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BLANCA MEDINA, on behalf of herself,
all putative class members, aggrieved employees
and the State of California as a
Private Attorneys General

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

BLANCA MEDINA, an individual, on behalf
of herself, all putative class members,
aggrieved employees, and the State of
California as a Private Attorneys' General,

Plaintiff,

vs.

LA HUNTINGTON HEALTHCARE LLC, a
California Corporation; and DOES 1-50,
inclusive,

Defendant.

Case No.: **23STCV02144**

**CLASS AND REPRESENTATIVE
ACTION COMPLAINT FOR:**

- 1. Failure to Pay for All Hours Worked,
Including Overtime Hours Worked**
 - 2. Failure to Timely Pay All Wages
Owed**
 - 3. Failure to Provide Rest Breaks**
 - 4. Failure to Provide Uninterrupted
Meal Breaks & Second Meal Breaks**
 - 5. Failure to Pay Accrued Vacation
Wages**
 - 6. Failure to Provide Potable Drinking
Water**
 - 7. Failure to Reimburse for Required
Business Expenses**
 - 8. Failure to Provide Suitable Seating**
 - 9. Failure to Provide and Maintain
Timely, Accurate, Itemized Wage
Statements and Comply with Record
Keeping Requirements**
 - 10. Unlawful Business Practices
Bus & Prof. Code §17200**
 - 11. Private Attorneys General Act
Penalties §2698 et seq**
- JURY TRIAL DEMANDED**

Plaintiff BLANCA MEDINA, individually, and on behalf of all others similarly situated,
all Aggrieved Employees, and as a Private Attorney General for the State of California
(collectively "Plaintiff"), alleges as follows:

NATURE OF THE ACTION

1. This is an employment class and PAGA representative action on behalf of over 100 hourly, non-exempt employees against their employer for violations of numerous wage and hour laws. Plaintiff employees bring this employment class and representative action complaint on behalf of themselves, and all others similarly situated against LA HUNTINGTON HEALTHCARE LLC and DOES 1-50, inclusive, (hereafter collectively “Defendant” or “Defendant”).

2. Defendant is a 24-hour skilled nursing and rehabilitation center. Plaintiff’s proposed PAGA representative action would represent numerous aggrieved employees. Plaintiff worked for Defendant as an hourly, non-exempt employee until December 21, 2021.

3. As described further below, Defendant has violated the California Labor Code by (1) failing to pay for all hours worked including overtime hours worked; (2) failing to timely pay all wages owed; (3) failing to provide rest breaks; (4) failing to provide uninterrupted meal breaks and second meal breaks; (5) failing to pay accrued vacation wages on separation; (6) failing to provide potable drinking water; (7) failing to reimburse for required business expenses; (8) failing to provide suitable seating; (9) failing to provide timely, accurate wage statements and payroll records and comply with record keeping requirements; and (10) unlawful and unfair business practices (Bus. & Prof. Cod3 §17200, et. seq.). Plaintiff further alleges that Defendant is liable for civil penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 et seq.

4. The class claims in this action are brought pursuant to Code of Civil Procedure (“CCP”) §382, seeking recovery for unpaid wages, including overtime wages, missed meal and rest period penalty pay, statutory and waiting time penalties, injunctive and other equitable relief, interest, and reasonable attorneys’ fees and costs. Pursuant to the class and representative action procedures provided for under California law, Plaintiff, on behalf of themselves and proposed Class Members (also referred to as “Class”), and Aggrieved Employees, also seeks injunctive relief and restitution of all benefits Defendant has received from their unlawful actions as alleged herein. Plaintiff has also provided notice of these claims pursuant to §2698 et. seq., to the Labor and Workforce and Development Agency (“LWDA”) and now brings this First Amended Complaint, including claims

1 for civil penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 et seq.
2 Attorney General Act (“PAGA”), Labor Code §2698 et seq.

3 5. The “Class Period” is designated as the four-year period prior to the filing of this
4 Complaint through the date of final disposition of this action. From the start of the Class Period
5 through the present, Defendant has had a policy and/or practice of among other violations:
6 rounding employee timecard entries, frequently failing to provide meal and rest breaks, frequently
7 issuing inaccurate wage statements, ignoring and violating California wage and hour laws in their
8 business as more fully set forth below.

9 6. The “PAGA Period” is defined herein commences one year prior to the date of filing the
10 PAGA Notice letter with the LWDA.

11 7. Defendant has treated all persons employed in California in such a way as to violate
12 California’s laws governing conditions of employment and payment of wages owed. Plaintiff
13 asserts that Defendant has knowingly and with conscious disregard of the law refused to pay the
14 Class Members all wages owed, including overtime wages and meal and rest break penalty wages.
15 Defendant has violated numerous Labor Code provisions, as set forth herein. Class Members are
16 owed their back pay, plus interest and/or premiums and penalties under Business and Professions
17 Code section 17203 to compensate Class Members and Class Members for the delay in receiving
18 wages due.

19 8. Defendant, by and through their actions, has engaged in unfair competition, requiring
20 restitution to persons affected and disgorgement of profits so obtained.

21 **THE PARTIES**

22 9. Plaintiff BLANCA MEDINA is an individual who resides in California and was
23 employed by Defendant from 2011 until December 21, 2021.

24 10. Defendant LA HUNTINGTON HEALTHCARE LLC is a California Corporation
25 doing business in California with the capacity to sue and to be sued, and doing business in the
26 county of Los Angeles, State of California.

27 11. Defendant Does 1-50, inclusive, are sued herein under fictitious names. Their true
28 names and capacities are unknown to Plaintiff. When their true names and capacities are

1 ascertained, Plaintiff will amend this complaint by inserting their true names and capacities herein.
2 Plaintiff is informed and believe, and thereon alleges, that each of the fictitiously named Defendant
3 is responsible in some manner for the occurrences herein alleged, and that the damages sustained
4 by Plaintiff, Class Members, and Aggrieved Employees herein alleged were proximately caused
5 by such Doe Defendants.

6 12. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or
7 indirectly, or through agents or other persons, employed Plaintiff and other members of the Class,
8 and exercised control over their wages, hours, and working conditions. Plaintiff is informed and
9 believes and thereon alleges that each Defendant acted in all respects pertinent to this action as the
10 agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects
11 pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

12 **JURISDICTION AND VENUE**

13 13. Venue is proper in this judicial district because Defendant conducts business in this
14 County and Defendant has legal obligations to Plaintiff, Aggrieved Employees and many of the
15 Class Members in this case that arose in this county.

16 14. The monetary damages, restitution and statutory penalties sought by Plaintiff exceed
17 the minimal jurisdictional limits of the Superior Court and will be established according to proof
18 at trial. Based on information, investigation and analysis, Plaintiff alleges that the amount in
19 controversy, including claims for monetary damages, penalties and attorney's fees is more than
20 twenty-five thousand dollars and less than five million dollars.

21 15. The California Superior Court has jurisdiction in this matter because Plaintiff is a
22 resident of California and Defendant is incorporated in and/or qualified to do business in California
23 and regularly conduct business in California. Further, there is no federal question at issue as the
24 claims herein are based solely on California law.

25 **CLASS AND REPRESENTATIVE ACTION ALLEGATIONS**

26 16. During the Class Period and PAGA Period, Defendant committed various violations of
27 the California Labor Code, the CCR, the UCL and IWC Wage Order 5, as alleged below in more
28

1 detail. Defendant enforces multiple policies that violate state law which are intended to increase
2 its own profits to the detriment of its workers.

3 17. Defendant employed, upon information and belief, more than 100 current and former
4 non-exempt employees (hereafter “Class Members” or “Class”) during the Class Period.

5 18. Defendant failed to pay for all hours worked; timely provide and/or authorize meal
6 breaks; timely provide and/or authorize rest breaks and cool down periods; and provide timely,
7 accurate wage statements and maintain required payroll records. These practices also constitute
8 unlawful and unfair business practices. These policies and practices have deprived Plaintiff and
9 Class Members, and Aggrieved Employees of payment for all hours worked, and further damages,
10 as set forth below, and render Defendant liable for damages, including penalties under PAGA.

11 19. Failure to pay for all hours worked Including Overtime Hours Worked. Defendant has
12 been engaged in many unlawful employment practices which resulted in underpayment for hours
13 worked each pay period, including overtime hours worked, as more fully set forth below:

14 A. Rounding Time Clock Entries. Defendant rounded all time clock entries to the
15 nearest quarter-hour, despite the electronic timeclock system that recorded
16 punch in and out times to the minute. Plaintiff and aggrieved employees were
17 also required to maintain required uniforms, and communicating with
18 management on their cell phones on their own time, off-the clock. They were
19 also required to purchase their own PPE, including masks and gloves, on their
20 own time because these essential supplies were not provided by Defendant.

21 B. Failure to Pay Overtime Wages. Defendant has required, as a result of its
22 practices above, Plaintiff and others to work hours in excess of eight hours in a
23 day and forty in a week, but has not paid these employees overtime
24 compensation at one and one-half times the regular rate of pay in violation of
25 Labor Code §510. Further, Plaintiff and aggrieved employees have been
26 required to work in excess of 12 hours in one day without being compensated
27 at a rate of twice the regular rate of pay. §510.
28

1 20. Failure to Timely Pay All Wages Owed. Defendant failed to timely pay all wages due
2 as more fully set forth below:

3 A. Failure to Pay Wages Due Upon Termination. As a result of the unlawful
4 practice described herein, Defendant willfully failed to pay employees who are
5 no longer employed by it all compensation due upon termination of
6 employment as required by Cal. Lab. Code §§201 and 202. Plaintiff believes
7 that other aggrieved employees who separated from the company, whether
8 voluntary or involuntary, were also denied payment of wages in a timely
9 manner as required by §203.

10 B. Failure to Pay All Wages Owed Twice Per Month. Defendant was required to
11 pay Plaintiff and employee all wages earned twice during each calendar month
12 pursuant to Labor Code §204(a). Defendant failed to pay all wages earned to
13 employees as a result of the unlawful employment policies and practices
14 discussed herein. As a result of these practices, aggrieved employees were
15 underpaid for hours worked, including overtime and penalty wages, and this
16 underpayment resulted in a failure to pay all wages owed twice per month.

17 21. Rest Breaks. Defendant has failed to maintain a compliant rest period policy and
18 practice that provides its employees with off-duty rest periods as required by California law.
19 Defendant did not authorize or permit all of its hourly employees to take at least a ten minute rest
20 period in which they were relieved of all duties, for every 4 hours of work, or major fraction
21 thereof, as required by Cal. Lab. Code §226.7, §512 and Wage Order 5-2001 12(A). According to
22 Plaintiff, rest breaks were denied and missed on a daily basis. When Plaintiff and employees were
23 permitted a rest break, they were noncompliant because adequate break facilities were not
24 provided. Only a select few employees were provided with access to the break room. Plaintiff,
25 Class Members, and other aggrieved employees who were not permitted access to the break room
26 had to take breaks in the hallway or not at all. Plaintiff and other employees were unable to take
27 compliant rest periods, especially second rest periods, due to understaffing, patient demands, and
28 the press of work. Defendant did not institute sufficient plans to relieve employees of all duty so

1 they could take compliant and necessary breaks. When employees received breaks, they were not
2 compliant because Defendant did not provide potable water, as described below. Defendant failed
3 to pay Plaintiff and similarly situated employees all premium compensation (one hour of pay at
4 the employee's regular rate of pay for missed or untimely rest periods) mandated by Labor Code
5 §226.7 (b) for these missed rest periods.

6 22. Meal periods. Defendant failed to maintain a compliant meal period policy and
7 practice. Defendant failed to provide all of its hourly employees with their right to take a timely,
8 off-duty unpaid 30-minute meal period. On many occasions, Plaintiff was unable to take a
9 compliant first meal period because she was not authorized to take a meal period until well after
10 the fifth hour of work. When Plaintiff and employees were permitted a lunch break, only a select
11 few were permitted to use the break room. Plaintiff and aggrieved employees who were not
12 permitted access to the break room had to take breaks in the hallway or in their vehicles. Defendant
13 failed to permit Plaintiff and others to take timely, off-duty, meal breaks of "not less than 30
14 minutes" for each five consecutive hours of work in violation of Labor Code §§226.7 and 512.
15 Moreover, because Defendant's policy violates a Wage Order, Defendant is liable under Labor
16 Code §1198. As a derivative claim, Plaintiff alleges that pay statements were inaccurate, failing to
17 include required meal period penalties, thus failing the requirements of Labor Code §226(a). As a
18 result of these violations, Defendant is liable for civil penalties pursuant to Cal. Labor Code §558
19 and §2698 *et. seq.*

20 23. Failure to Provide Place of Employment That is Safe and Healthful. Defendant failed
21 to timely make necessary changes to the workplace at the onset of COVID. Under Labor Code
22 §6409.6(a)(1). "COVID-19" means severe acute respiratory syndrome coronavirus 2 (SARS-
23 CoV-2). For example, Defendant did not provide employees with adequate PPE, and employees
24 purchased their own PPE, including masks, gloves, and hand sanitizer at their own expense in
25 violation of Labor Code §2802. Additionally, the temperature in the facility was excessively cold,
26 and patients and staff complained about the low temperature within the facility. As a result of
27 these practices, Defendant has violated Cal. Labor Code §§6400, 6401, 6402, 6403, 6404, and
28

6407 for failure to provide a safe and healthful environment for employees, as outlined above. Defendant is liable for civil penalties pursuant to Cal. Labor Code §2699 *et seq.*

24. Failure to Provide Potable Drinking Water. Plaintiff and aggrieved employees were not provided with potable drinking water and had to bring their own water from home in personal water bottles. Labor Code 226.7 requires compliant breaks, and employees may recover PAGA penalties for violation of 226.7.

25. Business Expenses. Labor Code §2802 requires employers to indemnify employees for necessary expenditures or losses incurred by employees in direct consequence of discharge of duties. Here, Defendant required Plaintiff and aggrieved employees to wear scrubs for work and to purchase and maintain the scrubs at their own expense with inadequate reimbursement. Plaintiff and aggrieved employees also purchased much of their own required PPE, including masks, gloves, and hand sanitizer as inadequate supplies were provided by Defendant. Defendant also communicated with Plaintiff and aggrieved employees on their personal cell phones yet failed to pay for any portion of the expense. Accordingly, Defendant is liable for civil penalties under PAGA §2699 *et seq.*

26. Failure to Provide Suitable Seating. At all relevant times, Defendant failed to provide Plaintiff and aggrieved employees with suitable seating during their employment as required by section 14 of the Wage Order, when working in positions that would reasonably permit the use of seating. Accordingly, Plaintiff, on behalf of herself and aggrieved employees, will pursue civil penalties under Labor Code §2698 *et seq.*, and all available remedies to the extent allowed by law for the alleged violations.

27. Failure to Pay Accrued Vacation Wages. Defendant knowingly and intentionally withheld accrued and unpaid vacation wages from Plaintiff and other employees, failing and refusing to pay vacation wages owed upon separation.

28. Wage statement and record keeping violations. Defendant knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Plaintiff and aggrieved employees in accordance with Labor Code §§ 226 and 1174. The statements provided to Plaintiff and aggrieved employees have not accurately reflected actual gross wages earned, including overtime

1 and meal/rest premiums, expense reimbursements, and total hour worked. Such failures caused
2 injury to Plaintiff and others, by, among other things, impeding them from knowing the accurate
3 total hours worked and the amount of wages and penalty payments to which they are and were
4 entitled. Defendant knowingly and intentionally failed to itemize the accurate gross wages earned,
5 net wages earned, and total hours worked. Defendant is liable for civil penalties pursuant to Labor
6 Code § 2699 *et seq.*

7 29. Unlawful business practices. Based upon the above allegations, Defendant engaged in
8 unfair competition.

9 **CALIFORNIA CLASS AND REPRESENTATIVE ACTION ALLEGATIONS**

10 30. Plaintiff brings this action on behalf of herself, and all other persons similarly situated,
11 to recover from Defendant for failure to comply with California wage and hour laws, and for claims
12 under Business and Professions Code § 17200.

13 31. This action has been brought and may properly be maintained as a class action pursuant
14 to the provisions of Code of Civil Procedure § 382 and/or a representative action under Business
15 & Professions Code §§17200 *et seq.* and Labor Code §2699 because the proposed class is
16 ascertainable and there is a well-defined community of interest. Plaintiffs are among in excess of
17 100 employees with like job titles, duties, and hourly wages, who have been similarly injured by
18 Defendant's uniform, unlawful conduct.

19 32. The "Relevant Time Period" or proposed "Class Period" as defined herein commences
20 four years prior to the date of filing this Complaint.

21 33. Plaintiff brings this action on their behalf and as a class action under Cal. Code of Civil
22 Procedure §382 on behalf of the following defined groups:

23 **Proposed Class:**

24 "All persons who are employed or have been employed by Defendant in the State
25 of California as hourly, non-exempt workers during the period of the relevant
26 statute of limitations."

27 **Proposed Sub-classes:**

28

- 1 A. All persons who are employed or have been employed by Defendant in the State
2 of California as hourly, non-exempt workers during the period of the relevant
3 statute of limitations, who worked one or more shift in excess of five (5) hours.
- 4 B. All persons who are employed or have been employed by Defendant in the State
5 of California as hourly, non-exempt workers during the period of the relevant
6 statute of limitations, who worked one or more shifts in excess of six (6) hours.
- 7 C. All persons who are employed or have been employed by Defendant in the State
8 of California as hourly, non-exempt workers during the period of the relevant
9 statute of limitations, who worked one or more shifts in excess of eight (8)
10 hours.
- 11 D. All persons who are employed or have been employed by Defendant in the State
12 of California as hourly, non-exempt workers during the period of the relevant
13 statute of limitations, who worked one or more shifts in excess of three and one-
14 half hours (3 ½), but less than or equal to six (6) hours.
- 15 E. All persons who are employed or have been employed by Defendant in the State
16 of California as hourly, non-exempt workers during the period of the relevant
17 statute of limitations, who worked one or more shifts in excess of six (6) hours,
18 but less than or equal to ten (10) hours.
- 19 F. All persons who are employed or have been employed by Defendant in the State
20 of California as hourly, non-exempt workers during the period of the relevant
21 statute of limitations, who separated their employment from Defendant.
- 22 G. All persons who are employed or have been employed by Defendant in the State
23 of California as hourly, non-exempt workers during the period of the relevant
24 statute of limitations, who received pay for one or more pay periods.

25 34. This action is brought, and may properly be maintained, as a class action under CCP
26 §382 because there is a well-defined community of interest in the litigation, and the proposed Class
27 and Subclasses (collectively “Class”) are easily ascertainable.
28

1 A. Numerosity: The Proposed Class is so numerous that joinder of all members is
2 impractical. Plaintiff is informed and believes, and on that basis alleges, that
3 during the relevant time period, Defendant employed over 100 putative Class
4 Members who are geographically dispersed and who satisfy the definition of
5 the proposed Class. As such, a class action is the only available method for the
6 fair and efficient adjudication of this controversy. Membership in the Proposed
7 Class can be easily ascertained by an examination and analysis of employee and
8 payroll records, among other records within Defendant's possession and
9 control.

10 B. Typicality: Plaintiff's claims are typical of the claims of the Class Members.
11 Plaintiff, like others similarly situated, was subjected to Defendant's common,
12 unlawful policies, practices, and procedures described above. The Plaintiff's
13 positions at the company was typical of those of other Class Members.
14 Plaintiff's claims are typical of the claims of each Class Member because each
15 have sustained damages arising out of and caused by Defendant's common
16 course of conduct, as alleged herein. As such, Plaintiff has the same interests in
17 this matter as all members of the Class.

18 C. Adequacy: Plaintiff will fairly and adequately protect the interests of the
19 members of the Class. Plaintiff has retained counsel competent and experienced
20 in complex class actions and California labor and employment litigation.

21 D. Commonality: Common questions of law and fact exist, including but not
22 limited to the following:

- 23 i. Whether Defendant violated wage and hour laws by failing to pay
24 employees for all hours worked;
- 25 ii. Whether Defendant violated wage and hour laws by failure to
26 always properly calculate wages and overtime for shifts;
- 27 iii. Whether Defendant violated wage and hour laws by failing to pay
28 due wages upon termination;

- iv. Whether Defendant violated wage and hour laws by failing to pay wages owed twice per month;
- v. Whether Defendant violated wage and hour laws by failing to make rest periods available;
- vi. Whether Defendant violated wage and hour laws in failing to make meal breaks available;
- vii. Whether Defendant violated wage and hour laws by failing to provide safe and healthful working conditions;
- viii. Whether Defendant violated wage and hour laws by failing to provide potable drinking water;
- ix. Whether Defendant violated wage and hour laws by failing to reimburse for required business expenses;
- x. Whether Defendant violated wage and hour laws by failing to provide suitable seating;
- xi. Whether Defendant failure to pay the Class Members all wages owed, including overtime, violated Business & Professions Code § 17200;
- xii. Whether Defendant failure to provide the Class Members rest periods violated Business & Professions Code § 17200;
- xiii. Whether Defendant failed to provide accurate wage statements to Plaintiff and the Class as a consequence of the above listed wrongful acts;
- xiv. Whether Defendant failed to provide Class Members with correct final wage statements;
- xv. Whether Defendant failed to pay wages, including overtime and final wages, to terminated or quitting employees in the Class on a timely basis;

- xvi. What is the appropriateness and nature of relief to each Plaintiff Class and Subclass member;
- xvii. Whether Defendant's actions violated Business & Professions Code § 17200;
- xviii. Whether the Class Members are entitled to various penalties from Defendant including, but not limited to, waiting-time penalties under Labor Code §§ 201, 202, 203, 204, 226 and 558;
- xix. Whether the Class Members are entitled to injunctive relief to enjoin any further violations of wage and labor laws;
- xx. What is the extent of liability of each Defendant, including DOE defendants, to each Plaintiff Class and Subclass member?

E. Superiority: A class action is superior to other available methods of the fair and efficient adjudication of the controversy, particularly in the context of wage and hour litigation where the damage suffered by individual plaintiffs, while not inconsequential, makes individual actions impracticable given the expenses and burdens associated with seeking individual relief. Prosecuting over 100 identical, individual lawsuits does not promote judicial efficiency or equity and consistency in judicial results. Moreover, the Class is a group of hourly, low wage-earning employees who rely on their wages and requiring that each individual take time away from work to prosecute individual actions would be inequitable and result in undue hardship for the individual Class members and their families. Public policy favors efficient resolution of their claims and uniform enforcement of California Labor laws against entities skirting their legal obligations at the expense of a vulnerable working population.

35. Manageability: Plaintiff is informed and believes that all allegations in this Complaint are capable of being determined on the same evidence and based primarily on review of corporate records and key testimony of Defendant's corporate representatives. To the extent statistical analysis and representative evidence is necessary, Plaintiff and proposed class counsel will employ

competent experts and consultants in the field to determine and review evidence for both issues of liability and damages in a scientifically reliable manner.

36. Plaintiff requests, pursuant to Rule 1857(a)(l) and Rule 3.766 of the California Rules of Court, that the absent Class and Subclass Members be notified by the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The names and address of the Class and Subclass Members are available from Defendant.

FIRST CAUSE OF ACTION

FAILURE TO PAY FOR ALL HOURS WORKED, INCLUDING OVERTIME

HOURS WORKED

Cal. Labor Code §§218, 510, 512, 558, 1194, 1197, 1197.1, 1198, 1199, 2698 et seq.)

(Plaintiff Against All Defendant)

37. Plaintiffs reassert and re-allege paragraphs 1 through 33, inclusive, as if fully set forth and incorporate said paragraphs herein by reference.

38. Section 2(K) or Wage Order 5 defines “hours worked” as “the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so.”

When employees like Plaintiff and aggrieved employees earning at or near minimum wage do not receive payment for all hours worked, the result is that they are earning less than the statutory minimum wages for all hours worked. Defendant has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period, including overtime hours worked, as more fully set forth below.

39. Defendant rounded all time clock entries to the nearest quarter-hour, despite the electronic timeclock system that recorded punch in and out times to the minute. Plaintiff and aggrieved employees were also required to maintain required uniforms, and communicating with management on their cell phones on their own time, off-the clock. They were also required to purchase their own PPE, including masks and gloves, on their own time because these essential supplies were not provided by Defendant. Based on Defendant’s unlawful conduct described

1 above, and because Plaintiff and the aggrieved employees were paid at or near minimum wage,
2 Defendant's failure to pay for all hours worked, including overtime, resulted in a payment of less
3 than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and
4 Wage Order 5-2001 4(B). Defendant is liable for civil penalties pursuant to Labor Code §§558 and
5 2699 *et seq.*

6 40. Failure to Pay Overtime Wages. Defendant has required, as a result of its practices
7 above, Plaintiff and others to work hours in excess of eight hours in a day and forty in a week, but
8 has not paid these employees overtime compensation at one and one-half times the regular rate of
9 pay in violation of Labor Code §510. Further, Plaintiff and aggrieved employees have been
10 required to work in excess of 12 hours in one day without being compensated at a rate of twice the
11 regular rate of pay. §510. As a result, Plaintiff and aggrieved employees have been denied "the
12 unpaid balance of the full amount of this... overtime compensation" as required by Cal. Labor
13 Code. §1194. Defendant is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

14 41. Plaintiffs further request an award of attorneys' fees pursuant to Labor Code §§ 218.5
15 and 1194 and Code of Civil Procedure § 1021.5.

16 **SECOND CAUSE OF ACTION**

17 **FAILURE TO TIMELY PAY ALL WAGES OWED**

18 **Cal. Lab. Code §§201, 202, and 2698 *et seq.***

19 **(Plaintiff Against All Defendant)**

20 42. Plaintiff incorporates by reference in this cause of action each allegation of the
21 preceding paragraphs as though fully set forth herein.

22 43. Failure to Pay Wages Due Upon Termination. As a result of the unlawful practice
23 described herein, Defendant willfully failed to pay employees who are no longer employed by it
24 all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and
25 202. Pursuant to §203, Plaintiff and similarly situated individuals are now also entitled to recover
26 up to thirty (30) days of wages due to Defendant's "willful" failure to comply with the statutory
27 requirements of §§201 and 202 of the Labor Code. Moreover, because Defendant violated §§201,
28 202 and 203, Defendant is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*

1 Plaintiff believes that other aggrieved employees who separated from the company, whether
2 voluntary or involuntary, were also denied payment of wages in a timely manner as required by
3 §203. Plaintiff will seek restitution pursuant to §558 (a)(3) for herself and other aggrieved
4 employees for each violation of §203 and will seek civil penalties under PAGA pursuant to §2698
5 *et. seq.*, on behalf of the Labor and Workforce and Development Agency (LWDA) against
6 Defendant if authorized to file a representative action on behalf of the State of California.

7 44. Failure to Pay All Wages Owed Twice Per Month. Defendant was required to pay
8 Plaintiff and employee all wages earned twice during each calendar month pursuant to Labor Code
9 §204(a). Defendant failed to pay all wages earned to employees as a result of the unlawful
10 employment policies and practices discussed herein. As a result of these practices, aggrieved
11 employees were underpaid for hours worked, including overtime and penalty wages, and this
12 underpayment resulted in a failure to pay all wages owed twice per month.

13 **THIRD CAUSE OF ACTION**

14 **REST PERIOD VIOLATIONS AGAINST ALL DEFENDANT**

15 **Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq***

16 **(Plaintiff Against All Defendant)**

17 45. Plaintiff incorporates by reference in this cause of action each allegation of the
18 preceding paragraphs as though fully set forth herein.

19 46. Defendant has failed to maintain a compliant rest period policy and practice that
20 provides its employees with off-duty rest periods as required by California law. Defendant did not
21 authorize or permit all of its hourly employees to take at least a ten minute rest period in which
22 they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required
23 by Cal. Lab. Code §226.7, §512 and Wage Order 5-2001 12(A).

24 47. According to Plaintiff, rest breaks were denied and missed on a daily basis. When
25 Plaintiff and employees were permitted a rest break, they were noncompliant because adequate
26 break facilities were not provided. Few employees were provided with the code to the break room.
27 Plaintiff and employees had to take breaks in the hallway or not at all.
28

1 48. Plaintiff and other aggrieved employees were unable to take compliant rest periods,
2 especially second rest periods, due to understaffing, patient demands, and the press of work.
3 Defendant did not institute sufficient plans to relieve employees of all duty so they could take
4 compliant and necessary breaks. When employees received breaks, they were not compliant
5 because Defendant did not provide potable water, as described below. Defendant failed to pay
6 Plaintiff and similarly situated employees all premium compensation (one hour of pay at the
7 employee's regular rate of pay for missed or untimely rest periods) mandated by Labor Code
8 §226.7 (b) for these missed rest periods. Because Defendant violated Section 12(A) of Wage Order
9 5, Defendant is liable under Labor Code §1198. Further, as a derivative claim, Plaintiff also alleges
10 that her pay statements were inaccurate, failing to include required rest period penalties, thus
11 failing the requirements of Labor Code §226(a). As a result of these violations, Defendant is liable
12 for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

13 **FOURTH CAUSE OF ACTION**

14 **MEAL PERIOD VIOLATIONS AGAINST ALL DEFENDANT**

15 **Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.***

16 **(Plaintiff Against All Defendant)**

17 49. Plaintiff incorporates by reference in this cause of action each allegation of the
18 preceding paragraphs as though fully set forth herein.

19 50. During Plaintiff's employment, Defendant failed to maintain a compliant meal period
20 policy and practice. Defendant failed to provide all of its hourly employees with their right to take
21 a timely, off-duty unpaid 30-minute meal period. Labor Code §512 provides, "[a]n employer may
22 not employ an employee for a work period of more than five hours per day without providing the
23 employee with a meal period of not less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o
24 employer shall require an employee to work during any meal... period mandated by an applicable
25 order of the Industrial Welfare Commission." Paragraph 11(A) of the Wage Orders provides, in
26 pertinent part, "[u]nless an employee is relieved of all duty during a 30 minute meal period, the
27 meal period shall be considered an 'on duty' meal period and counted as time worked.
28

1 51. On many occasions, Plaintiff was unable to take a compliant first meal period because
2 she was not authorized to take a meal period until well after the fifth hour of work. When Plaintiff
3 and employees were permitted a lunch break, few were provided with the code to the break room.
4 Plaintiff and other aggrieved employees who were not permitted access to the break room had to
5 take breaks in the hallway or in their vehicles. Defendant failed to permit Plaintiff and others to
6 take timely, off-duty, meal breaks of “not less than 30 minutes” for each five consecutive hours of
7 work in violation of Labor Code §§226.7 and 512. Moreover, because Defendant’s policy violates
8 a Wage Order, Defendant is liable under Labor Code §1198. As a derivative claim, Plaintiff alleges
9 that pay statements were inaccurate, failing to include required meal period penalties, thus failing
10 the requirements of Labor Code §226(a). As a result of these violations, Defendant is liable for
11 civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

12 52. Defendant’s failure to pay meal period premiums was done willfully, in bad faith, in
13 knowing violation of the California Labor Code and the IWC Wage Orders.

14 **FIFTH CAUSE OF ACTION**

15 **FAILURE TO PAY ACCRUED VACATION WAGES**

16 **Cal. Lab. Code §§227.3, 558, and 2698 et seq.**

17 **(Plaintiff Against All Defendant)**

18 53. Plaintiff incorporates by reference in this cause of action each allegation of the
19 preceding paragraphs as though fully set forth herein.

20 54. Cal. Lab. Code §227.3 provides that “whenever a contract of employment or policy
21 provides for paid vacations, and an employee is terminated without having taken off his vested
22 vacation time, all vested vacation shall be paid to him as wages at his final rate.” In this case,
23 Defendant refused and failed to pay Plaintiff, the Class, and aggrieved employees the unused
24 vacation pay upon termination in violation of §227.3. Here, Defendant failed to pay accrued and
25 unused vacation pay to Plaintiff upon separation. Accordingly, Defendant is liable for failure to
26 pay accrued vacation wages and Plaintiff seeks damages under §558 and 2698 et seq.

55. As a result of Defendants' conduct, Plaintiff and the Class will seek reimbursement for unpaid vacation wages, as well as reasonable attorneys' fees, and costs of suit pursuant to Labor Code § 218.5 and CCP 1021.5.

SIXTH CAUSE OF ACTION

FAILURE TO PROVIDE POTABLE DRINKING WATER

Lab. Code section 226.7, 2699 *et seq.*, 6300, 6310, 6400, CCR, Title 8, § 3395

(Plaintiff Against All Defendant)

56. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

57. Labor Code §226.7 requires that employers provide potable drinking water. Labor Code §226.7 requires that employers provide rest periods that comply with state laws, including those that require adequate and accessible water. Labor Code sections 6300, 6310 and 6400, et seq. requires all employers take reasonable steps to provide a safe and secure workplace.

58. California Labor Code §2441 requires employers to provide fresh, free, and pure drinking water for employees, at reasonable and convenient times and places. 8 CCR §3395 requires the provision of “potable drinking water meeting the requirements of §§1524, 3363, and 3457, as applicable, including but not limited to the requirements that it be fresh, pure, suitably cool, and provided to employees free of charge.” 8 CCR § 3457(c) further requires the provision of potable drinking water and single use cups. Plaintiff and aggrieved employees were not provided with potable drinking water and had to bring their own water from home in personal water bottles. Labor Code 226.7 requires compliant breaks, and employees may recover PAGA penalties for violation of 226.7.

SEVENTH CAUSE OF ACTION

FAILURE TO REIMBURSE FOR REQUIRED BUSINESS EXPENSES

Lab. Code section 1198, 2802, 2698 *et seq.*

(Plaintiff Against All Defendant)

59. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

1 60. Labor Code §2802 requires employers to indemnify employees for necessary
2 expenditures or losses incurred by employees in direct consequence of discharge of duties. Here,
3 Defendant required Plaintiff and aggrieved employees to wear scrubs for work and to purchase
4 and maintain the scrubs at their own expense with inadequate reimbursement. Plaintiff and
5 aggrieved employees also purchased much of their own required PPE, including masks, gloves,
6 and hand sanitizer as inadequate supplies were provided by Defendant. Defendant also
7 communicated with Plaintiff and aggrieved employees on their personal cell phones yet failed to
8 pay for any portion of the expense. Accordingly, Defendant is liable for damages and for civil
9 penalties under PAGA §2698 *et seq.*

10 **EIGHTH CAUSE OF ACTION**

11 **FAILURE TO PROVIDE SUITABLE SEATING**

12 **Lab. Code section 1198 and Wage Order 5 Section 14**

13 **(Plaintiff Against All Defendant)**

14 61. Plaintiff incorporates by reference in this cause of action each allegation of the
15 preceding paragraphs as though fully set forth herein.

16 62. Labor Code section 1198 states, in pertinent part, “The employment of any employee...
17 under conditions of labor prohibited by the [Wage Order] is unlawful.”

18 63. Section 14 of Wage Order 5 provides that:

19 A. All working employees shall be provided with suitable seats when the nature of
20 the work reasonably permits the use of seats.

21 B. When employees are not engaged in the active duties of their employment and
22 the nature of the work requires standing, an adequate number of suitable seats
23 shall be placed in reasonable proximity to the work area and employees shall
24 be permitted to use such seats when it does not interfere with the performance
25 of their duties.

26 64. At all relevant times, Defendant failed to provide Plaintiff and aggrieved employees
27 with suitable seating during their employment as required by section 14 of the Wage Order, when
28 working in positions that would reasonably permit the use of seating. Accordingly, Plaintiff, on

1 behalf of herself and aggrieved employees, will pursue civil penalties under Labor Code §2698 *et*
2 *seq.*, and all available remedies to the extent allowed by law for the alleged violations.

3 **NINTH CAUSE OF ACTION**

4 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS AND**
5 **COMPLY WITH RECORD KEEPING REQUIREMENTS**

6 **AGAINST ALL DEFENDANT**

7 **Cal. Labor Code §§ 226, 1174, 2699 *et seq.***

8 **(Plaintiff Against All Defendant)**

9 65. Plaintiff incorporates by reference in this cause of action each allegation of the
10 preceding paragraphs as though fully set forth herein.

11 66. California Labor Code § 226(a) provides that, at the time of each payment of wages,
12 an employer shall provide each employee with a wage statement itemizing, among other things,
13 the total hours worked by the employee in the pay period, and all applicable hourly rates in effect
14 during the pay period, the corresponding number of hours worked at each hourly rate by the
15 employee, and the true legal name of the entity that is the employer.

16 67. California Labor Code § 226(e) provides that an employee suffering injury as a result
17 of a knowing and intentional failure by an employer to comply with Labor Code § 226(a) is entitled
18 to recover the greater of his or her actual damages or a penalty of \$50 for the initial pay period in
19 which a violation occurs and \$100 per employee for each violation in a subsequent pay period (up
20 to a maximum of \$4,000), in addition to attorneys' fees and costs.

21 68. Defendant knowingly and intentionally failed to provide timely, accurate, itemized
22 wage statements to Plaintiff and aggrieved employees in accordance with Labor Code §§ 226 and
23 1174. The statements provided to Plaintiff and aggrieved employees have not accurately reflected
24 actual gross wages earned, including overtime and meal/rest premiums, expense reimbursements,
25 and total hour worked. Such failures caused injury to Plaintiff and others, by, among other things,
26 impeding them from knowing the accurate total hours worked and the amount of wages and penalty
27 payments to which they are and were entitled. Defendant knowingly and intentionally failed to
28

1 itemize the accurate gross wages earned, net wages earned, and total hours worked. Defendant is
2 liable for civil penalties pursuant to Labor Code § 2699 *et seq.*

3 69. Plaintiff, Class Members, and Aggrieved Employees are therefore entitled to the
4 damages and penalties, plus attorneys' fees and costs, provided for under Labor Code §§ 226(e)
5 and (g). Pursuant to Labor Code § 226(g), Plaintiff, Class Members, and Aggrieved Employees
6 are also entitled to and seek injunctive relief requiring Defendant to comply with Labor Code
7 226(a).

8 70. Labor Code § 1174 provides that "[e]very employer employing labor in this state shall
9 ... (c) [k]eep a record showing the names and addresses of all employees employed and the ages
10 of all minors [and] (d) [k]eep at a central location in the state or at the plants or establishments at
11 which employees are employed, payroll records showing the hours worked daily by and the wages
12 paid to, and the number of piece-rate units earned by and any applicable piece rate paid to,
13 employees employed at the respective plants or establishments. These records shall be kept in
14 accordance with rules established for this purpose by the commission, but in any case, shall be
15 kept on file for not less than two years."

16 71. Labor Code § 1174.5 provides that "[a]ny person employing labor who willfully fails
17 to maintain the records required by subdivision (c) of Section 1174 or accurate and complete
18 records maintained by subdivision (d) of Section 1174, or to allow any member of the commission
19 or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall
20 be subject to a civil penalty of five hundred dollars (\$500)."

21 72. Plaintiff alleges on information and belief that Defendant knowingly and intentionally
22 failed to furnish the Class Members with accurate itemized statements for each pay period that
23 they worked and failed to maintain accurate payroll records of the Class Members as mandated by
24 Labor Code §§ 226 and 1174. As such, the Class Members are entitled to civil penalties and an
25 award of costs and attorney's fees under § 226(e). In addition, the Class Members are entitled to
26 recover civil penalties under § 1174.5.
27
28

TENTH CAUSE OF ACTION

UNFAIR PRACTICE UNDER THE UNFAIR COMPETITION ACT (“UCL”)

AGAINST ALL DEFENDANT

(Plaintiff Against All Defendant)

73. Plaintiff incorporates by reference in this cause of action each allegation of the preceding paragraphs as though fully set forth herein.

74. Defendant knowingly committed, and upon information and belief continue to commit, ongoing unlawful business practices within the meaning of the UCL, including, but not limited to unlawful practices as described in the causes of action articulated above, and hereby incorporated herein.

75. Plaintiff lost money and property as a result of Defendant’s unlawful business practices described above.

76. Pursuant to the UCL, Plaintiff, all Class Members, and Aggrieved Employees are entitled to restitution of money or property acquired by Defendant by means of such unlawful business practices, in amounts not yet known, but to be ascertained at trial.

77. Pursuant to the UCL, Plaintiff, Class Members, and Aggrieved Employees are entitled to injunctive relief against Defendant’s ongoing unlawful business practices. If an injunction does not issue enjoining Defendant from engaging in the unlawful business practices described above, Plaintiff and the general public will be irreparably injured.

78. Plaintiff has no plain, speedy, and adequate remedy at law. Defendant, if not enjoined by this Court, will continue to engage in the unlawful business practices described above in violation of the UCL, in derogation of the rights of Plaintiff, Class Members, Aggrieved Employees and of the general public.

79. Plaintiff’s success in this action will result in the enforcement of important rights affecting the public interest by conferring a significant benefit upon the general public.

80. Defendant’s numerous violations of local and California law, as well as the other statutory and regulatory violations alleged herein, constitute unlawful business actions and practices in violation of Business and Professions Code § 17200, et seq.

1 81. Pursuant to Business and Professions Code § 17200, et seq., Plaintiff, Class Members
2 and Aggrieved Employees are entitled to restitution of unpaid wages and penalty pay, among other
3 relief alleged herein, that were withheld and retained by Defendant during a period that commences
4 four years prior to the filing of this action. Plaintiffs are further entitled to a permanent injunction
5 requiring Defendant to comply with all provisions of California labor law, including properly
6 paying the lawful rate of pay for all hours worked, providing meal/rest periods to all workers as
7 defined herein, timely pay wages upon discharge, maintain accurate wages statements and payroll
8 records, in addition to an award of attorneys' fees and costs pursuant to Code of Civil Procedure
9 § 1021.5 and other applicable law, and costs.

10 **ELEVENTH CAUSE OF ACTION**

11 **STATUTORY PENALTIES PURSUANT TO PRIVATE ATTORNEYS**

12 **GENERAL ACT, LABOR CODE §2698 et seq.**

13 **(Plaintiff Against All Defendant)**

14 82. Plaintiff incorporates by reference in this cause of action each allegation of the
15 preceding paragraphs as though fully set forth herein.

16 83. Under the Private Attorneys General Act of 2006, Labor Code §§2698-2699.5, an
17 aggrieved employee, on behalf of herself and other current or former employees, may recover
18 penalties under any provision of the Labor Code that provides for civil penalties. These penalties
19 are in addition to any other relief available under the Labor Code. Plaintiff is an aggrieved
20 employee under PAGA.

21 84. As set forth above, Defendant has committed numerous violations for which the Labor
22 Code provides for penalties, including violations of all applicable Labor Code provisions set forth
23 in the foregoing causes of action. Labor Code §2699.5 identifies the aforementioned Labor Code
24 provisions as statutes to which §2699.3's procedural requirements must be met before a penalty
25 may be assessed under §2699(f). Plaintiff has complied with the procedural requirements specified
26 in §2699.3 by providing written notice to the Defendant and the Labor & Workforce Development
27 Agency ("LWDA"). See Exhibit 1 attached hereto, which is a true and correct copy of the Notice
28 correspondence showing compliance with §2699.3. No notice of intent to investigate the alleged

violations was provided within the statutory period. Consequently, Plaintiff has exhausted administrative remedies, and on behalf of themselves and all other aggrieved current and former employees of Defendant. Plaintiff, therefore, now pursues this cause of action as permitted by §2698, et seq.

85. Enforcement of statutory provisions enacted to protect workers and to ensure proper and prompt payment of wages due to employees is a fundamental public interest in California. Consequently, Plaintiff's success in this action will result in the enforcement of important rights affecting the public interest and will confer a significant benefit upon the general public. Private enforcement of the rights enumerated herein is necessary, as no public agency has pursued enforcement. Plaintiff is incurring a financial burden in pursuing this action and it would be against the interests of justice to require payment of attorneys' fees and costs from any recover that might be obtained herein, pursuant to, inter alia, Labor Code §§2698, *et seq.*, and Code of Civil Procedure §1021.5

86. In addition, if Plaintiff succeeds in enforcing these rights affecting the public interest, then attorneys' fees may be awarded to Plaintiff and against Defendant under Code of Civil Procedure §1021.5 and other applicable law in part, because:

- A. A successful outcome in this action will result in the enforcement of important rights affecting the public interest by requiring Defendant to comply with the wage and hour laws and California's unfair business practice law;
- B. This action will result in a significant benefit to Plaintiff, the Class, and the general public by bringing to a halt unlawful and/or unfair activity;
- C. Unless this action is prosecuted, members of the Class and general public will not recover those moneys, and many of Defendant's employees would not be aware that the acts and practices they were subjected to by Defendant was wrongful;
- D. Unless this action is prosecuted, Defendant will continue to mislead their employees about the true nature of their rights and remedies under the wage and hour laws; and

1 E. An award of attorneys' fees and costs is necessary for the prosecution of this
2 action and will result in a benefit to Plaintiff, the Class, Aggrieved Employees,
3 and to consumers in general, by preventing Defendant from continuing to
4 circumvent the wage and hour statutes and frustrate the long-standing
5 recognition by the California legislature and the courts that such statutes, as
6 pled herein, are not merely a matter of private concern between employer and
7 employee to be eviscerated by considerations of waiver, contributory
8 negligence, good or bad faith, and private agreements. Rather, the wage and
9 hour statutes have been described as a matter of public concern, were designed
10 to provide minimum substantive guarantees to individual workers and are
11 essential to public welfare.

12 **REQUEST FOR RELIEF**

14 WHEREFORE, Plaintiffs pray for judgment as follows:

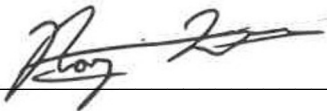
15 That Plaintiff, Class Members, and Aggrieved Employees receive an award in the amount
16 of unpaid wages owed, including interest thereon, and penalties as follows:

- 17 1. That the Court determine that this action may be maintained as a class action under Code
18 of Civil Procedure § 382;
- 19 2. Provision of class notice to all members of the Class;
- 20 3. That Defendant is found to have violated the above-referenced provisions of the Labor
21 Code, CCR and IWC Wage Order 5-2001 as to Plaintiff, Class Members and Aggrieved
22 Employees
- 23 4. For compensatory damages according to proof at trial;
- 24 5. For prejudgment interest, at the legal rate;
- 25 6. For penalties pursuant according to proof, including under Labor Code §§ 203, 510, 558
26 and 2698 et seq.;
- 27 7. For attorneys' fees;
- 28 8. For costs of suit incurred herein; and

- 1 9. For a preliminary and permanent injunction requiring Defendant to (1) pay all
2 owed wages; (2) adopt a lawful timekeeping practice; (3) provide meal and rest periods; (4)
3 provide safe working conditions; and (5) provide and maintain appropriate payroll records.
4 10. For such other and further relief as the Court may deem appropriate

5
6
7
8 DATED: January 27, 2023

KOUL LAW

9
10
11 

12 BY: Nazo Koulloukian, Esq.

13 Attorneys for Plaintiff BLANCA MEDINA
14 and putative class members

15
16 ***DEMAND FOR JURY TRIAL***

17
18 Plaintiff, on behalf of herself and the putative class, hereby demands trial by jury to the
19 full extent permitted by law.

20 DATED: January 27, 2023

KOUL LAW

21
22 

23 BY: Nazo Koulloukian, Esq.

24 Attorneys for Plaintiff BLANCA MEDINA
25 and putative class members
26
27
28

EXHIBIT 1



Nazo@Koullaw.com

P (213) 761 – 5484

F (818) 561 – 3938

3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

www.koullaw.com

January 25, 2023

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

LA Huntington Healthcare LLC
1101 Crenshaw Blvd
Los Angeles, CA 90019

LA Huntington Healthcare LLC
4515 S. Huntington Dr.
Los Angeles, CA 90032

Re: AMENDED PAGA Notice Pursuant to California Labor Code §2699

Claimant: Blanca Medina

Employer: LA Huntington Healthcare LLC

Dear Sir or Madam:

Blanca Medina (“Claimant”) has retained Nazo Koulloukian, Esq. of the KOUL LAW FIRM to represent her, and all other aggrieved employees, for wage and hour claims against her former employer, LA Huntington Healthcare LLC (hereafter “Employer.”)

Employer is a 24-hour skilled nursing and rehabilitation center. Claimant’s proposed PAGA representative action would represent dozens of current and former hourly, non-exempt employees. Claimant worked for Employer as a nurse assistant from 2011 until December 21, 2021.

Employer has violated, and/or has caused to be violated, several Labor Code provisions and is therefore liable for civil penalties under Cal. Labor Code §2698 *et seq.* We request that your agency investigate the claims alleged below, or permit Claimant to seek civil penalties under the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, on behalf of the Labor and Workforce and development Agency (“LWDA”) and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Cal. Lab. Code §2699.3.

Failure to Pay For All Hours Worked, Including Overtime Hours Worked

(Cal. Labor Code §§218, 510, 512, 558, 1194, 1197, 1197.1, 1198, 1199, 2699 *et seq.*)

Section 2(K) or Wage Order 5 defines “hours worked” as “the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so.”

When employees like Claimant and aggrieved employees earning at or near minimum wage do not receive payment for all hours worked, the result is that they are earning less than the statutory minimum wages for all hours worked. Employer has been engaged in many unlawful employment practices which resulted in underpayment for hours worked each pay period, including overtime hours worked, as more fully set forth below.

Employer rounded all time clock entries to the nearest quarter-hour, despite the electronic timeclock system that recorded punch in and out times to the minute. Claimant and aggrieved employees were also required to maintain required uniforms, and communicating with management on their cell phones on their own time, off-the clock. They were also required to purchase their own PPE, including masks and gloves, on their own time because these essential supplies were not provided by Employer. Based on Employer’s unlawful conduct described above, and because Claimant and the aggrieved employees were paid at or near minimum wage, Employer’s failure to pay for all hours worked, including overtime, resulted in a payment of less than the minimum wage for all hours worked, in violation of Labor Code §1197, 1197.1, 1199 and Wage Order 5-2001 4(B). Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Pay Overtime Wages

Employer has required, as a result of its practices above, Claimant and others to work hours in excess of eight hours in a day and forty in a week, but has not paid these employees overtime compensation at one and one-half times the regular rate of pay in violation of Labor Code §510. Further, Claimant and aggrieved employees have been required to work in excess of 12 hours in one day without being compensated at a rate of twice the regular rate of pay. §510. As a result, Claimant and aggrieved employees have been denied “the unpaid balance of the full amount of this... overtime compensation” as required by Cal. Labor Code. §1194. Employer is liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

Failure to Timely Pay All Wages Owed

(Cal. Lab. Code §§201, 202 and 2698 *et seq.*)

Failure to Pay Wages Due Upon Termination

As a result of the unlawful practice described herein, Employer willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202. Pursuant to §203, Claimant and similarly situated individuals are now also entitled to recover up to thirty (30) days of wages due to Employer's "willful" failure to comply with the statutory requirements of §§201 and 202 of the Labor Code. Moreover, because Employer violated §§201, 202 and 203, Employer is liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*

Claimant believes that other aggrieved employees who separated from the company, whether voluntary or involuntary, were also denied payment of wages in a timely manner as required by §203. Claimant will seek restitution pursuant to §558 (a)(3) for herself and other aggrieved employees for each violation of §203 and will seek civil penalties under PAGA pursuant to §2698 *et. seq.*, on behalf of the Labor and Workforce and Development Agency (LWDA) against Employer if authorized to file a representative action on behalf of the State of California.

Failure to Pay All Wages Owed Twice Per Month

Employer was required to pay Claimant and employee all wages earned twice during each calendar month pursuant to Labor Code §204(a). Employer failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, aggrieved employees were underpaid for hours worked, including overtime and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month.

Failure to Provide Rest Breaks

Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*

Employer has failed to maintain a compliant rest period policy and practice that provides its employees with off-duty rest periods as required by California law. Employer did not authorize or permit all of its hourly employees to take at least a ten minute rest period in which they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and Wage Order 5-2001 12(A).

According to Claimant, rest breaks were denied and missed on a daily basis. When Claimant and employees were permitted a rest break, they were noncompliant because adequate break facilities were not provided. Only a select few employees (those who were friends of the administrators) were provided with the code to the break room. Claimant and

other aggrieved employees who were not permitted access to the break room had to take breaks in the hallway or not at all.

Claimant and other aggrieved employees were unable to take compliant rest periods, especially second rest periods, due to understaffing, patient demands, and the press of work. Employer did not institute sufficient plans to relieve employees of all duty so they could take compliant and necessary breaks. When employees received breaks, they were not compliant because Employer did not provide potable water, as described below. Employer failed to pay Claimant and similarly situated employees all premium compensation (one hour of pay at the employee's regular rate of pay for missed or untimely rest periods) mandated by Labor Code §226.7 (b) for these missed rest periods. Because Employer violated Section 12(A) of Wage Order 5, Employer is liable under Labor Code §1198. Further, as a derivative claim, Claimant also alleges that her pay statements were inaccurate, failing to include required rest period penalties, thus failing the requirements of Labor Code §226(a). As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

Failure to Provide Uninterrupted Meal Breaks & Second Meal Breaks

Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2699 *et seq.*

During Claimant's employment, Employer failed to maintain a compliant meal period policy and practice. Employer failed to provide all of its hourly employees with their right to take a timely, off-duty unpaid 30-minute meal period. Labor Code §512 provides, "[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission." Paragraph 11(A) of the Wage Orders provides, in pertinent part, "[u]nless an employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked."

On many occasions, Claimant was unable to take a compliant first meal period because she was not authorized to take a meal period until well after the fifth hour of work. When Claimant and employees were permitted a lunch break, only a select few were provided with the code to the break room. Claimant and other aggrieved employees who were not permitted access to the break room had to take breaks in the hallway or in their vehicles. Employer failed to permit Claimant and others to take timely, off-duty, meal breaks of "not less than 30 minutes" for each five consecutive hours of work in violation of Labor Code §§226.7 and 512. Moreover, because Employer's policy violates a Wage Order, Employer is liable under Labor Code §1198. As a derivative claim, Claimant alleges that pay statements were inaccurate, failing to include required meal period penalties, thus failing

the requirements of Labor Code §226(a). As a result of these violations, Employer is liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et seq.*

Failure to Provide Place Of Employment That Is Safe And Healthful

(Cal. Labor Code §§6400, 6401, 6402, 6403, 6404, 6407, 2699 *et seq.*, 8 CCR 3202)

Cal. Labor Code § 6400(a) provides that every employer shall furnish employment and a place of employment that is safe and healthful for the employees therein. Cal. Labor Code §6401 provides that “every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful. Every employer. Pursuant to Cal. Labor Code §6402, no employer shall require, or permit any employee to go or be in any employment or place of employment which is not safe and healthful. Cal. Labor Code §6403 states that no employer shall fail or neglect to provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe, or to adopt and use methods and processes reasonably adequate to render the employment and place of employment safe, or to do every other thing reasonably necessary to protect the life, safety, and health of employees. Cal. Labor Code § 6404 provides that no employer shall occupy or maintain any place of employment that is not safe and healthful. Cal. Labor Code § 6407 provides that every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his or her own actions and conduct.

Employer failed to timely make necessary changes to the workplace at the onset of COVID. Under Labor Code §6409.6(a)(1). “COVID-19” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). For example, Employer did not provide employees with adequate PPE, and employees purchased their own PPE, including masks, gloves, and hand sanitizer at their own expense. Additionally, the temperature in the facility was excessively cold, and patients and staff complained about the low temperature within the facility. As a result of these practices, Employer has violated Cal. Labor Code §§6400, 6401, 6402, 6403, 6404, and 6407 for failure to provide a safe and healthful environment for employees, as outlined above. Employer is liable for civil penalties pursuant to Cal. Labor Code §2699 *et seq.*

Failure to Provide Potable Drinking Water

(California Labor Code section 226.7, 2699 *et seq.*, 6300, 6310, 6400;

CCR, Title 8, § 3395.)

Labor Code §226.7 requires that employers provide potable drinking water. Labor Code §226.7 requires that employers provide rest periods that comply with state laws, including those that require adequate and accessible water. Labor Code sections 6300, 6310 and 6400, *et seq.* requires all employers take reasonable steps to provide a safe and secure workplace.

California Labor Code §2441 requires employers to provide fresh, free, and pure drinking water for employees, at reasonable and convenient times and places. 8 CCR §3395 requires the provision of “potable drinking water meeting the requirements of §§1524, 3363, and 3457, as applicable, including but not limited to the requirements that it be fresh, pure, suitably cool, and provided to employees free of charge.” 8 CCR § 3457(c) further requires the provision of potable drinking water and single use cups. Claimant and aggrieved employees were not provided with potable drinking water and had to bring their own water from home in personal water bottles. Labor Code 226.7 requires compliant breaks, and employees may recover PAGA penalties for violation of 226.7.

Failure to Reimburse For Required Business Expenses

(Cal. Labor Code §§1198, 2802, 2699 *et seq.*)

Labor Code §2802 requires employers to indemnify employees for necessary expenditures or losses incurred by employees in direct consequence of discharge of duties. Here, Employer required Claimant and aggrieved employees to wear scrubs for work and to purchase and maintain the scrubs at their own expense with inadequate reimbursement. Claimant and aggrieved employees also purchased much of their own required PPE, including masks, gloves, and hand sanitizer as inadequate supplies were provided by Employer. Employer also communicated with Claimant and aggrieved employees on their personal cell phones yet failed to pay for any portion of the expense. Accordingly, Employer is liable for civil penalties under PAGA §2699 *et eq.*

Failure To Provide Suitable Seating

(Lab. Code section 1198 and Wage Order 5-2001, section 14)

Labor Code section 1198 states, in pertinent part, “The employment of any employee... under conditions of labor prohibited by the [Wage Order] is unlawful.”

Section 14 of the applicable Wage Order provides that:

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

At all relevant times, Employer failed to provide Claimant and aggrieved employees with suitable seating during their employment as required by section 14 of the Wage Order, when working in positions that would reasonably permit the use of seating. Accordingly, Claimant, on behalf of herself and aggrieved employees, will pursue civil penalties under Labor Code §2698 *et seq.*, and all available remedies to the extent allowed by law for the alleged violations.

Failure to Pay Accrued Vacation Upon Separation

(Cal. Lab. Code §§227.3, 558 and 2698 *et seq.*)

Cal. Lab. Code §227.3 provides that whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off her vested vacation time, all vested vacation shall be paid to as wages at her final rate. In this case, Employer failed to pay accrued vacation wages to Claimant and aggrieved employees upon termination in violation of §227.3.

Employer is liable for failure to pay accrued vacation wages to Claimant and aggrieved employees, and Claimant seeks damages under §558 and 2698 *et seq.*

**Failure to Provide Accurate Itemized Wage Statements and Comply with Record
Keeping Requirements**

(Cal. Labor Code §§ 226, 1174, 2699 *et seq*)

Employer knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimant and aggrieved employees in accordance with Labor Code §§ 226 and 1174. The statements provided to Claimant and aggrieved employees have not accurately reflected actual gross wages earned, including overtime and meal/rest premiums, expense reimbursements, and total hour worked. Such failures caused injury to Claimant and others, by, among other things, impeding them from knowing the accurate total hours worked and the amount of wages and penalty payments to which they are and were entitled. Employer knowingly and intentionally failed to itemize the accurate gross wages earned, net wages earned, and total hours worked. Employer is liable for civil penalties pursuant to Labor Code § 2699 *et seq*.

Conclusion

Employer has violated a number of California wage and hour laws. Claimant respectfully requests that the agency investigate the above allegations and hereby provides notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimant requests that the agency inform Claimant if it does not intend to investigate these violations so that Claimant may pursue these claims as a representative action in civil court.

Sincerely,



Nazo Koulloukian, Esq.
Attorney for Claimant