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and on behalf of all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF CONTRA COSTA

KIMBERLY A. SANDERS, individually
and on behalf of all others similarly
situated,

Plaintiffs,

v.

CONTRA LOMA HEALTHCARE, LLC;
REHAB SPECIALISTS CALIFORNIA,
LLC; and DOES 1 through 20, inclusive,

Defendants.

Case No. MSC21-02680

*Assigned for All Purposes to:
Hon. E. Weil; Dept. 39*

FIRST AMENDED COMPLAINT FOR:

1. Enforcement of Labor Code § 2698 *et seq.*
("PAGA")

1 Plaintiff Kimberly A. Sanders, individually and on behalf of others similarly situated,
2 alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Kimberly A. Sanders (“Plaintiff”) brings this representative action
5 pursuant to the Private Attorneys General Act of 2004, Cal. Lab. Code. § 2698 *et seq.*, against
6 defendants Contra Loma Healthcare, LLC; and DOES 2 through 20, inclusive (collectively,
7 “Defendants”), on Plaintiff’s own behalf and on behalf of Defendants’ non-exempt employees
8 throughout California.

9 2. Defendants are in the healthcare industry.

10 3. Through this action, Plaintiff alleges that Defendants engaged in a systematic
11 pattern of wage and hour violations under the California Labor Code and Industrial Welfare
12 Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate unfair
13 competition.

14 4. Plaintiff is informed and believe, and thereon alleges, that Defendants have
15 increased their profits by violating state wage and hour laws by, among other things:

- 16 (a) failing to pay all wages (including minimum wages and overtime wages)
17 at the correct rate of pay;
- 18 (b) failing to provide lawful meal periods or compensation in lieu thereof;
- 19 (c) failing to authorize or permit lawful rest breaks or provide compensation
20 in lieu thereof;
- 21 (d) failing to reimburse necessary business-related costs;
- 22 (e) failing to provide accurate itemized wage statements; and
- 23 (f) failing to pay all wages due upon separation of employment.

24 5. Plaintiff seeks monetary relief against Defendants on behalf of herself and all
25 others similarly situated in California to recover, among other things, unpaid wages, un-
26 reimbursed business expenses, benefits, interest, attorneys’ fees, costs and expenses, and
27 penalties pursuant to Labor Code §§ 201, 202, 203, 204, 210, 223, 226, 226.3, 226.7, 246, 510,
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1 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, and Code of
2 Civil Procedure § 1021.5.

3 **JURISDICTION AND VENUE**

4 6. This is a representative action. The monetary damages and restitution sought by
5 Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established
6 according to proof at trial.

7 7. This Court has jurisdiction over this action pursuant to the California
8 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes
9 except those given by statutes to other courts. The statutes under which this action is brought do
10 not specify any other basis for jurisdiction.

11 8. This Court has jurisdiction over all Defendants because, upon information and
12 belief, they are citizens of California, have sufficient minimum contacts in California, or
13 otherwise intentionally avail themselves of the California market so as to render the exercise of
14 jurisdiction over them by the California courts consistent with traditional notions of fair play and
15 substantial justice.

16 9. Venue is proper in this Court because, upon information and belief, Defendants
17 reside, transact business, or have offices in this county, and the acts and omissions alleged herein
18 took place in this county.

19 **THE PARTIES**

20 10. Plaintiff is a resident of California and worked for Defendants during the relevant
21 time periods as alleged herein.

22 11. Plaintiff is informed and believes, and thereon alleges that at all times hereinafter
23 mentioned, Defendants were and are subject to the Labor Code and IWC Wage Orders as
24 employers, whose employees were and are engaged throughout this county and the State of
25 California.

26 12. Plaintiff is unaware of the true names or capacities of the defendants sued herein
27 under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this
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1 Complaint and serve such fictitiously named defendants once their names and capacities become
2 known.

3 13. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 20
4 are or were the partners, agents, owners, shareholders, managers, or employees of Defendants at
5 all relevant times.

6 14. Plaintiff is informed and believes, and thereon alleges, that each defendant acted
7 in all respects pertinent to this action as the agent of the other defendant, carried out a joint
8 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant
9 are legally attributable to the other defendant. Furthermore, defendants in all respects acted as the
10 employer and/or joint employer of Plaintiff and the aggrieved employees.

11 15. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts
12 and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES
13 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on the
14 other's behalf. The acts of any and all Defendants were in accordance with, and represent, the
15 official policy of Defendants.

16 16. At all relevant times, Defendants, and each of them, acted within the scope of
17 such agency or employment, or ratified each and every act or omission complained of herein. At
18 all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of
19 each and all the other Defendants in proximately causing the damages herein alleged.

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

23 **GENERAL ALLEGATIONS**

24 18. At all relevant times mentioned herein, Defendants employed Plaintiff and other
25 California residents as non-exempt employees throughout California at Defendants' California
26 business location(s).

27 19. Defendants continue to employ non-exempt employees within California.
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1 20. Plaintiff is informed and believes, and thereon alleges, that at all times herein
2 mentioned, Defendants were advised by skilled lawyers, employees, and other professionals who
3 were knowledgeable about California's wage and hour laws, employment and personnel
4 practices, and the requirements of California law.

5 21. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and aggrieved employees were entitled to receive wages for all
7 time worked (including minimum wages and overtime wages) and that they were not receiving
8 all wages earned for work that was required to be performed. In violation of the Labor Code and
9 IWC Wage Orders, Plaintiff and aggrieved employees were not paid all wages (including
10 minimum wages and overtime wages) for all hours worked, due to Defendants' action such as
11 unlawfully withholding shift premium payments, requiring Plaintiff and aggrieved employees to
12 work or remain under Defendants' control off-the-clock, and failing to include non-discretionary
13 incentive pay in the overtime rate, among other reasons.

14 22. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and aggrieved employees were entitled to receive all required
16 meal periods or payment of one (1) additional hour of pay at Plaintiff's and aggrieved
17 employees' regular rate of pay when they did not receive a timely, uninterrupted meal period. In
18 violation of the Labor Code and IWC Wage Orders, Plaintiff and aggrieved employees did not
19 receive all meal periods or payment of one (1) additional hour of pay at Plaintiff's and aggrieved
20 employees' regular rate of pay when they did not receive a timely, uninterrupted meal period.

21 23. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that Plaintiff and aggrieved employees were entitled to receive all rest breaks
23 or payment of one (1) additional hour of pay at Plaintiff's and aggrieved employees' regular rate
24 of pay when a rest break was late, missed, or interrupted. In violation of the Labor Code and
25 IWC Wage Orders, Plaintiff and aggrieved employees did not receive all rest breaks or payment
26 of one (1) additional hour of pay at Plaintiff's and aggrieved employees' regular rate of pay
27 when a rest break was missed, late, or interrupted.

1 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and aggrieved employees were entitled to reimbursement and/or
3 indemnification for all necessary business expenditures or losses as a direct consequence of the
4 discharge of their duties, or of their obedience to the directions of Defendants. In violation of the
5 Labor Code and IWC Wage Orders, Plaintiff and aggrieved employees incurred necessary
6 business expenses or losses, such as personal cell phone costs, but were not reimbursed nor
7 indemnified for such expenses or losses that were incurred as a direct consequence of the
8 discharge of their duties, or of their obedience to the directions of Defendants.

9 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
10 should have known that Plaintiff and aggrieved employees were entitled to receive itemized
11 wage statements that accurately showed the following information pursuant to the Labor Code:
12 (1) gross wages earned; (2) total hours worked by the employee; (3) the number of piece-rate
13 units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all
14 deductions, provided that all deductions made on written orders of the employee may be
15 aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for
16 which the employee is paid; (7) the name of the employee and only the last four digits of his or
17 her social security number or an employee identification number other than a social security
18 number; (8) the name and address of the legal entity that is the employer; and (9) all applicable
19 hourly rates in effect during the pay period and the corresponding number of hours worked at
20 each hourly rate by the employee. In violation of the Labor Code, Plaintiff and aggrieved
21 employees were not provided with accurate itemized wage statements.

22 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that the aggrieved employees was entitled to timely payment of wages due
24 upon separation of employment. In violation of the Labor Code, the aggrieved employees did not
25 receive payment of all wages within the permissible time periods.

26 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known they had a duty to compensate Plaintiff and aggrieved employees, and
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1 Defendants had the financial ability to pay such compensation but willfully, knowingly, and
2 intentionally failed to do so in order to increase Defendants' profits.

3 28. Therefore, Plaintiff brings this lawsuit seeking monetary relief against Defendants
4 on Plaintiff's own behalf and on behalf of all aggrieved employees to recover attorneys' fees,
5 penalties, and costs.

6 **FIRST CAUSE OF ACTION**

7 **ENFORCEMENT OF LABOR CODE §§ 2698 ET SEQ. ("PAGA")**

8 29. Plaintiff hereby re-alleges and incorporate by reference the previous paragraphs
9 as though fully set forth herein.

10 30. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
11 for a civil penalty to be assessed and collected by the Labor and Workforce Development
12 Agency ("LWDA") or any of its departments, divisions, commissions, boards, agencies, or
13 employees for violation of the Labor Code may, as an alternative, be recovered through a civil
14 action brought by an aggrieved employee on behalf of himself or herself and other current or
15 former employees pursuant to the procedures specified in Labor Code § 2699.3.

16 31. For all provisions of the Labor Code except those for which a civil penalty is
17 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
18 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
19 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
20 period in which Defendants violated these provisions of the Labor Code.

21 32. Defendants' conduct violates numerous Wage Order and Labor Code sections,
22 including, but not limited to, the following:

- 23 a. violation of Labor Code §§ 201, 202, 203, 204, 210, 223, 246, 510,
24 1182.12, 1194, 1197, and 1198 for failure to timely pay all earned wages
25 (including minimum wage and overtime wages) owed to Plaintiff and
26 other aggrieved employees during employment and upon separation of
27 employment as herein alleged;
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- b. violation of Labor Code §§ 226.7 and 512 for failure to provide meal periods to Plaintiff and other aggrieved employees and failure to pay premium wages for missed meal periods as herein alleged;
- c. violation of Labor Code § 226.7 for failure to permit rest breaks to Plaintiff and other aggrieved employees and failure to pay premium wages for missed rest periods as herein alleged;
- d. violation of Labor Code § 226 for failure to provide accurate itemized wage statements to Plaintiff and other aggrieved employees as herein alleged;
- e. violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate and complete records showing, among other things, the hours worked daily by and the wages paid to aggrieved employees; and
- f. violation of Labor Code §§ 2800 and 2802 for failure to reimburse Plaintiff and other aggrieved employees for necessary business expenses as herein alleged.

33. Plaintiff is an “aggrieved employee” because she was employed by the alleged violator and had one or more of the violations committed against her, and therefore is properly suited to represent the interests of all other aggrieved employees.

34. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and is therefore able to pursue a claim for penalties on behalf of herself and all other aggrieved employees under PAGA.

35. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

36. For bringing this action, Plaintiff is entitled to attorney’s fees and costs incurred herein.

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1. For civil penalties;
2. For reasonable attorneys' fees, costs of suit, and interest to the extent permitted by law, including, but not limited to, Code of Civil Procedure § 1021.5 and Labor Code §§ 2698 *et seq.*; and
3. For such other relief as the Court deems just and proper.

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CERTIFICATE OF SERVICE

I, the undersigned, am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; am employed with Aegis Law Firm PC and my business address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

On September 22, 2022, I served the foregoing document entitled:

• FIRST AMENDED COMPLAINT

on all the appearing and/or interested parties in this action by delivering ☐ *the original* ☒ *a true copy* thereof on the party(ies) addressed below as follows:

Grace Y. Horoupian FISHER & PHILLIPS LLP 2050 Main Street, Suite 1000 Irvine, California 92614 Telephone: (949) 851-2424 Facsimile: (949) 851-0152 E-Mail: ghoroupian@fisherphillips.com nmartinez@fisherphillips.com amiranda@fisherphillips.com	Sterling Corporate Network, Inc. (C3971606) 6100 Horseshoe Bar Road, Suite A Loomis, CA 95650 <i>Agent for Service of Process for Defendant:</i> DOE 1: LONE TREE CONVALESCENT HOSPITAL, INC.
Areen Babajanian FISHER & PHILLIPS LLP 444 South Flower Street, Suite 1500 Los Angeles, California 90071 Telephone: (213) 402-9577 E-Mail: ababajanian@fisherphillips.com	
<i>Attorneys for Defendant:</i> CONTRA LOMA HEALTHCARE, LLC; REHAB SPECIALISTS CALIFORNIA, LLC	

☒ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one day after date of deposit for mailing this affidavit. (*Cal Code Civ. Proc. § 1013(a); Fed. R. Civ. Proc. 5(a); Fed. R. Civ. Proc. 5(c).*) **[AS TO THE AGENT FOR DEFENDANT LONE TREE CONVALESCENT HOSPITAL, INC. ONLY]**

☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business practice of Aegis Law Firm PC for collection and processing correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained Federal Express for overnight delivery. (*Cal Code Civ. Proc. § 1013(c); Fed. R. Civ. Proc. 5(c).*)

☒ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via electronic transmission via the above listed email addresses on the date below. (*Cal. Code Civ. Proc. § 1010.6(6); Fed. R. Civ. Proc. 5(b)(2)(E); Fed. R. Civ. Proc. 5(b)(3).*)

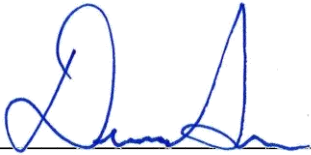
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☐

(BY PERSONAL SERVICE) I delivered the foregoing document by hand delivery to the addressed named above. (*Cal Code Civ. Proc. § 1011; Fed. R. Civ. Proc. 5(b)(2)(A).*)

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

Executed on September 22, 2022, at Irvine, California.



Delaney Graves