

# Exhibit B

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all others similarly situated.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO**

TOY SANCHEZ, on behalf of herself and all  
others similarly situated,

Plaintiff,

vs.

AIR METHODS CORPORATION, a  
Delaware Corporation; and DOES 1  
THROUGH 100, inclusive

Defendants.

Case No. CIVSB2208677

CLASS ACTION

**SECOND AMENDED CLASS ACTION  
COMPLAINT FOR DAMAGES**

1. **Failure to Pay All Overtime Wages**
2. **Failure to Provide Rest Periods**
3. **Violations of Labor Code §§226.7, 512,  
and IWC Wage Order No. 4-2001**
4. **Failure to Provide Accurate Wage  
Statements**
5. **Unfair Competition**
6. **Private Attorneys General Act**
7. **Failure to Pay All Wages Due At  
Separation**

**DEMAND FOR JURY TRIAL**

## I. INTRODUCTION

This is an action brought by Plaintiff TOY SANCHEZ (“Plaintiff”), on behalf of herself and all others similarly situated, against AIR METHODS CORPORATION and other as of yet unnamed Defendants (hereinafter collectively “Defendants” or “AMC”) alleging, among other things violations of the California Labor Code and Unfair Competition Law. Plaintiff seeks damages, attorneys’ fees and costs of suit. Plaintiff is informed and believes, and on that basis alleges, as follows:

## II. GENERAL ALLEGATIONS

1. This is a California state-wide class action for wage and hour violations arising out of, among other things, Defendants’ failure to compensate their California hourly non-exempt patient advocate and/or collections employees in compliance with California law. As more fully described herein, Defendants failed and continue to fail compensate Plaintiff and class members overtime premiums based on the correct regular rate of pay, provide legally compliant non-captive paid rest breaks, provide premium pay remedies at the regular rate of compensation, and engage in other Labor Code violations.

2. Plaintiff seeks among other things, all wages, restitutionary disgorgement, and statutory penalties. Plaintiff seeks to represent the following Class:

All current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time from May 17, 2018, through January 31, 2024. (“the Class”).

3. This Court is the proper court and this action is properly filed in the County of San Bernardino and in this judicial district because Defendants do business in the County of San Bernardino and because Defendants’ obligations and liability arise therein.

4. Plaintiff is a current non-exempt Patient Advocate for Defendants and a resident of the County of San Bernardino, State of California. During the relevant time period, Plaintiff performed collections-related services for Defendants in the State of California.

5. Plaintiff is informed and believes, and thereon alleges that Defendant Air Method Corporation is a Delaware Corporation that is headquartered in Greenwood Village, Colorado.

6. The true names and capacities, whether individual, corporate, associate, or otherwise, of DOES 1 through 100 are unknown to Plaintiff, who therefore sues the DOE Defendants by fictitious names. Plaintiff will amend this Complaint to show their true names and capacities when they have been ascertained.

7. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein were performed by, and/or are attributable to, all Defendants, each acting as agents and/or employees, and/or under the direction and control of each of the other Defendants, and that said acts and failures to act were within the course and scope of said agency, employment and/or direction and control. Plaintiff is informed and believes, and thereon alleges, that at all times material hereto Defendants were and are the agents of each other.

8. Plaintiff is informed and believes, and thereon alleges, that Defendant DOES 1 through 100 are the partners, owners, shareholders, or managers of Defendant Employers, and were acting on behalf of Defendant Employers in the payment of wages to Plaintiff.

9. At all relevant times alleged herein Plaintiff was employed by Defendants, and Plaintiff held a position with Defendants in the County of San Bernardino, State of California.

# **I. FACTS COMMON TO MORE THAN ONE CAUSE OF ACTION**

10. Plaintiff and the Class worked as hourly non-exempt patient advocate/collections employees for Defendants in the state of California and received bonuses.

11. Throughout the Class Period, Plaintiff and all Class members were and are employees of Defendants, entitled to all of the protections afforded to employees under the Labor Code and applicable IWC Wage Orders.

12. Defendants' primary business is providing helicopter-based air medical transport services. In providing these air medical transport services, Defendants charge fees to patients, insurance providers, and other financially responsible parties. Defendants collect these fees and issue bills via patient advocate/collections services, which is performed in part by Plaintiff and the Class members. As a Patient Advocate, Plaintiff is responsible for patient collections and ensuring reimbursement to Defendants from responsible parties. In providing collections services, Plaintiff is responsible for issuing billing statements, determining collectability, communicating with insurance

companies, and additional responsibilities in the service of collecting monies for the medical-related air transport services provided by Defendants.

13. At all times during the liability period, Defendants failed to pay Plaintiff and Class members overtime wages based on their regular rate of pay. Plaintiff and the Class members received non-discretionary bonuses that were not included in the regular rate of pay for calculating overtime premium pay.

14. When Class members worked shifts over eight (8) hours per day, or over forty (40) hours per week, Defendants did not pay them overtime time in accordance with the California Labor Code and applicable Wage Order.

15. Defendants failed to pay Plaintiff and the Class members overtime wages by failing to include all remuneration when calculating the regular rate of pay for overtime by omitting non-discretionary bonus payments.

16. Defendants' conduct, as alleged herein, has caused Plaintiff and Class members damages including, but not limited to, loss of wages and compensation.

17. Defendants are liable to Plaintiff and the Class for failing to pay all earned overtime wages, failing to provide legally compliant paid rest periods, failing to pay all meal and/or rest period premium pay remedies at the correct regular rate of compensation, failing to provide accurate wage statements, and unfair competition.

18. Plaintiff is a member of and seeks to be the representative for the Class of similarly situated employees who all have been exposed to, have suffered, and/or were permitted to work under, Defendants' unlawful employment practices as alleged herein.

19. Plaintiff and the Class were suffered and/or permitted to and worked in excess of eight (8) hours in a day and/or forty (40) hours in a week without receiving all earned overtime pay for all overtime hours worked. Despite knowing that Plaintiff and the Class were working overtime hours, Defendants refused to pay the full amount of overtime premiums for all overtime hours worked.

20. Plaintiff is informed, believes and on that basis alleges that throughout the relevant time period, Defendants failed to authorize and provide 10-minute paid rest periods compliant with the provisions of the California Labor Code and applicable Wage Order. Plaintiff and Class members

1 were assigned to and required to work shifts lasting over four (4) hours and were not provided nor  
2 allowed to take a non-captive paid ten-minute uninterrupted rest break during each four (4) hour  
3 work period, or major fraction thereof, at the direction of Defendants and/or with Defendants  
4 knowledge and acquiescence.

5 21. Plaintiff is informed, believes, and on that basis alleges that throughout the relevant time  
6 period, Defendants failed to pay meal and/or rest period premium pay remedies at the correct regular  
7 rate of compensation as required by the California Labor Code and applicable Wage Order. *See*  
8 *Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal. 5th 858 (2021).

9 22. The wage statements provided by Defendants failed to provide accurate information as  
10 to the hourly rate for all hours worked, the net wages earned, and the gross wages earned per pay  
11 period.

12 23. The underpayment of wages to Plaintiff and the Class are a consequence of Defendants'  
13 unlawful policies and practices which were centrally devised, implemented, communicated, and  
14 applied to Plaintiff and the Class.

15 24. Because of Defendants' unlawful conduct, Plaintiff and the Class have been and  
16 continue to be systematically deprived of their earned wages to which they are entitled by law and  
17 deprived of other benefits of the Labor Code, and applicable IWC Wage Orders, to the detriment of  
18 herself and the public at large.

#### 19 **CLASS DEFINITION AND CLASS ALLEGATIONS**

20 25. Plaintiff brings this action on her own behalf and on behalf of all others similarly  
21 situated, pursuant to California Code of Civil Procedure §382, and as a member of the Class defined  
22 as follows:

23 All current and former hourly non-exempt office-based employees of Defendant at  
24 its Patient Business Service ("PBS") facility in San Bernardino, California at any  
time from May 17, 2018, through January 31, 2024.

#### 25 **Sub-Class 1**

26 All current and former hourly non-exempt office-based employees of Defendant at  
27 its Patient Business Service ("PBS") facility in San Bernardino, California at any  
28 time from May 17, 2018, through January 31, 2024 and received bonus payments  
and worked more than eight (8) hours in a workday or forty (40) hours in a

workweek. (“Regular Rate” Sub-Class).

**Sub-Class 2**

All current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time from May 17, 2018, through January 31, 2024 and worked one (1) shift of four (4) hours or more in a workday. (“Rest Period” Sub-Class).

**Sub-Class 3**

All current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time from May 17, 2018, through January 31, 2024 and worked one (1) shift of six (6) hours or more in a workday. (“Meal Period” Sub-Class).

**Sub-Class 4**

All current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time from May 17, 2021, through January 31, 2024 and received a wage statement and is a member of Sub-Class 1, 2 and/or 3. (“Wage Statement” Sub-Class).

**Sub-Class 5**

All current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time from May 17, 2019, through January 31, 2024 who are members of Sub-Class 1, 2 and/or 3. (“WTP” Sub-Class).

26. Plaintiff reserves the right to amend or otherwise alter the class definition presented to the Court at the appropriate time, or to alter, propose or eliminate sub-classes, in response to facts learned through discovery, legal arguments advanced by Defendants or otherwise.

27. Further, this action is brought for the benefit of the public, who are entitled to restitution of those funds improperly withheld by Defendants.

28. This action has been brought and may be properly maintained as a class action pursuant to the provisions of the Code of Civil Procedure §382 and other applicable law.

29. **Numerosity:** Members of the Class are so numerous that their individual joinder is impracticable. The precise number of Class members and their addresses are known to Plaintiff or will be known to Plaintiff through discovery. Class members may be notified of the pendency of this

action by mail, electronic mail, the internet, or published notice.

30. **Typicality:** Plaintiff's claims are typical of the claims of members of the proposed classes. Defendants employed Plaintiff during the statutory period, and Plaintiff has been subjected to Defendants' unlawful employment practices, as alleged in this Complaint.

31. **Adequacy of Class Representative:** Plaintiff will fairly and adequately protect the interests of the classes. Plaintiff's interests do not conflict with Class members' interests, and Plaintiff has retained competent and experienced counsel. The interests of Class members will be fairly and adequately protected by Plaintiff and her counsel.

32. **Common Questions of Law and Fact:** Common questions of law and fact exist as to all Class members and predominate over any questions affecting solely individual members of the proposed Class:

- a. Whether Defendants engaged in a pattern or practice of failing to pay Plaintiff and the members of the Class the full amount of overtime wages, based on the correct regular rate of pay, for each hour in excess of eight (8) per day, or forty (40) per week, worked in violation of the applicable Labor Code provisions including §§510 and 1194;
- b. Whether Defendants engaged in a pattern or practice of failing to provide Plaintiff and the members of the Class paid rest periods in violation of IWC Wage Order No. 4-2001 and Labor Code §226.7 by requiring Plaintiff and Class members to remain on Defendant's property during the rest breaks;
- c. Whether Defendants engaged in a pattern or practice of failing to provide Plaintiff and the members of the Class premium pay remedies for meal and/or rest period violations at the regular rate of compensation in violation of IWC Wage Order No. 4-2001 and Labor Code §226.7;
- d. Whether Defendants engaged in unfair practice and violated California Business and Professions Code §17200 by failing to compensate Plaintiff and the members of the Class their full amount of overtime wages;
- e. Whether Defendants failed to provide accurate wage statements to Plaintiff and the

members of the Class; and

f. The nature and extent of class-wide injury and measure of damages for the injury.

33. **Superiority and Substantial Benefit:** A class action is the superior method for the fair and efficient adjudication of this controversy. Defendants implemented illegal schemes that are generally applicable to the members of the proposed plaintiff class and sub-classes. Damages suffered by each Class member may be relatively small given the burden and expense of individual prosecution of the complex and expensive litigation necessitated by Defendants' conduct. Further, it would be virtually impossible for the Class members to redress the wrongs done to them on an individual basis. Even if Class members could afford such individual litigation, the court system could not. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of a single adjudication, economies of scale, and comprehensive supervision by a single court.

34. Plaintiff knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action. Plaintiff is informed and believes, and on that basis alleges, that the amount of money due each Class member as economic damages is ascertainable from Defendants' records or may readily be determined by other means.

35. The Classes should also be certified because:

- a. The prosecution of separate actions by individual Class members would create a risk of inconsistent or varying adjudications with respect to individual Class members, which would establish incompatible standards of conduct for Defendants;
- b. The prosecution of separate actions by individual Class members creates the risk of adjudication with respect to them, which would, as a practical matter, be dispositive of the interests of the other Class members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests; and
- c. Defendants have acted or refused to act on grounds generally applicable to the Class, and/or general public, thereby making appropriate final and injunctive relief with respect to the Classes as a whole.

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**FIRST CAUSE OF ACTION**

**Failure to Pay All Overtime and Double Time Wages**

**Violation of Labor Code §§510 and 1194; IWC Wage Order No. 4-2001**

(Against all Defendants)

36. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 35 of this Complaint.

37. Labor Code §510 mandates: “Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.” The California overtime requirement and wage requirement are non-waivable rights pursuant to LC §219.

38. Section 3(a)(1) of Wage Order No. 4-2001 (“WO 4-01”) mandates that employers pay one and one-half times the employees’ regular rate of pay for employees who work more than eight hours in a day or forty hours in a week and two times their regular rate of pay for any work in excess of twelve hours in one day.

39. Labor Code §1194(a) states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

40. Pursuant to Labor Code §§218 and 1194(a), Plaintiff may bring a civil action for overtime wages directly against the employer without first filing a claim with the Division of Labor

Standards Enforcement (“DLSE”) and may recover such wages, together with interest thereon, penalties, attorneys’ fees and costs. Further, pursuant to Labor Code §1198, it is unlawful to employ person for longer than the hours set by the IWC or under conditions prohibited by the applicable IWC Wage Orders. WO 4-01, as amended, applies to Plaintiff.

41. However, Defendants have failed and refused to pay Plaintiff and the class members overtime compensation for all overtime hours worked in excess of eight (8) hours per day and forty (40) hours per week as required by LC §§510, 1194 and the applicable Wage Orders. Plaintiff is informed and believes and based thereon alleges that the obligations and responsibilities of the class employees are irrelevant because Plaintiff and all other similarly situated employees were subjected to Defendants’ unlawful pay plans and its failure to pay overtime based on the regular rate of pay for all overtime hours worked by Plaintiff and the class members.

42. Defendants, and each of them, consistently administered a corporate policy which required Plaintiff and the Class members to work overtime without proper premium overtime pay at the regular rate of pay. Accordingly, Plaintiff and the Class members were and are entitled to overtime compensation, under California law, at the appropriate regular rate of pay. Defendants have failed to properly include items of remuneration when determining Plaintiff’s and the Class Members’ regular rate, this includes but is not limited to the failure to include bonus payments to Plaintiff and the Class members.

43. Plaintiff and the class members have been deprived of rightfully earned overtime compensation as a direct and proximate result of Defendants’ common policies, practices, and refusal to pay the full amount of compensation earned for all overtime hours worked.

44. Plaintiff, and the class, are entitled to and seek the full amount of all earned unpaid overtime pay based on the correct regular rate of pay, attorneys’ fees and costs, and interest pursuant to LC §1194 in an amount to be determined at trial.

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**SECOND CAUSE OF ACTION**

**FAILURE TO PROVIDE REST PERIODS**

**Violation of Labor Code §§226.7, 512, & IWC Wage Order No. 4-2001**

(Against all Defendants)

45. Plaintiff restates and incorporates by reference each and every allegation contained in paragraphs 1 through 35, inclusive, as though fully set forth herein.

46. Labor Code §226.7(b) provides that “An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.”

47. Labor Code §516 provides that the Industrial Welfare Commission “may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers.”

48. Section §12 of the IWC Wage Order No. 4-2001 states: “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½ ) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.”

49. Labor Code §226.7(b) and Section 12(B) of the Wage Order require an employer to pay one additional hour of compensation, at the regular rate of pay, per day for each rest period the employer failed to provide pursuant to the Labor Code and/or applicable Wage Order.

50. Plaintiff and the Class members worked over four (4) hours per shift and/or over six (6) hours per shift.

51. Plaintiff and the Class members were entitled to a duty-free and non-captive paid rest period of not less than ten (10) minutes for every four hours worked or major fraction thereof.

52. During the relevant time period, Defendants failed to provide legally compliant net ten

(10) minute paid rest periods to Plaintiff and the Class member by requiring the rest periods to be taken on Defendants' property.

53. As such, Plaintiff and the Class members were not allowed to leave Defendants' premises for their rest breaks in violation of *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5<sup>th</sup> 257 as Defendants failed to relinquish control over how Plaintiff and the Class members spent their rest breaks.

54. As such, as a matter of Defendants' established company policy and/or practice, Defendants failed to authorize and permit all required paid rest periods established by Labor Code §§226.7 and 516 and Section 12 of the applicable Wage Order.

55. As a result of the unlawful acts of Defendants, Plaintiff and the Class members have been deprived of legally compliant paid rest breaks and are entitled to recover damages under Labor Code §226.7(b) and §12 of IWC Wage Order No. 4-2001 in the amount of one additional hour of compensation at their regular rate of pay for each day a paid rest break was not provided.

56. Pursuant to Labor Code §218.6 and Civil Code §3287, Plaintiff and the Class Members seek recover of pre-judgment interest on all amounts recovered herein.

### **THIRD CAUSE OF ACTION**

#### **VIOLATION OF LABOR CODE §§226.7, 512, and IWC Wage Order No. 4**

(Against all Defendants)

57. Plaintiff restates and incorporates by reference each and every allegation contained in paragraphs 1 through 35, inclusive, as though fully set forth herein.

58. Labor Code §226.7(c) provides in relevant part that "If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission . . . the employer shall pay the employee one additional hour of pay at the *employee's regular rate of compensation* for each workday that the meal or rest or recovery period is not provided." (Emphasis added).

59. The "regular rate of compensation" as set forth in Labor Code §226.7 has the same meaning as "regular rate of pay" as used in Labor Code §510 for overtime and "encompasses all

non-discretionary payments, not just hourly wages”. *Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal.5th 858, 863.

60. Labor Code §516 provides that the Industrial Welfare Commission “may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers.”

61. Section §11(B) of the IWC Wage Order No. 4-2001 states: “If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the ***employee’s regular rate of compensation*** for each workday that the meal period is not provided.” (Emphasis added).

62. Defendants’ uniform policy and practice failed to provide Plaintiff and the Class members, who incurred meal and/or rest period violations, the full amount of paid meal and/or rest period premium payments, at the regular rate of compensation, for noncompliant meal and/or rest periods. Defendants’ uniform policy and practice was to underpay meal and/or rest period premiums with payment at a rate significantly less than the employee’s regular rate of compensation.

63. Plaintiff incurred meal and/or rest period violations and received premium payments that were paid at a rate less than the regular rate of compensation, this includes but is not limited to the exclusion of non-discretionary bonuses from the regular rate of pay.

64. As such, as a matter of Defendants’ established company policy, Defendants failed to provide meal and/or rest periods and then failed to provide meal and/or rest period premium payments at the regular rate of compensation in violation of Labor Code §§226.7(b), 516, and Section 11(B) of Wage Order 4-2001.

65. As a result of the unlawful acts of Defendants, Plaintiff and the Class members have been deprived of legally compliant meal and/or rest breaks and the full amount of meal and/or period premium payments at the regular rate of compensation and are entitled to recover damages under Labor Code §226.7(b) and §12 of IWC Wage Order No. 4-2001 in the full amount of one additional hour of compensation at their regular rate of pay for each day a compliant meal and/or rest break was not provided.

66. Pursuant to Labor Code §218.6 and Civil Code §3287, Plaintiff and the Class members

seek recovery of pre-judgment interest on all amounts recovered herein.

# **FOURTH CAUSE OF ACTION**

## **FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS**

### **Violation of Labor Code §226**

(Against all Defendants)

67. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 35 of this Complaint.

68. California Labor Code §226 provides:

(a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

69. Section 7(A) of the Wage Order requires accurate information pertaining to total wages paid each payroll period, total hours worked in the payroll period and applicable rates of pay, and incentive plan formula provided to the employees.

70. Labor Code §226(e) provides that an employee is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation of §226 occurs and one hundred dollars (\$100) for each subsequent pay period not to exceed an aggregate penalty of four thousand dollars (\$4,000), as well as an award of costs and reasonable attorneys' fees, for all pay periods in which the employer knowingly and intentionally failed to provide timely and accurate itemized statements to the employees.

71. At all material times, Defendants knowingly and intentionally failed to provide Plaintiff and the Class members with wage statements reflecting the gross wages earned, net wages earned, the applicable hourly rates at the corresponding hours worked, and/or list the rest period premium payment on the wage statement.

72. Plaintiff and the Class members suffered injury as a result of Defendants' knowing and intentional failure to provide accurate itemized wage statements as Plaintiff and the Class member were owed but not paid premium compensation for all premium hours worked, premium payments for rest period violations which were not reflected on the wage statements, and premium payments for meal and/or rest period violations at the regular rate of compensation. Plaintiff and the Class members suffered injury as a reasonable person could not promptly and easily determine from the wage statements alone the accurate amount of gross wages, applicable hourly rates at the corresponding hours worked, the net wages earned for the pay period and/or the number of rest period premium payments on the wage statements.

73. Plaintiff and the Class members are entitled to damages of statutory penalties pursuant to Labor Code §226(e) for these violations, in an amount to be determined at trial.

74. Plaintiff and the Class members are entitled to and seek costs and reasonable attorneys' fees pursuant to Labor Code §226(e).

75. Plaintiff further seeks injunctive relief and reasonable attorneys' fees and costs pursuant to Labor Code §226(h).

## **FIFTH CAUSE OF ACTION**

### **UNFAIR COMPETITION**

#### **Violation of Business and Professions Code §§17200, *et seq.***

(Against all Defendants)

76. Plaintiff re-alleges and incorporates by reference each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

77. Beginning on an exact date unknown to Plaintiff but believed to have occurred at least since four (4) years before the filing of this action, Defendants have engaged in a pattern and practice of acts of unfair competition in violation of B&PC §17200, including the practices alleged herein.

78. Defendants, and each of them, are “persons” as defined by Business and Professions Code §17201.

79. Plaintiff seeks to enforce important rights affecting the public interest. Plaintiff sues on her own behalf and on behalf of the current, former, and future employees of the Defendants that were required to work overtime hours without receiving the full amount of overtime compensation, required to work shifts without legally compliant rest periods, provided meal and/or rest period premium pay at a rate not equal to the regular rate of compensation, and as parties harmed by Defendants unfair business practices.

80. Plaintiff and the Class members suffered injuries-in-fact and have lost money as a result of the Defendants’ unfair competition alleged herein.

81. Defendants previously or continue to engage in unlawful, unfair, and/or fraudulent business practices, as alleged in this Complaint, in violation of California’s B&PC §17200 *et seq.* by:

- a. Failing and refusing to pay Plaintiff and the Class members the full amount of overtime compensation in violation of Labor Code §§510, 1194, &1197 and IWC Wage Order No. 4-2001; and
- b. Failing and refusing to provide Plaintiff and the Class members legally compliant rest breaks or premium payments, at the regular rate of pay, in lieu thereof in violation of Labor Code §§226.7, 512 and IWC Wage Order No. 4-2001; and
- c. Failing and refusing to provide Plaintiff and the Class members meal and/or rest period premium payments, at the regular rate of pay, in lieu thereof in violation of Labor Code §§226.7, 512 and IWC Wage Order No. 4-2001.

82. All of these allegations constitute unfair business practices and/or unlawful business practices in violation of California B&PC §17200, *et seq.*

83. Defendants have avoided payment of wages, overtime wages and other benefits as required by the California Labor Code, the California Code of Regulations and applicable IWC Wage Orders. As a result of Defendants’ unfair business practices, Defendants have reaped unfair benefits and illegal profits at the expense of Plaintiff, the Class members, and others similarly

1 situated, and the members of the public. Defendants should be made to disgorge their ill-gotten  
2 gains and to restore them to the Class, including Plaintiff.

3 84. Plaintiff and the Class members seek full restitution of said monies, as necessary and  
4 according to proof, to restore any and all monies withheld and/or acquired by Defendants by means  
5 of the unfair, unlawful, and fraudulent business practices complained of herein. Plaintiff seeks, on  
6 behalf of all current and former employees of Defendants, restitution of monies retained by  
7 Defendants. Plaintiff further seeks, on behalf of themselves and the Class members, the appointment  
8 of a receiver, as necessary, to establish the total restitutionary relief from Defendants. The restitution  
9 includes all wages withheld by Defendants as a result of the unfair, unlawful, and/or fraudulent  
10 business practices; including interest thereon. Absent a statutory provision specifically governing  
11 the type of claim at issue, the prejudgment interest rate is 10 percent. The acts complained of herein  
12 occurred, at least in part, within the last four (4) years preceding the filing of the Complaint.

13 85. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned,  
14 Defendants have engaged in unlawful, deceptive, and unfair business practices prohibited by  
15 California B&PC §17200, thereby depriving their employees and the Class members, the minimum  
16 working condition, standards and conditions due to them under the California labor laws and  
17 Industrial Welfare commission wage orders as specifically described herein. Plaintiff further seeks  
18 an order requiring Defendants to identify by full name, telephone number, and last known address  
19 employees who worked or still work for Defendants for the Class members from four (4) years  
20 preceding the filing of the original Complaint through the date of class certification. Plaintiff further  
21 seeks an order requiring Defendants to timely pay restitution to all current and former employees,  
22 including back wages, and interest.

23 86. By and through its unfair, unlawful, and/or fraudulent business practices and acts  
24 described herein, Defendants have obtained valuable services from Plaintiff and all persons similarly  
25 situated, and has deprived Plaintiff and all persons similarly situated of valuable rights and benefits  
26 guaranteed by law, all to their detriment.

27 87. Plaintiff, and all persons similarly situated, and all persons in interest, are entitled to and  
28 do seek such relief as may be necessary to restore to them the money and property which Defendants

have acquired, or of which Plaintiffs and class members have been deprived by mean of the herein described unfair, unlawful, and/or fraudulent business practices.

88. Plaintiff, and all persons similarly situated, and all persons in interest, are further entitled to and do seek a declaration that the above-described business practices are unfair, unlawful, and/or fraudulent, and declaratory relief of Defendants engaging in any of the herein described unfair, unlawful, and/or fraudulent business practices.

89. Plaintiff and the Class members request attorney's fees and costs pursuant to Code of Civil Procedure §1021.5 since this action is brought to vindicate important rights of a large class and the public.

### **SIXTH CAUSE OF ACTION**

#### **PRIVATE ATTORNEYS GENERAL ACT**

#### **Violation of Labor Code §§2698, *et seq.***

#### **(Against all Defendants)**

90. Plaintiff on behalf of herself and on behalf of all other aggrieved employees herein re-alleges and incorporates each and every one of the allegations contained in the preceding paragraphs as if fully set forth herein.

91. Labor Code §§2698-2699, the Labor Code Private Attorney General Act of 2004, provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (LWDA), or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the Labor Code, may be recovered through a civil action by an aggrieved employee on behalf of himself or herself, and collectively on behalf of all other current or former employees.

92. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies or employees, has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions to assess a civil penalty.

93. Plaintiff and Defendants' non-exempt hourly employees who provided patient advocate and/or collections services for Defendants are "aggrieved employees" as defined by Labor Code §2699, in that they are all current or former employees of Defendants, and one or more of the alleged

violations was committed against them.

94. Plaintiff gave written notice electronically to the LWDA, and by certified mail to Defendants of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violations as required by Labor Code §2699.3. More than 65 days has lapsed since notice to the LWDA and the LWDA has not responded to Plaintiff's notice. Accordingly, Plaintiff may commence a civil action to recover civil penalties for herself and other current and former employees under Labor Code §2699 pursuant to §2699.3.

95. Plaintiff asserts all of the claims in this Complaint against Defendants, individually and on behalf of the aggrieved employee class in her capacity as a private attorney general and seeks all applicable civil penalties available under the Labor Code for these alleged violations.

96. Pursuant to Labor Code §2699, Plaintiff, individually and on behalf of the aggrieved employee class, requests and seeks to recover from the Defendants; unpaid overtime and double time wages at the regular rate of pay, rest period premiums, meal and/or rest period premium payments at the regular rate of pay, waiting time penalties, wage statement violations and penalties according to proof. Plaintiff is further entitled to attorneys' fees and costs pursuant to Labor Code §2699(g)(1), as well as all civil penalties, including, but not limited to:

- 1) Penalties under Code of Regulations, Title 8 §11090 in the amount of \$50 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;
- 2) Penalties under Labor Code §256, in addition to and entirely independent and apart from other penalties provided in the Labor Code, including Labor Code §203, for any aggrieved employee who was discharged or quit, and was not paid all earned wages at termination in accordance with Labor Code §§201, 201.1, 201.5, 202, and 205.5, in the amount of a civil penalty of one day of pay for each day that the aggrieved employee was paid late, until payment was/is made, up to a maximum of thirty (30) days;
- 3) Penalties under Labor Code §558, in addition to and entirely independent and apart from other penalties provided under the Labor Code, in the amount of

\$50 for each underpaid aggrieved employee for each pay period the aggrieved employee was underpaid in addition to an amount sufficient to recover underpaid wages, and \$100 for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages, with all wages recovered pursuant to Labor Code §558 provided to the affected employees;

4) Penalties under Labor Code §226.3, in addition to and entirely independent and apart from other penalties provided in the Labor Code, in the amount of \$250 for each aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for each subsequent violation;

5) Penalties under Labor Code §1197.1, in addition to and entirely independent and apart from other penalties provided in the Labor Code, as follows:

i. For any initial violation that is intentionally committed, \$100 for each underpaid employee for each pay period for which the employee is underpaid;

ii. For each subsequent violation for the same specific offense, \$200 for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed; and

iii. Any and all wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to Labor Code §1197.1 to be paid to the affected employee;

6) Penalties under Labor Code §2699(f), in addition to and entirely independent and apart from other penalties provided in the Labor Code and for Labor Code violations without a specific civil penalty, in the amount of \$100 for each aggrieved employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;

97. Any and all additional civil penalties and sums as provided by the Labor Code and/or other statutes.

98. Plaintiff seeks and is entitled to have 75% of all penalties obtained be allocated to the LWDA and 25% to aggrieved employees.

99. Further, Plaintiff is entitled to seek and recover reasonable attorney's fees and costs pursuant to Labor Code §§2699(g)(1).

### **SEVENTH CAUSE OF ACTION**

#### **FAILURE TO PAY ALL WAGES DUE AT SEPARATION**

##### **Violation of Labor Code §§201, 203**

(Against Defendants)

100. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 35 of this Complaint.

101. Plaintiff and the Class Members whose employment ended with Defendants during the relevant time period were entitled to be promptly paid all earned and unpaid wages at the time of termination, as required pursuant to Labor Code §§201 and 202, *et seq.* Defendants refused and/or intentionally failed to promptly compensate Plaintiff and the Class Members all earned rest period premium pay and/or meal period premium pay and/or overtime/double time wages timely upon separation. Based on this Plaintiff and the Class Members seek and are entitled to damages in the form of statutory waiting time penalties pursuant to LC §203.

102. Plaintiff and the Class Members whose employment terminated during the relevant time period were employees of Defendants covered by Labor Code §203 whose employment ended with Defendants.

103. Accordingly, pursuant to Labor Code §203, Plaintiff and the Class Members are entitled to waiting time penalties at an amount to be proven at trial.

### **III. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays judgment as follows:

1. An order that the action be certified as a class action;
2. An order that Plaintiff be appointed class representatives;

3. An order that counsel for Plaintiff be appointed class counsel;
4. An order requiring Defendants to identify, by name, address and telephone number: All current and former hourly non-exempt employees for Defendants in California who at any time from four years preceding the filing of the original complaint through the date of class certification who provided patient advocate and/or collections services and received bonus;
5. For all unpaid wages due to Plaintiff and each Class member in amounts to be proven at trial;
6. For all unpaid overtime and double time wages due Plaintiff and each Class member;
7. For restitution of all unpaid wages due Plaintiff and each Class member;
8. For all applicable statutory penalties, in amounts to be proven at trial;
9. For general damages including compensatory damages according to proof;
10. For pre-judgment interest as allowed by Labor Code §§218.6 and 1194(a) as well as Cal. Civil Code §3287 and to the extent permitted by law, the California Constitution, and/or deemed equitable by the Court;
11. For all applicable interest on damages, wages, expenses, and penalties due;
12. For injunctive relief to prevent further violations of the California Labor Code;
13. For declaratory relief that Defendants engaged in unfair practices;
14. For declaratory relief that Defendants violated Labor Code §§226, 226.7, 510, 512, 1194, and 1197;
15. For restitution of all moneys due to Plaintiff and Class members, and disgorged profits from the unlawful and/or unfair business practices of Defendants, pursuant to California Business & Professions Code §17200;
16. For one (1) hour of pay at each of the employees' regular rate of compensation for each workday that a legally compliant rest break was not provided;
17. For one (1) hour of pay at each of the employees' regular rate of compensation for each workday that a legally compliant rest break was not provided;
18. For waiting time penalties pursuant to Labor Code §203;

19. For costs of suit, expenses and attorneys' fees pursuant to Labor Code §§226(e) and (h), 1194(a), 2699(g)(1), Code of Civil Procedure §1021.5, and all other applicable law;

20. On behalf of Plaintiff and all other aggrieved employees and the LWDA, for all civil penalties authorized by LC §2699, including but not limited to:

- a) For civil penalties per LC §226.3 in the amount of \$250 for each aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for each subsequent violation;
- b) For civil penalties per LC §256 in the amount of one day of pay, at the same rate, for each day that an aggrieved employee was paid late, at the time of termination, until payment was/is made, up to a maximum of thirty (30) days;
- c) For civil penalties pursuant to LC §558 as follows:
  - 1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
  - 2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
- d) For civil penalties per Code of Regulations, Title 8 §11090 in the amount of \$50 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;
- e) For civil penalties per Labor Code §1197.1, in the amount of:
  - i. \$100 for each underpaid employee for each initial pay period for which the employee was intentionally underpaid;
  - ii. \$200 for each underpaid employee for each subsequent pay period for which the employee is underpaid regardless of whether the initial

violation is intentionally committed; and

iii. Any and all wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to Labor Code §1197.1 to be paid to the affected employee;

f) For civil penalties under LC §2699(f), in addition to and entirely independent and apart from other penalties provided in the Labor Code and for Labor Code violations without a specific civil penalty, in the amount of \$100 for each aggrieved employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for each subsequent violation, and;

21. For all such other and further relief that the Court may deem just and proper.

Dated:

**THE MYERS LAW GROUP, A.P.C.**

By: \_\_\_\_\_  
David P. Myers,  
Jason Hatcher,  
Andriana N. Bravo,  
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