reporting Time Pay);
(9) Violation of California Labor Code § 2802
(Unreimbursed Business Expenses);
(10) Civil Penalties for Violations of
California Labor Code, Pursuant to PAGA,
§§ 2698, *et seq.*;
(11) Violation of California Business &
Professions Code §§ 17200, *et seq.*
(Unlawful Business Practices); and
(12) Violation of California Business &
Professions Code §§ 17200, *et seq.* (Unfair
Business Practices)

Jury Trial Demanded

1 Plaintiff Falestine Abdelmuti, individually and on behalf of all other members of the
2 public similarly situated, and as an aggrieved employee and on behalf of all other aggrieved
3 employees, alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of damages, penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice. There is no basis for federal diversity jurisdiction in this action
23 because there is no complete diversity, and this case falls within the statutory exceptions to
24 “minimal diversity” jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4).
25 Upon information and belief, two-thirds or more of the class members and Defendants are
26 citizens of California and/or (a) two-thirds of the class members and Defendants are citizens
27 of California; (b) the alleged wage and hour violations occurred in California; (c) significant
28 relief is being sought against Defendants whose violations of California wage and hour laws

1 form a significant basis for Plaintiff's claims; and (d) no other class action has been filed
2 within the past three (3) years on behalf of the same proposed class against Defendants
3 asserting the same or similar factual allegations.

4 3. Venue is proper in this Court because Defendants employ persons in this
5 county and employed Plaintiff in this county, and thus a substantial portion of the transactions
6 and occurrences related to this action occurred in this county.

7 **THE PARTIES**

8 4. Plaintiff Falestine Abdelmuti is a resident of Imperial, in Imperial County,
9 California. Defendants employed Plaintiff as an hourly paid, non-exempt Phlebotomist I from
10 approximately June 2020 to April 2021. Plaintiff worked for Defendants at their location in
11 El Centro, California. During her employment, Plaintiff typically worked eight (8) hours or
12 more per day, and three (3) to five (5) days per week. Plaintiff's primary job duties included,
13 without limitation, obtaining blood specimens from patients, preparing blood samples for
14 analysis, operating and maintaining analytic equipment, and documenting patient charts.

15 5. EL CENTRO REGIONAL MEDICAL CENTER was and is, upon information
16 and belief, an unknown business entity, and at all times hereinafter mentioned, an employer
17 whose employees are engaged throughout this county, the State of California, or the various
18 states of the United States of America.

19 6. EL CENTRO REGIONAL MEDICAL CENTER FOUNDATION was and is,
20 upon information and belief, a California corporation, and at all times hereinafter mentioned,
21 an employer whose employees are engaged throughout this county, the State of California, or
22 the various states of the United States of America.

23 7. Plaintiff is unaware of the true names or capacities of the Defendants sued
24 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
25 amend the complaint and serve such fictitiously named Defendants once their names and
26 capacities become known.

27 8. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
28 were the partners, agents, owners, or managers of EL CENTRO REGIONAL MEDICAL

1 CENTER and EL CENTRO REGIONAL MEDICAL CENTER FOUNDATION, at all
2 relevant times.

3 9. Plaintiff is informed and believes, and thereon alleges, that each and all of the
4 acts and omissions alleged herein was performed by, or is attributable to, EL CENTRO
5 REGIONAL MEDICAL CENTER; EL CENTRO REGIONAL MEDICAL CENTER
6 FOUNDATION; and/or DOES 1 through 10 (collectively, “Defendants” or “ECRMC”), each
7 acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert with,
8 each of the other co-Defendants and was acting within the course and scope of such agency,
9 employment, joint venture, or concerted activity with legal authority to act on the others’
10 behalf. The acts of any and all Defendants were in accordance with, and represent, the official
11 policy of Defendants.

12 10. At all relevant times, Defendants, and each of them, ratified each and every act
13 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
14 and abetted the acts and omissions of each and all the other Defendants in proximately causing
15 the damages herein alleged.

16 11. Plaintiff is informed and believes, and thereon alleges, that each of said
17 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
18 omissions, occurrences, and transactions alleged herein.

19 12. Under California law, Defendants are jointly and severally liable as employers
20 for the violations alleged herein because they have each exercised sufficient control over the
21 wages, hours, working conditions, and employment status of Plaintiff and class members.
22 Each Defendant had the power to hire and fire Plaintiff and class members, supervised and
23 controlled their work schedule and/or conditions of employment, determined their rate of pay,
24 and maintained their employment records. Defendants suffered or permitted Plaintiff and
25 class members to work and/or “engaged” Plaintiff and class members so as to create a
26 common-law employment relationship. As joint employers of Plaintiff and class members,
27 Defendants are jointly and severally liable for the civil penalties and all other relief available
28 to Plaintiff and class members under the law.

1 13. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
2 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and class
3 members because Defendants have:

- 4 (a) jointly exercised meaningful control over the work performed by
5 Plaintiff and class members;
6 (b) jointly exercised meaningful control over Plaintiff's and class members'
7 wages, hours, and working conditions, including the quantity, quality
8 standards, speed, scheduling, and operative details of the tasks
9 performed by Plaintiff and class members;
10 (c) jointly required that Plaintiff and class members perform work which is
11 an integral part of Defendants' businesses; and
12 (d) jointly exercised control over Plaintiff and class members as a matter of
13 economic reality in that Plaintiff and class members were dependent on
14 Defendants, who shared the power to set the wages of Plaintiff and class
15 members and determined their working conditions, and who jointly
16 reaped the benefits from the underpayment of their wages and
17 noncompliance with other statutory provisions governing their
18 employment.

19 14. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
20 there has existed a unity of interest and ownership between Defendants such that any
21 individuality and separateness between the entities has ceased.

22 15. EL CENTRO REGIONAL MEDICAL CENTER; EL CENTRO REGIONAL
23 MEDICAL CENTER FOUNDATION; and DOES 1 through 10 are therefore alter egos of
24 each other.

25 16. Adherence to the fiction of the separate existence of Defendants would permit
26 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
27 from liability for the wrongful acts committed by them the name ECRMC.

28 17. Plaintiff further alleges, upon information and belief, that Defendants EL

CENTRO REGIONAL MEDICAL CENTER and EL CENTRO REGIONAL MEDICAL CENTER FOUNDATION are alter egos of each other for the following reasons:

- (a) EL CENTRO REGIONAL MEDICAL CENTER and EL CENTRO REGIONAL MEDICAL CENTER FOUNDATION share the same entity address of “1415 Ross Avenue, El Centro, California 92243”; and
- (b) On information and belief, EL CENTRO REGIONAL MEDICAL CENTER and EL CENTRO REGIONAL MEDICAL CENTER utilize the same standardized employment forms and issue the same employment policies

GENERAL ALLEGATIONS

18. Defendants operate one hospital and a network of numerous medical clinics in the Imperial Valley area. Upon information and belief, Defendants maintain a single, centralized Human Resources (“HR”) department at their corporate headquarters in El Centro, California, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants’ company-wide policies, including timekeeping policies and rest period policies, to employees throughout California.

19. In particular, Plaintiff and class members, on information and belief, received the same standardized documents and/or written policies. Upon information and belief, the usage of standardized documents and/or written policies, including new-hire documents, indicate that Defendants dictated policies at the corporate level and implemented them company-wide, regardless of their employees’ assigned locations or positions.

20. Upon information and belief, Defendants maintain a centralized Payroll department at their corporate headquarters in El Centro, California, which processes payroll for all non-exempt, hourly paid employees working for Defendants at their various locations and jobsites in California, including Plaintiff and class members. Based upon information and belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid employees in California, irrespective of their work locations. Upon information and belief, Defendants process payroll for departing employees in the same manner throughout the State

1 of California, regardless of the manner in which each employee's employment ends.

2 21. Defendants continue to employ non-exempt or hourly paid employees in
3 California.

4 22. Plaintiff is informed and believes, and thereon alleges, that at all times herein
5 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
6 and advisors knowledgeable about California labor and wage law, employment and personnel
7 practices, and about the requirements of California law.

8 23. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class
9 members were not paid for all hours worked because all hours worked were not recorded.

10 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and class members were entitled to receive certain wages for
12 overtime compensation and that they were not receiving certain wages for overtime
13 compensation.

14 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and class members were entitled to receive at least minimum
16 wages for compensation and that they were not receiving at least minimum wages for work
17 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff
18 and class members were not paid at least minimum wages for work done off-the-clock.

19 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and class members were entitled to meal periods in
21 accordance with the California Labor Code or payment of one (1) additional hour of pay at
22 their regular rates of pay when they were not provided with timely, uninterrupted, thirty (30)
23 minute meal periods and that Plaintiff and class members were not provided with all meal
24 periods or payment of one (1) additional hour of pay at their regular rates of pay when they
25 did not receive a timely, uninterrupted, thirty (30) minute meal period.

26 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and class members were entitled to rest periods in
28 accordance with the California Labor Code and applicable IWC Wage Order or payment of

one (1) additional hour of pay at their regular rates of pay when they were not authorized and permitted to take a compliant rest period. In violation of the California Labor Code, Plaintiff and class members were not authorized and permitted to take compliant rest periods, nor did Defendants provide Plaintiff and class members with payment of one (1) additional hour of pay at their regular rates of pay when they were not authorized and permitted to take a compliant rest period.

28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and class members were entitled to receive complete and accurate wage statements in accordance with California law. In violation of the California Labor Code, Plaintiff and class members were not provided complete and accurate wage statements.

29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that they had a duty to maintain accurate and complete payroll records in accordance with the California Labor Code and applicable IWC Wage Order, but willfully, knowingly, and intentionally failed to do so.

30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and class members were entitled to timely payment of all wages earned upon termination of employment. In violation of the California Labor Code, Plaintiff and class members did not receive payment of all wages due, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, within permissible time periods.

31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and class members were entitled to timely payment of wages during their employment. In violation of the California Labor Code, Plaintiff and class members did not receive payment of all wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay within permissible time periods.

32. Plaintiff is informed and believes, and thereon alleges, that at all times herein

mentioned, that Defendants knew or should have known that they had a duty to cover the costs and expenses Plaintiff and class members incurred obtaining mandatory physical examinations and/or drug tests, but failed to do so.

33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and class members were entitled to receive all reporting time pay when Defendants required Plaintiff and class members to report to work but were put to work for less than half of their regular scheduled shift. In violation of the California Labor Code, Plaintiff and class members were not paid all reporting time pay.

34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and class members were entitled to receive full reimbursement for all business-related expenses and costs they incurred during the course and scope of their employment and that they did not receive full reimbursement of applicable business-related expenses and costs incurred.

35. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff and class members for all hours worked, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented to Plaintiff and class members that they were properly denied wages, all in order to increase Defendants' profits.

PAGA REPRESENTATIVE ALLEGATIONS

36. At all times herein set forth, PAGA provides that any provision of law under the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and collected by the LWDA for violations of the California Labor Code and applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a civil action brought on behalf of themselves and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

37. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any person who was employed by the alleged violator and against whom one or more of the

1 alleged violations was committed.”

2 38. Plaintiff and other current and former employees of Defendants are “aggrieved
3 employees” as defined by Labor Code section 2699(c) in that they are all Defendants’ current
4 or former employees and one or more of the alleged violations were committed against them.

5 39. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
6 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
7 following requirements have been met:

8 (a) The aggrieved employee or representative shall give written notice by
9 online filing with the LWDA and by certified mail to the employer of
10 the specific provisions of the California Labor Code alleged to have
11 been violated, including the facts and theories to support the alleged
12 violation.

13 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
14 2699.3(a) and any employer response to that notice shall be
15 accompanied by a filing fee of seventy-five dollars (\$75).

16 (c) The LWDA shall notify the employer and the aggrieved employee or
17 representative by certified mail that it does not intend to investigate the
18 alleged violation (“LWDA’s Notice”) within sixty (60) calendar days of
19 the postmark date of the aggrieved employee’s notice. Upon receipt of
20 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
21 (65) calendar days of the postmark date of the aggrieved employee’s
22 notice, the aggrieved employee may commence a civil action pursuant
23 to California Labor Code section 2699 to recover civil penalties.

24 40. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
25 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
26 provision other than those listed in Section 2699.5 after the following requirements have been
27 met:

28 (a) The aggrieved employee or representative shall give written notice by

1 online filing with the LWDA and by certified mail to the employer of
2 the specific provisions of the California Labor Code alleged to have
3 been violated (other than those listed in Section 2699.5), including the
4 facts and theories to support the alleged violation.

5 (b) An aggrieved employee's notice filed with the LWDA pursuant to
6 2699.3(c) and any employer response to that notice shall be
7 accompanied by a filing fee of seventy-five dollars (\$75).

8 (c) The employer may cure the alleged violation within thirty-three (33)
9 calendar days of the postmark date of the notice sent by the aggrieved
10 employee or representative. The employer shall give written notice
11 within that period of time by certified mail to the aggrieved employee or
12 representative and by online filing with the LWDA if the alleged
13 violation is cured, including a description of actions taken, and no civil
14 action pursuant to Section 2699 may commence. If the alleged violation
15 is not cured within the 33-day period, the aggrieved employee may
16 commence a civil action pursuant to Section 2699.

17 41. On November 2, 2021, Plaintiff provided written notice by online filing to the
18 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
19 Code alleged to have been violated, including facts and theories to support the alleged
20 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
21 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
22 LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned
23 Plaintiff PAGA Case Number LWDA-CM-850788-21. A true and correct copy of Plaintiff's
24 written notice to the LWDA and Defendants is attached hereto as "Exhibit 1".

25 42. As of the filing date of this complaint, over 65 days have passed since Plaintiff
26 sent the notice described above to the LWDA, and the LWDA has not responded that it
27 intends to investigate Plaintiff's claims and Defendants have not cured the violations.

28 43. Thus, Plaintiff has satisfied the administrative prerequisites under California

1 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
2 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516,
3 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

4 44. Labor Code section 558(a) provides “[a]ny employer or other person acting on
5 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
6 provision regulating hours and days of work in any order of the Industrial Welfare
7 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
8 dollars (\$50) for each underpaid employee for each pay period for which the employee was
9 underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each
10 underpaid employee for each pay period for which the employee was underpaid. . . .” Labor
11 Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition
12 to any other civil or criminal penalty provided by law.”

13 45. Defendants, at all times relevant to this complaint, were employers or persons
14 acting on behalf of an employer(s) who violated Plaintiff’s and other aggrieved employees’
15 rights by violating various sections of the California Labor Code as set forth above.

16 46. As set forth below, Defendants have violated numerous provisions of both the
17 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
18 Order.

19 47. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
20 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a
21 private attorney general, seeks assessment and collection of civil penalties for herself, all other
22 aggrieved employees, and the State of California against Defendants for violations of
23 California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 1174(d),
24 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

25 **CLASS ACTION ALLEGATIONS**

26 48. Plaintiff brings this action on her own behalf, as well as on behalf of each and
27 all other persons similarly situated, and thus seeks class certification under California Code of
28 Civil Procedure section 382.

1 49. All claims alleged herein arise under California law for which Plaintiff seeks
2 relief authorized by California law.

3 50. Plaintiff's proposed class consists of and is defined as follows:

4 All persons who worked for Defendants as non-exempt, hourly
5 paid employees in California, within four years prior to the filing
of the initial complaint¹ until the date of trial ("Class").

6 51. Plaintiff's proposed subclass consists of and is defined as follows:

7 All persons who worked for Defendants as non-exempt, hourly
8 paid employees in California and who received at least one wage
statement within one (1) year prior to the filing of the initial
9 complaint until the date of trial ("Subclass").

10 52. Members of the Class and Subclass are referred to herein as "class members."

11 53. Plaintiff reserves the right to redefine the Class and Subclass and to add
12 additional subclasses as appropriate based on further investigation, discovery, and specific
13 theories of liability.

14 54. There are common questions of law and fact as to class members that
15 predominate over questions affecting only individual members, including, but not limited to:

- 16 (a) Whether Defendants required Plaintiff and class members to work over
17 eight (8) hours per day, over twelve (12) hours per day, or over forty
18 (40) hours per week and failed to pay all legally required overtime
19 compensation to Plaintiff and class members;
20 (b) Whether Defendants failed to pay Plaintiff and class members at least
21 minimum wages for all hours worked;
22 (c) Whether Defendants failed to provide Plaintiff and class members meal
23 periods;
24 (d) Whether Defendants failed to authorize and permit Plaintiff and class
25 members to take rest periods;
26 (e) Whether Defendants provided Plaintiff and class members with

27 ¹ Subject to applicable tolling rules and period(s) of tolling, which include, but are not
28 limited to, tolling under Emergency Rule 9 of the California Rules of Court.

- 1 complete and accurate wage statements as required by California Labor
2 Code section 226(a);
- 3 (f) Whether Defendants maintained accurate payroll records as required by
4 California Labor Code section 1174(d);
- 5 (g) Whether Defendants failed to pay earned overtime wages, minimum
6 wages, meal and rest period premiums, and/or reporting time pay due to
7 Plaintiff and class members upon their discharge;
- 8 (h) Whether Defendants failed timely to pay overtime wages, minimum
9 wages, meal and rest period premiums, and/or reporting time pay to
10 Plaintiff and class members during their employment;
- 11 (i) Whether Defendants failed to pay Plaintiff and class members for the
12 costs of mandatory physical examinations and/or drug testing;
- 13 (j) Whether Defendants required Plaintiff and class members to report to
14 work, but failed to provide them with work or provided them with less
15 than half their scheduled day's work, without properly compensating
16 them as required by California Code of Regulations, Title 8, section
17 11050, subsection 5;
- 18 (k) Whether Defendants failed to reimburse Plaintiff and class members for
19 necessary and required business-related expenditures and/or losses
20 incurred by them in the scope of their employment;
- 21 (l) Whether Defendants engaged in unlawful and unfair business practices
22 in violation of California Business & Professions Code sections 17200,
23 *et seq.*; and
- 24 (m) The appropriate amount of damages, restitution, or monetary penalties
25 resulting from Defendants' violations of California law.

26 55. There is a well-defined community of interest in the litigation and the class
27 members are readily ascertainable:

- 28 (a) Numerosity: The class members are so numerous that joinder of all

1 members would be unfeasible and impractical. The membership of the
2 entire class is unknown to Plaintiff at this time; however, the class is
3 estimated to be greater than one hundred (100) individuals and the
4 identity of such membership is readily ascertainable by inspection of
5 Defendants' employment records.

6 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately
7 protect the interests of each class member with whom she has a well-
8 defined community of interest, and Plaintiff's claims (or defenses, if
9 any) are typical of all class members as demonstrated herein.

10 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
11 protect the interests of each class member with whom she has a well-
12 defined community of interest and typicality of claims, as demonstrated
13 herein. Plaintiff acknowledges that she has an obligation to make
14 known to the Court any relationship, conflicts or differences with any
15 class member. Plaintiff's attorneys, the proposed class counsel, are
16 versed in the rules governing class action discovery, certification, and
17 settlement. Plaintiff has incurred, and throughout the duration of this
18 action, will continue to incur costs and attorneys' fees that have been,
19 are, and will be necessarily expended for the prosecution of this action
20 for the substantial benefit of each class member.

21 (d) Superiority: The nature of this action makes the use of class action
22 adjudication superior to other methods. A class action will achieve
23 economies of time, effort, and expense as compared with separate
24 lawsuits, and will avoid inconsistent outcomes because the same issues
25 can be adjudicated in the same manner and at the same time for the
26 entire class.

27 (e) Public Policy Considerations: Employers in the State of California
28 violate employment and labor laws every day. Current employees are

1 often afraid to assert their rights out of fear of direct or indirect
2 retaliation. Former employees are fearful of bringing actions because
3 they believe their former employers might damage their future
4 endeavors through negative references and/or other means. Class
5 actions provide the class members who are not named in the complaint
6 with a type of anonymity that allows for the vindication of their rights
7 while simultaneously protecting their privacy.

8 **FIRST CAUSE OF ACTION**

9 **Violation of California Labor Code §§ 510 and 1198—Unpaid Overtime** 10 **(Against all Defendants)**

11 56. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
12 and every allegation set forth above.

13 57. Labor Code section 1198 makes it illegal to employ an employee under
14 conditions of labor that are prohibited by the applicable wage order. California Labor Code
15 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
16 be the . . . standard conditions of labor for employees. The employment of any employee . . .
17 under conditions of labor prohibited by the order is unlawful.”

18 58. California Labor Code section 1198 and the applicable IWC Wage Order
19 provide that it is unlawful to employ persons without compensating them at a rate of pay
20 either time-and-one-half or two-times that person’s regular rate of pay, depending on the
21 number of hours worked by the person on a daily or weekly basis.

22 59. Specifically, the applicable IWC Wage Order provides that Defendants are and
23 were required to pay Plaintiff and class members working more than eight (8) hours in a day
24 or more than forty (40) hours in a workweek, at the rate of time and one-half (1 ½) for all
25 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
26 workweek.

27 60. The applicable IWC Wage Order further provides that Defendants are and were
28 required to pay Plaintiff and class members working more than twelve (12) hours in a day,

overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including shift differential pay, nondiscretionary bonuses and incentive pay.

61. California Labor Code section 510 codifies the right to overtime compensation at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh (7th) day of work.

62. During the relevant time period, Defendants willfully failed to pay all overtime wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and class members were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were not recorded.

63. First, during the relevant period, Defendants had a company-wide policy and/or practice of improperly rounding employees' clock-in and clock-out times in their timekeeping system to the nearest quarter (0.25) of an hour. Defendants' rounding policy resulted in the failure to compensate Plaintiff and class members fully for all hours worked, causing Plaintiff and class members to not be paid overtime wages for all of the overtime hours they actually worked. Defendants' policy of rounding is unfair and has, over time, resulted in the underpayment of wages to Plaintiff and class members. To the extent Defendants' rounding policy has taken away time worked that was eligible for overtime, Plaintiff and class members were denied overtime pay for all hours worked.

64. Second, Defendants had a company-wide policy and/or practice of discouraging and impeding Plaintiff and class members from recording hours worked that were outside of their scheduled shifts, in order to limit the amount of overtime employees could accrue. This policy of limiting overtime, coupled with Defendants' understaffing policy and assignment of heavy workloads, led Plaintiff and class members to work off-the-clock before and after their

1 scheduled shift times in order to complete their assigned tasks. For example, when Plaintiff
2 and class members arrived to work early, Defendants' management expected them to
3 immediately begin their daily tasks but did not permit them to clock in before their scheduled
4 shift start-time. Specifically, Plaintiff would report to work 5-10 minutes early and start
5 loading her cart but was not permitted to clock in because she was discouraged from accruing
6 overtime. Additionally, Plaintiff and class members continued performing their work tasks
7 after they clocked out in order to assist the following shift's employees with setting up for
8 their shifts. For example, because Plaintiff and class members were busy attending to patients
9 due to understaffing, they did not have enough time to replenish their equipment during their
10 scheduled shifts. Approximately once per week, Plaintiff would spend up to 15 minutes after
11 she clocked out for the day cleaning her work area and restocking equipment. Thus,
12 Defendants failed to track the time spent working before and after scheduled shifts, and
13 Plaintiff and class members received no compensation for this time.

14 65. Third, during the relevant period, Defendants implemented, on a company-wide
15 basis, an employer-imposed requirement that Plaintiff and class members undergo mandatory
16 COVID-19 temperature checks and/or health screenings before clocking in for their scheduled
17 shifts. Prior to each shift, Plaintiff was required to spend up to five (5) minutes waiting and/or
18 undergoing the temperature checks and/or health screenings, before being permitted to clock
19 in for her shift. Even though Defendants required these temperature checks and/or health
20 screenings, Defendants did not provide Plaintiff and class members a mechanism to record
21 this time worked so they could be compensated for the time spent undergoing mandatory
22 temperature checks and/or health screenings.

23 66. Defendants knew or should have known that as a result of these company-wide
24 practices and/or policies, Plaintiff and class members were performing their assigned duties
25 off-the-clock, and were suffered or permitted to perform work for which they were not paid.
26 Because Plaintiff and class members sometimes worked shifts of eight (8) hours a day or more
27 or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime
28 premium pay. Therefore, Plaintiff and class members were not paid overtime wages for all of

1 the overtime hours they actually worked.

2 67. Defendants' failure to pay Plaintiff and class members the balance of overtime
3 compensation as required by California law, violates the provisions of California Labor Code
4 sections 510 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and class
5 members are entitled to recover their unpaid overtime compensation, as well as interest, costs,
6 and attorneys' fees.

7 **SECOND CAUSE OF ACTION**

8 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid**
9 **Minimum Wages**
10 **(Against all Defendants)**

11 68. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
12 and every allegation set forth above.

13 69. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,
14 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
15 minimum wage to be paid to employees, and the payment of a wage less than the minimum so
16 fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the
17 time during which an employee is suffered or permitted to work for the employer, whether or
18 not required to do so, as interpreted in accordance with the provisions of the Fair Labor
19 Standards Act." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

20 70. As stated above, Defendants had a company-wide policy and/or practice of
21 rounding Plaintiff's and class members' hourly clock-in and clock-out times in their
22 timekeeping system to the nearest quarter hour, resulting in the failure to compensate them for
23 all hours worked. As also stated, Defendants had company-wide practices and/or policies of
24 limiting overtime accrual, understaffing, and assigning heavy workloads, leading to the failure
25 to compensate Plaintiff and class members for their time spent working off-the-clock,
26 including performing work duties before and after scheduled shifts, and undergoing
27 mandatory temperature checks and/or health screenings.

28 71. Furthermore, Defendants maintained and implemented a company-wide policy

1 of requiring all employees to travel to a medical facility on their own time and using their own
2 personal vehicles to undergo mandatory drug testing, tuberculin (TB) testing, and/or physical
3 examinations. At all times, Defendants were in control of scheduling the time period for the
4 testing and/or physical examinations, selecting the provider or facility where the testing and/or
5 physical examinations were to take place, and determining the scope of the testing and/or
6 physical examinations. For example, Defendants gave Plaintiff strict instructions to obtain
7 drug testing, TB testing, and a physical examination, and Plaintiff underwent the testing and
8 examination for the sole benefit of Defendants. Plaintiff followed Defendants' instructions,
9 traveled 8-10 miles roundtrip (for approximately 20-30 minutes total) to and from Defendants'
10 medical facility in El Centro, California, and spent an additional 2-3 hours waiting at the
11 medical facility and undergoing the requisite drug testing. Plaintiff was then required to
12 return to the medical facility the next day, driving another 10-15 minutes each way, and spent
13 an additional 60-80 minutes undergoing the TB testing and physical examination. However,
14 Defendants did not compensate Plaintiff and class members for the time they spent traveling
15 to and from the medical facilities; undergoing the mandatory drug testing, TB testing, and/or
16 physical examinations; and/or obtaining their TB test results.

17 72. Defendants did not pay minimum wages for all hours worked by Plaintiff and
18 class members. To the extent that these off-the-clock hours did not qualify for overtime
19 premium payment, Defendants did not pay at least minimum wages for those hours worked
20 off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and
21 1198.

22 73. Defendants' failure to pay Plaintiff and class members minimum wages violates
23 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to
24 California Labor Code section 1194.2, Plaintiff and class members are entitled to recover
25 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

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1 **THIRD CAUSE OF ACTION**

2 **Violations of California Labor Code, §§ 226.7, 512(a), 516, and 1198—Meal Period**

3 **Violations**

4 **(Against all Defendants)**

5 74. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
6 and every allegation set forth above.

7 75. At all relevant times herein set forth, California Labor Code section 512(a)
8 provides that an employer may not require, cause, or permit an employee to work for a period
9 of more than five (5) hours per day without providing the employee with a meal period of not
10 less than thirty (30) minutes, except that if the total work period per day of the employee is
11 not more than six (6) hours, the meal period may be waived by mutual consent of both the
12 employer and the employee. Under California law, first meal periods must start after no more
13 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

14 76. At all relevant times herein set forth, California Labor Code sections 226.7,
15 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
16 meal period mandated by an applicable order of the IWC.

17 77. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a) and
18 the applicable IWC Wage Order also require employers to provide a second meal period of
19 not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an
20 employee one (1) additional hour of pay at the employee's regular rate, except that if the total
21 hours worked is no more than twelve (12) hours, the second meal period may be waived by
22 mutual consent of the employer and the employee only if the first meal period was not waived.
23 The applicable IWC Wage Order further provides that employees in the health care industry
24 who work shifts in excess of eight (8) hours in a workday may waive one of their two meal
25 periods, if the waiver is signed by both the employee and employer. Cal. Code. Regs. tit. 8,
26 § 11050(11)(D).

27 78. During the relevant time period, Defendants systematically, and on a company-
28 wide basis, understaffed their locations such that there were too few employees on duty to

1 handle the heavy workloads and provide meal period coverage. Moreover, Defendants had a
2 practice of failing to adhere to a schedule of meal periods, which further caused Plaintiff and
3 class members to not be relieved of their duties for compliant meal periods. As a result,
4 Plaintiff class members would be forced to work in excess of five (5) hours before taking a
5 meal period and, at times, had their meal periods cut short and/or had to forgo their meal
6 periods altogether. For example, Plaintiff was often required to take her meal periods after
7 working 6-7 hours into her shift due to understaffing and the heavy workload.

8 79. Moreover, on information and belief, because Defendants frowned upon
9 employees accruing meal period penalties, Defendants' management pressured Plaintiff and
10 class members to clock out for meal periods and/or would adjust their time records to reflect
11 compliant meal periods, regardless of whether they had received a compliant meal period or
12 not, in order to strictly limit meal penalties that would need to be paid by Defendants.

13 80. Plaintiff and class members did not sign valid meal period waivers on days that
14 they were entitled to meal periods and were not relieved of all duties. For example, the
15 applicable IWC Wage Order provides that meal period waivers for healthcare industry
16 employees must be signed by both the employee and employer in order to be valid, and
17 Defendants' blanket meal period waivers were only signed by employees. Specifically, the
18 "Meal Period Waiver for Healthcare Employees Working Shift in Excess of Eight Hours"
19 form presented to Plaintiff was only signed by her and contained no signature block for the
20 employer to sign.

21 81. At all times herein mentioned, Defendants knew or should have known that, as
22 a result of these policies, Plaintiff and class members were prevented from being relieved of
23 all duties and required to perform some of their assigned duties during meal periods.
24 Defendants further knew or should have known that Defendants did not pay Plaintiff and class
25 members all meal period premiums when meal periods were late, missed, shortened, or
26 interrupted.

27 82. As set forth above, Defendants have a company-wide policy and/or practice of
28 rounding employee clock-in and clock-out times in their timekeeping system, which prevented

1 Plaintiff and class members from receiving all meal period premiums when they took late
2 and/or shortened meal periods. As stated, Defendants' rounding policy rounded employees'
3 clock-in and clock-out times in their timekeeping system to the nearest quarter (0.25) of an
4 hour. To the extent that Defendants' timekeeping system reported that Plaintiff and class
5 members were provided with timely, full 30-minute meal periods when, in fact, the meal
6 periods were taken after the fifth hour of work or were less than 30 minutes, Plaintiff and class
7 members were entitled to a meal period penalty. Thus, Plaintiff and class members did not
8 receive meal period penalties for these improperly rounded meal periods.

9 83. Furthermore, Defendants engaged in a company-wide practice and/or policy of
10 not paying all meal period premiums owed when compliant meal periods were not provided.
11 Because of this practice and/or policy, Plaintiff and class members have not received all
12 premium pay for missed, late, and interrupted meal periods. As a result, Defendants failed to
13 provide Plaintiff and class members compliant meal periods in violation of California Labor
14 Code sections 226.7, 512(a), and 516 and failed to pay the full meal period premiums due.

15 84. Defendants' conduct violates the applicable IWC Wage Order, and California
16 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore
17 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
18 rate of compensation for each work day that the meal period was not provided.

19 **FOURTH CAUSE OF ACTION**

20 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations** 21 **(Against all Defendants)**

22 85. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
23 and every allegation set forth above.

24 86. At all relevant times herein set forth, the applicable IWC Wage Order and
25 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and class
26 members' employment by Defendants.

27 87. At all relevant times, the applicable IWC Wage Order provides that "[e]very
28 employer shall authorize and permit all employees to take rest periods, which insofar as

1 practicable shall be in the middle of each work period” and that the “rest period time shall be
2 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
3 hours or major fraction thereof” unless the total daily work time is less than three and one-half
4 (3 ½) hours.

5 88. At all relevant times, California Labor Code section 226.7 provides that no
6 employer shall require an employee to work during any rest period mandated by an applicable
7 order of the California IWC. To comply with its obligation to authorize and permit rest
8 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
9 employer must “relinquish any control over how employees spend their break time, and
10 relieve their employees of all duties—including the obligation that an employee remain on
11 call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services,*
12 *Inc.*, 2 Cal. 5th 257, 269-270 (2016). Pursuant to the applicable IWC Wage Order and
13 California Labor Code section 226.7(c), Plaintiff and class members are entitled to recover
14 from Defendants one (1) additional hour of pay at their regular rates of pay for each work day
15 that a required rest period was not authorized and permitted.

16 89. During the relevant time period, Defendants regularly failed to authorize and
17 permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour
18 period worked or major fraction thereof. As with meal periods, Defendants’ policies and/or
19 practice of understaffing and assigning heavy workloads prevented Plaintiff and class
20 members from being relieved of all duty in order to take compliant rest periods. Defendants
21 also failed to schedule rest periods, which, coupled with Defendants’ failure to provide
22 adequate rest period coverage, further led to Plaintiff and class members not being authorized
23 and permitted to take rest periods.

24 90. Furthermore, upon information and belief, during the relevant time period,
25 Defendants maintained and implemented a company-wide on-premises rest period policy,
26 which mandated that Plaintiff and class members remain on the work premises during their
27 rest periods. Upon information and belief, Defendants’ company-wide on-premises rest
28 period policy prevented Plaintiff and class members from being relieved of all duties for rest

1 periods and caused them to perform work during rest periods.

2 91. As a result of Defendants' practices and policies, Plaintiff and class members
3 worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
4 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
5 throughout her employment, Plaintiff would miss her rest periods due to Defendants' policy of
6 assigning heavy workloads and failing to provide sufficient coverage.

7 92. Defendants have also engaged in a systematic, company-wide practice and/or
8 policy of not paying rest period premiums owed when rest periods are not authorized and
9 permitted. Because of this practice and/or policy, Plaintiff and class members have not
10 received premium pay for all missed rest periods.

11 93. Defendants' conduct violates the applicable IWC Wage Order and California
12 Labor Code sections 226.7, 516, and 1198. Plaintiff and class members are therefore entitled
13 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of
14 compensation for each work day that a compliant rest period was not authorized and
15 permitted.

16 **FIFTH CAUSE OF ACTION**

17 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage**
18 **Statements and Failure to Maintain Accurate Payroll Records**
19 **(Against all Defendants)**

20 94. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
21 and every allegation set forth above.

22 95. At all relevant times herein set forth, California Labor Code section 226(a)
23 provides that every employer shall furnish each of his or her employees an accurate and
24 complete itemized wage statement in writing, including, but not limited to, the name and
25 address of the legal entity that is the employer, the inclusive dates of the pay period, total
26 hours worked, and all applicable rates of pay.

27 96. At all relevant times, Defendants have knowingly and intentionally provided
28 Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements.

1 For example, Defendants issued uniform wage statements to Plaintiff and Subclass members
2 that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all
3 applicable hourly rates in effect during the pay period, including rates of pay for overtime
4 wages, and the corresponding number of hours worked at each hourly rate. Specifically,
5 Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

6 97. Because Defendants did not accurately record the time Plaintiff and Subclass
7 members spent working off-the-clock and improperly rounded Plaintiff's and Subclass
8 members' total hours worked, Defendants did not list the correct amount of gross wages and
9 net wages earned by Plaintiff and Subclass members in compliance with section 226(a)(1) and
10 226(a)(5). For the same reason, Defendants failed to accurately list the total number of hours
11 worked by Plaintiff and Subclass members in violation of section 226(a)(2), and failed to list
12 the applicable hourly rates of pay in effect during the pay period and corresponding accurate
13 number of work hours worked at each hourly rate in violation of section 226(a)(9).

14 98. The wage statement deficiencies also include, without limitation, failing to list
15 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
16 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
17 for which employees were paid; failing to list the name of the employee and only the last four
18 digits of his or her social security number or an employee identification number other than a
19 social security number; failing to list the name and address of the legal entity that is the
20 employer; and/or failing to state all hours worked as a result of not recording or stating hours
21 worked off-the-clock.

22 99. California Labor Code section 1174(d) provides that “[e]very person employing
23 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
24 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
25 plants or establishments at which employees are employed, payroll records showing the hours
26 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
27 applicable piece rate paid to, employees employed at the respective plants or
28 establishments. . . .” At all relevant times, and in violation of Labor Code section 1174(d),

Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass members showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding Plaintiff's and Subclass members' total hours worked.

100. California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period. During the relevant time period, Defendants failed, on a company-wide basis, to keep accurate records of work period start and stop times for Plaintiff and Subclass members, in violation of section 1198.

101. Plaintiff and Subclass members are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

SIXTH CAUSE OF ACTION

Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon Termination (Against all Defendants)

102. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

103. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay that were not timely paid to Plaintiff and those class members no longer employed by Defendants upon their termination.

104. At all times relevant herein set forth, Labor Code sections 201 and 202 provide

1 that if an employer discharges an employee, the wages earned and unpaid at the time of
2 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
3 her employment, his or her wages shall become due and payable not later than seventy-two
4 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
5 his or her intention to quit, in which case the employee is entitled to his or her wages at the
6 time of quitting.

7 105. Defendants willfully failed to pay Plaintiff and class members who are no
8 longer employed by Defendants the earned and unpaid wages set forth above, including but
9 not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or
10 reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their
11 leaving Defendants' employ.

12 106. Defendants' failure to pay Plaintiff and class members who are no longer
13 employed by Defendants their wages earned and unpaid at the time of discharge, or within
14 seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201
15 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the
16 statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a
17 thirty (30) day maximum pursuant to California Labor Code section 203.

18 SEVENTH CAUSE OF ACTION

19 Violation of California Labor Code § 204—Failure to Timely Pay Wages During

20 Employment

21 (Against all Defendants)

22 107. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
23 and every allegation set forth above.

24 108. This cause of action is dependent upon, and wholly derivative of, the overtime
25 wages, minimum wages, meal and rest period premiums, and/or reporting time pay that were
26 not timely paid to Plaintiff and those class members.

27 109. At all times relevant herein set forth, Labor Code section 204 provides that all
28 wages earned by any person in any employment between the first (1st) and the fifteenth (15th)

1 days, inclusive, of any calendar month, other than those wages due upon termination of an
2 employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of
3 the month during which the labor was performed. Labor Code section 204 further provides
4 that all wages earned by any person in any employment between the sixteenth (16th) and the
5 last day, inclusive, of any calendar month, other than those wages due upon termination of an
6 employee, are due and payable between the first (1st) and the tenth (10th) day of the following
7 month.

8 110. At all times relevant herein, Labor Code section 204 provides that all wages
9 earned for labor in excess of the normal work period shall be paid no later than the payday for
10 the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section
11 204 provides that the requirements of this section are deemed satisfied by the payment of
12 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than
13 seven (7) calendar days following the close of the payroll period.

14 111. During the relevant time period, Defendants willfully failed to pay Plaintiff and
15 class members all wages due including, but not limited to, overtime wages, minimum wages,
16 meal and rest period premiums, and/or reporting time pay within the time periods specified by
17 California Labor Code section 204.

18 112. Defendants' failure to pay Plaintiff and class members all wages due violates
19 Labor Code section 204. Plaintiff and class members are therefore entitled to recover from
20 Defendants the statutory penalty wages pursuant to California Labor Code section 210.

21 **EIGHTH CAUSE OF ACTION**

22 **Violation of Labor Code § 1198 and California Code of Regulations Title 8, Section** 23 **11050 Subdivision 5(A)—Failure to Provide Reporting Time Pay** 24 **(Against all Defendants)**

25 113. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
26 and every allegation set forth above.

27 114. California Labor Code section 1198 dictates that no employer may employ an
28 employee under conditions of labor that are prohibited by the applicable IWC wage order.

1 California Labor Code section 1198 further requires that “. . . the standard conditions of labor
2 fixed by the commission shall be the . . . standard conditions of labor for employees. The
3 employment of any employee . . . under conditions of labor prohibited by the order is
4 unlawful.”

5 115. The applicable IWC wage order, California Code of Regulations, Title 8,
6 section 11050(5)(A), provides that “[e]ach workday an employee is required to report for
7 work and does report, but is not put to work or is furnished less than half said employee’s
8 usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled
9 day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the
10 employee’s regular rate of pay, which shall not be less than the minimum wage.”

11 116. During the relevant time period, Defendants violated California Labor Code
12 section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because
13 Defendants failed to pay Plaintiff and class members reporting time pay when they reported to
14 work for their scheduled shift but were put to work for less than half of the regularly
15 scheduled day’s work.

16 117. Defendants had a company-wide practice of sending Plaintiff and class
17 members home early from their shifts, including before they had worked at least half of their
18 regular shift, but would not pay Plaintiff and class members for half of their scheduled shift.
19 For example, Defendants’ managers would sometimes send Plaintiff home 2-3 hours after the
20 start of her shift because business was slow. When this occurred, Defendants did not pay
21 Plaintiff and class members for at least half of their scheduled day’s work or the minimum
22 reporting time pay.

23 118. Accordingly, Plaintiff and class members were not properly compensated with
24 reporting time pay in violation of California Labor Code section 1198 and California Code of
25 Regulations Title 8, section 11050(5)(A).

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1 **NINTH CAUSE OF ACTION**

2 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses**
3 **(Against all Defendants)**

4 119. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
5 and every allegation set forth above.

6 120. At all times herein set forth, California Labor Code section 2802 provides that
7 an employer must reimburse employees for all necessary expenditures and losses incurred by
8 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
9 to prevent employers from passing off their cost of doing business and operating expenses on
10 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
11 (2014). The applicable wage order, IWC Wage Order 5-2001, provides that: “[w]hen tools or
12 equipment are required by the employer or are necessary to the performance of a job, such
13 tools and equipment shall be provided and maintained by the employer, except that an
14 employee whose wages are at least two (2) times the minimum wage provided herein may be
15 required to provide and maintain hand tools and equipment customarily required by the trade
16 or craft.”

17 121. During the relevant time period, Defendants had a company-wide policy of
18 requiring Plaintiff and class members to travel in their own personal vehicles to obtain
19 mandatory drug testing, tuberculin (TB) testing, and/or physical examinations, but did not
20 reimburse them for their travel expenses, including mileage. Defendants maintained and
21 implemented a company-wide policy of requiring employees to travel to a medical facility on
22 their own time and using their own personal vehicles to undergo mandatory drug testing, TB
23 testing, and/or physical examinations. At all times, Defendants were in control of scheduling
24 the date and time for the testing and/or physical examinations, selecting the provider or
25 facility where the testing and/or physical examinations were to take place, and determining the
26 scope of the testing and/or physical examinations. Defendants gave Plaintiff and class
27 members strict instructions to obtain drug testing, TB testing, and physical examinations, and
28 Plaintiff and class members underwent the testing and physical examinations for the sole

1 benefit of Defendants.

2 122. For example, as described above, Plaintiff followed Defendants' instructions,
3 traveled approximately 16-20 miles total in two (2) roundtrips in her personal vehicle to
4 Defendants' designated medical facility in El Centro, California, and underwent Defendants'
5 drug testing, TB testing, and physical examination but was not reimbursed for her mileage to
6 and from the medical facility. Although Defendants required Plaintiff and class members to
7 undergo drug testing, TB testing, and/or physical examinations, Defendants failed to
8 reimburse them for their travel expenses.

9 123. Additionally, during the relevant time period, Defendants, on a company-wide
10 basis, forced Plaintiff and class members to purchase supplies, including tools and equipment,
11 that were necessary for the completion of their work related-duties. For example, Plaintiff
12 was required to spend approximately \$10 on notepads and pens in order to carry out her work-
13 related duties. Defendants failed to provide these basic supplies to Plaintiff and class
14 members, forcing them to incur expenses out-of-pocket to obtain the necessary tools and
15 equipment. Thus, Defendants failed to reimburse Plaintiff and class members for the costs of
16 these supplies.

17 124. Defendants could have provided Plaintiff and class members with the actual
18 tools for use on the job, such as company vehicles or necessary supplies; or Defendants could
19 have fully reimbursed employees for the costs of their mileage, travel expenses, and supply
20 expenses. Instead, Defendants passed these operating costs off onto Plaintiff and class
21 members. At all relevant times, Plaintiff did not earn at least two (2) times the minimum
22 wage.

23 125. Defendants' company-wide policy and/or practice of passing on their operating
24 costs to Plaintiff and class members violates California Labor Code section 2802. Defendants
25 have intentionally and willfully failed to reimburse Plaintiff and other class members for
26 necessary business-related expenses and costs.

27 126. Plaintiff and class members are entitled to recover from Defendants their
28 business-related expenses incurred during the course and scope of their employment, plus

1 interest.

2 **TENTH CAUSE OF ACTION**

3 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

4 **(Against all Defendants)**

5 127. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
6 and every allegation set forth above.

7 128. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover
8 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section
9 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 222.5, 226(a), 226.7,
10 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, and 2802. Labor Code section 2699.3(c)
11 permits aggrieved employees, including Plaintiff, to recover civil penalties for violations of
12 those Labor Code sections not found in section 2699.5, including sections 516 and 1182.12.

13 129. Defendants’ conduct, as alleged herein, violates numerous sections of the
14 California Labor Code, including, but not limited to, the following:

- 15 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
16 Wage Order for Defendants’ failure to compensate Plaintiff and other
17 aggrieved employees with all required overtime pay, as alleged herein;
- 18 (b) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and
19 1198, and the applicable IWC Wage Order for Defendants’ failure to
20 compensate Plaintiff and other aggrieved employees with at least
21 minimum wages for all hours worked, as alleged herein;
- 22 (c) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
23 applicable IWC Wage Order for Defendants’ failure to provide Plaintiff
24 and other aggrieved employees with meal periods, as alleged herein;
- 25 (d) Violation of Labor Code sections 226.7, 516, and 1198, and the
26 applicable IWC Wage Order for Defendants’ failure to authorize and
27 permit Plaintiff and other aggrieved employees to take rest periods, as
28 alleged herein;

- 1 (e) Violation of Labor Code sections 226(a) and 1198, and the applicable
2 IWC Wage Order for failure to provide accurate and complete wage
3 statements to Plaintiff and other aggrieved employees, as alleged herein;
- 4 (f) Violation of Labor Code sections 1174(d) and 1198, and the applicable
5 IWC Wage Order for failure to maintain payroll records, as alleged
6 herein;
- 7 (g) Violation of Labor Code sections 201 and 202 for failure to pay all
8 earned wages upon termination, as alleged herein;
- 9 (h) Violation of Labor Code section 204 for failure to pay all earned wages
10 during employment, as alleged herein;
- 11 (i) Violation of Labor Code section 222.5 for failing to compensate other
12 aggrieved employees for mandatory physical examinations and/or drug
13 testing, as set forth below;
- 14 (j) Violation of Labor Code section 1198 and the applicable IWC wage
15 order for failure to pay reporting time pay when Plaintiff and other
16 aggrieved employees were put to work for less than half of their regular
17 scheduled shifts, as alleged herein; and
- 18 (k) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
19 and other aggrieved employees for all business expenses necessarily
20 incurred, as alleged herein.

21 130. At all relevant times herein, California Labor Code section 222.5 requires
22 employers to pay for the costs an employee incurs for obtaining any required medical or
23 physical examination.

24 131. During the relevant time period, Defendants implemented, on a company-wide
25 basis, an employer-imposed requirement that other aggrieved employees undergo mandatory
26 drug testing, tuberculin (TB) testing, and/or physical examinations, but required them to do so at
27 their own expense. As stated, Defendants had a company-wide policy requiring that other
28 aggrieved employees travel to a specified medical facility on their own time and use their own

1 means of transportation to undergo drug testing, TB testing, and/or physical examinations. At
2 all times, Defendants were in control of scheduling the date and time for the testing and/or
3 examinations, selecting the provider/facility where the testing and/or examinations were to take
4 place, and determining the scope of the testing and/or examinations.

5 132. However, Defendants did not compensate other aggrieved employees for the time
6 they spent traveling to and from the medical facilities, for the time they spent undergoing the
7 drug testing, TB testing, and/or physical examinations; and/or obtaining their TB test results; or
8 reimburse them for the travel expenses they incurred getting to and from the medical facilities.
9 Defendants' policy and/or practice of not paying for all costs other aggrieved employees
10 incurred obtaining mandatory drug testing, TB testing, and/or physical examinations is in
11 violation of California Labor Code section 222.5.

12 133. Other aggrieved employees are therefore entitled to recover civil penalties
13 pursuant to Labor Code sections 2699(a), (f), and (g).

14 **ELEVENTH CAUSE OF ACTION**

15 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

16 **Unlawful Business Practices**

17 **(Against all Defendants)**

18 134. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
19 and every allegation set forth above.

20 135. Defendants are "persons" as defined by California Business & Professions
21 Code sections 17201, as they are corporations, firms, partnerships, joint stock companies,
22 and/or associations.

23 136. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
24 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
25 suffered injury in fact and has lost money as a result of Defendants' unlawful business
26 practices. Plaintiff seeks to enforce important rights affecting the public interest within the
27 meaning of Code of Civil Procedure section 1021.5.

28 137. Defendants' activities, as alleged herein, are violations of California law, and

1 constitute unlawful business acts and practices in violation of California Business &
2 Professions Code sections 17200, *et seq.*

3 138. A violation of California Business & Professions Code sections 17200, *et seq.*
4 may be predicated on the violation of any state or federal law. In the instant case, Defendants'
5 policies and practices have violated state law in at least the following respects:

- 6 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and
7 class members, to work overtime without paying them proper
8 compensation in violation of California Labor Code sections 510 and
9 1198 and the applicable IWC Wage Order, as alleged herein;
- 10 (b) Failing to pay at least minimum wage to Plaintiff and class members in
11 violation of California Labor Code sections 1182.12, 1194, 1197,
12 1197.1, and 1198 and the applicable IWC Wage Order, as alleged
13 herein;
- 14 (c) Failing to provide uninterrupted meal periods to Plaintiff and class
15 members in violation of California Labor Code sections 226.7, 512(a),
16 516, and 1198, and the applicable IWC Wage Order, as alleged herein;
- 17 (d) Failing to authorize and permit Plaintiff and class members to take
18 uninterrupted rest periods in violation of California Labor Code sections
19 226.7, 516, 1198, and the applicable IWC Wage Order, as alleged
20 herein;
- 21 (e) Failing to provide Plaintiff and class members with accurate wage
22 statements and failing to maintain accurate payroll records in violation
23 of California Labor Code sections 226(a), 1174(d), 1198, and the
24 applicable IWC Wage Order, as alleged herein;
- 25 (f) Failing timely to pay all earned wages to Plaintiff and class members in
26 violation of California Labor Code section 204 and the applicable IWC
27 Wage Order, as alleged herein;
- 28 (g) Failing to pay the costs of mandatory physical examinations and/or drug

1 testing in violation of California Labor Code section 222.5, as set forth
2 below;

3 (h) Failing to pay reporting time pay in violation of California Labor Code
4 section 1198 and the applicable IWC Wage Order, as alleged herein;
5 and

6 (i) Failing to reimburse Plaintiff and class members for all business
7 expenses necessarily incurred in violation of California Labor Code
8 section 2802, as alleged herein.

9 139. At all relevant times herein, California Labor Code section 222.5 requires
10 employers to pay for the costs an employee incurs for obtaining any medical or physical
11 examination taken pursuant to any law or regulation.

12 140. At all times relevant herein, Defendants implemented, on a company-wide
13 basis, an employer-imposed requirement that Plaintiff and class members undergo mandatory
14 drug testing, tuberculin (TB) testing, and/or physical examinations, but required them to do so
15 at their own expense. As stated, Defendants had a company-wide policy requiring that all
16 employees, including Plaintiff and class members, travel to a specified medical facility using
17 their own personal vehicles or obtain alternate transportation to undergo drug testing, TB
18 testing, and/or physical examinations. At all times, Defendants were in control of scheduling
19 the date and time for the examination and/or testing, selecting the provider/facility where the
20 examination and/or testing was to take place, and determining the scope of the examination
21 and/or testing.

22 141. During the relevant time period, as stated, Plaintiff was instructed by
23 Defendants to travel to Defendants' facility in El Centro, California, and obtain drug testing,
24 TB testing, and a physical examination, and Plaintiff underwent the testing and examination
25 for the sole benefit of Defendants. Plaintiff followed Defendants' instructions, traveled 8-10
26 miles roundtrip (for approximately 20-30 minutes total) to and from Defendants' medical
27 facility in El Centro, California, and spent an additional 2-3 hours waiting at the medical
28 facility and undergoing the requisite drug testing. Plaintiff was then required to return to the

1 medical facility the next day, driving another 10-15 minutes each way, and spent an additional
2 60-80 minutes undergoing the TB testing and physical examination.

3 142. However, Defendants did not compensate Plaintiff and class members for the
4 time they spent traveling to and from their testing and/or physical examinations, or for the
5 time they spent undergoing the testing and/or physical examinations, or reimburse them for
6 the travel expenses they incurred getting to and from the medical facility. Defendants' policy
7 and/or practice of not paying for all costs Plaintiff and class members incurred obtaining
8 mandatory drug tests and/or physical examinations violates California Labor Code section
9 222.5.

10 143. As a result of the violations of California law herein described, Defendants
11 unlawfully gained an unfair advantage over other businesses. Plaintiff and class members
12 have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged
13 herein.

14 144. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
15 Plaintiff and class members are entitled to restitution of the wages withheld and retained by
16 Defendants during a period that commences four years prior to the filing of this complaint; a
17 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
18 class members; and an award of attorneys' fees pursuant to California Code of Civil
19 Procedure section 1021.5 and other applicable laws; and an award of costs.

20 **TWELFTH CAUSE OF ACTION**

21 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

22 **Unfair Business Practices**

23 **(Against all Defendants)**

24 145. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
25 and every allegation set forth above.

26 146. Defendants are "persons" as defined by California Business & Professions
27 Code sections 17201, as they are corporations, firms, partnerships, joint stock companies,
28 and/or associations.

1 147. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
2 and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered
3 injury in fact and has lost money as a result of Defendants’ unfair business practices. Plaintiff
4 seeks to enforce important rights affecting the public interest within the meaning of Code of
5 Civil Procedure section 1021.5.

6 148. Defendants’ activities, namely Defendants’ company-wide practice and/or
7 policy of not paying Plaintiff and class members all meal and rest period premiums due to
8 them under Labor Code section 226.7, deprived Plaintiff and class members of the
9 compensation guarantee and enhanced enforcement implemented by section 226.7. The
10 statutory remedy provided by section 226.7 is a “‘dual-purpose’ remedy intended primarily to
11 compensate employees, and secondarily to shape employer conduct.” *Safeway, Inc. v.*
12 *Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7
13 were guaranteed to Plaintiff and class members as part of their employment with Defendants,
14 and thus Defendants’ practice and/or policy of denying these statutory benefits constitutes an
15 unfair business practice in violation of California Business & Professions Code sections
16 17200, *et seq.* (*Id.*)

17 149. A violation of California Business & Professions Code sections 17200, *et seq.*
18 may be predicated on any unfair business practice. In the instant case, Defendants’ policies
19 and practices have violated the spirit of California’s meal and rest period laws and constitute
20 acts against the public policy behind these laws.

21 150. Pursuant to California Business & Professions Code sections 17200, *et seq.*,
22 Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory
23 benefits implemented by section 226.7 withheld and retained by Defendants during a period
24 that commences four years prior to the filing of this complaint; a permanent injunction
25 requiring Defendants to pay all statutory benefits implemented by section 226.7 due to
26 Plaintiff and class members; an award of attorneys’ fees pursuant to California Code of Civil
27 Procedure section 1021.5 and other applicable laws; and an award of costs.

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REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

PRAYER FOR RELIEF

Plaintiff, on behalf of all others similarly situated, prays for relief and judgment against Defendants, jointly and severally, as follows:

1. For damages, unpaid wages, penalties, injunctive relief, and attorneys’ fees in excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff reserves the right to amend her prayer for relief to seek a different amount.

Class Certification

- 2. That this case be certified as a class action;
- 3. That Plaintiff be appointed as the representative of the Class and Subclass;
- 4. That counsel for Plaintiff be appointed as class counsel.

As to the First Cause of Action

5. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 510 and 1198 and applicable IWC Wage Order by willfully failing to pay all overtime wages due to Plaintiff and class members;

6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due, or as otherwise provided by law;

8. For reasonable attorneys’ fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a); and

9. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and applicable IWC Wage Order by willfully failing to pay minimum wages to Plaintiff and class members;

11. For general unpaid wages and such general and special damages as may be appropriate;

12. For pre-judgment interest on any unpaid compensation from the date such amounts were due, or as otherwise provided by law;

13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a);

14. For liquidated damages pursuant to California Labor Code section 1194.2; and

15. For such other and further relief as the Court may deem equitable and appropriate.

As to the Third Cause of Action

16. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order by willfully failing to provide all meal periods to Plaintiff and class members;

17. That the Court make an award to the Plaintiff and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a meal period was not provided;

18. For all actual, consequential, and incidental losses and damages, according to proof;

19. For premiums pursuant to California Labor Code section 226.7(c);

20. For pre-judgment interest on any unpaid meal period premiums from the date such amounts were due, or as otherwise provided by law;

21. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

22. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order by willfully

1 failing to authorize and permit Plaintiff and class members to take all rest periods;

2 24. That the Court make an award to the Plaintiff and class members of one (1) hour
3 of pay at each employee's regular rate of pay for each workday that a rest period was not
4 authorized and permitted;

5 25. For all actual, consequential, and incidental losses and damages, according to
6 proof;

7 26. For premiums pursuant to California Labor Code section 226.7(c);

8 27. For pre-judgment interest on any unpaid rest period premiums from the date
9 such amounts were due, or as otherwise provided by law;

10 28. For attorneys' fees pursuant to California Code of Civil Procedure section
11 1021.5, or as otherwise provided by law; and

12 29. For such other and further relief as the Court may deem equitable and
13 appropriate.

14 **As to the Fifth Cause of Action**

15 30. That the Court declare, adjudge and decree that Defendants violated the
16 recordkeeping provisions of California Labor Code section 226(a) and applicable IWC Wage
17 Order as to Plaintiff and Subclass members, and willfully failed to provide accurate itemized
18 wage statements thereto;

19 31. For all actual, consequential, and incidental losses and damages, according to
20 proof;

21 32. For injunctive relief pursuant to California Labor Code section 226(h);

22 33. For statutory penalties pursuant to California Labor Code section 226(e);

23 34. For attorneys' fees and costs pursuant to California Labor Code section
24 226(e)(1); and

25 35. For such other and further relief as the Court may deem equitable and
26 appropriate.

27 **As to the Sixth Cause of Action**

28 36. That the Court declare, adjudge and decree that Defendants violated California

1 Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages,
2 meal and rest period premiums, and/or reporting time pay owed at the time of termination of
3 the employment of Plaintiff and other terminated class members;

4 37. For all actual, consequential and incidental losses and damages, according to
5 proof;

6 38. For waiting time penalties according to proof pursuant to California Labor
7 Code section 203 for all employees who have left Defendants' employ;

8 39. For pre-judgment interest on any unpaid wages from the date such amounts
9 were due, or as otherwise provided by law;

10 40. For attorneys' fees pursuant to California Code of Civil Procedure section
11 1021.5, or as otherwise provided by law; and

12 41. For such other and further relief as the Court may deem equitable and
13 appropriate.

14 **As to the Seventh Cause of Action**

15 42. That the Court declare, adjudge and decree that Defendants violated California
16 Labor Code section 204 by willfully failing to timely pay Plaintiff and class members
17 overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay
18 during their employment;

19 43. For all actual, consequential and incidental losses and damages, according to
20 proof;

21 44. For statutory penalties according to proof pursuant to California Labor Code
22 section 210;

23 45. For pre-judgment interest on any unpaid wages from the date such amounts
24 were due, or as otherwise provided by law;

25 46. For attorneys' fees pursuant to California Code of Civil Procedure section
26 1021.5, or as otherwise provided by law; and

27 47. For such other and further relief as the Court may deem equitable and
28 appropriate.

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As to the Eighth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A) by failing to provide Plaintiff and class members with reporting time pay;
49. For all actual, consequential and incidental losses and damages, according to proof;
50. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law; and
51. For such other and further relief as the Court may deem equitable and appropriate.

As to the Ninth Cause of Action

52. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-related expenses and costs incurred by Plaintiff and class members;
53. For unpaid business-related expenses and such general and special damages as may be appropriate;
54. For pre-judgment interest on any unpaid business-related expenses from the date such amounts were due, or as otherwise provided by law;
55. For all actual, consequential, and incidental losses and damages, according to proof;
56. For attorneys’ fees and costs pursuant to California Labor Code section 2802(c), or as otherwise provided by law; and
57. For such other and further relief as the Court may deem equitable and appropriate.

As to the Tenth Cause of Action

58. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and/or other aggrieved employees: 510 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1, and

1 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and
2 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
3 permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
4 statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay all
5 earned wages upon termination); 204 (by failing to timely pay all earned wages during
6 employment); 222.5 (by failing to pay the costs of mandatory physical examinations and/or
7 drug testing); 1198 and the applicable IWC Wage Order (by failing to provide reporting time
8 pay); and 2802 (by failing to reimburse business expenses);

9 59. For civil penalties pursuant to California Labor Code sections 210, 226.3, 256,
10 558, 1174.5, 1197.1, and/or 2699(a), (f) and (g), for violations of California Labor Code
11 sections 201, 202, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197,
12 1197.1, 1198, and 2802;

13 60. For attorneys' fees and costs pursuant to California Labor Code section
14 2699(g)(1), and any and all other relevant statutes, for Defendant's violations of California
15 Labor Code sections 201, 202, 204, 221, 222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d),
16 1182.12, 1194, 1197, 1197.1, 1198, and 2802;

17 61. For pre-judgment and post-judgment interest as provided by law; and

18 62. For such other and further relief as the Court may deem equitable and
19 appropriate.

20 **As to the Eleventh Cause of Action**

21 63. That the Court declare, adjudge and decree that Defendants' conduct of failing
22 to provide Plaintiff and class members all overtime wages due to them, failing to provide
23 Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and
24 class members all meal periods, failing to authorize and permit Plaintiff and class members to
25 take all rest periods, failing to provide Plaintiff and class members accurate and complete
26 wage statements, failing to maintain accurate payroll records for Plaintiff and class members,
27 failing to timely pay Plaintiff and class members all earned wages during employment, failing
28 to pay the costs of mandatory physical examinations and/or drug testing, failing to pay

1 Plaintiff and class members reporting time pay, and failing to reimburse Plaintiff and class
2 members for business-related expenses, constitutes an unlawful business practice in violation
3 of California Business and Professions Code sections 17200, *et seq.*;

4 64. For restitution of unpaid wages to Plaintiff and all class members and
5 prejudgment interest from the day such amounts were due and payable;

6 65. For the appointment of a receiver to receive, manage and distribute any and all
7 funds disgorged from Defendants and determined to have been wrongfully acquired by
8 Defendants as a result of violations of California Business & Professions Code sections
9 17200, *et seq.*;

10 66. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
11 California Code of Civil Procedure section 1021.5; and

12 67. For such other and further relief as the Court may deem equitable and
13 appropriate.

14 **As to the Twelfth Cause of Action**

15 68. That the Court declare, adjudge and decree that Defendants' conduct of denying
16 Plaintiff and class members the statutory benefits guaranteed under section 226.7 constitutes
17 an unfair business practice in violation of California Business and Professions Code sections
18 17200, *et seq.*;

19 69. For restitution of the statutory benefits under section 226.7 unfairly withheld
20 from Plaintiff and class members and prejudgment interest from the day such amounts were
21 due and payable;

22 70. For the appointment of a receiver to receive, manage and distribute any and all
23 funds disgorged from Defendants and determined to have been wrongfully acquired by
24 Defendants as a result of violations of California Business & Professions Code sections
25 17200, *et seq.*;

26 71. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
27 California Code of Civil Procedure section 1021.5;

28 72. For pre-judgment and post-judgment interest as provided by law; and

1 73. For such other and further relief as the Court may deem equitable and
2 appropriate.

3
4 Dated: January 7, 2022

Respectfully submitted,

Capstone Law APC

6
7 By:

A handwritten signature in blue ink, appearing to be 'Mark A. Ozzello', written over a horizontal line.

8 Mark A. Ozzello
9 Brandon K. Brouillette
John E. Stobart
Joseph Hakakian

10 Attorneys for Falestine Abdelmuti
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EXHIBIT 1

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

November 2, 2021

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Falestine Abdelmuti v. El Centro Regional Medical Center, et al.*

Dear PAGA Administrator:

This office represents Falestine Abdelmuti in connection with her claims under the California Labor Code. Ms. Abdelmuti was an employee of EL CENTRO REGIONAL MEDICAL CENTER dba ECRMC and/or EL CENTRO REGIONAL MEDICAL FOUNDATION. For the purpose of this letter, Ms. Abdelmuti collectively refers to these entities as “ECRMC.”

The employers may be contacted directly at the addresses below:

EL CENTRO REGIONAL MEDICAL
CENTER dba ECRMC
1415 ROSS AVENUE
EL CENTRO CA 92243

EL CENTRO REGIONAL MEDICAL
FOUNDATION
1415 ROSS AVENUE
EL CENTRO CA 92243

EL CENTRO REGIONAL MEDICAL
CENTER dba ECRMC
PO BOX 4245
EL CENTRO CA 92244

EL CENTRO REGIONAL MEDICAL
FOUNDATION
PO BOX 4245
EL CENTRO CA 92244

Ms. Abdelmuti intends to seek civil penalties, attorney’s fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”). Ms. Abdelmuti seeks relief on behalf of herself, the State of California, and other persons who are or were employed by ECRMC as a non-exempt, hourly paid employee in California and who received at least one wage statement (“aggrieved employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

ECRMC employed Ms. Abdelmuti as an hourly paid, non-exempt Phlebotomist I from approximately June 2020 to April 2021, at ECRMC’s location in El Centro, California. During her employment, Ms. Abdelmuti typically worked eight (8) hours or more per day, and three (3) to five

(5) days per week. At the end of her employment, Ms. Abdelmuti was compensated approximately \$15.75 per hour. Her job duties included, without limitation, obtaining blood specimens from patients, preparing blood samples for analysis, operating and maintaining analytic equipment, and documenting patient charts.

ECRMC committed one or more of the following Labor Code violations against Ms. Abdelmuti, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

ECRMC’s Company-Wide and Uniform Payroll and HR Practices

EL CENTRO REGIONAL MEDICAL CENTER dba ECRMC is an unknown business entity, while EL CENTRO REGIONAL MEDICAL CENTER FOUNDATION is a California corporation. Together, ECRMC operates one hospital and a network of numerous medical clinics in the Imperial Valley area. Upon information and belief, ECRMC maintains a single, centralized Human Resources (HR) department at its corporate headquarters in El Centro, California, for all non-exempt, hourly paid employees working for ECRMC in California, including Ms. Abdelmuti and other aggrieved employees. At all relevant times, ECRMC issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Abdelmuti and other aggrieved employees, regardless of their location or position.

Upon information and belief, ECRMC maintains a centralized Payroll department at its corporate headquarters in El Centro, California, which processes payroll for all non-exempt, hourly paid employees working for ECRMC in California, including Ms. Abdelmuti and other aggrieved employees. Further, ECRMC issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Abdelmuti and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, ECRMC utilized the same methods and formulas when calculating wages due to Ms. Abdelmuti and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

¹ These facts, theories, and claims are based on Ms. Abdelmuti’s experience and counsel’s review of those records currently available relating to Ms. Abdelmuti’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Abdelmuti reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

ECRMC willfully failed to pay all overtime wages owed to Ms. Abdelmuti and other aggrieved employees. During the relevant time period, Ms. Abdelmuti and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant period, ECRMC had a company-wide policy and/or practice of improperly rounding employees' clock-in and clock-out times in its timekeeping system to the nearest quarter (0.25) of an hour. ECRMC's rounding policy resulted in the failure to compensate Ms. Abdelmuti and other aggrieved employees fully for all hours worked, causing Ms. Abdelmuti and other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. ECRMC's policy of rounding is unfair and has, over time, resulted in the underpayment of wages to Ms. Abdelmuti and other aggrieved employees. To the extent ECRMC's rounding policy has taken away time worked that was eligible for overtime, Ms. Abdelmuti and other aggrieved employees were denied overtime pay for all hours worked.

Second, ECRMC had, and continues to have, a company-wide policy of discouraging and impeding Ms. Abdelmuti and other aggrieved employees from recording hours worked that were outside of their scheduled shifts in order to limit the amount of overtime employees could accrue. On information and belief, this policy of limiting overtime, coupled with ECRMC's understaffing policy and assignment of heavy workloads, led Ms. Abdelmuti and other aggrieved employees to work off-the-clock before and after their scheduled shift times in order to complete their assigned tasks. For example, when Ms. Abdelmuti and other aggrieved employees arrived to work early, ECRMC's management expected them to immediately begin their daily tasks but did not permit them to clock in before their scheduled shift start-time. Specifically, Ms. Abdelmuti would report to work 5-10 minutes early and start loading her cart but was not permitted to clock in because she was discouraged from accruing overtime. Additionally, Ms. Abdelmuti and other aggrieved employees continued performing their work tasks after they clocked out in order to assist the following shift's employees with setting up for their shifts. For example, because Ms. Abdelmuti and other aggrieved employees were busy attending to patients due to understaffing, they did not have enough time to replenish their equipment during their scheduled shifts. Approximately once per week, Ms. Abdelmuti would spend up to 15 minutes after she clocked out for the day cleaning her work area and restocking equipment. Thus, ECRMC failed to track the time spent working before and after scheduled shifts, and Ms. Abdelmuti and other aggrieved employees received no compensation for this time.

Third, during the relevant period, ECRMC implemented, on a company-wide basis, an employer-imposed requirement that Ms. Abdelmuti and other aggrieved employees undergo mandatory COVID-19 temperature checks and/or health screenings before clocking in for their scheduled shifts. Prior to each shift, Ms. Abdelmuti was required to spend up to five (5) minutes waiting and/or undergoing the temperature checks and/or health screenings, before being permitted to clock in for her shift. Even though ECRMC required these temperature checks and/or health screenings, ECRMC did not provide Ms. Abdelmuti and other aggrieved employees a mechanism to record this time worked so they could be compensated for the time spent undergoing mandatory temperature checks and/or health screenings.

Fourth, ECRMC's company-wide policies of understaffing and assigning heavy workloads resulted in a failure to provide Ms. Abdelmuti and/or other aggrieved employees with adequate meal period coverage. ECRMC also failed to adhere to a schedule of meal periods, which further caused Ms.

Abdelmuti and/or other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, other aggrieved employees missed meal periods and/or had meal periods cut short or interrupted in order to handle their workloads. Moreover, on information and belief, because ECRMC frowned upon employees accruing meal period penalties, ECRMC's management pressured other aggrieved employees to clock out for meal periods while they continued to work and/or adjusted employee time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that ECRMC would otherwise owe. Consequently, other aggrieved employees performed work during meal periods for which they were not paid.

ECRMC knew or should have known that as a result of these company-wide practices and/or policies, Ms. Abdelmuti and other aggrieved employees were performing assigned duties off-the-clock before and after their shifts and/or during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Abdelmuti and other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Abdelmuti and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, ECRMC did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, ECRMC paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, ECRMC failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, ECRMC failed to pay all overtime wages by paying a lower overtime rate than required.

ECRMC's failure to pay Ms. Abdelmuti and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Abdelmuti and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards Act." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

As stated above, during the relevant time period, ECRMC had a company-wide policy and/or practice of rounding Ms. Abdelmuti's and other aggrieved employees' hourly clock-in and clock-out times in its timekeeping system to the nearest quarter hour, resulting in the failure to compensate them for all hours worked. As also stated, ECRMC had company-wide practices and/or policies of limiting overtime accrual, understaffing, and assigning heavy workloads, leading to the failure to

compensate Ms. Abdelmuti and other aggrieved employees for their time spent working off-the-clock, including performing work duties before and after scheduled shifts, and undergoing mandatory temperature checks and/or health screenings. Additionally, due to ECRMC's policies and/or practices of understaffing while assigning of heavy workloads and failing to adhere to a schedule of meal periods, other aggrieved employees were forced to forego meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during meal periods. Further, as stated, in order to prevent employees from accruing meal period penalties, upon information and belief, ECRMC systematically failed to pay other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Moreover, ECRMC maintained and implemented a company-wide policy of requiring all employees to travel to a medical facility on their own time and using their own personal vehicles to undergo mandatory drug testing, tuberculin (TB) testing, and/or physical examinations. At all times, ECRMC was in control of scheduling the date and time for the testing, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. ECRMC gave other aggrieved employees strict instructions to undergo drug testing, TB testing, and/or physical examinations, and other aggrieved employees underwent the testing and/or examinations for the sole benefit of ECRMC. However, ECRMC did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities; undergoing the mandatory drug testing, TB testing, and/or physical examinations; and/or obtaining their TB test results.

Thus, ECRMC did not pay at least minimum wages for all hours worked by Ms. Abdelmuti and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, ECRMC did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, ECRMC regularly failed to pay at least minimum wages to Ms. Abdelmuti and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1 and 1198. Ms. Abdelmuti and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than

twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived. The applicable IWC Wage Order further provides that employees in the health care industry who work shifts in excess of eight (8) hours in a workday may waive one of their two meal periods, if the waiver is signed by both the employee and employer. Cal. Code. Regs. tit. 8, § 11050(11)(D).

As stated above, ECRMC systematically, and on a company-wide basis, understaffed its locations such that there were too few employees on duty to handle the heavy workloads and provide meal period coverage. Moreover, ECRMC had a practice of failing to adhere to a schedule of meal periods, which further caused Ms. Abdelmuti and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, Ms. Abdelmuti and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods cut short and/or had to forgo their meal periods altogether. For example, Ms. Abdelmuti was often required to take her meal periods after working 6-7 hours into her shift due to understaffing and the heavy workload.

Moreover, upon information and belief, because ECRMC frowned upon employees accruing meal period penalties, ECRMC's management pressured Ms. Abdelmuti and other aggrieved employees to clock out for meal periods and/or would adjust Ms. Abdelmuti's and other aggrieved employees' time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period, in order to strictly limit meal penalties that would need to be paid by ECRMC.

Additionally, ECRMC did not provide other aggrieved employees with all second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Ms. Abdelmuti and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties. For example, the applicable IWC Wage Order provides that meal period waivers for healthcare industry employees must be signed by both the employee and employer in order to be valid, and ECRMC's blanket meal period waivers were only signed by employees. Specifically, the "Meal Period Waiver for Healthcare Employees Working Shift in Excess of Eight Hours" form presented to Ms. Abdelmuti was only signed by her and contained no signature block for the employer to sign.

ECRMC knew or should have known that as a result of its policies and/or practices, that Ms. Abdelmuti and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. ECRMC further knew or should have known that it did not pay Ms. Abdelmuti and other aggrieved employees all meal period premiums when meal periods were missed, late, short, and/or interrupted.

As set forth above, ECRMC had a company-wide policy and/or practice of rounding employee clock-in and clock-out duration times in its timekeeping system, which prevented Ms. Abdelmuti and other aggrieved employees from receiving all meal period premiums when they took late and/or shortened meal periods. As stated, ECRMC's rounding policy rounded employees' clock-in and clock-out times in its timekeeping system to the nearest quarter (0.25) of an hour. To the extent that ECRMC's timekeeping system reported that Ms. Abdelmuti and other aggrieved employees were provided with timely, full 30-minute meal periods when, in fact, the meal periods were taken after the fifth hour of work or were less than 30 minutes, Ms. Abdelmuti and other aggrieved employees were entitled to a meal period penalty. Thus, Ms. Abdelmuti and other aggrieved employees did not receive meal period penalties for these improperly rounded meal periods.

Furthermore, ECRMC has engaged in a company-wide practice and/or policy of not paying meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Abdelmuti and other aggrieved employees have not received all premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that ECRMC did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, ECRMC did not pay other aggrieved employees at the correct rate of pay for premiums because ECRMC systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, ECRMC failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Abdelmuti and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, ECRMC regularly failed to authorize and permit Ms. Abdelmuti and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, ECRMC's company-wide practices, including understaffing and assigning heavy workloads, prevented Ms. Abdelmuti and other aggrieved employees from being relieved of all duty to take their rest periods. Moreover, ECRMC failed to schedule rest periods, which, coupled with ECRMC's failure to provide adequate rest period coverage, further led to Ms. Abdelmuti and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Furthermore, on and information and belief, ECRMC maintained a company-wide on-premises rest period policy, which mandated that Ms. Abdelmuti and/or other aggrieved employees remain on ECRMC's premises during their rest periods. Because Ms. Abdelmuti/or and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as to run personal errands. Thus,

ECRMC effectively maintained control over Ms. Abdelmuti and/or other aggrieved employees during rest periods.

As a result of ECRMC's practices and policies, Ms. Abdelmuti and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout her employment, Ms. Abdelmuti would miss her rest periods due to ECRMC's policy of assigning heavy workloads and failing to provide sufficient coverage.

ECRMC also has engaged in a company-wide practice and/or policy of not paying rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Abdelmuti and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that ECRMC did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, ECRMC did not pay other aggrieved employees at the correct rate of pay for premiums because ECRMC failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, ECRMC failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Abdelmuti and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep, and provide true, accurate, and complete employment records. ECRMC has not provided Ms. Abdelmuti and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, ECRMC has knowingly and intentionally provided Ms. Abdelmuti and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, ECRMC issued uniform wage statements to Ms. Abdelmuti and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, ECRMC violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because ECRMC did not record the time Ms. Abdelmuti and other aggrieved employees spent working off-the-clock and improperly rounded Ms. Abdelmuti's and other aggrieved employees' total hours worked, ECRMC did not list the correct amount of gross wages and net wages earned by

Ms. Abdelmuti and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, ECRMC failed to accurately list the total number of hours worked by Ms. Abdelmuti and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

In addition, because ECRMC did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest periods premiums, ECRMC did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, ECRMC also failed to list the correct amount of net wages in violation of section 226(a)(5). ECRMC also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages and/or meal and rest period premiums, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list 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; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . ." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), ECRMC willfully failed to maintain accurate payroll records for Ms. Abdelmuti and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding Ms. Abdelmuti's and other aggrieved employees' total hours worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, ECRMC failed, on a company-wide basis, to keep accurate records of work period start and stop times for Ms. Abdelmuti and other aggrieved employees, in violation of section 1198. Also, as stated, ECRMC engaged in a company-wide practice and/or policy of falsifying Ms. Abdelmuti's and other aggrieved employees' time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken, and thereby failed to keep accurate records of meal start and end times for Ms. Abdelmuti and other aggrieved employees. Furthermore, in light of ECRMC's failure to provide other aggrieved employees with

second 30-minute meal periods to which they were entitled, ECRMC kept no records of meal start and end times for second meal periods.

Because ECRMC failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Abdelmuti and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Abdelmuti and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Abdelmuti and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, ECRMC willfully failed to pay Ms. Abdelmuti and other aggrieved employees all wages due including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, within the time periods specified by California Labor Code section 204.

Ms. Abdelmuti and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

ECRMC willfully failed to pay Ms. Abdelmuti and other aggrieved employees who are no longer employed by ECRMC the earned and unpaid wages set forth above, including but not limited to,

overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving ECRMC's employ.

Ms. Abdelmuti and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 222.5 – Failure to Pay for Costs of Mandatory Physical Exams and/or Drug Testing

At all times herein set forth, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

During the relevant time period, ECRMC implemented, on a company-wide basis, an employer-imposed requirement that other aggrieved employees undergo mandatory drug testing, tuberculin (TB) testing, and/or physical examinations, but required them to do so at their own expense. As stated, ECRMC had a company-wide policy requiring that other aggrieved employees travel to a specified medical facility on their own time and use their own means of transportation to undergo drug testing, TB testing, and/or physical examinations. At all times, ECRMC was in control of scheduling the date and time for the testing and/or examinations, selecting the provider/facility where the testing and/or examinations were to take place, and determining the scope of the testing and/or examinations.

However, ECRMC did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities; for the time they spent undergoing the drug testing, TB testing, and/or physical examinations; and/or obtaining their TB test results; or reimburse them for the travel expenses they incurred getting to and from the medical facilities. ECRMC's policy and/or practice of not paying for all costs other aggrieved employees incurred obtaining mandatory drug testing, TB testing, and/or physical examinations is in violation of California Labor Code section 222.5.

Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11050(5)(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived

of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

ECRMC violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5), because ECRMC failed to pay Ms. Abdelmuti and other aggrieved employees reporting time pay when they reported to work for their scheduled shifts, but were put to work for less than half of the regular schedule. ECRMC had a company-wide practice of sending Ms. Abdelmuti and other aggrieved employees home early from their shifts, including before they had worked at least half of their regular shift, but would not pay Ms. Abdelmuti and other aggrieved employees for half of their scheduled shift. For example, ECRMC’s managers would sometimes send Ms. Abdelmuti home 2-3 hours after the start of her shift because business was slow. Although Ms. Abdelmuti and other aggrieved employees reported to work based on the schedule that ECRMC provided to them, ECRMC would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay. Accordingly, Ms. Abdelmuti and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5).

Ms. Abdelmuti and other aggrieved employees are therefore entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 5-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

During the relevant time period, as stated, ECRMC had a company-wide policy of requiring other aggrieved employees to travel to medical facilities on their own time and using their personal vehicles to obtain mandatory drug testing, tuberculin (TB) testing, and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, ECRMC was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. ECRMC gave other aggrieved employees strict instructions to obtain drug testing, TB testing, and/or physical examinations, and other aggrieved employees underwent the testing and/or physical examinations for the sole benefit of ECRMC. Although ECRMC required other aggrieved employees to use their own vehicles to undergo drug testing, TB testing, and/or physical examinations, ECRMC never reimbursed them for their travel expenses.

Additionally, during the relevant time period, ECRMC, on a company-wide basis, forced Ms. Abdelmuti and other aggrieved employees to purchase supplies, including tools and equipment, that were necessary for the completion of their work related-duties. For example, Ms. Abdelmuti was required to spend approximately \$10 on notepads and pens in order to carry out her work-related

duties. ECRMC failed to provide these basic supplies to Ms. Abdelmuti and other aggrieved employees, forcing them to incur expenses out-of-pocket to obtain the necessary tools and equipment. Thus, ECRMC failed to reimburse Ms. Abdelmuti and other aggrieved employees for the costs of these supplies.

ECRMC could have provided Ms. Abdelmuti and other aggrieved employees with the actual tools for use on the job, such as company vehicles or necessary supplies; or, ECRMC could have reimbursed employees for the costs of their mileage, travel expenses, and supply expenses. Instead, ECRMC passed these operating costs off onto Ms. Abdelmuti and other aggrieved employees. At all relevant times, Ms. Abdelmuti did not earn at least two (2) times the minimum wage.

Thus, ECRMC had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Abdelmuti and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” ECRMC, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Abdelmuti's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Abdelmuti seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Abdelmuti, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against ECRMC for violations of California Labor Code sections 201, 202, 204, 222.5, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Therefore, on behalf of all aggrieved employees, Ms. Abdelmuti seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Mao Shiokura
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

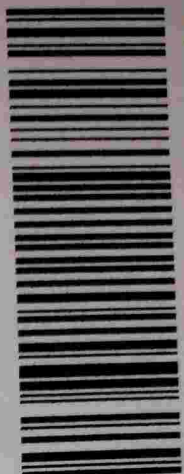
A handwritten signature in black ink, appearing to read "Mao Shiokura", with a stylized flourish at the end.

Mao Shiokura

Copy: EL CENTRO REGIONAL MEDICAL CENTER dba ECRMC (via U.S. Certified Mail); EL
CENTRO REGIONAL MEDICAL FOUNDATION (via U.S. Certified Mail)

Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL



7021 0950 0001 0025 2277

EL CENTRO REGIONAL MEDICAL
CENTER dba ECRMC
1415 ROSS AVENUE
EL CENTRO CA 92243



1024



92243

U.S. POSTAGE PAID
FCM LETTER
ALHAMBRA, CA
91802
NOV 02 '21
AMOUNT
\$7.78
R2305K133289-14

PS Form 3800, April 2015 PSN 7530-02-000-9047
See Reverse for Instructions

Sent To: EL CENTRO REGIONAL MEDICAL CENTER
Street and Apt. No., or PO Box No. 1415 ROSS AVENUE
City, State, ZIP+4® EL CENTRO CA 92243

For delivery information, visit our website at www.usps.com

CERTIFIED MAIL® RECEIPT
Domestic Mail Only

Official Use
EL CENTRO CA 92243

Postmark Here
ALHAMBRA, CA 91802
NOV 02 2021
USPS

11/02/2021

Postage \$0.98
Total Postage and Fees \$7.78

Certified Mail Fee \$3.75
Extra Services & Fees (check box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$0.00
☐ Return Receipt (electronic) \$0.00
☐ Certified Mail Restricted Delivery \$0.00
☐ Adult Signature Restricted Delivery \$0.00
☐ Adult Signature Restricted Delivery \$0.00

SENDER: COMPLETE THIS SECTION

1. Complete items 1, 2, and 3.
2. Print your name and address on the reverse so that we can return the card to you.
3. Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
EL CENTRO REGIONAL MEDICAL
CENTER dba ECRMC
1415 ROSS AVENUE
EL CENTRO, CA 92243

2. Article Number (Transfer from service label)
9590 9402 6979 1225 0642 81

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ X
B. Received by (Printed Name)
C. Date of Delivery
D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

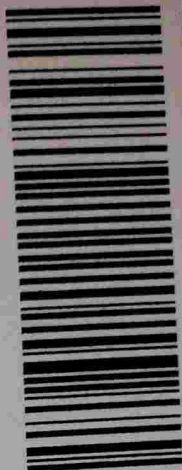
3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over \$500)

☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
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7021 0950 0001 0025 2291

EL CENTRO REGIONAL MEDICAL
FOUNDATION
1415 ROSS AVENUE
EL CENTRO CA 92243



1024



92243

U.S. POSTAGE PAID
FORM LETTER
ALHAMBRA, CA
91802
NOV 02, 21
AMOUNT
\$7.78
R2305K133269-14

U.S. Postal Service
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For delivery information, visit our website at www.usps.com

EL CENTRO, CA 92243

Certified Mail Fee \$3.75

Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$3.05

☐ Return Receipt (electronic) \$0.00

☐ Certified Mail Restricted Delivery \$0.00

☐ Adult Signature Restricted Delivery \$0.00

Postage \$0.98

Total Postage and Fees \$7.78

Sent to EL CENTRO REGIONAL MEDICAL

FOUNDATION

1415 ROSS AVENUE

EL CENTRO, CA 92243

City, State, ZIP+4®

PS Form 3800, April 2015 PSN 7530-02-000-9047

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- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

EL CENTRO REGIONAL MEDICAL
FOUNDATION
1415 ROSS AVENUE
EL CENTRO, CA 92243



9590 9402 6979 1225 0642 67

2. Article Number (Transfer from service label)

7021 0950 0001 0025 2291

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature ☒ Agent ☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature ☐ Registered Mail™

☒ Certified Mail® ☐ Registered Mail Restricted Delivery

☐ Certified Mail Restricted Delivery ☐ Signature Confirmation™

☐ Collect on Delivery Restricted Delivery ☐ Signature Confirmation Restricted Delivery

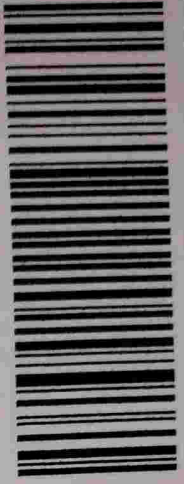
☐ Insured Mail ☐ Registered Mail Restricted Delivery (over \$500)

Domestic Return Receipt

Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067

CERTIFIED MAIL[®]

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE



7021 0950 0001 0025 2284

EL CENTRO REGIONAL MEDICAL
CENTER dba ECRMC
PO BOX 4245
EL CENTRO CA 92244



1024



92244

U.S. POSTAGE PAID
FCM LETTER MAIL
ALHAMBRA, CA
91802
NOV 02 21
AMOUNT
\$7.78
R2305K133289-14

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EL CENTRO REGIONAL MEDICAL
CENTER dba ECRMC
P.O. BOX 4245
EL CENTRO, CA 92244

Postmark: ALHAMBRA, CA 91802 NOV 02 2021 USPS

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Certified Mail Fee	
Basic Fee	\$3.75
Postage	\$0.98
Total Postage and Fees	\$4.73

Extra Services & Fees (check box, add fee as appropriate)	
☒ Return Receipt (hardcopy)	\$0.00
☒ Return Receipt (electronic)	\$0.00
☐ Certified Mail Restricted Delivery	\$0.00
☐ Adult Signature Required	\$0.00
☐ Adult Signature Restricted Delivery	\$0.00

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
EL CENTRO REGIONAL MEDICAL
CENTER dba ECRMC
P.O. BOX 4245
EL CENTRO, CA 92244

COMPLETE THIS SECTION ON DELIVERY

A. Signature		☐ Agent
☒ X		☐ Addressee
B. Received by (Printed Name)		C. Date of Delivery
D. Is delivery address different from item 1? If YES, enter delivery address below:		☐ Yes ☒ No
3. Service Type		
☐ Adult Signature	☐ Registered Mail [™]	
☐ Adult Signature Restricted Delivery	☐ Registered Mail Restricted Delivery	
☒ Certified Mail [®]	☐ Signature Confirmation [™]	
☐ Certified Mail Restricted Delivery	☐ Signature Confirmation Restricted Delivery	
☐ Collect on Delivery	☐ Insured Mail	
☐ Collect on Delivery Restricted Delivery	☐ Insured Mail Restricted Delivery (over \$500)	

Domestic Return Receipt

2. Article Number (Transfer from service label)
7021 0950 0001 0025 2284

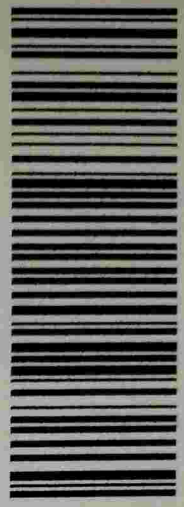
9590 9402 6979 1225 0642 74



PS Form 3811, July 2020 PSN 7530-02-000-9053

Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL®

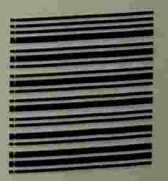


7021 0950 0001 0025 2307

EL CENTRO REGIONAL MEDICAL
FOUNDATION
PO BOX 4245
EL CENTRO CA 92244



1024



92244

U.S. POSTAGE PAID
FCM LETTER
ALHAMBRA, CA
91802
NOV 02, 21
AMOUNT
\$7.78
R2305K133289-14

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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OFFICIAL USE

Certified Mail Fee	\$3.75	\$3.05
Extra Services & Fees (check box, add fee as appropriate)		
☒ Return Receipt (hardcopy)	\$0.00	\$0.00
☐ Return Receipt (electronic)	\$0.00	\$0.00
☐ Certified Mail Restricted Delivery	\$0.00	\$0.00
☐ Adult Signature Required	\$0.00	\$0.00
☐ Adult Signature Restricted Delivery	\$0.00	\$0.00
Postage	\$0.00	\$0.00
Total Postage and Fees	\$3.75	\$3.05



7021 0950 0001 0025 2307
Sent to EL CENTRO REGIONAL MEDICAL
FOUNDATION
PO BOX 4245
EL CENTRO, CA 92244
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- ☐ Complete items 1, 2, and 3.
- ☐ Print your name and address on the reverse so that we can return the card to you.
- ☐ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

EL CENTRO REGIONAL MEDICAL
FOUNDATION
P.O. BOX 4245
EL CENTRO, CA 92244



9590 9402 6979 1225 0642 50

2. Article Number (Transfer from service label)

7021 0950 0001 0025 2307

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Collect on Delivery Restricted Delivery | |
| ☐ Insured Mail | |
| ☐ Insured Mail Restricted Delivery (over \$500) | |

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature ☒ <i>[Signature]</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: EL CENTRO REGIONAL MEDICAL CENTER DBA ECRMC 1415 ROSS AVENUE EL CENTRO, CA 92243		B. Received by (Printed Name) Alonso Toste	C. Date of Delivery 11/04/21
2. Article Number (Transfer from service label) 7021 0950 0001 0025 2277		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
Barcode: 9590 9402 6979 1225 0642 81			
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature ☒ <i>[Signature]</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: EL CENTRO REGIONAL MEDICAL FOUNDATION 1415 ROSS AVENUE EL CENTRO, CA 92243		B. Received by (Printed Name) Alonso Toste	C. Date of Delivery 11/04/21
2. Article Number (Transfer from service label) 7021 0950 0001 0025 2291		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500)		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
Barcode: 9590 9402 6979 1225 0642 67			
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

EL CENTRO REGIONAL MEDICAL
FOUNDATION
P.O. BOX 4245
EL CENTRO, CA 92244



9590 9402 6979 1225 0642 50

2. Article Number (Transfer from service label)

7021 0950 0001 0025 2307

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

CARLA KUHN

C. Date of Delivery

NOV - 8 2021

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes
☒ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

EL CENTRO REGIONAL MEDICAL
CENTER DBA ECRMC
P.O. BOX 4245
EL CENTRO, CA 92244



9590 9402 6979 1225 0642 74

2. Article Number (Transfer from service label)

7021 0950 0001 0025 2284

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

CARLA KUHN

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes
☒ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

PROOF OF SERVICE

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000 Los Angeles, California 90067.

On **January 7, 2022**, I served the document described as: **FIRST AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE §§ 2698, ET SEQ.** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Carla Kuhns
625 Tiger Lily Lane
Imperial, CA 92251

Registered Agent for Defendants
EL CENTRO REGIONAL MEDICAL
CENTER dba ECRMC and EL CENTRO
REGIONAL MEDICAL CENTER
FOUNDATION

☒ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am “readily familiar” with this firm’s practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☐ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

☐ **BY FAX:** I hereby certify that this document was served from Los Angeles, California, by facsimile delivery on the parties listed herein at their most recent fax number of record in this action.

☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the counsel for Defendant.

☐ **BY OVERNIGHT DELIVERY:** I am “readily familiar” with this firm’s practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **January 7, 2022**, at Los Angeles, California.

Jessica Martinez
Type/Print Name


Signature