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

KAREN ROLDAN, a proxy for the State
of California as an aggrieved employee
pursuant to the Private Attorneys
General Act,

Plaintiff,

vs.

LUCILE SALTER PACKARD
CHILDREN'S HOSPITAL AT
STANFORD, a California corporation;
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 22CV397839

ENFORCEMENT ACTION UNDER THE
PRIVATE ATTORNEYS GENERAL ACT,
CALIFORNIA §§ 2698 *ET SEQ.*

**FIRST AMENDED COMPLAINT FOR CIVIL
PENALTIES FOR VIOLATIONS OF
CALIFORNIA LABOR CODE, PURSUANT
TO PAGA, §§ 2698, ET SEQ.**

Jury Trial Demanded

1 Plaintiff Karen Roldan (“Plaintiff”), a proxy for the State of California as an aggrieved
2 employee, alleges, on behalf the State of California and all aggrieved employees, as follows:

3 **JURISDICTION AND VENUE**

4 1. This is a law enforcement action under the Labor Code Private Attorneys
5 General Act of 2004, California Labor Code sections 2698 et seq. (“PAGA”) to recover civil
6 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
7 current and former employees who worked for Lucile Salter Packard Children’s Hospital at
8 Stanford, a California corporation, and DOES 1 through 10, inclusive (collectively
9 “Defendants”) in California as non-exempt, hourly-paid employees, 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 (“Aggrieved Employees”),
13 at any time between one year before Plaintiff’s submission of the LWDA Notice (defined
14 below) in advance of Plaintiff’s filing of this complaint (in addition to all days the period was
15 stayed or tolled) until judgment. Plaintiff’s pro-rata share of civil penalties sought in this action
16 does not exceed \$75,000.

17 2. This Court has jurisdiction over this action pursuant to the California
18 Constitution, Article VI, section 10. The statute under which this action is brought does not
19 specify any other basis for jurisdiction.

20 3. This Court has jurisdiction over all Defendants because Defendants are either
21 citizens of California, have sufficient minimum contacts in California, or otherwise intentionally
22 avail themselves of the California market so as to render the exercise of jurisdiction over them
23 by the California courts consistent with traditional notions of fair play and substantial justice.
24 There is no basis for federal diversity jurisdiction in this action given that the State of
25 California, the real party in interest, is not a “citizen” for purposes of satisfying diversity
26 jurisdiction. *Urbino v. Orkin Servs. of Cal.*, 726 F.3d 1118, 1123 (9th Cir. Cal. 2013) (holding
27 when the real party in interest is a state, it cannot be a “citizen” for purposes of diversity
28 jurisdiction). *Urbino* also holds that civil penalties cannot be aggregated to satisfy the amount in

1 controversy requirement for federal diversity jurisdiction in this action, and that diversity
2 jurisdiction cannot be established when Plaintiff's share of the civil penalties attributable to
3 violations personally suffered are less than \$75,000. *Id.* at 1122.

4 4. Venue is proper in this Court because Defendants employ Aggrieved Employees
5 in this county and Labor Code violations occurred in California, including in this county.
6 *Crestwood Behavioral Health, Inc. v. Superior Court of Alameda County*, 60 Cal.App.5th 1069,
7 1075 (2021) ("Venue is proper in any county in which an aggrieved employee worked and
8 Labor Code violations allegedly occurred.")

9 5. PAGA authorizes aggrieved employees to sue as private attorneys general their
10 current or former employers for civil penalties for violations of various provisions in the
11 California Labor Code.

12 6. The State of California is the real party in interest under PAGA.

13 **THE PARTIES**

14 7. Plaintiff is a resident of Santa Clara, California. Defendants employed Plaintiff
15 from approximately December 2015, to approximately November 30, 2021, as a non-exempt
16 hourly-paid employee at Defendants' Palo Alto, California location. Plaintiff worked as a Senior
17 MRI technologist III. Plaintiff typically worked approximately eight to twelve hours or more per
18 workday, four to seven days per week, and forty hours or more per week. Plaintiff's job duties
19 included, but were not limited to, performing medical imaging procedures, performing imaging
20 sequences necessary to reach a medical diagnosis and decision, working under the guidance of
21 the section clinical instructors and radiologists, participating in the resident training program,
22 billing for procedures performed, and maintaining necessary paperwork.

23 8. Plaintiff is informed and believes, and alleges, that Defendants are corporations
24 authorized to do, and doing business in California, and at all times, employers whose employees
25 are engaged throughout this county and the State of California.

26 9. Plaintiff is informed and believes, and alleges, that Defendants operate a hospital
27 that provides medical services dedicated to pediatric and obstetric care in California.

28 10. Plaintiff is unaware of the true names or capacities of the Defendants sued under

1 the fictitious names DOES 1 through 10 and will seek leave of this Court to amend the
2 complaint and serve such fictitiously named defendants once their names and capacities become
3 known. Plaintiff is informed and believes, and alleges, that DOES 1 through 10 are the partners,
4 agents, owners, shareholders, managers, or employees of the other named Defendants, and that
5 each and all of the acts and omissions alleged were performed by, or is attributable to,
6 Defendants each acting as the agent, employee, alter ego, joint employer, and/or joint venturer
7 of, or working in concert with, each of the other co-Defendants and was acting within the course
8 and scope of such agency, employment, joint venture, or concerted activity with legal authority
9 to act on the others' behalf. The acts of any and all Defendants were in accordance with, and
10 represent, the official policy of Defendants.

11 11. At all relevant times, Defendants, and each of them, ratified each and every act or
12 omission complained of in this complaint. At all relevant times, Defendants, and each of them,
13 aided and abetted the acts and omissions of each and all the other Defendants in proximately
14 causing the harm and violations alleged in this PAGA only complaint.

15 12. Plaintiff is informed and believes, and alleges, that each of the Defendants is in
16 some manner intentionally, negligently, or otherwise responsible for the acts, omissions,
17 occurrences, and transactions alleged in this complaint.

18 **PAGA REPRESENTATIVE ALLEGATIONS**

19 13. Plaintiff is informed and believes that Defendants are corporations engaged in
20 medical and health care services across California. Upon information and belief, Defendants
21 maintain a centralized Human Resources department for all non-exempt, hourly-paid employees
22 working for Defendants in California, including Plaintiff and Aggrieved Employees. At all
23 relevant times, Defendants issued and maintained uniform, standardized practices and
24 procedures for all non-exempt, hourly-paid employees in California, including Plaintiff and
25 Aggrieved Employees, regardless of their location or position.

26 14. Upon information and belief, Defendants process payroll for all non-exempt,
27 hourly-paid employees working for Defendants in California, including Plaintiff and Aggrieved
28 Employees. Further, Defendants issue the same uniform and formatted wage statements to all

1 non-exempt, hourly-paid employees in California, irrespective of their work location, position,
2 or manner in which each employee's employment ended. Defendants' payroll department
3 processed payroll for non-exempt, hourly-paid employees in the same manner throughout
4 California. In other words, Defendants have utilized the same methods and formulas when
5 calculating wages and any other remunerations due to Plaintiff and Aggrieved Employees in
6 California.

7 15. Defendants continue to employ non-exempt, hourly-paid employees in
8 California.

9 16. Plaintiff is informed and believes, and alleges, that at all times, Defendants have
10 been advised by skilled lawyers and other professionals, employees, and advisors
11 knowledgeable about California labor and wage law, employment and personnel practices, and
12 about the requirements of California law.

13 17. Plaintiff is informed and believes, and alleges, that Plaintiff and Aggrieved
14 Employees have not been fully compensated because, among other reasons, all hours worked
15 may not have been recorded and because Defendants have not always paid for all hours worked.

16 18. Plaintiff is informed and believes, and alleges, that Defendants have known or
17 should have known that Plaintiff and Aggrieved Employees have been entitled to receive certain
18 wages for overtime compensation and that have not been receiving overtime wages at the
19 correct overtime rate and/or for work that has been required to be performed.

20 19. Plaintiff is informed and believes, and alleges, that Defendants knew or should
21 have known that Plaintiff and Aggrieved Employees were entitled to receive at least minimum
22 wages for all hours worked. In violation of the California Labor Code, Plaintiff and Aggrieved
23 Employees have not paid at least minimum wages for all work performed.

24 20. Plaintiff is informed and believes, and alleges, that Defendants have known or
25 should have known that Plaintiff and Aggrieved Employees were entitled to meal periods in
26 accordance with the Labor Code and applicable IWC Wage Order; that Plaintiff and Aggrieved
27 Employees have been entitled to payment of one additional hour of pay at their regular rates of
28 compensation when they have not been provided timely, uninterrupted, thirty-minute meal

1 periods; and that Plaintiff and Aggrieved Employees have not been provided with all meal
2 periods or payments of one additional hour of pay at their regular rates of compensation when
3 they have not received a timely, uninterrupted thirty-minute meal period.

4 21. Plaintiff is informed and believes, and alleges, that Defendants have known or
5 should have known that Plaintiff and Aggrieved Employees have been entitled to rest periods in
6 accordance with the Labor Code and applicable IWC Wage Order, that Defendants have known,
7 knew, or should have known that Plaintiff and Aggrieved Employees have been entitled to
8 payment of one additional hour of pay at their regular rates of compensation when they have not
9 been provided with a compliant rest period, and that Plaintiff and Aggrieved Employees have
10 not been provided compliant rest periods or payment of one additional hour of pay at their
11 regular rates of compensation when they have not been provided a compliant rest period.

12 22. Plaintiff is informed and believes, and alleges, that Defendants have known or
13 should have known that they had a duty to provide Plaintiff and Aggrieved Employees with all
14 applicable sick pay at each employees' regular rate of compensation and to provide employees
15 with written notice setting forth the amount of paid sick leave available, or paid time off leave
16 an employer provides in lieu of sick leave, for use on either the employee's itemized wage
17 statement or in a separate writing provided on the designated pay day with the employee's
18 payment of wages, but have failed to do so in violation of the California Labor Code.

19 23. Plaintiff is informed and believes, and alleges, that Defendants have known or
20 should have known that Plaintiff and Aggrieved Employees have been entitled to receive
21 complete and accurate wage statements in accordance with California law. In violation of the
22 California Labor Code, Plaintiff and Aggrieved Employees have not been furnished complete
23 and accurate wage statements.

24 24. Plaintiff is informed and believes, and alleges, that Defendants have known or
25 should have known that they had a duty to maintain accurate and complete payroll records in
26 accordance with the Labor Code and applicable IWC Wage Order but have failed to do so.

27 25. Plaintiff is informed and believes, and alleges, that Defendants knew or should
28 have known that they had a duty to maintain accurate and complete time records in accordance

1 with the Labor Code and applicable IWC Wage Order but have failed to do so.

2 26. Plaintiff is informed and believes, and alleges, that Defendants have known or
3 should have known that Plaintiff and Aggrieved Employees have been entitled to timely
4 payment of wages during their employment. In violation of the California Labor Code, Plaintiff
5 and Aggrieved Employees have not received payment of all wages, including, but not limited to,
6 overtime wages, minimum wages, meal period and/or rest period premium wages, and/or
7 reporting time wages within permissible time periods.

8 27. Plaintiff is informed and believes, and alleges, that Defendants have known or
9 should have known that Plaintiff and Aggrieved Employees were entitled to timely payment of
10 all wages earned upon termination of employment. In violation of the California Labor Code,
11 Plaintiff and Aggrieved Employees did not receive payment of all wages due, including, but not
12 limited to, overtime wages, minimum wages, meal period and/or rest period premium wages,
13 and/or reporting time wages, within permissible time periods. Plaintiff is informed and believes,
14 and alleges, that Defendants knew or should have known that Plaintiff and Aggrieved
15 Employees were entitled to receive certain reporting time wages and that they were not
16 reporting time wages. Defendants have failed to compensate Plaintiff and Aggrieved Employees
17 with all required reporting time wages and/or the correct rate of reporting time wages.

18 28. Plaintiff is informed and believes, and alleges, that Defendants have known or
19 should have known that they had a duty to provide Plaintiff and Aggrieved Employees with
20 written notice of the material terms of their employment with Defendants as required by the
21 California Wage Theft Prevention Act but have failed to do so.

22 29. Plaintiff is informed and believes, and alleges, that Defendants have known or
23 should have known that it is a violation of the California Labor Code to conduct unlawful
24 background checks. Nevertheless, Defendants have conducted unlawful background checks and
25 required Plaintiff and other Aggrieved Employees to agree to unlawful contract terms regarding
26 background checks.

27 30. Plaintiff is informed and believes, and alleges, that Defendants have known or
28 should have known that Plaintiff and Aggrieved Employees were entitled to reimbursement for

1 all business-related expenditures and/or losses they incurred during the course and scope of their
2 employment, and that they have not receive reimbursement of applicable business-related
3 expenditures and/or losses they have incurred.

4 31. Plaintiff is informed and believes, and alleges, that at all relevant times,
5 Defendants have known or should have known that they have had a duty to compensate Plaintiff
6 and Aggrieved Employees for all hours worked, and that Defendants had the financial ability to
7 pay such compensation, but have failed to do so, and falsely represented to Plaintiff and
8 Aggrieved Employees that they were properly denied wages, all in order to increase
9 Defendants' profits.

10 32. At all relevant times, PAGA provides that any provision of law under the Labor
11 Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and
12 collected by the Labor and Workforce Development Agency ("LWDA") for violations of the
13 California Labor Code and applicable IWC Wage Order may, as an alternative, be recovered by
14 aggrieved employees in a civil action brought on behalf of themselves and other current or
15 former employees pursuant to procedures outlined in Labor Code section 2699.3.

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

19 34. Plaintiff and other current and former employees of Defendants are "aggrieved
20 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current or
21 former employees and one or more of the alleged violations were committed against them.

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

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

- 1 (b) An aggrieved employee's notice filed with the LWDA pursuant to
2 Section 2699.3(a) and any employer response to that notice shall be
3 accompanied by a filing fee of seventy-five dollars (\$75).
- 4 (c) The LWDA shall notify the employer and the aggrieved employee or
5 representative by certified mail that it does not intend to investigate the
6 alleged violation ("LWDA Notice") within sixty (60) calendar days of the
7 postmark date of the aggrieved employee's notice. Upon receipt of the
8 LWDA Notice, or if no LWDA Notice is provided within sixty-five (65)
9 calendar days of the postmark date of the aggrieved employee's notice,
10 the aggrieved employee may commence a civil action pursuant to
11 California Labor Code section 2699 to recover civil penalties.

12 36. Pursuant to California Labor Code section 2699.3(c), aggrieved employees,
13 through Plaintiff, may pursue a civil action arising under PAGA for violations of any provision
14 other than those listed in Section 2699.5 after the following requirements have been met:

- 15 (a) The aggrieved employee or representative shall give (a) written notice by
16 online filing with the LWDA and by certified mail to the employer of the
17 specific provisions of the California Labor Code alleged to have been
18 violated (other than those listed in Section 2699.5), including the facts
19 and theories to support the alleged violation.
- 20 (b) An aggrieved employee's notice filed with the LWDA pursuant to
21 Section 2699.3(c) and any employer response to that notice shall be
22 accompanied by a filing fee of seventy-five dollars (\$75).
- 23 (c) The employer may cure the alleged violation within thirty-three (33)
24 calendar days of the postmark date of the notice sent by the aggrieved
25 employee or representative. The employer shall give written notice within
26 that period of time by certified mail to the aggrieved employee or
27 representative and by online filing with the LWDA if the alleged
28 violation is cured, including a description of actions taken, and no civil

1 action pursuant to Section 2699 may commence. If the alleged violation
2 is not cured within the 33-day period, the aggrieved employee may
3 commence a civil action pursuant to Section 2699.

4 37. On December 23, 2021, Plaintiff provided written notice by online filing to the
5 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor
6 Code alleged to have been violated, including facts and theories to support the alleged
7 violations, in accordance with the applicable filing fee of seventy-five dollars (\$75). A true and
8 correct copy of Plaintiff's written notice to the LWDA and Defendants dated December 23,
9 2021 ("Initial LWDA Notice"), is attached as Exhibit 1.

10 38. On April 21, 2022, Plaintiff provided a supplemental written notice by online
11 filing to the LWDA and by Certified Mail to Defendants of the specific provisions of the
12 California Labor Code alleged to have been violated, including facts and theories to support the
13 alleged violations, in accordance with the applicable filing fee of seventy-five dollars (\$75). A
14 true and correct copy of Plaintiff's written notice to the LWDA and Defendants dated April 21,
15 2022 ("Supplemental LWDA Notice"), is attached as Exhibit 2.

16 39. As of the filing of this complaint, over 65 days have passed since Plaintiff sent
17 the Initial LWDA Notice and Supplemental LWDA Notice and the LWDA has not responded
18 that it intends to investigate Plaintiff's claims and Defendants have not cured the violations.

19 40. Thus, Plaintiff has and/or will continue to satisfy the administrative prerequisites
20 under California Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against
21 Defendants, in addition to other remedies, for violations of California Labor Code sections 201,
22 202, 203, 204, 223, 225.5, 226(a), 226.7, 233, 246, 248.1, 248.2, 248.5, 432.5, 510, 512(a),
23 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2800, 2802 and 2810.5 as well as all applicable
24 IWC Wage Orders.

25 41. Defendants, at all relevant times, were employers or persons acting on behalf of
26 an employer(s) who violated Plaintiff's and Aggrieved Employees' rights by violating various
27 sections of the California Labor Code as set forth in this complaint.

28 42. As set forth below, Defendants have violated numerous provisions of both the

1 Labor Code sections regulating hours and days of work, as well as the applicable IWC Wage
2 Order.

3 43. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
4 2699.3(a), 2699.3(c), and 2699.5, Plaintiff, acting in the public interest as a private attorney
5 general, seeks assessment and collection of civil penalties for herself, all Aggrieved
6 Employees, and the State of California against Defendants, in addition to other remedies, for
7 violations of California Labor Code sections 201, 202, 203, 204, 223, 225.5, 226(a), 226.7,
8 233, 246, 248.1, 248.2, 248.5, 432.5, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198,
9 2800, 2802 and 2810.5 as well as all applicable IWC Wage Orders.

10 **FIRST CAUSE OF ACTION**

11 **For Civil Penalties Pursuant to California Labor Code sections 2698, *et seq.***

12 **(Against all Defendants)**

13 44. Plaintiff incorporates by reference and re-alleges as if fully stated in each and
14 every allegation set forth above.

15 45. California Labor Code sections 2698, *et seq.* permit Plaintiff to recover various
16 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
17 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 223,
18 226(a), 226.7, 233, 432.5, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2800, and
19 2802. Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiff, to
20 recover civil penalties for violations of those Labor Code sections not found in Section 2699.5,
21 including Sections 225.5, 246, 248.1, 248.2, 248.5, and 2810.5.

22 46. Defendants' conduct, as alleged, violates numerous sections of the California
23 Labor Code, including, but not limited to, the following:

- 24 (a) Violations of Labor Code sections 510 and 1198, and the applicable IWC
25 Wage Order for Defendants' failure to compensate Plaintiff and
26 Aggrieved Employees with all required overtime pay, as set forth below;
27 (b) Violations of Labor Code sections 223, 1182.12, 1194, 1197, 1197.1, and
28 1198 the applicable IWC Wage Order for Defendants' failure to

1 compensate Plaintiff and Aggrieved Employees with at least minimum
2 wages for all hours worked, as set forth below;

3 (c) Violations of Labor Code sections 226.7, 512(a), and 1198, and the
4 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
5 and Aggrieved Employees with meal periods and/or pay meal period
6 premiums and/or pay meal period premiums at the correct rate of pay, as
7 set forth below;

8 (d) Violations of Labor Code sections 226.7 and 1198, and the applicable
9 IWC Wage Order for Defendants' failure to provide Plaintiff and
10 Aggrieved Employees with rest periods and/or pay rest period premiums
11 and/or pay rest period premiums at the correct rate of pay, as set forth
12 below;

13 (e) Violations of Labor Code sections 233, 246, 248.1, 248.2, 248.5, and the
14 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
15 and Aggrieved Employees with sick pay at the correct rate of pay and/or a
16 notice in writing of accrued/available paid sick leave, as set forth below;

17 (f) Violations of Labor Code sections 226(a) and 1198, and the applicable
18 IWC Wage Order for failure to furnish accurate and complete wage
19 statements to Plaintiff and Aggrieved Employees, as set forth below;

20 (g) Violations of Labor Code sections 1174(d) and 1198, and the applicable
21 IWC Wage Order for failure to maintain accurate payroll records, as set
22 forth below;

23 (h) Violations of Labor Code section 1198 and the applicable IWC Wage
24 Order for failure to maintain accurate time records, as set forth below;

25 (i) Violations of Labor Code section 204 for failure to timely pay Plaintiff
26 and Aggrieved Employees all earned wages during employment, as stated
27 below;

28 (j) Violations of Labor Code sections 201, 202, and 203, for failure to timely

1 pay all earned wages upon termination, as set forth below;

2 (k) Violations of Labor Code section 1198 and the applicable IWC Wage
3 Order for failure to provide reporting time pay, as set forth below;

4 (l) Violations of Labor Code section 1198 and 2810.5(a)(1)(A)-(C) for
5 failure to provide written notice of information material to Plaintiff's and
6 Aggrieved Employees' employment with Defendants, as set forth below;

7 (m) Violations of Labor Code section 432.5 for failure to conduct compliant
8 background checks, as set forth below; and,

9 (n) Violations of Labor Code sections 2800 and 2802 for failure to reimburse
10 necessary expenditures and losses incurred by Plaintiff and other
11 Aggrieved Employees in the performance of their jobs, as set forth below.

12 **FAILURE TO PAY OVERTIME WAGES AND**

13 **VIOLATIONS OF LABOR CODE SECTIONS 510 AND 1198 AND**

14 **CALIFORNIA CODE OF REGULATIONS TITLE 8, SECTION 11050 SUBD. 3**

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

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

24 49. Specifically, the applicable IWC Wage Order provides that Defendants are and
25 were required to pay Plaintiff and Aggrieved Employees working more than eight hours in a day
26 or more than forty hours in a workweek, at the rate of time and one-half for all hours worked in
27 excess of eight hours in a day or more than forty hours in a workweek.

28 50. The applicable IWC Wage Order further provides that Defendants are and were

1 required to pay Plaintiff and Aggrieved Employees working more than twelve hours in a day,
2 overtime compensation at a rate of two times their regular rate of pay and required to pay
3 Plaintiff and Aggrieved Employees at a rate of two times their regular rate of pay for hours
4 worked in excess of eight hours on the seventh consecutive day of a work in a workweek.

5 51. An employee's regular rate of pay includes all remuneration for employment
6 paid to, or on behalf of, the employee, including non-discretionary bonuses, shift differentials,
7 and incentive pay.

8 52. California Labor Code section 510 codifies the right to overtime compensation at
9 one and one-half times the regular rate of pay for hours worked in excess of eight hours in a day
10 or forty hours in a week or for the first eight hours worked on the seventh day of work, and to
11 overtime compensation at twice the employee's regular rate of pay for hours worked in excess
12 of twelve hours in a day or in excess of eight hours in a day on the seventh day of work.

13 53. At all relevant times, Defendants failed to pay all overtime wages owed to
14 Plaintiff and Aggrieved Employees as they were not paid overtime premiums for all of the hours
15 they worked in excess of eight (or twelve) hours in a day, in excess of forty hours in a week,
16 and/or for the seventh consecutive day of work (or in excess of eight hours on the seventh
17 consecutive day of work), sometimes because all hours that they worked were not recorded, and
18 other times because they were simply not paid for all hours that were recorded and/or worked.
19 Plaintiff and Aggrieved Employees have been subject to Defendants' control during pre-shift
20 times, as well as during unpaid meal periods, when working overtime-eligible shifts, resulting in
21 underpaid overtime compensation. Not all recorded work hours were paid because of inaccurate
22 timekeeping policies and practices. As a result, the hours Plaintiff and Aggrieved Employees
23 worked may not have been properly recorded and/or paid, and therefore, Plaintiff and other
24 Aggrieved Employees may not have been properly compensated for all hours that were recorded
25 and/or worked.

26 54. At all relevant times, when Plaintiff and Aggrieved Employees have worked a
27 shift and then on-call on the same day, and those hours worked have exceeded eight hours
28 worked combined, Defendants failed to pay Plaintiff and other Aggrieved Employees at an

overtime rate of pay for all hours worked in excess of eight or twelve hours in a day. Defendants have also failed to compensate Plaintiff and Aggrieved Employees at the appropriate overtime rate for on-call hours worked in excess of forty hours in a given workweek. In other words, Defendants have not compensated Plaintiff and Aggrieved Employees for on-call hours at the appropriate overtime rate when Plaintiff's and other Aggrieved Employees' cumulative hours worked (i.e., regular, shift differential, and/or on-call hours worked combined) have exceeded eight or twelve hours in a day or forty hours in a workweek.

55. At all relevant times, Defendants did not pay Plaintiff and Aggrieved Employees the correct overtime rate for the recorded overtime hours that they generated. Defendants' regular rate of pay for calculating overtime wages has not included all required remunerations or the correct calculation. For example, during times when Plaintiff and Aggrieved Employees have worked overtime or on-call or shift differentials or received a bonus, Defendants have not paid all overtime wages because Defendants have paid a lower overtime rate than required by California law.

56. At all relevant times, Defendants knew or should have known that, as a result of its policies, practices and/or procedures, Plaintiff and Aggrieved Employees were at times performing their assigned duties off-the-clock (and/or unrecorded), were subject to control of Defendants, and/or were suffered or permitted to perform work for which they were not paid. Defendants also knew, or should have known, that they did not compensate Plaintiff and Aggrieved Employees for off-the-clock work or all hours worked. Because Plaintiff and Aggrieved Employees sometimes worked shifts longer than eight or twelve hours a day, more than forty hours a week, and/or seven consecutive days (or in excess of eight hours on the seventh consecutive day), some of the unrecorded work qualified for overtime premium pay. At other times, Defendants simply did not pay for all the hours that were recorded. Therefore, Plaintiff and Aggrieved Employees were not paid overtime wages for all of the overtime hours they actually worked. Defendants' failure to pay Plaintiff and Aggrieved Employees the balance of overtime compensation, as required by California law, violates the California Labor Code and the applicable Wage Order.

1 57. Defendants knew or should have known that, as a result of their policies and/or
2 practices, Plaintiff and Aggrieved Employees were performing work for which Plaintiff and
3 Aggrieved Employees were not paid. Defendants also knew or should have known that they did
4 not compensate Plaintiff and Aggrieved Employees for all hours worked. Because Plaintiff and
5 Aggrieved Employees sometimes worked shifts of eight hours a day or more and forty hours a
6 week or more, some of this work performed before shifts qualified for overtime premium pay.
7 Therefore, Plaintiff and Aggrieved Employees were not paid overtime wages for all of the
8 overtime hours they actually worked.

9 58. Based upon information and belief, to the extent Plaintiff and Aggrieved
10 Employees were not paid overtime because of a purported alternative workweek schedule,
11 Defendants have failed to comply with the procedures and implementation of any alternative
12 workweek schedule as set forth in the applicable Wage Order.

13 59. Based on the foregoing, Plaintiff and other Aggrieved Employees are entitled to
14 recover civil penalties, attorneys' fees, costs, and interest for violations of Labor Code sections
15 510 and 1198 and Wage Order No. 5, pursuant to Labor Code sections 558, 1194, and/or
16 2699(a), (f), and (g).

17 **FAILURE TO PAY MINIMUM WAGES AND**
18 **VIOLATIONS OF LABOR CODE SECTIONS 1182.12, 1194, 1197, 1197.1, AND 1198**
19 **AND CALIFORNIA CODE OF REGULATIONS TITLE 8, SECTION 11050 SUBD. 4**

20 60. California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the
21 applicable Wage Order require employers to pay employees the minimum wage fixed by the
22 Industrial Welfare Commission ("IWC"). The payment of a lesser wage than the minimum so
23 fixed is unlawful. Compensable work time is defined by the applicable Wage Order as "the time
24 during which an employee is subject to the control of an employer, and includes all the time the
25 employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs.
26 tit. 8, § 11050, subd. 2(K) (defining "Hours Worked").

27 61. During all relevant times, Defendants have not paid for all the time Plaintiff and
28 Aggrieved Employees have worked throughout the day including all time in the workday when

the employees have performed work tasks subject to the control of Defendants. Plaintiff and Aggrieved Employees have been subjected to Defendants' control pre-shift, post-shift, and throughout the workday. For example, Defendants have forced Plaintiff and Aggrieved Employees to undergo COVID-19 screening when reporting to work before entering the hospital and before clocking in. Defendants have required Plaintiff and Aggrieved Employees to download a cell phone application on their personal phones. Using the cell phone application, and on every shift before entering the hospital and before clocking in, Defendants have tasked Plaintiff and Aggrieved Employees to answer a series of survey questions related to COVID-19. Defendants have forced Plaintiff and Aggrieved Employees to wait in a line for several minutes in order to enter the hospital and to confirm with a security guard that they answered the survey. In addition, Defendants have forced Plaintiff and the other Aggrieved Employees to carry a communication device which must be on and responded to throughout the workday, including during unpaid meal periods.

62. To the extent that the off-the-clock work and/or unpaid hours worked does not qualify for overtime premium payment, Defendants have not paid at least minimum wages for those hours worked off-the-clock or that were recorded but not paid in violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable Wage Order. Plaintiff and other Aggrieved Employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 225.5, 1194, 1197.1 and/or 2699(a), (f), and (g).

**FAILURE TO PROVIDE AND PROPERLY RECORD MEAL PERIODS AND
VIOLATIONS OF LABOR CODE SECTIONS 226.7, 512(a), AND 1198
CALIFORNIA CODE OF REGULATIONS TITLE 8, SECTION 11050 SUBD. 11**

63. At all relevant times, the applicable IWC Wage Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff and Aggrieved Employees' employment by Defendants.

64. At all relevant times, Labor Code sections 226.7, 512(a) and 1198 and the applicable Wage Order require employers to provide meal periods and to pay employees one

1 additional hour of pay at the employee's regular rate of compensation for each workday that a
2 meal period (or rest period) is not provided. Pursuant to Labor Code sections 226.7 and 512(a)
3 and the applicable Wage Order, an employer may not require, cause or permit an employee to
4 work for a period of more than five hours per day without providing the employee with an
5 uninterrupted duty-free and control-free meal period of not less than thirty minutes, except that
6 if the total work period per day of the employee is not more than six hours, the meal period may
7 be waived by mutual consent of both the employer and the employee. Under California law, first
8 meal periods must start no later than the end of an employee's fifth hour of work. *See Brinker*
9 *Rest. Corp. v. Super. Ct.*, 53 Cal. 4th 1004, 1041-1042 (2012); *see also* Cal. Code Regs. tit. 8, §
10 11050, subd. 11. Labor Code sections 226.7 and 512(a) also require employers to provide a
11 second meal period of not less than thirty minutes if an employee works over ten hours in a day,
12 except that if the total hours worked is no more than twelve hours, the second meal period may
13 be waived by mutual consent of the employer and the employee only if the first meal period was
14 taken, and if not provided, to also pay an employee one additional hour of pay at the employee's
15 regular rate of compensation.

16 65. At all relevant times, Defendants have not provided Plaintiff and Aggrieved
17 Employees an opportunity to take first or second meal periods and, further, took no efforts to
18 relieve them of all of their duties such that Plaintiff and Aggrieved Employees could take
19 compliant meal periods. As a result, Plaintiff and Aggrieved Employees have frequently not
20 been permitted to take timely compliant meal periods. Also, for the same reason, Defendants
21 have not authorized and permitted Plaintiff and Aggrieved Employees who worked in excess of
22 ten hours but not longer than twelve hours and who did not waive their legally mandated meal
23 periods by mutual consent to take a second uninterrupted meal period of not less than thirty
24 minutes. On information and belief, Defendants have failed to provide meal periods and as a
25 matter of policy and practice, Defendants have not provided Plaintiff and Aggrieved Employees
26 with full thirty-minute meal periods for each day worked where they are free from Defendants'
27 required duties and control. Defendants have subjected Plaintiff and Aggrieved Employees to
28 control and demanding duties throughout their workday, even during times which should

1 constitute uninterrupted duty-free meal periods. Defendants have encouraged and required
2 Plaintiff and Aggrieved Employees to stay working and to respond to company communications
3 and/or remain under employer control. Furthermore, Plaintiff and the Aggrieved Employees
4 have also not been provided timely meal periods. For instance, all the time Plaintiff and
5 Aggrieved Employees have worked off-the-clock pre-shift has not been accounted for and has
6 resulted in meal periods being provided, if at all, after the end of the fifth hour of work.

7 66. During the relevant time period, Defendants have intentionally and willfully
8 required Plaintiff and Aggrieved Employees to work through meal periods. Defendants have
9 also engaged in a systematic, company-wide policy to not pay meal period premiums. As a
10 result, Defendants have failed to provide Plaintiff and Aggrieved Employees with compliant
11 meal periods and failed to pay the full meal period premiums due in violation of California
12 Labor Code sections 226.7 and 512 and applicable IWC Wage Order.

13 67. When Defendants have paid meal period premium wages, they have been paid at
14 incorrect rates given Defendants' failure to incorporate non-discretionary pay into their regular
15 rate calculation. Because Defendants have not properly calculated their employees' regular rates
16 of pay by failing to include all remunerations, such as nondiscretionary bonuses, shift
17 differentials, and/or incentive pay, any premiums paid for meal period violations have been paid
18 at an incorrect rate and have resulted in an underpayment of meal period premium wages. In
19 other words, when Defendants have paid employees meal period premium payments, the regular
20 rate of compensation for calculating the premium payment has not included all required
21 remunerations or the correct calculation. For example, when Plaintiff and Aggrieved Employees
22 have been paid a shift differential, bonus, incentive pay, or other nondiscretionary
23 remunerations, Defendants have not paid all meal period premium wages because Defendants
24 have paid meal period premium wages at a lower rate than required by California law.
25 Furthermore, to the extent Defendants have paid meal period premium wages to Plaintiff and
26 Aggrieved Employees, such payments have been admissions of Defendants' failure to provide
27 meal periods.

28 68. Pursuant to California Labor Code section 226.7(b) and the applicable IWC

1 Wage Order, Plaintiff and Aggrieved Employees are entitled to recover from Defendants one
2 additional hour of pay at their regular rates of compensation for each workday that a required
3 meal period was not provided.

4 69. Accordingly, Defendants failed to provide all meal periods and/or pay all meal
5 period premiums in violation of Labor Code sections 226.7, 512, and 1198 and Wage Order No.
6 4. Plaintiff and other Aggrieved Employees are therefore entitled to penalties, attorneys' fees,
7 costs, and interest, pursuant to Labor Code sections 226.7, 512, 558, 1198, and 2699(a), (f), and
8 (g).

9 **FAILURE TO PROVIDE REST PERIODS AND**
10 **VIOLATIONS OF LABOR CODE SECTIONS 226.7 AND 1198**

11 **CALIFORNIA CODE OF REGULATIONS TITLE 8, SECTION 11050 SUBD. 12**

12 70. At all relevant times, California Labor Code sections 226.7 and 1198, and the
13 applicable IWC Wage Order were applicable to Plaintiff's and Aggrieved Employees'
14 employment by Defendants.

15 71. At all relevant times, California Labor Code section 226.7 provides that no
16 employer shall require an employee to work during any rest period mandated by an applicable
17 IWC Wage Order. The applicable Wage Order provides that "[e]very employer shall authorize
18 and permit all employees to take rest periods, which insofar as practicable shall be in the middle
19 of each work period" and that the "rest period time shall be based on the total hours worked
20 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof"
21 unless the total daily work time is less than three and one-half (3½) hours. Cal. Code Regs. tit.
22 8, § 11050, subd. 12. To comply with its obligation to provide rest periods under California
23 Labor Code section 226.7 and the applicable Wage Order, an employer must "relinquish any
24 control over how employees spend their break time, and relieve their employees of all duties—
25 including the obligation that an employee remain on call. A rest period, in short, must be a
26 period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

27 72. California Labor Code section 226.7 provides that no employer shall require an
28 employee to work during any rest period mandated by an applicable order of the IWC. Pursuant

1 to Labor Code section 226.7(b) and the applicable IWC Wage Order, Plaintiff and Aggrieved
2 Employees are entitled to recover from Defendants one additional hour of pay at their regular
3 rates of compensation for each workday that a required rest period was not provided.
4 Defendants' policies and/or practices have prevented Plaintiff and Aggrieved Employees from
5 being relieved of all duty to take compliant rest periods. As a result, Plaintiff and Aggrieved
6 Employees have frequently worked shifts in excess of 3.5 hours or longer, in excess of 6 hours,
7 in excess of 10 hours or longer, in excess of 14 or more hours, without receiving all
8 uninterrupted net ten-minute rest periods to which they have been entitled. Defendants have
9 subjected Plaintiff and Aggrieved Employees to control and demanding duties throughout their
10 workday, even during times which should constitute uninterrupted duty-free rest periods.
11 Defendants have encouraged and required employees to stay working and to respond to
12 company communications and/or remain under employer control. Furthermore, Plaintiff and
13 Aggrieved Employees have also not been provided timely rest periods. For instance, all the time
14 Plaintiff and Aggrieved Employees have worked off-the-clock pre-shift has not been accounted
15 for and has resulted in rest periods being provided, if at all, later than every four (4) hours or
16 major fraction thereof of work.

17 73. Moreover, upon information and belief, Defendants have engaged in a
18 systematic, company-wide practice and/or policy of not paying rest period premiums owed
19 when rest periods are not provided. Additionally, when rest period premium wages have been
20 paid, they have been paid at incorrect rates given Defendants' failure to incorporate non-
21 discretionary pay into their regular rate calculation. Because Defendants have not properly
22 calculated their employees' regular rates of pay by including all remunerations, such as
23 nondiscretionary bonuses, shift differentials, and/or incentive pay, any premiums paid for rest
24 period violations have been paid at an incorrect rate and have resulted in an underpayment of
25 rest period premium wages. In other words, when Defendants have paid employees rest period
26 premium payments, the regular rate of pay for calculating the premium payment has not
27 included all required remunerations or the correct calculation. For example, when Plaintiff and
28 Aggrieved Employees have been paid a shift differential, bonus, incentive pay, or other

1 nondiscretionary payments, Defendants have not paid all rest period premium wages because
2 Defendants have paid rest period premium wages at a lower rate than required by California
3 law.

4 74. Thus, Defendants have denied Plaintiff and Aggrieved Employees rest periods
5 and failed to pay them rest period premium wages due, in violation of California Labor Code
6 section 226.7 and the applicable IWC Wage Order. Because Defendants have not properly
7 calculated Plaintiff's and Aggrieved Employees' regular rates of pay by including all
8 remunerations, such as nondiscretionary bonuses, shift differentials, and/or incentive pay, any
9 premiums paid for rest period violations have also been paid at an incorrect rate and have
10 resulted in an underpayment of rest period premium wages. Furthermore, to the extent
11 Defendants have paid rest period premium wages to Plaintiff and Aggrieved Employees, such
12 payments have been admissions of Defendants' failure to provide rest periods.

13 75. Accordingly, Defendants have failed to provide all rest periods and/or pay all rest
14 period premiums in violation of Labor Code sections 226.7, and 1198 and Wage Order No. 5.
15 Plaintiff and other Aggrieved Employees are therefore entitled to penalties, attorneys' fees,
16 costs, and interest, pursuant to Labor Code sections 226.7, 1198, and 2699(a), (f), and (g).

17 **FAILURE TO PROVIDE SICK PAY AND**
18 **VIOLATIONS OF LABOR CODE SECTIONS 233, 246, 248.1, 248.2, AND 248.5**

19 76. At all relevant times, under California Labor Code sections 233 and 246,
20 employers in California must provide employees with paid sick leave at a specified rate of pay
21 which must factor in additional earnings during a given pay period where such leave is used.

22 77. Under Labor Code sections 248.1 and 248.2, employers must provide employees
23 with supplemental sick leave at a specified rate of pay which must factor in additional earnings
24 during a given pay period where such leave is used.

25 78. During the relevant time period, Plaintiff and Aggrieved Employees have earned
26 additional nondiscretionary compensation, such as, by way of example, shift differentials or
27 incentive pay. Upon information and belief, Defendants have failed to provide Plaintiff and
28 Aggrieved Employees with the appropriate rate of pay when paying sick pay as required under

1 Labor Code sections 233, 246, 248.1, and 248.2. In other words, upon information and belief,
2 Defendants have failed to factor in nondiscretionary compensation and have therefore failed to
3 provide the appropriate rate of pay when paying sick pay as required by Labor Code sections
4 233, 246, 248.1, and 248.2.

5 79. Furthermore, Defendants have also failed to provide Plaintiff and other
6 Aggrieved Employees with written notice that sets forth the amount of paid sick leave available
7 and/or supplemental sick leave, or paid time off leave that Defendants provide in lieu of sick
8 leave, for use on either Plaintiff's or Aggrieved Employees' itemized wage statements or in
9 separate writings provided on the designated pay dates with the employees' payments of wages.
10 Also, supplemental paid sick leave has not been set forth separately from paid sick days.

11 80. Thus, Defendants have violated Labor Code sections 233, 246, 248.1, 248.2,
12 and 248.5, and the applicable IWC Wage Order. Plaintiff and other Aggrieved Employees are
13 therefore entitled to penalties, attorneys' fees, costs, and interest, pursuant to Labor Code
14 sections 248.5 and/or 2699(a), (f), and (g).

15 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS, MAINTAIN**
16 **ACCURATE AND COMPLETE PAYROLL RECORDS AND MAINTAIN ACCURATE**
17 **AND COMPLETE TIMEKEEPING RECORDS AND**
18 **VIOLATIONS OF LABOR CODE SECTIONS 226(a), 1174(d), 1198, AND**
19 **CALIFORNIA CODE OF REGULATIONS TITLE 8, SECTION 11050, SUBD. 7**

20 81. At all relevant times, Labor Code sections 226(a) and 1198, and the Wage Order
21 have applied to Plaintiff and the Aggrieved Employees.

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

26 83. Defendants have not provided Plaintiff and Aggrieved Employees with properly
27 itemized wage statements.

28 84. Defendants have provided Plaintiff and Aggrieved Employees with incomplete

1 and inaccurate wage statements. Defendants have failed to provide accurate wage statements for
2 Plaintiff and Aggrieved Employees showing, among other things, gross wages earned, total hours
3 worked, net wages earned, and all applicable hourly rates in effect during the pay period and the
4 corresponding number of hours worked at each hourly rate, and/or failing to state all hours worked
5 as a result of not recording or stating all the hours that Plaintiff and Aggrieved Employees worked.

6 85. Because Defendants have failed to provide, among other things, the accurate
7 number of total hours worked, as well as gross wages earned, and net wages earned on wage
8 statements, Plaintiff and Aggrieved Employees have been prevented from verifying, solely from
9 information on the wage statements themselves, that they were paid correctly and in full.
10 Instead, Plaintiff and Aggrieved Employees have had to look to sources outside of the wage
11 statements themselves and reconstruct time records to determine whether in fact they were paid
12 correctly and the extent of underpayment, thereby causing them injury.

13 86. In addition, the total regular, overtime, shift differential, and on-call hours listed
14 in Defendants' wage statements, when added together, do not add up to the total hours worked
15 by the employee during the pertinent pay period. Likewise, Defendants have provided wage
16 statements which do not properly itemize the total hours worked because Defendants itemize the
17 incorrect number of hours work or an undecipherable number of hours worked or both or do not
18 even itemize total hours worked. Without additional information regarding the wage statement
19 and undecipherable codes, Plaintiff and Aggrieved Employees cannot simply arrive at the sum
20 of hours worked. Thus, Defendants' wage statement have not complied with Labor Code section
21 226(a)(2).

22 87. Furthermore, because Defendants have not calculated the regular rate of pay
23 correctly for purposes of paying overtime, sick pay, and/or premium wages, Defendants have
24 not listed the correct amount of gross wages and net wages earned by Plaintiff and Aggrieved
25 Employees in violation of Sections 226(a)(1) and (5).

26 88. Defendants have knowingly and intentionally failed to properly itemize the
27 regular, overtime, shift differential, and on-call rates in effect during each pay period and the
28 corresponding number of hours worked, making it impossible to determine the correct pay rate

1 promptly and easily with the corresponding hours and pay. Plaintiff's and Aggrieved
2 Employees' wage statements incorrectly show the regular rate, overtime rate, shift differential,
3 on-call rate and/or other applicable rate and incorrectly show regular rate, overtime rate, shift
4 differential, on-call hours and/or other applicable hours at a different number of hours than
5 worked by the employee during the pay period. Thus, if the employee were to add together the
6 hours listed in the line items for regular, overtime, shift differential, and on-call hours, the total
7 is incorrect because it is different than the total number of hours actually worked by the
8 employee during the pay period. As such, Defendants' wage statements has not complied with
9 Labor Code section 226(a)(9) which requires an itemized statement to show "all applicable
10 hourly rates in effect during the pay period and the corresponding number of hours worked at
11 each hourly rate by the employee." The coding on Defendants' wage statements cannot be said
12 to have clearly engaged Plaintiff's and Aggrieved Employees' use of simple math to understand
13 the rates of pay and total hours worked itemized on the wage statements. Defendants' wage
14 statements here have confused and misled Plaintiff and Aggrieved Employees as to what the
15 rates of pay and total hours worked are, a confusion that is compounded by the fact that
16 Defendants do not itemize the total hours worked on the wage statements (and if Defendants
17 have provided a "total hours worked" category the number is incorrect).

18 89. Furthermore, because Defendants have failed to pay all meal period and rest
19 period premiums to Plaintiff and Aggrieved Employees, especially at the correct rate regular
20 rate of pay, Defendants have not listed the correct amount of gross wages and net wages earned
21 by Plaintiff and Aggrieved Employees in violation of Sections 226(a)(1) and (5).

22 90. In addition, Defendants have failed to itemize the amount of paid sick leave/paid
23 time off that Plaintiff and Aggrieved Employees have available every pay period.

24 91. Because Defendants have failed to provide, among other things, the accurate
25 number of total hours worked, gross wages earned, net wages earned, and the applicable hourly
26 rates in effect during the pay period and the corresponding number of hours worked on wage
27 statements, Plaintiff and Aggrieved Employees have been prevented from verifying, solely from
28 information on the wage statements themselves, that they were paid correctly and in full, and

1 were given confusing and/or incomplete information about their employer. Instead, Plaintiff and
2 Aggrieved Employees have had to look to sources outside of the wage statements themselves
3 and reconstruct time records to determine whether in fact they were paid correctly and the extent
4 of underpayment, thereby causing them injury.

5 92. Labor Code section 1174(d) provides that “[e]very person employing labor in
6 this state shall ... [k]eep a record showing the names and addresses of all employees employed
7 and the ages of all minors” and “[keep, at a central location in the state or at the plants or
8 establishments at which employees are employed, payroll records showing the hours worked
9 daily by and the wages paid to, and the number of piece-rate units earned by and any applicable
10 piece rate paid to, employees employed at the respective plants or establishments...” During the
11 relevant time period, and in violation of Labor Code section 1174(d), Defendants failed to
12 maintain accurate payroll records for Plaintiff and Aggrieved Employees showing the accurate
13 daily hours worked and the wages paid as well as failing to correctly list the gross wages and net
14 wages earned by them.

15 93. At all relevant times, Labor Code section 1198 provides that the maximum hours
16 of work and the standard conditions of labor shall be those fixed by the Labor Commissioner
17 and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that “[t]he
18 employment of any employees for longer hours than those fixed by the order or under
19 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage
20 Order, employers are required to keep accurate time records showing when the employee begins
21 and ends each work period and meal period. Cal. Code Regs. tit. 8, § 11050(7)(A).

22 94. During the relevant time period, Defendants failed, on a company-wide basis, to
23 keep accurate records of hours worked for Plaintiff and Aggrieved Employees, in violation of
24 Section 1198 and the applicable IWC Wage Order.

25 95. Plaintiff and other Aggrieved Employees are therefore entitled to recover
26 penalties, attorneys’ fees, costs, and interest pursuant to Labor Code sections 226(a), 226.3,
27 1174.5, 1198.5, and/or 2699(a), (f), and (g).
28

**FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT AND
VIOLATIONS OF LABOR CODE SECTION 204**

96. At all relevant times, California Labor Code section 204 provides that all wages earned by any person in any employment between the first and the fifteenth days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth and the twenty-sixth day of the month during which the labor was performed.

97. At all relevant times, California Labor Code section 204 provides that all wages earned by any person in any employment between the sixteenth 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 first and the tenth day of the following month.

98. At all relevant times, California Labor Code section 204 provides 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, at all relevant times, 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 calendar days following the close of the payroll period.

99. At all relevant times, Defendants failed to pay Plaintiff and Aggrieved Employees all wages due including, but not limited to, overtime wages, minimum wages, reporting time wages, sick pay, and/or meal period and rest period premium wages within the time periods specified by California Labor Code section 204.

100. Pursuant to Labor Code section 210, at all relevant times, every person who fails to pay the wages of each employee as provided in Labor Code section 204, shall be subject to a penalty.

101. Plaintiff and other Aggrieved Employees are therefore entitled to recover penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

**FAILURE TO PAY WAGES UPON TERMINATION AND
VIOLATIONS OF LABOR CODE SECTIONS 201, 202, AND 203**

102. At all relevant times, 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 hours thereafter, unless the employee has given seventy-two 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.

103. During the relevant time period, on information and belief, Defendants have failed to pay Plaintiff and Aggrieved Employees who are no longer employed by Defendants all their earned wages at the time of discharge or within seventy-two hours of their leaving Defendants' employ, including but not limited to, overtime wages and minimum wages, in violation of California Labor Code sections 201 and 202.

104. Defendants' failure to pay Plaintiff and those Aggrieved Employees who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two hours of their leaving Defendants' employ, violates California Labor Code sections 201 and 202.

105. Defendants' failure to pay Plaintiff and Aggrieved Employees who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within 72 hours of their leaving Defendants' employment, violates Labor Code sections 201, 202, and 203. Plaintiff and Aggrieved Employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 2699(a), (f), and (g).

**FAILURE TO PAY REPORTING TIME WAGES AND VIOLATIONS OF
LABOR CODE SECTIONS 1194, 1197, AND 1198 AND
CODE OF REGULATIONS TITLE 8, SECTION 11050 SUBD. 5(A)**

106. At all relevant times, California Labor Code section 1197 makes it unlawful to pay an employee less than the minimum wage as established by the Industrial Welfare Commission.

107. At all relevant times, California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

108. At all relevant times, the applicable reporting time wages are fixed by the IWC in Wage Order 5-2001. In relevant part, Section 5 of the applicable wage order provides: (A) Each 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.

109. Defendants have failed to pay reporting time wages. In particular, Plaintiff and the Aggrieved Employees have been forced to report to work and have been furnished with less than half their usual or scheduled day's work.

110. On numerous occasions, Plaintiff and Aggrieved Employees have reported to work at Defendants' direction, and then have been sent home without the legal compensation at their regular rate of pay (or even at the minimum wage).

111. By failure to pay hourly wages for reporting time, Defendants have willfully violated California Labor Code sections 1194, 1197, 1198, and IWC Wage Orders 5-2001.

112. Defendants' failure to provide reporting time pay to Plaintiff and Aggrieved Employees violates IWC Order No. 5-2001 section 5(A) in violation of Labor Code sections 1194, 1197, 1198 and Wage Order No. 5. Plaintiff and Aggrieved Employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 1194, 1197, 1198, the applicable wage order, and/or 2699(a), (f), and (g).

**FAILURE TO PROVIDE WRITTEN NOTICE OF MATERIAL TERMS OF
EMPLOYMENT IN VIOLATION OF LABOR CODE SECTIONS 1198 AND 2810.5**

113. California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees containing basic and material payroll information, including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances.

114. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

115. During the relevant time period, Defendants failed to provide a written notice to Plaintiff and Aggrieved Employees that lists the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C) on a company-wide basis.

116. On information and belief, Defendants failed to provide Plaintiff and other Aggrieved Employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1). Defendants produced Plaintiff's personnel file and a portion of Plaintiff's employment records. Absent from Plaintiff's personnel file and employment records was a Section 2810.5 notice containing all the requisite information, such as the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime. Defendants' failure to provide Plaintiff and Aggrieved Employees with written notice of basic information regarding their employment with

Defendants. Defendants' failure to provide Plaintiff and Aggrieved Employees with written notice of basic information regarding their employment with Defendants, such as the rate(s) of pay and rate(s) for overtime, is in violation of Labor Code section 2810.5.

117. Plaintiff and Aggrieved Employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 2699(a), (f), and (g).

**REQUIRING AGREEMENT TO TERMS AND/OR CONDITIONS PROHIBITED BY
LAW AND VIOLATIONS OF LABOR CODE SECTION 432.5**

118. At all times relevant, the Investigative Consumer Reporting Agencies Act, Civil Code sections 1786, *et seq.* ("ICRAA"), mandated several requirements prior to and following an employee background check, including but not limited to, identifying an appropriate reasons for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, as well as proper notice of adverse actions taken, among other statutory requirements. A violation of ICRAA results in a violation of Labor code section 432.5, which provides that "[n]o employer, or agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law."

119. In violation of Labor Code section 432.5, Defendants have required Plaintiff and other Aggrieved Employees to undergo background checks that they knew or should have known were unlawful. For example, upon information and belief, Defendants have required Plaintiff and other Aggrieved Employees to agree in writing to unlawful background checks that have failed to abide by the requirements set forth in ICRAA. Defendants have not provided Plaintiff and other Aggrieved Employees with, among other things, a separate ICRAA written notice of the intent to obtain a background check report; a notice that is clear, conspicuous, and in writing; a document that consists solely of the required disclosure; a notice that states the nature and scope of the information requested pursuant to ICRAA; and a summary of the employee's rights pursuant to ICRAA.

120. Defendants required agreement to terms and conditions prohibited by law and failure to provide the items required by ICRAA violates Labor Code section 432.5. Plaintiff and other Aggrieved Employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest pursuant to Labor Code sections 2699(a), (f), and (g).

**FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES AND
VIOLATIONS OF LABOR CODE SECTIONS 2800 AND 2802 AND CALIFORNIA
CODE OF REGULATIONS TITLE 8, SECTION 11050 SUBD. 9**

121. At all relevant times, California Labor Code sections 2800, 2801, and 2802 provide that an employer must reimburse employees for all necessary expenditures and/or losses incurred by them in the scope of their employment.

122. At all relevant times, California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of their job. The purpose of California 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 Serv., Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). Wage Order No. 5 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 may be required to provide and maintain hand tools and equipment customarily required by the trade or craft." Cal. Code Regs. tit. 8 § 11050, subd. 9(B).

123. During the relevant time period, Defendants have required Plaintiff and Aggrieved Employees to use their own personal cell phones and data plans as a necessity to performing their jobs and meeting Defendants' objective of limiting exposure to, and contamination of, COVID-19 at their premises. Despite this, Defendants have not provided Plaintiff and Aggrieved Employees reimbursement for the use of cell phones and data plans even though personal cell phones and data plans are not customarily required by the trade or craft of working for a hospital.

124. During the relevant time period, Plaintiff and Aggrieved Employees have

1 incurred reasonable and necessary business-related expenses and costs that Defendants have not
2 fully reimbursed, including but not limited to payments for cell phones and cell phone data
3 plans. Specifically, Defendants have forced Plaintiff and Aggrieved Employees to undergo
4 COVID-19 screening before entering the hospital buildings. Defendants have required Plaintiff
5 and Aggrieved Employees to download a web application on their phones. Using the cell phone
6 application, and before entering the hospital and being able to clock-in, Defendants have tasked
7 Plaintiff and Aggrieved Employees to answer a series of survey questions related to COVID-19,
8 which Plaintiff and Aggrieved Employees have done.

9 125. Defendants' policy, practice, and/or procedure of passing their operating costs on
10 to Plaintiff and Aggrieved Employees by requiring them to incur business-related costs,
11 including but not limited to, in connection with their use of personal cell phones and cell phone
12 data plans to perform their job duties, without full reimbursement, is in violation of California
13 Labor Code sections 2800 and 2802.

14 126. Defendants' policy, practice, and/or procedure of passing operating costs onto
15 Plaintiff and other Aggrieved Employees violates Labor Code sections 2800, 2802 and the
16 applicable Wage Order, and Plaintiff and other Aggrieved Employees are therefore entitled to
17 recover penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 2699(a),
18 (f), and (g).

19 **REQUEST FOR JURY TRIAL**

20 127. Plaintiff requests a trial by jury.

21 **PRAYER FOR RELIEF**

22 Plaintiff, on behalf of the State of California and all Aggrieved Employees, prays for
23 relief and judgment against Defendants, jointly and severally, as follows:

24 1. For civil penalties and attorneys' fees and costs in excess of twenty-five thousand
25 dollars (\$25,000). Plaintiff reserves the right to amend her prayer for relief to seek a different
26 amount.

As to the First Cause of Action

2. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and/or Aggrieved Employees: 510 and 1198 (by failing to pay all overtime compensation); 223, 1182.12, 1194, 1197, 1197.1 and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), and 1198 (by failing to provide all meal periods); 226.7 and 1198 (by failing to provide all rest periods); 233, 246, 248.1, 248.2, and 248.5 (by failing to provide all sick pay and/or a notice in writing of accrued/available paid sick leave); 1198 and California Code of Regulations; 226(a) and 1198 (by failing to provide accurate wage statements); 1174(d), 1198 and California Code of Regulations, Title 8, section 11040(7) (by failing to maintain accurate and complete payroll records); 1198 and California Code of Regulations, Title 8, section 11050(7) (by failing to maintain accurate and complete time records); 204 (by failing timely to pay all earned wages during employment); 201, 202, and 203 (by failing timely to pay all earned wages upon termination); 1198 and California Code of Regulations, Title 8, Section 11050(5) (by failing to pay reporting time wages); 1198 and 2810.5 (by failing timely to provide written notice of material terms of employment); 432.5 (by requiring employees to agree to unlawful background checks); and 2800 and 2802 and California Code of Regulations, Title 8, section 11050(9) (by failing to reimburse necessary business related expenses);

3. For civil penalties pursuant to California Labor Code sections 226.3, 233, 558, 2699(a) and/or 2699(f) and (g), for violations of California Labor Code sections 201, 202, 203, 204, 223, 225.5, 226(a), 226.7, 246, 248.1, 248.2, 248.5, 432.5, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 2800, 2802, and 2810.5 as well as all applicable IWC Wage Orders;

4. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code sections 201, 202, 203, 204, 223, 225.5, 226(a), 226.7, 233, 246, 248.1, 248.2, 248.5, 432.5, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2800, 2802 and 2810.5;

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

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

3
4 Dated: June 27, 2022

Respectfully submitted,

5 Law Offices of Mark Yablonovich

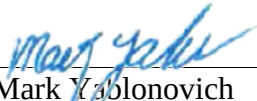
6
7 By: 
8 Mark Yablonovich
9 Tony Roberts
10 Attorneys for Plaintiff Karen Roldan, a proxy for
11 the State of California as an aggrieved employee
12 pursuant to the Private Attorneys General Act
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EXHIBIT 1

Karen Roldan v. Lucile Salter Packard Children's Hospital at Stanford, Case No.22CV397839

Direct Dial: (831) 531-4214
Email: bill@polarislawgroup.com

December 22, 2021

California Labor & Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

Lucile Packard Children's Hospital at Stanford
725 Welch Rd
Palo Alto, CA 94304

***Filed With The LWDA Online and Sent to Lucile Packard Childrens Hosp Via
Certified U.S. Mail***

Re: Notice of Labor Law Violations
California Labor Code §§ 2699, 2699.3, 2699.5

Dear Employer and Representatives of the Labor and Work Force Development Agency:

Pursuant to California Labor Code §§2699, 2699.3, 2699.5 aggrieved employee, Karen Roldan, hereby notifies you of the labor law violations and facts and circumstances giving rise to them, committed by Lucile Packard Children's Hospital at Stanford ("the employer") against Karen Roldan and all similarly aggrieved employees. The employer has engaged in the following violations against Karen Roldan and all similarly aggrieved employees.

Failure to Provide Meal and Rest Periods and Pay Meal and Rest Premium Wages

The employer violated Labor Code §§ 201-204, 226, 226.7 and 512, as to Ms. Roldan and all similarly aggrieved non-exempt employees by failing to pay meal and/or rest period premium wages based on the correct, higher regular rate of pay by not including all non-discretionary remuneration into the regular rate for purposes of paying meal and/or rest period premium wages to Ms. Roldan and all similarly aggrieved non-exempt employees, including without limitation, shift differentials and/or shift premiums. For example, the employer paid Ms. Roldan and other non-exempt employees night shift differentials, which were non-discretionary. The employer, however, failed to include the shift differentials into the regular rate of pay for purposes of paying meal and/or rest period premium wages to Ms. Roldan and other similarly aggrieved non-exempt employees. Further, as a result, the employer violated Labor Code § 226(a) as to Ms.

Roldan and other similarly aggrieved non-exempt employees by not accurately reflecting gross and net wages and hourly rates as a result of this violation. Moreover, the employer violated Labor Code §§ 201-204 as to Ms. Roldan and all similarly aggrieved employees whose employment has ended by not paying all owed meal and/or rest period premium wages within the time requirements set forth in these statutes.

As the aggrieved employee believes that such violations are ongoing, the aggrieved employee will seek to pursue such violations that occurred prior to the date of this letter, as well as any violations that occur after the date of this letter on behalf of the State of California and all similarly aggrieved employees.

Very truly yours,

DocuSigned by:



7CCF27D408C9D4...
Polaris Law Group LLP
William L. Marder

EXHIBIT 2

Karen Roldan v. Lucile Salter Packard Children's Hospital at Stanford, Case No.22CV397839

LAW OFFICES OF
MARK YABLONOVICH
9595 WILSHIRE BOULEVARD, SUITE 900
BEVERLY HILLS, CALIFORNIA 90212-2511
TELEPHONE: (310) 286-0246
FACSIMILE: (310) 407-5391

April 21, 2022

VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/310>)

Subject: *Karen Roldan v. Lucile Salter Packard Children's Hospital at Stanford*
LWDA Case No. LWDA-CM-859185-21
Supplemental Notice

Dear PAGA Administrator:

This law firm now represents Karen Roldan ("Ms. Roldan") in connection with Ms. Roldan's claims under the California Labor Code against her former employer Lucile Salter Packard Children's Hospital at Stanford ("LSPCH").

This Notice is intended to supplement the previously submitted PAGA notice on December 23, 2021, by including and/or supplementing claims against LSPCH for violations of the California Labor Code. Ms. Roldan's December 23, 2021 Notice is enclosed in this Notice and incorporated by reference.

The employer may be contacted directly:

Lucile Salter Packard Children's Hospital at Stanford
725 Welch Road
Palo Alto, CA 94304

Ms. Roldan intends to seek civil penalties, attorneys' fees, costs, and all other available relief for LSPCH's 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. Roldan seeks relief on behalf of herself, the State of California, and all other persons who are or were employed by LSPCH in California as non-exempt, hourly-paid employees and who received or should have received at least one wage statement during the relevant time period which begins one year prior to the date of this notice ("Aggrieved Employees"). Ms. Roldan sends this letter in compliance with the notice and reporting requirements of Labor Code section 2699.3.

LSPCH employed Ms. Roldan from approximately December 2015 to approximately November 30, 2021, as a non-exempt, hourly-paid employee out of LSPCH's Palo Alto, California location. Ms. Roldan worked as a Senior MRI technologist III. Ms. Roldan typically worked approximately eight to twelve hours or more per workday, four to seven days per week, and forty hours or more per week. Ms. Roldan's job duties included, but were not limited to, performing medical imaging procedures, performing imaging sequences necessary to reach a medical diagnosis and decision, working under the guidance of the section clinical instructors and

Re: *Karen Roldan v. Lucile Salter Packard Children's Hospital at Stanford*

April 21, 2022

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radiologists, participating in the resident training program, billing for procedures performed, and maintaining necessary paperwork.

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

LSPCH's Company-Wide and Uniform Payroll and Human Resources Practices

LSPCH is a hospital that provides medical services dedicated to pediatric and obstetric care. Upon information and belief, LSPCH maintains a centralized Human Resources department for all non-exempt, hourly-paid employees working for LSPCH in California, including Ms. Roldan and other Aggrieved Employees. At all relevant times, LSPCH issued and maintained uniform, standardized policies, practices and/or procedures for all non-exempt, hourly-paid employees in California, including Ms. Roldan and other Aggrieved Employees, regardless of their location, position, or job duties.

Upon information and belief, LSPCH maintains a centralized payroll department which processes payroll for all non-exempt, hourly-paid employees working for LSPCH in California, including Ms. Roldan and other Aggrieved Employees. Further, LSPCH issues the same uniform and formatted wage statements to all non-exempt, hourly-paid employees in California, irrespective of their location, position, or manner in which each employee's employment ended. LSPCH's centralized payroll department processes payroll for all non-exempt, hourly-paid employees in the same manner throughout California. In other words, LSPCH has utilized the same methods and formulas when calculating wages and any other remunerations owed to Ms. Roldan and other Aggrieved Employees in California.

Violations of California Labor Code Sections 510 and 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 3

California Labor Code sections 510 and 1198 and California Code of Regulations Title 8, section 11050 (“Wage Order No. 5”),² require employers to pay employees working more than eight hours in a day, more than forty hours in a workweek, or for the first eight hours on the seventh

¹ These facts, theories, and claims are based on Ms. Roldan's experience and counsel's review of those records currently available relating to Ms. Roldan'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, typically because the aggrieved employee was not aware of the law's requirements and/or the employer's obligations, the employer misinformed its employees of the law's requirements, or because the employer effectively hid the violations. Thus, Ms. Roldan reserves the right to supplement this letter with additional facts, theories, and claims if Ms. Roldan becomes aware of them subsequent to the submission of this letter.

² To the extent any other Wage Order applies to any of the claims in this letter, such as Wage Order 4, LSPCH also violated those wage orders.

Re: *Karen Roldan v. Lucile Salter Packard Children's Hospital at Stanford*

April 21, 2022

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consecutive day of work at the rate of time-and-one-half times the regular rate of pay for all hours worked in excess of eight hours in a day, in excess of forty hours in a workweek, and during the first eight hours on the seventh consecutive day of work. The applicable Wage Order further provides that employers are required to pay employees working more than twelve hours in a day or in excess of eight hours on the seventh consecutive day overtime compensation at a rate of two times their regular rate of pay.

LSPCH has failed to pay all overtime wages owed to Ms. Roldan and other Aggrieved Employees. During the relevant time period, Ms. Roldan and other Aggrieved Employees have not been paid overtime premiums for all of the hours they worked in excess of eight (or twelve) hours in a day, in excess of forty hours in a week, and/or for the seventh consecutive day of work (or in excess of eight hours on the seventh consecutive day of work), sometimes because all hours that they have worked have not been recorded, and other times because they have simply not been paid for all hours that have been recorded and/or worked. Ms. Roldan and Aggrieved Employees have been subject to LSPCH's control during pre-shift and post-shift times, as well as during unpaid meal periods, which, when working overtime-eligible shifts, results in underpaid overtime compensation. Based on information and belief, not all recorded work hours have been paid because of inaccurate timekeeping policies and practices. As a result, Ms. Roldan believes the hours she and other Aggrieved Employees have worked may not have been properly recorded and/or paid, and therefore, Ms. Roldan and other Aggrieved Employees may not have been properly compensated for all hours that were recorded and/or worked.

LSPCH knew or should have known that, as a result of its policies, practices and/or procedures, Ms. Roldan and other Aggrieved Employees were at times performing their assigned duties off-the-clock (and/or unrecorded), were subject to control of LSPCH, and/or were suffered or permitted to perform work for which they were not paid. LSPCH also knew, or should have known, that it did not compensate Ms. Roldan and other Aggrieved Employees for off-the-clock work or all hours worked. Because Ms. Roldan and other Aggrieved Employees sometimes worked shifts longer than eight or twelve hours a day, more than forty hours a week, and/or seven consecutive days (or in excess of eight hours on the seventh consecutive day), some of the unrecorded work qualified for overtime premium pay. At other times, LSPCH simply did not pay for all the hours that were recorded. Therefore, Ms. Roldan and other Aggrieved Employees have not been paid overtime wages for all of the overtime hours they have actually worked. LSPCH's failure to pay Ms. Roldan 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 and the applicable Wage Order.

Whenever Ms. Roldan and other Aggrieved Employees have worked a shift and then on-call on the same day, and those hours worked have exceeded eight hours worked combined, LSPCH has not paid Ms. Roldan and other Aggrieved Employees at an overtime rate of pay for all hours worked in excess of eight or twelve hours in a day. LSPCH has also failed to compensate Ms. Roldan and other Aggrieved Employees at the appropriate overtime rate for on-call hours worked in excess of forty hours in a given workweek. In other words, LSPCH has not compensated Ms. Roldan and other Aggrieved Employees for on-call hours at the appropriate overtime rate when Ms. Roldan's and other Aggrieved Employees' cumulative hours worked

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(i.e., regular, shift differential, and/or on-call hours worked combined) have exceeded eight or twelve hours in a day or forty hours in a workweek.³

Furthermore, based on information and belief, LSPCH's regular rate of pay for calculating overtime wages has not included all required remunerations or the correct calculation. For example, during times when Ms. Roldan and other Aggrieved Employees have worked overtime or on-call or were paid shift differentials or received a bonus, LSPCH has not paid all overtime wages because LSPCH has paid a lower overtime rate than required by California law.

Based on the foregoing, Ms. Roldan and other Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and interest for violations of Labor Code sections 510 and 1198 and the applicable Wage Order, pursuant to Labor Code sections 558, 1194, and/or 2699(a), (f), and (g).

Violations of California Labor Code Sections 223, 1182.12, 1194, 1197, 1197.1, and 1198 and California Code of Regulations Title 8, Section 11050, Subdivision 4

Labor Code sections 223, 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable Wage Order require employers to pay employees the minimum wage fixed by the Industrial Welfare Commission ("IWC"). The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined by the applicable Wage Order as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs. tit. 8, § 11050, subd. 2(K) (defining "Hours Worked").

LSPCH has not paid for all the time Ms. Roldan and Aggrieved Employees have worked throughout the day including all time in the workday when the employees have performed work tasks subject to the control of LSPCH. Ms. Roldan and other Aggrieved Employees are subjected to LSPCH's control pre-shift, post-shift, and throughout the workday. For example, LSPCH has forced Ms. Roldan and other Aggrieved Employees to undergo COVID-19 screenings when reporting to work before entering the hospital and before clocking in. LSPCH has required Ms. Roldan and other Aggrieved Employees to download a cell phone application on their phones. Using the cell phone application, and on every shift before entering the hospital and before clocking in, LSPCH has tasked Ms. Roldan and other Aggrieved Employees to answer a series of survey questions related to COVID-19. LSPCH has forced Ms. Roldan and other Aggrieved Employees to wait in a line for several minutes in order to enter the hospital and to confirm with a security guard that they answered the survey. In addition, LSPCH has forced Ms. Roldan and the other Aggrieved Employees to carry a communication device which must be on and responded to throughout the workday, including during unpaid meal periods.

³ Furthermore, based upon information and belief, to the extent employees were not paid overtime wages because of a purported alternative workweek schedule, LSPCH has failed to comply with the procedures and implementation of any alternative workweek schedule as set forth in the applicable Wage Order.

Re: *Karen Roldan v. Lucile Salter Packard Children's Hospital at Stanford*

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To the extent that the off-the-clock work and/or recorded hours have not qualified for overtime premium payment, LSPCH has not paid at least minimum wages for those hours worked off-the-clock or that have been recorded but not paid in violation of Labor Code sections 223, 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable Wage Order.

Ms. Roldan and other Aggrieved Employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 225.5,⁴ 1194, 1197.1 and/or 2699(a), (f), and (g).

Violations of California Labor Code Sections 226.7, 512(a), and 1198 and California Code of Regulations Title 8, Section 11050 Subdivisions 11 and 12

Labor Code sections 226.7, 512(a) and 1198 and the applicable Wage Order require employers to provide meal periods and rest periods and to pay employees one additional hour of pay at the employee's regular rate of compensation for each workday that a meal period or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five hours per day without providing the employee with an uninterrupted duty-free and control-free meal period of not less than thirty minutes, except that if the total work period per day of the employee is not more than six 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 no later than the end of an employee's fifth hour of work. *See Brinker Rest. Corp. v. Super. Ct.*, 53 Cal. 4th 1004, 1041-1042 (2012); *see also* Cal. Code Regs. tit. 8, § 11050, subd. 11. Labor Code sections 226.7 and 512(a) also require employers to provide a second meal period of not less than thirty minutes if an employee works over ten hours in a day, except that if the total hours worked is no more than twelve hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was taken.

Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable IWC Wage Order. The applicable 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 (3½) hours. Cal. Code Regs. tit. 8, § 11050, subd. 12. To comply with its obligation to provide rest periods under Labor Code section 226.7 and the applicable 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).

⁴ Labor Code section 2699.3(c) permits aggrieved employees, including Ms. Roldan, to recover civil penalties for violations of those Labor Code sections not found in section 2699.5, including section 225.5.

Re: *Karen Roldan v. Lucile Salter Packard Children's Hospital at Stanford*

April 21, 2022

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LSPCH has failed to provide meal periods and authorize and permit rest periods to Ms. Roldan and other Aggrieved Employees. As a matter of policy and practice, LSPCH has not provided Ms. Roldan and other Aggrieved Employees with full 30-minute meal periods and net 10-minute rest periods for each day worked where they are free from LSPCH's required duties and control. LSPCH's companywide policy has been that, due to the purported nature of Ms. Roldan's and the Aggrieved Employees' job duties, meal periods and rest periods must be taken on-duty and paid at the hourly rate. LSPCH has subjected Ms. Roldan and other Aggrieved Employees to control and demanding duties throughout their workday, even during times which should constitute uninterrupted duty-free rest periods and meal periods. LSPCH encourages and requires employees to stay working and to respond to company communications and/or remain under employer control.

LSPCH knew or should have known that as a result of its policies and/or practices, Ms. Roldan and other Aggrieved Employees were prevented from being relieved of all duties and employer control and required to perform some of their assigned duties during meal periods and rest periods and that they did not receive timely meal periods and rest periods. As a result, Ms. Roldan and other Aggrieved Employees have had to work through all or part of their meal periods and rest periods, have their meal periods and rest periods interrupted, and/or have waited extended periods of time before taking meal periods and rest periods.

LSPCH has also engaged in a systematic, company-wide policy and/or practice of not properly training Ms. Roldan and other Aggrieved Employees on their entitlement to meal period and rest period premium payments resulting from meal period and rest period violations. Ms. Roldan and other Aggrieved Employees have been unaware of when meal period and/or rest period premiums were owed to them. Based upon information and belief, Ms. Roldan and other Aggrieved Employees have not received all meal period and/or rest period premium wages owed when compliant meal periods and rest periods have not been provided. To the extent that LSPCH did paid meal period and/or rest period premium wages to Ms. Roldan and other Aggrieved Employees, such payments were admissions of its failure to provide compliant meal periods and rest periods.

Furthermore, on information and belief, when LSPCH has paid employees meal period and/or rest period premium payments, the regular rate of pay for calculating the premium payment has not included all required remunerations or the correct calculation. For example, when Ms. Roldan and other Aggrieved Employees have received a shift differential, a bonus or incentive, or other nondiscretionary payments, LSPCH has not paid all meal period and/or rest period premium wages because LSPCH has paid meal period and/or rest period premium wages at a lower and/or different rate than required by California law.

Accordingly, LSPCH has failed to provide all meal periods and rest periods and/or pay all meal period and rest period premiums, in violation of Labor Code sections 226.7, 512, and 1198 and the applicable Wage Order. Ms. Roldan and other Aggrieved Employees are therefore entitled to civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 226.7, 558 and/or 2699(a), (f), and (g).

Re: *Karen Roldan v. Lucile Salter Packard Children's Hospital at Stanford*

April 21, 2022

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Violations of California Labor Code Section 226(a)

Labor Code section 226(a) requires employers to keep and furnish accurate and complete employment records. LSPCH has not provided Ms. Roldan and other Aggrieved Employees with properly itemized wage statements. Moreover, an aggrieved employee may seek civil penalties under Labor Code section 2699 for violations of wage statement requirements without the need to establish injury. *Lopez v. Friant & Associates, LLC*, 15 Cal.App.5th 773, 788 (2017) (“a plaintiff seeking civil penalties under PAGA for a violation of section 226(a) does not have to satisfy the ‘injury’ and ‘knowing and intentional’ requirements of section 226(e)(1).”). Rather, 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).

LSPCH has provided Ms. Roldan and other Aggrieved Employees with incomplete and inaccurate wage statements. Specifically, LSPCH has violated, among others, Sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9). Because LSPCH has not recorded all the hours Ms. Roldan and other Aggrieved Employees worked and/or paid all hours recorded, LSPCH has not listed the correct amount of gross wages and net wages earned by Ms. Roldan and other Aggrieved Employees in compliance with Sections 226(a)(1) and (5), respectively. LSPCH also has not accurately listed the total hours worked by Ms. Roldan and other Aggrieved Employees for work performed while off-the-clock in violation of Section 226(a)(2) and the applicable hourly rates in effect during the pay period and the corresponding number of hours worked in violation of Section 226(a)(9).

In addition, the total regular, overtime, shift differential, and on-call hours listed in LSPCH's wage statements, when added together, do not add up to the total hours worked by the employee during the pertinent pay period. Likewise, LSPCH provides wage statements which do not properly itemize the total hours worked because LSPCH itemizes the incorrect number of hours worked or an undecipherable number of hours worked or both or does not even itemize total hours worked. Without additional information regarding the wage statement and undecipherable codes, an employee cannot simply ‘arrive at the sum of hours worked.’ Thus, LSPCH's wage statements do not comply with Labor Code section 226(a)(2).

Additionally, because LSPCH has not calculated the regular rate of pay correctly for purposes of paying overtime, sick pay, and/or premium wages, LSPCH has not listed the correct amount of gross wages and net wages earned by Ms. Roldan and the Aggrieved Employees in violation of Sections 226(a)(1) and (5).

LSPCH has knowingly and intentionally failed to properly itemize the regular, overtime, shift differential, and on-call rates in effect during each pay period and the corresponding number of hours worked, making it impossible to determine the correct pay rate promptly and easily with the corresponding hours and pay. Ms. Roldan's and the Aggrieved Employees' wage statements incorrectly show the regular rate, overtime rate, shift differential, on-call rate and/or other

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applicable rate and incorrectly show regular rate, overtime rate, shift differential, on-call hours and/or other applicable hours at a different number of hours than worked by the employee during the pay period. Thus, if the employee were to add together the hours listed in the line items for regular, overtime, shift differential, and on-call hours, the total is incorrect because it is different than the total number of hours actually worked by the employee during the pay period. As such, LSPCH's wage statements do not comply with Labor Code section 226(a)(9) which requires an itemized statement to show "all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee." The coding on LSPCH's wage statements cannot be said to clearly engage the employee's use of simple math to understand the rates of pay and total hours worked itemized on the wage statements. LSPCH's wage statements here have confused and misled Ms. Roldan and the Aggrieved Employees as to what the rates of pay and total hours worked are, a confusion that is compounded by the fact that LSPCH does not itemize the total hours worked on the wage statements (and if LSPCH does provide a "total hours worked" category the number is incorrect).

Furthermore, because LSPCH has failed to pay all meal period and rest period premiums to Ms. Roldan and other Aggrieved Employees, LSPCH has not listed the correct amount of gross wages and net wages earned by Ms. Roldan and other Aggrieved Employees in violation of Sections 226(a)(1) and (5).

In addition, LSPCH has failed to itemize the amount of paid sick leave/paid time off Ms. Roldan and other Aggrieved Employees have available every pay period.

Because LSPCH has failed to provide, among other things, the accurate number of total hours worked, gross wages earned, net wages earned, and the applicable hourly rates in effect during the pay period and the corresponding number of hours worked on wage statements, Ms. Roldan 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, and were given confusing and/or incomplete information about their employer. Instead, Ms. Roldan 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. Roldan and other Aggrieved Employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest for violations of Labor Code section 226(a) pursuant to Labor Code sections 226.3, 1198.5 and/or 2699(a), (f), and (g).

Violations of California Labor Code Sections 1174(d) and 1198, and California Code of Regulations Title 8, Section 11050 Subdivision 7

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

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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, LSPCH has willfully failed to maintain accurate payroll records for Ms. Roldan and other Aggrieved Employees showing the daily hours they have worked and the wages paid as a result of failing to record all hours worked and/or failing to correctly list the gross wages and/or net wages earned by them in violation of Labor Code section 1174(d).

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 Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period, as well as total daily hours. Cal. Code Regs. tit. 8, § 11050, subd. 7. During the relevant time period, LSPCH failed, on a company-wide basis, to keep accurate records of shifts, and meal period start and stop times and total daily hours for Ms. Roldan and other Aggrieved Employees, in violation of Labor Code section 1174(d) and the applicable Wage Order.

Due to LSPCH’s failure to maintain accurate payroll and time records, Ms. Roldan and other Aggrieved Employees are entitled to recover civil penalties, attorneys’ fees, costs, and interest, pursuant to Labor Code sections 1174.5 and/or 2699(a), (f), and (g).

Violations of California Labor Code Section 204

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. 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, 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 calendar days following the close of the payroll period.

During the relevant time period, LSPCH has not paid Ms. Roldan and other Aggrieved Employees all wages due to them, including, but not limited to, overtime wages, shift differential wages, on-call wages, minimum wages, sick pay, and/or meal period and rest period premium wages, within the time periods specified by Labor Code section 204.

Ms. Roldan and other Aggrieved Employees are therefore entitled to recover civil penalties, attorneys’ fees, costs, and interest, pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

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Violations of California Labor Code Sections 201, 202, and 203

Labor Code sections 201-202⁵ 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 their employment, their wages shall become due and payable not later than seventy-two hours thereafter, unless the employee has given seventy-two hours previous notice of their intention to quit, in which case the employee is entitled to their wages at the time of quitting.

LSPCH has failed to pay Ms. Roldan and other Aggrieved Employees who are no longer employed by LSPCH all their earned wages at the time of discharge, or within seventy-two hours of their leaving LSPCH's employment, in violation of Labor Code sections 201-202.

Furthermore, LSPCH has not paid Ms. Roldan and other Aggrieved Employees who are no longer employed by LSPCH all their earned wages, at the time of discharge, or within seventy-two hours of their leaving LSPCH's employment, including, but not limited to, overtime wages, minimum wages, on-call wages, shift differential pay, unpaid sick pay wages and/or meal period and rest period premium wages.

As a result of LSPCH's violations of Labor Code sections 201-202, Ms. Roldan and other Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 203 and/or 2699(a), (f), and (g).

Violations of California Labor Code Section 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A)

Pursuant to Wage Order No. 5: "Each 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." Cal. Code Regs. tit. 8 § 11050, subd. 5(A).

Upon information and belief, LSPCH violated Labor Code section 1198 and the applicable Wage Order because it has failed to pay Ms. Roldan and other Aggrieved Employees reporting time pay when they have reported to work for the scheduled shift but were put to work for less than half of the scheduled hours and not paid reporting time pay. For instance, Ms. Roldan had reported to work based on the schedule that LSPCH provided to her only to be sent home immediately or be sent home before having worked less than half of her scheduled shift. When this occurred, Ms. Roldan did not receive the proper reporting time pay.

⁵ Ms. Roldan also asserts Section 203, which is enumerated in Section 2699.5, to the extent applicable.

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As a result of LSPCH's violation of California Labor Code section 1198 and the applicable Wage Order, Ms. Roldan and other Aggrieved Employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 1194 and/or 2699(a), (f), and (g).

Violations of California Labor Code Sections 233, 246, 248.1, 248.2, and 248.5

Under Labor Code sections 233 and 246, employers in California must provide employees with paid sick leave at a specified rate of pay which must factor in additional earnings during a given pay period where such leave is used. Under Labor Code sections 248.1 and 248.2, employers must provide employees with supplemental sick leave at a specified rate of pay which must factor in additional earnings during a given pay period where such leave is used.

Ms. Roldan and other Aggrieved Employees have earned additional nondiscretionary compensation, such as, by way of example, shift differentials or incentive pay or bonuses. Upon information and belief, LSPCH has failed to provide Ms. Roldan and other Aggrieved Employees with the appropriate rate of pay when paying sick pay as required under Labor Code sections 233, 246, 248.1, and 248.2. In other words, upon information and belief, LSPCH has failed to factor in nondiscretionary compensation for Ms. Roldan and other Aggrieved Employees and has failed to provide the appropriate rate of pay when paying sick pay as required by Labor Code sections 233, 246, 248.1 and 248.2.

Furthermore, LSPCH has also failed to provide Ms. Roldan and other Aggrieved Employees with written notice that sets forth the amount of paid sick leave and/or supplemental sick leave available, or paid time off leave that LSPCH provides in lieu of sick leave, for use on either Ms. Roldan's or other Aggrieved Employees' itemized wage statements or in separate writings provided on the designated pay dates with the employees' payments of wages. Also, supplemental paid sick leave has not been set forth separately from paid sick days.

As a result of LSPCH's violations of Labor Code sections 233, 246, 248.1, 248.2, and 248.5, Ms. Roldan and other Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (g).

Violations of California Labor Code Sections 1198 and 2810.5(a)(1)

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of, among other things, the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime; any allowances claimed as part of the minimum wage, including meal or lodging allowances the regular payday designated by the employer; and the name of the employer, including any "doing business as" names used by the employer as well as the employer's physical and mailing

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address(es) and telephone number. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

On information and belief, LSPCH failed to provide Ms. Roldan and other Aggrieved Employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1). LSPCH produced Ms. Roldan's personnel file and a portion of Ms. Roldan's employment records. Absent from Ms. Roldan's personnel file and employment records was a Section 2810.5 notice containing all the requisite information, such as the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime. LSPCH'S failure to provide Ms. Roldan and other Aggrieved Employees with written notice of basic information regarding their employment with LSPCH.

As a result of LSPCH's violations of Labor Code sections 1198 and 2810.5, Ms. Roldan and other Aggrieved Employees are therefore entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 2699(a), (f), and (g).

Violations of California Labor Code Section 432.5

The Labor Code places procedural and substantive limits on employers' abilities to conduct employee background checks and on how employers can use the information they obtain through those background checks. The Investigative Consumer Reporting Agencies Act, Civil Code sections 1786, *et seq.* ("ICRAA"), mandates several requirements prior to and following an employee background check, including but not limited to, identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, as well as proper notice of adverse actions taken, among other statutory requirements. A violation of ICRAA results in a violation of Labor Code section 432.5. Under Labor Code section 432.5, "[n]o employer... shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law." Ms. Roldan and the Aggrieved Employees have been required by LSPCH to undergo background checks in violation of California law. Among other things, ICRAA, Civil Code section 1786.16, requires as follows:

- (B) The person procuring or causing the report to be made provides a clear and conspicuous disclosure in writing to the consumer at any time before the report is procured or caused to be made in a document that consists solely of the disclosure, that:
 - (i) An investigative consumer report may be obtained.
 - (ii) The permissible purpose of the report is identified.
 - (iii) The disclosure may include information on the consumer's character, general reputation, personal characteristics, and mode of living.
 - (iv) Identifies the name, address, and telephone number of the investigative consumer reporting agency conducting the investigation.

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(v) Notifies the consumer in writing of the nature and scope of the investigation requested, including a summary of the provisions of Section 1786.22.

(vi) Notifies the consumer of the Internet Web site address of the investigative consumer reporting agency identified in clause (iv), or, if the agency has no Internet Web site address, the telephone number of the agency, where the consumer may find information about the investigative reporting agency's privacy practices, including whether the consumer's personal information will be sent outside the United States or its territories and information that complies with subdivision (d) of Section 1786.20.

This clause shall become operative on January 1, 2012.

Upon information and belief, LSPCH has required Ms. Roldan and other Aggrieved Employees to submit to unlawful background checks. LSPCH has required Ms. Roldan and other Aggrieved Employees to agree in writing to unlawful background checks which have failed to abide by the requirements set forth in ICRAA. For example, LSPCH has not provided Ms. Roldan and the Aggrieved Employees with, among other things, a separate ICRAA written notice of the intent to obtain a background check report; a notice that is clear, conspicuous, and in writing; a document that consists solely of the disclosure; a notice that states the nature and scope of the information requested pursuant to ICRAA; and, a summary of the employee's rights pursuant to ICRAA. LSPCH has also required a background check before a conditional offer of employment.

By having Ms. Roldan and other Aggrieved Employees sign the illegal background checks, LSPCH has also violated Labor Code section 432.5.

As a result of LSPCH's violations of Labor Code section 432.5, Ms. Roldan and other Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 2699(a), (f), and (g).

Violations of California Labor Code Sections 2800 and 2802 and California Code of Regulations Title 8, Section 11050 Subdivision 9

Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of their 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 Serv., Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). Wage Order No. 5 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." Cal. Code Regs. tit. 8 § 11050, subd. 9(B).

LSPCH has required Ms. Roldan and other Aggrieved Employees to use their own personal cell phones and data plans as a necessity to performing their jobs and meeting LSPCH's objective of

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limiting exposure to, and contamination of, COVID-19 at its premises. Despite this, LSPCH has not provided Ms. Roldan and other Aggrieved Employees cell phones and data plans even though personal cell phones and data plans are not customarily required by the trade or craft of working for a hospital.

Ms. Roldan and other Aggrieved Employees have incurred necessary business-related expenses and costs that LSPCH has not fully reimbursed, including but not limited to payments for cell phones and cell phone data plans. Specifically, LSPCH has forced Ms. Roldan and other Aggrieved Employees to undergo COVID-19 screening before entering the hospital buildings. LSPCH has required Ms. Roldan and other Aggrieved Employees to download a web application on their phones. Using the cell phone application, and before entering the hospital and being able to clock-in, LSPCH has tasked Ms. Roldan and other Aggrieved Employees to answer a series of survey questions related to COVID-19, which Ms. Roldan and other Aggrieved Employees have done.

LSPCH'S policy, practice, and/or procedure of passing its operating costs on to Ms. Roldan and other Aggrieved Employees violates Labor Code sections 2800 and 2802 and the applicable wage order. Ms. Roldan and other Aggrieved Employees are entitled to recover civil penalties, attorneys' fees, costs, and interest, pursuant to Labor Code sections 2699(a), (f), and (g).

Violation of California Labor Code Section 558(a)

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 in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages."⁶ 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." LSPCH, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Roldan's and other Aggrieved Employees' rights by violating various sections of the California Labor Code as set forth herein.

Pursuant to Labor Code section 2699(f) and the other Labor Code sections as set forth above, Ms. Roldan seeks, among other things, recovery of applicable civil penalties. In the alternative to the penalties above, Ms. Roldan seeks penalties pursuant to Labor Code section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under Labor Code sections 558(a)(1) and 558(a)(2) should such provision be applicable.

⁶ Ms. Roldan does not seek to recover any unpaid wages that are provided for in Section 558(a). She only seeks civil penalties allowed by PAGA. *See ZB, NA v. Super. Ct. (Lawson)*, 8 Cal. 5th 175 (2019).

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* * *

Accordingly, Ms. Roldan seeks the remedies set forth above 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), and 2699.5, Ms. Roldan, 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 LSPCH for violations of California Labor Code sections 201, 202, 203, 204, 223, 233, 226(a), 226.7, 432.5, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2800, 2802, and the applicable Wage Orders, as well as sections 225.5, 246, 248.1, 248.2, 248.5, and 2810.5, which are 'curable' violations pursuant to Section 2699.3(c)(2)(A).

Therefore, on behalf of all Aggrieved Employees, Ms. Roldan seeks all applicable civil penalties and other available relief 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 or my colleague at the phone number, address, or emails below:

Mark Yablonovich
Tony Roberts
LAW OFFICES OF MARK YABLONOVICH
9595 Wilshire Boulevard, Suite 900
Beverly Hills, California 90212
(310) 286-0246
Mark@Yablonovichlaw.com
Tony@Yablonovichlaw.com

Best Regards,



Mark Yablonovich

Copy to: Lucile Salter Packard Children's Hospital at Stanford
725 Welch Road
Palo Alto, CA 94304
Via U.S. Certified Mail

Debra L. Zumwalt
Agent for service of process for Lucile Salter Packard Children's Hospital at Stanford
450 Jane Stanford Way, Building 170, 3rd Floor
Stanford, CA 94305
Via U.S. Certified Mail

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Lucile Salter Packard Children's Hospital at Stanford
4700 Bohannon Drive, 1st Floor (HR)
Menlo Park, CA 94025
Via U.S. Certified Mail

Karen Roldan v. Lucile Salter Packard Children's Hospital at Stanford.,

LWDA Case No. LWDA-CM-859185-21

Direct Dial: (831) 531-4214
Email: bill@polarislawgroup.com

December 22, 2021

California Labor & Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

Lucile Packard Children's Hospital at Stanford
725 Welch Rd
Palo Alto, CA 94304

***Filed With The LWDA Online and Sent to Lucile Packard Childrens Hosp Via
Certified U.S. Mail***

Re: Notice of Labor Law Violations
California Labor Code §§ 2699, 2699.3, 2699.5

Dear Employer and Representatives of the Labor and Work Force Development Agency:

Pursuant to California Labor Code §§2699, 2699.3, 2699.5 aggrieved employee, Karen Roldan, hereby notifies you of the labor law violations and facts and circumstances giving rise to them, committed by Lucile Packard Children's Hospital at Stanford ("the employer") against Karen Roldan and all similarly aggrieved employees. The employer has engaged in the following violations against Karen Roldan and all similarly aggrieved employees.

Failure to Provide Meal and Rest Periods and Pay Meal and Rest Premium Wages

The employer violated Labor Code §§ 201-204, 226, 226.7 and 512, as to Ms. Roldan and all similarly aggrieved non-exempt employees by failing to pay meal and/or rest period premium wages based on the correct, higher regular rate of pay by not including all non-discretionary remuneration into the regular rate for purposes of paying meal and/or rest period premium wages to Ms. Roldan and all similarly aggrieved non-exempt employees, including without limitation, shift differentials and/or shift premiums. For example, the employer paid Ms. Roldan and other non-exempt employees night shift differentials, which were non-discretionary. The employer, however, failed to include the shift differentials into the regular rate of pay for purposes of paying meal and/or rest period premium wages to Ms. Roldan and other similarly aggrieved non-exempt employees. Further, as a result, the employer violated Labor Code § 226(a) as to Ms.

Roldan and other similarly aggrieved non-exempt employees by not accurately reflecting gross and net wages and hourly rates as a result of this violation. Moreover, the employer violated Labor Code §§ 201-204 as to Ms. Roldan and all similarly aggrieved employees whose employment has ended by not paying all owed meal and/or rest period premium wages within the time requirements set forth in these statutes.

As the aggrieved employee believes that such violations are ongoing, the aggrieved employee will seek to pursue such violations that occurred prior to the date of this letter, as well as any violations that occur after the date of this letter on behalf of the State of California and all similarly aggrieved employees.

Very truly yours,

DocuSigned by:



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Polaris Law Group LLP
William L. Marder