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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

STEVEN BRIGHT, on behalf of himself and all
others similarly situated and the general public

Plaintiffs,

v.

Case No. BC619998

Assigned To: Hon. Ann I. Jones

**AMENDED JOINT STIPULATION OF
SETTLEMENT AND RELEASE**

1 GLENDALE ADVENTIST MEDICAL
2 CENTER, a California corporation; and DOES 1-
3 100, inclusive,

Defendants.

Complaint Filed: May 11, 2016
Trial Date: None Set

4 SANDRA E. BERNAL, on behalf of herself and
5 others aggrieved

6 Plaintiff,

7 v.

Case No. BC614236

Complaint Filed: March 17, 2016
Trial Date: None Set

8 GLENDALE ADVENTIST MEDICAL
9 CENTER, a California corporation; ADVENTIST
10 HEALTH SYSTEM/WEST, a California
11 corporation; ADVENTIST HEALTH, a business
entity unknown; and DOES 1-100, inclusive,

Defendants

12
13 This Joint Stipulation of Settlement and Release is made and entered into between Plaintiff
14 Steven Bright (“Bright”) and Sandra E. Bernal (“Bernal”) (collectively, “Class Representatives” or
15 “Plaintiffs”) individually and on behalf of the Class defined herein, and Defendant Glendale Adventist
16 Medical Center (“Defendant”) (together, the “Parties”).

17 **I. DEFINITIONS**

18 1. “Action” means the Complaints styled as *Bright v. Glendale Adventist Medical Center*,
19 Case No. BC619998 and *Sandra E. Bernal v. Glendale Adventist Medical Center*, Case No. BC614236,
20 filed May 11, 2016 and March 17, 2016, respectively, as well as the amended complaint to be filed in
21 case number BC619998 as a condition of this Settlement upon Preliminary Approval. Prior to the filing
22 of the amended complaint, the Bernal action shall be dismissed, and Bernal will be added as a plaintiff
23 in the Bright matter.

24 2. “Claims Administrator” means CPT Group, Inc.

25 3. “Class” means all persons who are, have been, or will be employed by Defendant in a
26 non-exempt position in California at any time during the period of March 17, 2012 through the date of
27 Preliminary Approval.
28

4. “Class Counsel” means Joseph Antonelli, Janelle Carney of the Law Office of Joseph Antonelli, Dennis Moss of Moss Bollinger LLP, Joseph Lavi, Jordan D. Bello of Lavi & Ebrahimian, LLP, and Sahag Majarian II of the Law Offices of Sahag Majarian II.

5. “Class Members” means all persons who have been employed by Defendant as a non-exempt or hourly employee in California (“Covered Position”) at any time during the period March 17, 2012 through the date of Preliminary Approval.

6. “Class Period” means the time period from March 17, 2012 through the date of Preliminary Approval.

7. “Class Representatives’ Released Claims” refers to the claims released in paragraph 39 herein.

8. “Court” means the Superior Court of the State of California for the County of Los Angeles, Central District.

9. “Defendant’s Counsel” means Seyfarth Shaw LLP.

10. “Earnings” means gross wages of the kind reflected in boxes 3 and 5 on IRS Form W2 for Class Members during the Class Period based on Defendant’s records.

11. “Final Approval” means the date the Court enters an order granting final approval of the Settlement.

12. “Final Judgment” means the Order Granting Final Approval of Class and Collective Action Settlement and Judgment entered by the Court.

13. “Final Settlement Share” for a Qualified Claimant means: 1) As to the Net Settlement Amount, the percentage calculated by dividing the Qualified Claimant’s Earnings during the class period by the Total Earnings for the portion of the Net Settlement Amount allocable to a Qualified Claimant.

14. “Gross Settlement Amount” is the sum of Three Million U.S. Dollars (\$3,000,000.00) which represents the maximum amount payable in this Settlement by Defendant, which includes, without limitation: (a) attorneys’ fees to Class Counsel not to exceed \$1,000,000.00; (b) litigation costs, subject to Court approval, with respect to which Defendant agrees not to oppose an amount of up to \$60,000.00, subject to the statutory written proof thereof; (c) up to \$12,500.00 and \$7,900.00 in Service Enhancement Payments to Class Representatives Bright and Bernal, respectively, subject to Court

1 approval; (d) a reasonable amount to the Claims Administrator to administer the Settlement, estimated at
2 this time to be approximately \$38,000.00; (e) the sum of \$25,000.00, 75% (\$18,750) of which is to be
3 paid to the California Labor Workforce Development Agency as civil penalties pursuant to California
4 Labor Code Section 2699(i) and (j), and 25% of which (\$6,250) is part of the Net to be distributed to
5 class members; (f) all legally required withholding and employer taxes on settlement payments.

6 15. "Net Settlement Amount" is the portion of the Gross Settlement Amount available for
7 distribution to Class Members, and is equal to the Gross Settlement Amount less: (a) attorneys' fees to
8 Class Counsel not to exceed \$1,000,000.00; (b) litigation costs, subject to Court approval, with respect
9 to which Defendant agrees not to oppose an itemized amount of up to \$60,000.00; (c) up to \$12,500.00
10 and \$7,900.00 in Service Enhancement Payments to Class Representatives Bright and Bernal,
11 respectively, subject to Court approval; (d) a reasonable amount to the Claims Administrator to
12 administer the Settlement, estimated at this time to be approximately \$38,000.00; (e) the sum of
13 \$18,750, of which is to be paid to the California Labor Workforce Development Agency as its share of
14 \$25,000 in civil penalties pursuant to California Labor Code Section 2699(i) and (j); (f) all legally
15 required withholding and employer taxes on settlement payments.

16 16. "Notice of Settlement" means the Notice of Class Action and Collective Action
17 Settlement, attached as Exhibit 1.

18 17. "Opt Out Period" means a period of forty-five (45) calendar days from the date the
19 Claims Administrator mails the Settlement Documents to Class Members.

20 18. "Preliminary Approval" means the date the Court approves this Stipulation and the
21 exhibits thereto, and enters an order providing for notice to Class Members, an opportunity to opt out of
22 the Class, an opportunity to submit timely objections to the Settlement, and setting a hearing for Final
23 Approval of the Settlement.

24 19. "Qualified Claimant" means a Class Member who has not timely filed a Request for
25 Exclusion.

26 20. "Request for Exclusion" means a timely letter submitted by a Class Member indicating a
27 request to be excluded from the Settlement in the manner set forth in this Agreement.
28

21. “Settlement Documents” means the Stipulation and the proposed Notice of Settlement (Exhibit 1).

22. “Settlement Effective Date” means the first day following the last of the following occurrences:

a. The date and time to appeal or seek permission to appeal or seek other judicial review of the entry of Final Judgment has expired with no appeal or other judicial review having been taken or sought; or

b. If an appeal or other judicial review has been taken or sought, the date the Final Judgment is finally affirmed by an appellate court with no possibility of subsequent appeal or other judicial review, or the date the appeal(s) or other judicial review are finally concluded with no possibility of subsequent appeal or other judicial review.

23. The “Settlement Period” is March 17, 2012 through the date that the Court grants Preliminary Approval of the settlement. The Parties will request that the Court, in its final approval of this settlement, enjoin Class Members who have not submitted a valid request for exclusion from initiating or prosecuting any proceeding on any claim to be released pursuant to this Stipulation.

24. “Settling Class Members” or “Settlement Class” means all Class Members who do not submit a valid request for exclusion to the Claims Administrator as to all state and all federal non-Fair Labor Standards Act (FLSA) claims and all Class Members who cash their settlement checks as to FLSA claims.

25. “Settling Parties” means Defendant and Settling Class Members.

26. “Stipulation” or “Settlement” means this Joint Stipulation of Settlement and Release.

27. “Total Earnings” means the aggregate of Earnings for all Class Members.

II. RECITALS

28. As a condition of the settlement, upon Preliminary Approval, Plaintiffs will file the First Amended Complaint entitled *Steven Bright and Sandra E. Bernal v. Glendale Adventist Medical Center*, Case No. BC619998, attached hereto as Exhibit 2 and incorporated herein by this reference. The First Amended Complaint, upon filing, will be expressly incorporated as part of the Action that is being

settled by the Parties in this Settlement. **Prior to filing of the amended complaint, the Bernal action shall be dismissed, and Bernal will be added as a plaintiff in the Bright matter.**

29. Plaintiffs allege various state wage and hour law claims, including claims for overtime, off-the-clock work and unpaid wages, failure to provide meal and rest periods, itemized wage statements, and all monies due upon termination, as well as violations of the FLSA. Plaintiffs contend that the Action is appropriate for class and collective action treatment. Defendant denies any liability or wrongdoing of any kind associated with the Action, and contends that, for any purpose other than settlement, the Action is not appropriate for class or collective action treatment pursuant to California Code of Civil Procedure § 384 or 29 U.S.C. § 216(b), respectively. Defendant further contends that it has complied with all state wage and hour laws and with the FLSA. Neither this Settlement, nor any Final Judgment in this Settlement, shall constitute an admission of any form of wrongdoing or liability on the part of Defendant or the accuracy of any allegation raised in the Action. This Settlement is entered into in compromise of disputed claims. Plaintiffs and Defendant intend, by their actions pursuant to this Settlement, to avoid the expense, delay, uncertainty, and burden of litigation. This Settlement and any related court documents or orders may not be cited or otherwise admitted as evidence of liability or that class certification is appropriate. There has been no final determination by any Court as to the merits of the Action or whether it is certifiable, other than for settlement purposes only.

30. On February 13, 2017 and June 5, 2018, the Parties participated in full day mediation sessions with mediators Jeffrey Krivis and the Honorable Peter Lichtman, respectively. With the assistance of mediation, the Parties reached this Settlement. All terms of the Parties' settlement are contained within this Stipulation. At all times, the Parties' settlement negotiations have been non-collusive, adversarial, and at arm's length.

31. Class Counsel represent that they have conducted a thorough investigation of the Action and have diligently pursued an investigation of the Class Members' claims against Defendant, including reviewing relevant documents, applicable law and potential defenses. Based on their own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement is fair, reasonable, and

adequate and is in the best interest of the Class Members in light of all known facts and circumstances, including the risk of loss and significant delay and defenses asserted by Defendant.

32. The entry of Final Judgment shall dismiss with prejudice all claims set forth in paragraphs 38-39 below and bar all Settling Class Members from pursuing those released claims. Defendant's Counsel and Class Counsel agree to cooperate and take all steps necessary and appropriate to obtain Preliminary and Final Approval of this Settlement, to effectuate its terms, and to secure entry of Final Judgment.

III. TERMS OF SETTLEMENT

33. Settlement Sum:

a. Under no circumstances will Defendant make settlement or any other payments pursuant to this Settlement totaling in excess of the Gross Settlement Sum.

b. Each Class Member shall be entitled to a share of the Net Settlement Amount based on his/her Earnings as further described in paragraph 51. The total earnings of all class members' will be totaled. Each Settlement Class Member will receive a pro rata share of the Net Settlement that coincides with his or her percentage of the total earnings of Class members during the class period. (e.g. If the class' earnings during the settlement period were \$100,000,000, the net settlement was \$1,850,000, and a class member earned \$400,000 during the class period, the class members settlement share would be \$7,400.) $\$400,000 \text{ divided by } \$100,000,000 = .004 \times \$1,850,000 = \$7,400$)

c. Each Class Member may participate in the Settlement only if he/she does not elect to timely submit a Request for Exclusion. If a Class Member does not timely file a valid Request for Exclusion, he or she will be issued a settlement payment based on his or her Final Settlement Share without the need to submit a claim form and will be bound by the terms of the Settlement as to his/her state law and federal claims, as described in paragraphs 38-39, if the settlement is granted final approval by the Court.

34. Attorneys' Fees and Costs. Subject to Court approval, and paragraph 53, Class Counsel will receive from the Settlement Sum \$1,000,000.00, which represents thirty-three and one-third percent (33-1/3%) of the Gross Settlement Amount, in attorneys' fees, incurred to compensate Class Counsel for the work already performed in this case and all work remaining to be performed in documenting the

1 Settlement, securing Court approval of the Settlement, ensuring that the Settlement is fairly
2 implemented and obtaining dismissal with prejudice of the Action. Defendant agrees not to oppose a
3 request for costs of up to \$60,000.00, subject to the conditions stated in paragraph 15. Class Counsel
4 will decide the allocation of fees and costs among themselves. If the Court awards Class Counsel less
5 than thirty-three and one-third percent (33-1/3%) of the Gross Settlement Sum as fees or less than the
6 \$60,000.00 in costs that Defendant agrees not to oppose, then the residual shall be added to the Net
7 Settlement Amount and distributed on a pro rata basis to Qualified Claimants. Defendant, through CPT,
8 will issue IRS Forms 1099 to Class Counsel reflecting payment of attorneys' fees and costs.

9 35. Service Enhancement Payments to Class Representatives. Conditioned upon the Class
10 Representatives' execution of the general release in paragraph 39 of this Stipulation, and subject to court
11 approval, Defendant agrees to pay up to \$7,900.00 to Class Representative Bernal and up to \$12,500.00
12 to Class Representative Bright as Service Enhancement Payments for their services as Class
13 Representatives, in addition to any payment they each may otherwise receive as a Class Member. If the
14 Court awards the Class Representatives less than the sums stated above, then the residual shall be added
15 to the Net Settlement Amount and distributed on a pro rata basis to Qualified Claimants. Defendant,
16 through CPT, will issue IRS Forms 1099 to the Class Representatives for their Service Enhancement
17 Payments.

18 36. Conditional Certification of the Classes. The Parties stipulate to the conditional
19 certification of the Class as defined herein for settlement purposes only. As set forth in paragraph 45,
20 this provision is void and all terms of this Settlement are void if this Settlement is not approved by the
21 Court. The Parties further stipulate that, for settlement purposes only, Steven Bright and Sandra E.
22 Bernal may be appointed as Class Representatives. Defendant's stipulation to this settlement class shall
23 not be construed as an admission or acknowledgement of any kind that any class should be certified or
24 given class or collective action treatment.

25 37. Tax Treatment. Of the amounts to be paid to Qualified Claimants for all released claims,
26 the Parties agree that, for purposes of this settlement, thirty-three and one-third percent (33-1/3%) is
27 allocated to civil penalties, thirty-three and one-third percent (33-1/3%) is allocated to interest, and
28 thirty-three and one-third percent (33-1/3%) is allocated to wages and subject to withholding by

1 Defendant. The Class Representatives and Qualified Claimants shall be exclusively liable for any and
2 all non-employer tax liability and should consult with their tax advisors concerning the tax consequences
3 of the payments they receive under the Settlement.

4 38. Released State and Federal Law Claims By Class Members. Upon the final approval by
5 the Court of this Settlement, and except as to the right to enforce the terms and conditions of this
6 Settlement Agreement, all Class Members, except those who have filed a timely request for exclusion,
7 who cash their settlement check hereby fully release Defendant, Adventist Health System/West,
8 Adventist Health, and all of Defendant's present and former parent companies, subsidiaries, affiliates
9 and joint ventures, and all of their officers, directors, employees, agents, servants, registered
10 representatives, attorneys, insurers, successors and assigns, and any other persons acting by through,
11 under or in concert with any of them ("Releasees"), from any and all claims, debts, liabilities, demands,
12 obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or
13 causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under
14 any legal theory under federal and state law for any alleged failure to pay all wages due (including
15 minimum wage and overtime wages), failure to pay for all hours worked (including off-the clock work),
16 failure to provide meal and rest periods, failure to timely pay wages and final wages, failure to furnish
17 accurate wage statements including claims derivative and/or related to these claims, liquidated damages,
18 conversion of wages, and record-keeping violations, up to and including the date of preliminary
19 approval by the Court. This Release shall include without limitation, claims that were raised, or that
20 reasonably could have been raised based on the facts and allegations in the Action under the applicable
21 regulations, Wage Orders and Labor Code, including sections 201, 202, 203, 204, 206, 218, 218.5, 226,
22 226.3, 226.7, 227.3, 510, 511, 512, 515, 551, 552, 558, 1174, 1175, 1182.12, 1194, 1194.2, 1197,
23 1197.1, 1198, and 1199 as well as claims under Business and Professions Code section 17200 *et seq.*, as
24 alleged in the Action, and/or Labor Code section 2698 *et seq.* based on alleged violations of these Labor
25 Code provisions, and the Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.* This Settlement
26 Agreement is conditioned upon the release by all members of the Settlement Class of any claim under
27 Labor Code section 2699, and upon covenants by all members that they will not participate in any
28 proceeding seeking penalties under Section 2699. The Parties stipulate that beyond the Gross Fund

1 Value, Defendant shall not owe any further monies to the Settlement Class or to the State of California
2 based upon the claims made in the Lawsuit. This release shall be effective from March 17, 2012
3 through the date of Preliminary Approval. If a Class Member does not submit a timely and valid request
4 for exclusion form, he or she will still release all Releasees of the Released Claims up to and including
5 the date of Preliminary Approval by the court, except for any claims under the Fair Labor Standards Act.

6 39. Class Representatives' Released Claims. The Class Representatives hereby fully and
7 finally release and discharge Defendant from any and all claims, whether known or unknown, arising
8 during the period from the beginning of their respective dates of employment with Defendant to the date
9 on which the Class Representative executes this Stipulation ("Class Representative Release Period"),
10 whether under federal, state and/or local law, statute, ordinance, regulation, common law, or other
11 source of law; whether or not such claims are in the nature of claims for damages, unpaid wages,
12 premium pay, deductions, unreimbursed business expenses, waiting-time penalties, or other penalties for
13 overtime, missed meal periods, missed rest breaks, and other alleged wage-and-hour violations,
14 attorneys' fees or injunctive relief; and whether sounding in contract or tort. The Class Representatives'
15 Released Claims include, but are not limited to, claims arising from or dependent on the Title VII of the
16 Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*; the Americans with Disabilities Act, 42 U.S.C. §
17 12101, *et seq.*; the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et seq.*; the
18 Age Discrimination in Employment Act, as amended; the Fair Labor Standards Act, 29 U.S.C. § 201, *et*
19 *seq.*; the Civil Rights Act of 1991; 42 U.S.C. § 1981; Executive Order 11246; Executive Order 11141;
20 the Rehabilitation Act of 1973; the Equal Pay Act; Federal Employee Polygraph Protection Act; the
21 National Labor Relations Act; the Worker Adjustment and Retraining Notification Act; the Genetic
22 Nondiscrimination Act of 2008; the California Fair Employment and Housing Act, including
23 Government Code Sections 12900, *et seq.*; the California Family Rights Act; the California Pregnancy
24 Disability Act; and the California Labor Code; any applicable California Industrial Welfare Commission
25 order; and all of their implementing regulations; claims arising from or dependent on federal or local
26 laws or regulations prohibiting discrimination or harassment in employment or otherwise, or enforcing
27 express or implied contracts, requiring employers to deal fairly or in good faith, or restricting an
28 employer's right to terminate employees, wrongful discharge, wrongful termination in violation of

1 public policy, constructive termination, retaliation, defamation, conspiracy, infliction of emotional
2 distress (intentional or negligent), invasion of privacy, assault, battery, physical or personal injury,
3 emotional distress, fraud, negligent misrepresentation, misrepresentation, or any other tort, or any law,
4 such as California Business & Professions Code Section 17200. Notwithstanding the foregoing, nothing
5 in this Settlement releases any claims that cannot be released as a matter of law. Nothing in this
6 Agreement shall affect or interfere with either Class Representative's right to participate, cooperate,
7 initiate or assist in an investigation or proceeding conducted within Defendant or by any government
8 agency (including but not limited to the Equal Employment Opportunity Commission), oversight board,
9 commission or other regulatory or investigative body. However, each Class Representative is waiving
10 any right to receive any individual remedy, such as money damages, in connection with any such
11 investigation or proceeding, including but not limited to any judicial action brought on any Class
12 Representative's behalf by any government agency.

13 The Class Representatives acknowledge that, before signing this Release, they have twenty-one
14 (21) calendar days to consider it. They further understand that they may sign this Release at any time
15 before the expiration of the 21-day consideration period. The Class Representatives agree and
16 understand that they may revoke this Agreement and their respective waivers of Age Discrimination in
17 Employment Act and Fair Employment and Housing Act claims within seven (7) calendar days after
18 their respective executions of it, and that the Agreement shall not become effective or enforceable until
19 at least seven (7) calendar days after the date on which they sign below. Any revocation must be in
20 writing and delivered by hand or certified mail to Diana Tabacopoulos, Seyfarth Shaw LLP, 2029
21 Century Park East, Suite 3500, Los Angeles, CA 90067. Failure to revoke within seven (7) calendar
22 days will result in the waiver being permanent. If either Class Representative revokes within seven (7)
23 calendar days, then the entire Agreement is voidable by Defendant as set forth in paragraph 45.

24 In addition, as to the Class Representatives' Released Claims, the Class Representatives shall be
25 deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions,
26 rights, and benefits they may otherwise have had relating to the Class Representatives' Released Claims
27 pursuant to Section 1542 of the California Civil Code, which provides as follows:
28

1 A general release does not extend to claims that the creditor or releasing
2 party does not know or suspect to exist in his or her favor at the time of
3 executing the release and that, if known by him or her, would have
4 materially affected his or her settlement with the debtor or released party.

5 Class Representatives hereby represent that other than the First Amended Complaint, they have
6 no other charges or cases or proceedings pending against Defendant.

7 40. Objections. All objections to the settlement by anyone, including Class Members, must
8 be served upon the Claims Administrator no later than forty-five (45) calendar days after the mailing of
9 the Settlement Documents, notwithstanding any argument regarding non-receipt of the notice. The
10 objection must state the Class Member's full name and address and must be signed, dated, completed
11 and postmarked by no later than forty-five (45) calendar days after the mailing of the Settlement
12 Documents.

13 41. Requests for Exclusion from the Settlement. Class Members who wish to be excluded
14 from the Settlement must submit a written exclusion within the Opt Out Period. The request for
15 exclusion must state the Class Member's name and address, and either employee identification number
16 or last four digits of Social Security number, and must be signed, dated, completed and postmarked on
17 or before the last day of the Opt Out Period and sent to Glendale Adventist Medical Center Class Action
18 Settlement c/o CPT Group. Request for exclusions that are post-marked after the expiration of Opt Out
19 Period will be rejected, and Class Members submitting untimely request for exclusions shall be bound
20 by the Settlement and its releases and will be considered Qualified Claimants as set forth herein for
21 settlement distribution purposes.

22 42. Court Approval of the Settlement. Class Counsel shall be responsible for preparing and
23 filing the Motion for Preliminary Approval of the Settlement and the Motion for Final Approval of the
24 Settlement.

25 A. If the Settlement receives preliminary approval from the Court, the Final
26 Approval hearing shall be scheduled to occur within thirty (30) calendar days following the end of the
27 Opt Out Period, or at the earliest date available to and proposed by the Court.

28 B. Prior to the Final Approval hearing, Class Counsel will submit a proposed
Final Order (i) finding the Settlement fair, reasonable, and in the best interests of Class Members, (ii)

1 approving Class Counsel's application for an award of attorneys' fees and costs, (iv) approving the Class
2 Representatives' application for Service Enhancement Payments, (v) approving the PAGA payment,
3 (vi) approving payment of claims administration fees, and (vii) for a final order entering judgment
4 against Defendant and releasing and barring any further actions by Class Members who do not opt out of
5 the settlement as to all state law and non-FLSA federal law claims and releasing and barring any further
6 actions by Class Members who cash the checks issued to them in connection with this settlement as to
7 all claims under the FLSA.

8 43. Motion for Attorneys' Fees and Costs. Class Counsel shall file a Motion for Attorneys'
9 Fees and Costs with their Motion for Final Approval.

10 44. Right to Revoke. Defendant retains the right to void this Stipulation and all of its
11 provisions within fifteen (15) calendar days after expiration of the Opt Out Period if thirty (30) or more
12 of eligible Class Members opt out of the Settlement by filing a timely Request for Exclusion.

13 45. Termination of Settlement Agreement. If the conditions of the Settlement set forth in this
14 Stipulation are not satisfied, or if Defendant voids the Settlement under paragraph 44 above, or if the
15 Court does not enter the Final Judgment as provided for in this Stipulation, or if appellate review is
16 sought and on such review the Court's decision is materially modified or reversed, or, if one or more of
17 the terms of the Settlement are not approved or the Stipulation with respect to one or more such terms is
18 materially modified or reversed, then this Stipulation shall be voidable. If this Stipulation is terminated,
19 revoked, or canceled pursuant to its terms, the Parties to this Stipulation shall be deemed to have
20 reverted to their respective statuses as of the date and time immediately prior to the execution of this
21 Stipulation. Except as provided herein, this Stipulation shall not be capable of being canceled or
22 terminated following the Settlement Effective Date.

23 **IV. CLAIMS ADMINISTRATION**

24 46. Claims Administrator Duties. The Claims Administrator shall perform, without
25 limitation, the following duties: (a) using the data provided by Defendant to prepare the Class Notice;
26 (b) mailing the Settlement Documents to Class Members by First Class U.S. Mail; (c) tracking returned
27 Requests for Exclusion, Objections or work week disputes; (d) notifying Defendant and Class Counsel
28 of timely and untimely exclusions, objections or work week disputes; (e) calculating the amounts due to

1 each Class Member pursuant to the Settlement; (f) notifying Defendant and Class Counsel of any
2 disputes regarding claims by the Class Members; (g) allowing Defendant and Class Counsel to comment
3 on any disputes regarding claims by the Class Members, and making a final decision which will be
4 binding on the Parties and the Class Members and non-appealable; (h) preparing and mailing all
5 settlement checks and tax forms to Qualified Claimants by First Class U.S. Mail; (i) collecting cashed
6 settlement checks and tracking signatures; (j) providing a declaration of all Class Members who have
7 cashed their checks by not later than two months after the expiration of check-cashing period; and
8 (k) escheating all unclaimed funds to the State of California. The Claims Administrator will provide to
9 Class Counsel and to Defendant's Counsel the number of Class Members who (a) object to the
10 Settlement, (b) request exclusion from the Settlement, or (c) otherwise express any opposition to the
11 Settlement, within five (5) calendar days of such occurrence.

12 47. Provision of Confidential Database. Defendant shall provide to the Claims
13 Administrator, within seven (7) calendar days following the Court's approval of the Settlement
14 Documents, a confidential database of all Class Members, including last known addresses, dates of
15 employment, Earnings, and social security numbers. This database shall be based on Defendant's
16 payroll and other business records. This database will be maintained as strictly confidential and used by
17 the Claims Administrator for the sole purpose of administering the Settlement herein. It shall not be
18 shared with Class Counsel or any other counsel.

19 48. Mailing of Settlement Documents. Within fifteen (15) calendar days after the Claims
20 Administrator receives the confidential database, the Claims Administrator shall mail the Settlement
21 Documents by First Class U.S. Mail. The Claims Administrator will use the United States Postal
22 Service National Change of Address List to verify the accuracy of all addresses before the initial mailing
23 date to ensure that the Settlement Documents are sent to all Class Members at the addresses most likely
24 to result in immediate receipt of them. It will be conclusively presumed that if an envelope so mailed
25 has not been returned within thirty (30) calendar days of the mailing that the Class Member received the
26 Settlement Documents. With respect to returned envelopes, within five (5) calendar days after receipt of
27 the returned envelope, the Claims Administrator will perform one routine skip trace procedure to obtain
28

1 a current address and re-mail, by First Class U.S. Mail, the Settlement Documents with a new Opt Out
2 Period deadline of fifteen (15) days after mailing.

3 49. Challenges to Class Members' Earnings Data. In calculating each Class Member's share
4 of the settlement, Defendant's records regarding the Earnings of Class Members shall be presumed to be
5 correct. Class Members who challenge Defendant's records must submit a challenge in writing to the
6 Claims Administrator and will bear the burden of proof, i.e., a Class Member who fails to provide
7 written proof will have his or her challenge denied. All such challenges must be received within the Opt
8 Out Period. The parties will then have ten (10) calendar days to investigate the challenge and determine
9 whether any additional amount is owed to the Class Member making the challenge. In no case will a
10 challenge to employment data result in a payment by Defendant in excess of the Gross Settlement
11 Amount. If the parties cannot agree on the Earnings challenge, the Claims Administrator will resolve
12 this dispute.

13 50. Status of Claims Administration and List of Qualified Claimants. Within thirty (30)
14 calendar days after the expiration of the Opt Out Period, the Claims Administrator shall provide to Class
15 Counsel and Defendant's Counsel a declaration summarizing the results of the class notice mailing
16 process that shall include, among other things, the number of Settlement Documents mailed and the
17 number of timely requests for exclusion received. This declaration shall also confirm the Claims
18 Administrator's total costs and expenses incurred in the administration of this case, including a
19 reasonable estimate of the costs and expenses needed to complete the mailing of final payments to
20 Qualified Claimants and other remaining administration of the Settlement, including preparation of tax
21 documentation and an ongoing compilation of cashed settlement checks and declaration regarding same.
22 When and if the Court grants Final Approval of the Settlement, the Claims Administrator shall promptly
23 provide Defendant with a final list of all Settling Class Members as well as a periodic report of Qualified
24 Claimants who cash their settlement checks until such time as the settlement checks expire in
25 accordance with paragraph 58.

26 51. Calculation of Final Settlement Share. Within twenty (20) calendar days after Final
27 Approval and the resolution of any challenges to employee data pursuant to paragraph 49 above, the
28 Claims Administrator will calculate the pro rata settlement payments to Qualified Claimants based on

each Qualified Claimant's Earnings as defined in Paragraph 10. The Claims Administrator will provide Class Counsel and Defendant with a spreadsheet showing how settlement amounts were calculated, but this document shall not contain the names or other identifying information about individual Qualified Claimants.

52. Distribution of Final Payments to Qualified Claimants. No money will be distributed to any Qualified Claimant until expiration of the Settlement Effective Date. Thereafter, the Claims Administrator shall mail to each Qualified Claimant his or her final payment within twenty (20) calendar days by First Class U.S. Mail. Within ten (10) calendar days after the mailing of the final payments to Qualified Claimants, the Claims Administrator shall provide Class Counsel and Defendant's Counsel a written confirmation of this mailing. Defendant shall wire the funds for such payments to the Claims Administrator seven (7) calendar days after the Settlement Effective Date.

53. Payment of Costs and Attorneys' Fees and Service Enhancement Payments. No attorneys' fees, costs, or Service Enhancement Payments will be distributed until twenty (20) calendar days after expiration of the Settlement Effective Date. Thereafter, the Claims Administrator shall (a) distribute all attorneys' fees, in an amount allowed by the Court not to exceed \$1,000,000.00, and awarded costs, at such time as Class Counsel provides CPT and Defendant with email confirmation agreed to by all Class Counsel stating that they have reached an agreement as to the division of all attorneys' fees and costs; and (b) distribute the Class Representatives' Service Enhancement Payments in an amount not to exceed \$7,900.00 (Bernal) and \$12,500.00 (Bright). In the event that the Court (or any appellate court) awards less than the amount requested for attorneys' fees and/or costs, or less than the amount requested as the Service Enhancement Payments, only the awarded amounts shall be paid, and any remaining or unawarded portion of the requested fee, cost, and/or Service Enhancement Payment shall be added to the Net Settlement Amount. Defendant shall wire the funds for attorneys' fees, costs and enhancement payments to the Claims Administrator seven (7) calendar days after the Settlement Effective Date. Class Counsel agree that all awarded attorneys' fees may be sent to CPT for distribution as specified above and that in no event will Defendant be responsible for payment of any attorneys' fees to any counsel except as set forth in this Stipulation.

V. MISCELLANEOUS PROVISIONS

1 54. Covenants and Representations by the Signatories to the Settlement.

2 A. The Class Representatives are aware of the following legal actions against
3 Defendant alleging claims that overlap with the claims released in this agreement: *Aimee Zetina v.*
4 *Glendale Adventist Medical Center*, Superior Court, State of California, County of Los Angeles, Case
5 No. BC708653 and *Irvin Talag v. Glendale Adventist Medical Center*, State of California, County of
6 Los Angeles, Case No. BC71166. The Class Representatives covenant that, to the extent those claims
7 overlap with the claims released in paragraph 38-39 of this Stipulation, and arose during the applicable
8 release period, they will not participate in those actions and will opt out of those actions.

9 B. Class Representative Bernal agrees that she will not seek re-employment with
10 Defendant or its successors or affiliated entities.

11 C. Defendant will not retaliate against any Class Representative or Class Member
12 with respect to his or her decision to participate or not participate in the Settlement.

13 55. Drafting. The Parties hereto agree that the terms and conditions of this Stipulation are the
14 result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Party shall be
15 considered the "drafter" of this Stipulation for purposes of having terms construed against that Party.
16 Through their signatures, the Class Representatives represent that their counsel consent to the terms of
17 this Settlement and will abide by the terms thereof.

18 56. Class Information Confidential. Names of Class Members and their allocation amounts
19 shall be kept strictly confidential by the Claims Administrator, who will not release such information to
20 Class Counsel and will only file such information under seal if necessary. Notwithstanding this
21 provision, if a Class Member or Class Representative asks his or her counsel or Class Counsel to request
22 information about the computation of his or her settlement payment, the Claims Administrator may
23 provide contact information and/or information regarding the computation of the individual Class
24 Member's or Class Representative's settlement payment to Class Counsel or the Class Representative's
25 counsel to allow counsel to respond to such inquiries. Class Counsel agrees that any information they
26 receive or have received in connection with this Settlement, including but not limited to computational
27 information provided to Class Counsel pursuant to the Settlement, may be used for this Action only, and
28 may not be used for any purpose or in any other action or proceeding.

1 57. Non-Disclosure. Neither the Class Representatives nor Class Counsel, shall publicize,
2 directly or indirectly, or cause to be publicized, directly or indirectly, the discussions resulting in or the
3 existence of this Settlement or its terms, in any type of mass media or social media, including but not
4 limited to, speeches, press conferences, press releases, interviews, television or radio broadcasts,
5 newspapers, messages on the Internet, Facebook, Twitter, or any other social media, Class Counsels'
6 website or any other website of any kind.

7 58. The Class Representatives and Class Counsel agree not to respond to any press inquiries
8 concerning the Settlement except to refer reporters to the papers filed with the Superior Court.

9 59. Uncashed Settlement Checks. Settlement checks issued to Qualified Claimants pursuant
10 to this Stipulation shall remain negotiable for a period of one hundred eighty (180) calendar days from
11 the date of mailing. The funds associated with any checks not properly or timely negotiated shall be
12 deposited with the State Controller of the State of California, pursuant to applicable law. They shall not
13 be remitted to the Department of Industrial Relations. Qualified Claimants who fail to negotiate their
14 check(s) within the specified time limit shall, like all Settling Class Members, remain bound by the
15 Settlement and its releases, except with respect to claims under FLSA. All Qualified Claimants who
16 timely cash their checks will be deemed to have opted into the FLSA settlement and shall release their
17 rights under the FLSA. Within 90 days of the check expiration deadline, Defendant may file under seal a
18 list of all the Class members who cashed their checks for purposes of the FLSA release.

19 60. Return and/or Destruction of Confidential Settlement Materials. Within ten (10)
20 calendar days of the Settlement Effective Date, the Class Representatives and Class Counsel shall return
21 and/or destroy all documents produced to them for settlement purposes in this Action.

22 61. Cooperation. The Parties agree to cooperate fully with one another to accomplish and
23 implement the terms of this Settlement. Such cooperation shall include, but not be limited to, execution
24 of such other documents and the taking of such other action as may reasonably be necessary to fulfill the
25 terms of this Stipulation. The Parties shall use their best efforts, including all efforts contemplated by
26 this Stipulation and any other efforts that may become necessary by Court order, or otherwise, to
27 effectuate this Stipulation and the terms set forth herein.
28

62. No Impact on Benefit Plans. Neither the Settlement nor any amounts paid under the Settlement will modify any previously credited hours or service under any employee benefit plan, policy, vacation or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under any Defendant sponsored benefit plans, policies, vacation or bonus program. The payments made under the terms of this Stipulation shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any Defendant benefit plan, policy, vacation or bonus program. Defendant retains the right to modify the language of its benefit plans, policies, vacation and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement are not for “hours worked,” “hours paid,” “hours of service,” or any similar measuring term as defined by any applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Stipulation.

63. Notices. Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States certified mail, return receipt requested, addressed as follows:

To the Class:
Joseph Antonelli
Janelle Carney
LAW OFFICE OF JOSEPH ANTONELLI
14758 Pipeline Ave., Suite #, 2nd Floor
Chino Hills, CA 91709

Dennis F. Moss
Moss Bollinger LLP
15300 Ventura Boulevard
Sherman Oaks, CA 91403

Joseph Lavi
Jordan D. Bello
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Boulevard, Suite 200
Beverly Hills, CA 90211

Sahag Majarian II
LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard

Tarzana, CA 91356

To Defendant:

Diana Tabacopoulos
SEYFARTH SHAW LLP
2029 Century Park East, Suite 3500
Los Angeles, California 90067-3021

64. Modification. This Stipulation may not be changed, altered, or modified, except in writing signed by Class Counsel and Defendant's Counsel and approved by the Court. This Stipulation may not be discharged except by performance in accordance with its terms or by a writing used by Class Counsel and Defendant's Counsel. This Stipulation shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

65. Governing Law. The rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and shall be governed by, the laws of the State of California, without regard to principles of conflict of laws.

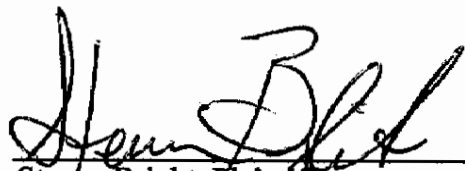
66. Severability. If any provision of this Stipulation or the application thereof is held invalid, such invalidation shall not affect other provisions or applications of this Stipulation and to this end the provisions of this Stipulation are declared to be severable.

67. Counterparts. Because the proposed Classes have not yet been certified, and the members of the proposed Classes are so numerous, the Parties agree that it is impossible or impractical to have each Class Member sign this Stipulation. It is agreed that, for purposes of seeking Court approval of the Settlement, this Stipulation may be executed on behalf of the proposed Class by Class Counsel. The Parties may execute this Stipulation in any number of counterparts, and a facsimile signature shall have the same force and effect as an original.

68. Integration. This Stipulation contains the entire agreement of the Parties relating to settlement of the Action and all prior or contemporaneous agreements, understandings, representations and statements, whether oral or in writing, are merged in this Stipulation.

IN WITNESS WHEREOF, this Stipulation of Settlement and Release is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

1 DATED: 3/4/19, 2018

By: 

Steven Bright, Plaintiff

2 DATED: _____, 2018

By: _____

Sandra Bernal, Plaintiff

3 DATED: _____, 2018

GLENDALE ADVENTIST MEDICAL CENTER

By: _____

4 DATED: _____, 2018

SEYFARTH SHAW LLP

By: _____

Diana Tabacopoulos
Attorneys for Defendant
Glendale Adventist Medical Center

5 DATED: March 4, 2019, 2018

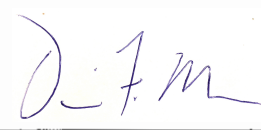
LAW OFFICE OF JOSEPH ANTONELLI

By: 

Joseph Antonelli
Janelle Carney
Attorneys for Plaintiff
Steven Bright on behalf of himself and all
others similarly situated

6 DATED: March 5, 2019, 2018

MOSS BOLLINGER LLP

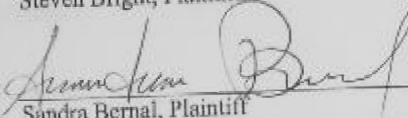
By: 

Dennis F. Moss
Attorneys for Plaintiff
Steven Bright on behalf of himself and all
others similarly situated

1 DATED: _____, 2018

By: Steven Bright, Plaintiff

2
3
4 DATED: 3 - 5 - 2019, 2018

By: 
Sandra Bernal, Plaintiff

5
6 DATED: _____, 2018

GLENDALF ADVENTIST MEDICAL CENTER

By: _____

7
8
9
10 DATED: _____, 2018

SEYFARTH SHAW LLP

By: _____
Diana Tabacopoulos
Attorneys for Defendant
Glendale Adventist Medical Center

11
12
13
14
15 DATED: _____, 2018

LAW OFFICE OF JOSEPH ANTONELLI

By: _____
Joseph Antonelli
Janelle Carney
Attorneys for Plaintiff
Steven Bright on behalf of himself and all
others similarly situated

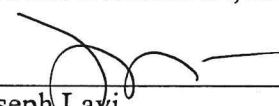
16
17
18
19
20
21 DATED: _____, 2018

MOSS BOLLINGER LLP

By: _____
Dennis F. Moss
Attorneys for Plaintiff
Steven Bright on behalf of himself and all
others similarly situated

1 DATED: 3/5, ²⁰¹⁹2018

LAVI & EBRAHIMIAN, LLP

2 By: 

3 Joseph Lavi
4 Jordan D. Bello
5 Attorneys for Plaintiff
6 Sandra E. Bernal on behalf of herself and
7 others aggrieved

8 DATED: 3/5, ¹⁹2018

LAW OFFICES OF SAHAG MAJARIAN II

9 By: 

10 Sahag Majarian II
11 Attorneys for Plaintiff
12 Sandra E. Bernal on behalf of herself and
13 others aggrieved

1 DATED: _____, 2018

LAVI & EBRAHIMIAN, LLP

2 By: _____

3 Joseph Lavi
4 Jordan D. Bello
5 Attorneys for Plaintiff
6 Sandra E. Bernal on behalf of herself and
7 others aggrieved

8 DATED: 3/5, 2018¹⁹

LAW OFFICES OF SAHAG MAJARIAN II

9 By: _____

10 Sahag Majarian II
11 Attorneys for Plaintiff
12 Sandra E. Bernal on behalf of herself and
13 others aggrieved
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EXHIBIT 1

NOTICE OF CLASS AND COLLECTIVE ACTION SETTLEMENT

Superior Court of the State of California, County of Los Angeles
Steven Bright v. Glendale Adventist Medical Center, Case No. BC619998
Sandra E. Bernal v. Glendale Adventist Medical Center, Case No. BC614236

A state court has authorized this notice. This is not a solicitation.

If you are or were employed in California by Glendale Adventist Medical Center (“GAMC” or “Defendant”) in a non-exempt position during the time period March 17, 2012 to [date of preliminary approval], then you might be a member of the Class and entitled to monetary recovery from a class action settlement.

PLEASE READ THIS NOTICE CAREFULLY.

Pursuant to the order of the Superior Court of the State of California, County of Los Angeles, entered _____, 2019, YOU ARE HEREBY NOTIFIED AS FOLLOWS: A settlement has been reached between the parties in a lawsuit pending in the Superior Court of the State of California, County of Los Angeles (“Court”) on behalf of the class identified above. You have received this notice because GAMC’s records indicate that you worked as a non-exempt employee during the periods identified above (“Class Period”). This notice is designed to advise you of how you can participate in this settlement and your rights under the settlement.

BACKGROUND OF THE SETTLEMENT

On March 18, 2016, Sandra Bernal (“Bernal”) filed a putative representative action against GAMC. On May 11, 2016, Steven Bright (“Bright”) filed a putative class action against GAMC. On ____ 2018, Plaintiffs Bright and Bernal filed a First Amended Complaint in the Bright action alleging claims for (1) Violation of B&PC §§ 17200, et seq.; (2) Failure to Pay All Wages (Lab. Code §§ 200, et seq., 218, 226, 510, 511, 1194, 1198, and 2802); (3) Failure to Pay All Wages Due to Rounding; (4) Failure to Provide Meal Breaks (Lab. Code §§ 226.7, and 512, et seq.); (5) Inaccurate Wage Statements (Lab. Code § 226); (6) Failure to Provide Rest Periods (Lab. Code §§ 226.7 and 512); (7) Failure to Pay Accrued Vacation; (8) Violation of Labor Code §§ 200, et seq.; (9) Violation of Labor Code §§ 2698-2699 Private Attorney General Act (PAGA); and (10) Failure to Pay Overtime Compensation, Fair Labor Standards Act. On or about ____, 2018, Bernal dismissed her lawsuit and was added as a plaintiff in the Bright action. Bright and Bernal filed a First Amended Complaint on ____, 2019. The First Amended Complaint and the Bright and Bernal lawsuits against GAMC described above are referred to as the “Lawsuit.”

GAMC denies that it violated the law in any manner described in the Lawsuit. The Court has not entered judgment or determined that GAMC engaged in any wrongdoing alleged in the Lawsuit. As a result of extensive settlement negotiations, the parties entered into a Joint Stipulation of Settlement and Release (“Settlement Agreement”).

The Settlement Agreement has been given preliminary approval by the Court. If you are part of the Class (referred to as “Class Members”), then you have the opportunity to participate in the settlement and receive a payment.

OPTIONS UNDER THE SETTLEMENT

Summary of Your Legal Rights and Options in this Settlement	
DO NOTHING	You do not need to do anything in order to receive your pro rata share of the settlement. You will automatically receive a check representing your pro rata share of the settlement and release certain claims under state and federal law, unless you submit a written request to exclude yourself from the Settlement. If you timely cash your settlement check, you will be deemed to have opted-in to the settlement for purposes of releasing any rights under the Fair Labor Standards Act (FLSA).
EXCLUDE YOURSELF	You may submit a written request to exclude yourself no later than _____, 2019. You will not receive your pro rata share of the settlement and you will retain your right to pursue both state and federal claims against GAMC in a separate lawsuit at your own expense.
OBJECT	You may submit a written objection if you disagree with the proposed settlement. If the court agrees with your objection, the parties can choose whether to withdraw the settlement or change its terms. If the court rejects your objection, you will be entitled to participate in the settlement provided that you have not submitted a request for exclusion.

SUMMARY OF THE PROPOSED SETTLEMENT

I. THIS SETTLEMENT IS NOT AN ADMISSION OF LIABILITY. The Settlement Agreement represents a compromise and settlement of highly disputed claims. Nothing contained in this Notice, nor the consummation of this settlement, is to be construed or deemed an admission of liability, culpability, negligence or wrongdoing on the part of GAMC. GAMC vigorously denies all of Plaintiffs' material allegations. Specifically, GAMC denies that Plaintiffs and the Class Members are owed any compensation for alleged unpaid wages, overtime hours, off-the-clock work, minimum wages, meal periods or rest periods, or any related claims, or interest or penalties of any kind.

Counsel for the class ("Class Counsel") believes that further proceedings in this case, including a trial and probable appeals, would be very expensive and protracted. Class Counsel cannot predict with certainty how the various legal questions at issue, including the amount of damages, would ultimately be resolved. Therefore, upon careful consideration of all of the facts and circumstances of this case, Class Counsel believes that the proposed settlement is fair, reasonable and adequate.

II. HOW WILL THE SETTLEMENT FUNDS BE DISTRIBUTED?

The total settlement paid by GAMC is \$3,000,000.00 (“Gross Settlement Amount”). From this sum, Plaintiffs will request the following deductions:

- Class Counsel attorneys’ fees up to \$1,000,000.00 or 33 1/3% of the Gross Settlement Amount and costs up to \$60,000.00 as authorized by the Court;
- All expenses of administering the settlement, reasonably estimated to be approximately \$38,000.00;
- Up to \$12,500.00 and \$7,900.00 for Class Representatives’ Bright and Bernal’s enhancement payments respectively;
- All legally required employer withholding and employer taxes on the settlement payments; and
- \$18,750 for payment under PAGA to the State of California (Which is 75%, of a \$25,000 Private Attorney General Act payment. The remaining 25%, \$6,250, will be distributed to Class Members as part of the Net Settlement Amount).

Assuming these requests are granted in full, the settlement fund for the Class Members, prior to deduction for employer withholding and employer taxes on the settlement payments, will be approximately \$1,856,600.00 (“Net Settlement Amount”).

Class Members who do not file a written request for exclusion (Qualified Claimants) will be paid pursuant to the Court-approved plan of distribution as described in the Settlement Agreement and set forth below.

III. YOUR SHARE OF THE SETTLEMENT AND HOW IT WILL BE DETERMINED

Your settlement share calculation is based on your total gross earnings of the type used for calculating Social Security and Medicare contributions usually reflected in boxes 3 and 5 of your IRS Form W2 (“earnings”) in an hourly paid (“non-exempt”) position during the Class Period relative to the earnings of other class members who do not opt out of the settlement. The approximate value of your claim is: \$_____.

GAMC’s records will be determinative with respect to earnings for Qualified Claimants. CPT Group (the Claims Administrator) will compute each Qualified Claimant’s settlement payment.

If you believe in good faith that your earnings as a non-exempt employee in California during the Class Period are incorrect, you must provide to CPT Group a statement and documents, under penalty of perjury, regarding why you believe that data is incorrect and authorizing CPT Group to review your records and related documents to determine such information. Any such claim must be received by _____, 2018 at the designated address for CPT Group.

Upon timely receipt of any such dispute of claim, CPT Group will review the pertinent records showing your earnings from GAMC as a non-exempt employee during the Class Period. GAMC has agreed to make these records available for this purpose. In the event there remains a dispute, counsel for the parties may stipulate to a compromise or stipulate to allow CPT Group to make the final decision.

YOUR RIGHTS AS A CLASS MEMBER

I. DO NOTHING

You will automatically receive your share of the settlement and release certain state law and non-FLSA claims provided that you do not submit a timely written request for exclusion. By cashing your settlement check, you are consenting to the settlement and will release your Fair Labor Standards Act ("FLSA") rights as described in this notice. If you are a current GAMC employee, whether or not you participate in the settlement will have no impact on your employment with GAMC.

II. REQUEST EXCLUSION FROM THE SETTLEMENT

If you do not wish to participate in the settlement then you may exclude yourself (i.e., "opt out") by submitting a written request for exclusion. The written request for exclusion must include your full name and address and either employee identification number or last four digits of your Social Security number, and be signed, dated, completed, and postmarked by _____, 2019 and sent to GAMC, Inc. Class Action Settlement c/o CPT Group [INSERT ADDRESS].

Any person who files a complete and timely request for exclusion will not be a member of the Settlement Class (SCM), will not be permitted to participate in any portion of the settlement, and will receive no payment from the settlement. Any such person, at their own expense, may pursue any claims he or she may have against GAMC.

III. OBJECT TO THE SETTLEMENT

If you do not opt out of the settlement by submitting a valid and timely request for exclusion, you may object to the settlement before the hearing on Final Approval. However, if the Court rejects your objection, you will still be bound by the terms of the settlement and will release your state law claims and non-FLSA federal claims. You will additionally release your FLSA claims if you cash your settlement check. To object, you must send your written objection that must state your full name and address and must be signed, dated, completed, and postmarked by and _____, 2018 and sent to GAMC, Inc. Class Action Settlement c/o CPT Group [INSERT ADDRESS].

Any written objections must state each specific reason in support of your objection and any legal support for each objection.

If you choose to file an objection to the terms of the Settlement Agreement, you do not have to provide the court with a Notice of Intent to Appear at the final fairness hearing if you choose to participate at the hearing. If you do appear you may do so with or without counsel. The final fairness hearing at which the Court will be asked to approve the settlement will be at _____ p.m. on _____, 2019, in Department 11 of the Superior Court, State of California located at 312 N. Spring Street, Los Angeles, California 90012-4793, or such other later date as the Court may authorize.

CLASS COUNSEL

LAW OFFICE OF JOSEPH ANTONELLI

GAMC'S COUNSEL

SEYFARTH SHAW LLP

Joseph Antonelli
JAntonelli@antonellilaw.com
Janelle Carney
JCarney@antonellilaw.com
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SahagII@aol.com
18250 Ventura Boulevard
Tarzana, CA 91356
Telephone: (818) 609-0807
Facsimile: (818) 609-0892

IV. CHANGE OF ADDRESS

If you move after receiving this notice, if it was misaddressed or if for any reason you want your payment or future correspondence concerning this action and the settlement to be sent to a different address, you should supply your current preferred address to the Settlement Administrator at the address listed above.

EFFECT OF THE SETTLEMENT

I. RELEASED RIGHTS AND CLAIMS

1. Upon the final approval by the Court of this Settlement, and except as to the right to enforce the terms and conditions of this Settlement Agreement, all Class Members, except those who have filed a timely request for exclusion, who cash their settlement check hereby fully release Defendant, Adventist Health System/West, Adventist Health, and all of Defendant's present and former parent companies, subsidiaries, affiliates and joint ventures, and all of their

officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them ("Releasees"), from any and all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under federal and state law for any alleged failure to pay all wages due (including minimum wage and overtime wages), failure to pay for all hours worked (including off-the clock work), failure to provide meal and rest periods, failure to timely pay wages and final wages, failure to furnish accurate wage statements including claims derivative and/or related to these claims, liquidated damages, conversion of wages, and record-keeping violations, up to and including the date of preliminary approval by the Court. This Release shall include without limitation, claims that were raised, or that reasonably could have been raised based on the facts and allegations in the Action under the applicable regulations, Wage Orders and Labor Code, including sections 201, 202, 203, 204, 206, 218, 218.5, 226, 226.3, 226.7, 227.3, 510, 511, 512, 515, 551, 552, 558, 1174, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, as well as claims under Business and Professions Code section 17200 *et seq.*, as alleged in the Action, and/or Labor Code section 2698 *et seq.* based on alleged violations of these Labor Code provisions, and the Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.* This Settlement Agreement is conditioned upon the release by all members of the Settlement Class of any claim under Labor Code section 2699, and upon covenants by all members that they will not participate in any proceeding seeking penalties under Section 2699. The Parties stipulate that beyond the Gross Fund Value, Defendant shall not owe any further monies to the Settlement Class or to the State of California based upon the claims made in the Lawsuit. This release shall be effective from March 17, 2012 through the date of Preliminary Approval. If a Class Member does not submit a timely and valid request for exclusion form, he or she will still release all Releasees of the Released Claims up to and including the date of Preliminary Approval by the court, except for any claims under the Fair Labor Standards Act.

2. The Class Representatives will release more claims than the other class members. They are releasing Defendant from any and all claims, from the beginning of their respective dates of employment with Defendant to the date they signed the Settlement Agreement.

II. PAYMENT TO CLASS MEMBERS

Payment under the settlement will occur after the judgment by the Court of Final Approval of the settlement is no longer appealable or if an appeal has been filed, the date on which the appeal upholding the Final Approval of this Settlement Agreement is final and no longer appealable. Currently, the Court's Final Approval hearing is set for _____, 2019.

WHAT IS THE NEXT STEP?

The Court will hold a Final Approval hearing in Department 11 of the Superior Court, State of California, located at 312 N. Spring Street, Los Angeles, California 90012-4793 on _____, 2018, at _____ to determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees in the amount of \$1,000,000.00, reimbursement of expenses in the amount of up to \$60,000.00, settlement administrator costs, reasonably estimated to be approximately \$38,000.00, PAGA payment of \$25,000.00 and up to a \$12,500.00 and \$7,900.00 for service payments to the Class Representatives.

The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at this hearing unless you have timely filed an objection with the Court. Notice of any final judgment entered after the Final Fairness hearing will be posted on the administrator's website [web address with link information]

ADDITIONAL INFORMATION

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should consult the detailed Settlement Agreement, which is on file with the Clerk of the Court. In the event there is a conflict between this summary and the Settlement Agreement, the terms of the Settlement Agreement shall control. The pleadings and other records in this litigation, including that stipulation, may be examined at any time during regular business hours at the Office of the Clerk of the Superior Court, State of California, located at 312 N. Spring Street, Los Angeles, California 90012-4793.

**PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK
FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS**

BY ORDER OF THE SUPERIOR COURT, STATE OF CALIFORNIA

EXHIBIT 2

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Attorneys for Plaintiff STEVEN BRIGHT on behalf of himself
and all others similarly situated and the general public

[Additional Counsel Listed on Next Page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

STEVEN BRIGHT, on behalf of himself and all
others similarly situated and the general public,

Plaintiff,

v.

GLENDALÉ ADVENTIST MEDICAL
CENTER, a California corporation; and DOES 1
to 100, inclusive,

Defendants.

SANDRA E. BERNAL, on behalf of herself and
others aggrieved,

Plaintiff,

v.

GLENDALÉ ADVENTIST MEDICAL
CENTER, a California corporation;
ADVENTIST HEALTH SYSTEM/WEST, a
California corporation; ADVENTIST HEALTH,
a business entity unknown, and DOES 1 to 100,
inclusive,

Defendants.

Case No.: BC619998, consolidated with
Case No.: BC614236

CLASS ACTION

FIRST AMENDED COMPLAINT

1. Violation of B&PC §§17200, et seq.

**2. Failure to Pay All Wages (Labor Code
§§200, et seq., 218, 226, 510, 511, 1194,
1198, and 2802);**

**3. Failure to Pay All Wages Due to Illegal
Rounding**

**4. Failure to Provide Meal Breaks (Labor
Code §§226.7 and 512, et seq.)**

**5. Inaccurate Wage Statements (Labor
Code §226)**

**6. Failure to Provide Rest Periods (Labor
Code §§226.7 and 512);**

7. Failure to Pay Accrued Vacation

8. Violation of Labor Code §§200, et seq.

**9. Violation of Labor Code §§2698-2699
Private Attorney General Act (PAGA)**

**10. Failure to Pay Overtime
Compensation, Fair Labor Standards Act**

DEMAND FOR JURY TRIAL

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Attorneys for Plaintiff SANDRA E. BERNAL on behalf of herself
and all others similarly situated and the general public

1 Plaintiffs Steven Bright and Sandra E. Bernal, on behalf of themselves and all other
2 persons similarly situated and the general public (hereinafter collectively referred to as
3 “Plaintiffs”), hereby complain against Defendants, Glendale Adventist Medical Center, a
4 California corporation (hereinafter referred to as “GAMC”), Adventist Health System/West, a
5 California corporation, Adventist Health, a business entity unknown, and DOES 1 to 100,
6 inclusive, and on information and belief allege as follows:

7 **GENERAL ALLEGATIONS**

8 **JURISDICTION**

9 1. This is a civil action seeking recovery of unpaid wages and waiting time penalties
10 under California Labor Code §§200, et seq., 226, 226.7, 227.3, 510, 512, 1182.12, 1194, 1194.2,
11 1197, 1198, 1199 and 2698, et seq. and unpaid overtime under the Fair Labor Standards Act
12 (“FLSA”). Plaintiffs, for themselves and on behalf of all others similarly situated, and the
13 general public, and all aggrieved employees bring an action for monetary damages for failure to
14 pay wages as well as for injunctive relief, declaratory relief and restitution for Defendants’
15 violations of California Business and Professions Code (“B&PC”) §§17200, et seq., including
16 full restitution of all compensation retained by Defendants as a result of their unlawful,
17 fraudulent and unfair business practices. Plaintiffs seek all available relief, including full
18 damages, full restitution and/or disgorgement of all revenues, earnings, profits, compensation
19 and benefits retained by Defendants as a result of their unlawful, unfair business practices.
20 Further, Plaintiffs seek injunctive relief under B&PC §§17200, et seq.

21 **VENUE**

22 2. Venue as to Defendants is proper in this judicial district pursuant to California
23 Code of Civil Procedure (“CCP”) §§395(a) and 395.5, as at least some of the acts complained of
24 herein occurred in the County of Los Angeles. Defendants either own or maintain offices,
25 transact business, have an agent or agents within the County of Los Angeles, or otherwise are
26 found within the County of Los Angeles, and Defendants are within the jurisdiction of this Court
27 for purposes of service of process.

PARTIES

3. Steven Bright and Sandra E. Bernal are individuals over the age of eighteen (18). At all relevant times herein, Plaintiffs Bright and Bernal were residents of the County of Los Angeles, State of California. Both worked at relevant times for Defendants as non-exempt hourly paid employees.

4. Plaintiffs are informed and believe and thereon allege that at all times mentioned herein, Defendants, Glendale Adventist Medical Center ("GAMC") and Adventist Health System/West, are and were California corporations, and Adventist Health is and was a business entity of a type unknown to Plaintiffs.

5. Plaintiffs are informed and believe and thereon allege that at all times mentioned herein, Defendants, and each of them, are professional entities licensed to do business in California.

6. Plaintiffs are informed and believe and thereon allege that at all relevant times Defendant GAMC was licensed to do business in the State of California, County of Los Angeles, with its principal place of business in Glendale, California.

7. Plaintiffs are informed and believe and thereon allege that Defendants control and operate business establishments in locations within the State of California, including, but not limited to, the County of Los Angeles, for the purposes of providing healthcare services. Thus, each named Defendant and DOES 1 to 100 are subject to B&PC §§17200, et seq. and the Labor Code, as hereinafter alleged.

8. Plaintiffs do not know the true names or capacities, whether individual, partner, or corporate, of Defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiffs will seek from this Court leave to amend this Complaint when such true names and capacities are discovered. Plaintiffs are informed and believe and thereon allege that each named Defendant and each fictitious Defendant, whether individual, partners, or corporate, was responsible in some manner for the

1 circumstances alleged herein, and proximately caused Plaintiffs and all others similarly situated
2 hereinafter alleged and the general public to be subjected to the unlawful employment practices,
3 wrongs, injuries and damages complained of herein.

4 9. At all times herein mentioned, each of said Defendants participated in the doing
5 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore,
6 Defendants, and each of them, were the agents, servants, and employees of each and every one of
7 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
8 were acting within the course and scope of said agency and employment. Plaintiffs herein allege
9 that Defendants and each of them were the joint employer of Plaintiffs and all others similarly
10 situated at all relevant times.

11 10. At all times mentioned herein, Defendants, and each of them, were members of
12 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
13 and scope of and in pursuance of said joint venture, partnership, and common enterprise.

14 11. At all times herein mentioned, the acts and omissions of various Defendants, and
15 each of them, concurred and contributed to the various acts and omissions of each and every one
16 of the other Defendants in proximately causing the complaints, injuries and damages alleged
17 herein.

18 12. At all times herein mentioned, Defendants, and each of them, approved of,
19 condoned, and/or otherwise ratified each and every one of the acts or omissions complained of
20 herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts
21 and omissions of each and every one of the other Defendants, thereby proximately causing the
22 damages, as herein alleged.

23 **B&PC §§17200 PRIVATE ATTORNEY GENERAL ALLEGATIONS**

24 13. Plaintiffs on behalf of themselves and all others similarly situated, file this action
25 in part as a private attorney general on behalf of the general public to challenge and remedy the
26 business practices of Defendants alleged herein.

27 14. B&PC §§17200, et seq., often referred to as the Unfair Competition Law,
28

prohibits unfair competition, which is defined to include any unlawful, unfair, or fraudulent business act or practices. Defendant has instituted and implemented unlawful wage-and-hour policies, which constitute unfair, unlawful, or fraudulent business acts or practices within the State of California. Any person that has suffered injury may initiate an action to enforce B&PC §17200. The court is authorized to order injunctive relief, declaratory relief, and restitution to affected members of the general public as remedies for any violations of B&PC §17200.

15. Plaintiffs are entitled to an award of attorneys' fees and costs in prosecuting this action as a private attorney general against Defendants under CCP §1021.5 based in part on the following:

a. A successful outcome in this action will result in the enforcement of important rights affecting the public interest by maintaining the integrity of entities that employ employees;

b. This action will result in a significant benefit to the general public by ceasing unlawful, unfair and deceptive activity, and by causing the return of ill-gotten gains obtained by Defendants through their failure to properly pay its employees;

c. Unless this action is prosecuted, members of the general public will not recover monies wrongfully taken from them, and many employees and consumers would not be aware that they were victimized by Defendants' wrongful acts and practices; and unless attorneys' fees and costs are awarded against Defendants, the general public will not be made whole.

PLAINTIFF CLASSES

16. The class representative Plaintiffs, who worked in the position of a non-exempt hourly employee while employed by Defendant within the State of California, are Steven Bright and Sandra E. Bernal.

CLASS ACTION ALLEGATIONS

17. Plaintiffs Bright and Bernal bring the Class Action Causes of Action on behalf of themselves and all others similarly situated as a class action pursuant to CCP §382. The Classes

which Plaintiffs seek to represent are composed of and defined as follows:

Class 1:

All California hourly non-exempt employees of Defendants who worked at least one (1) day of more than eight (8) hours in a day or more than forty (40) hours in a week from four (4) years before the filing of this action through the date of the class certification order. (**Overtime Class**);

Subclass 1:

All current and former hourly non-exempt employees who work or worked for Defendants pursuant to an Alternative Workweek Schedule (AWS) from four (4) years preceding the filing of this complaint through the date of the class certification order, who were required to leave work between the eighth and twelfth hour of their shift and were not paid daily overtime. (**12 Hr. AWS Class**)

Subclass 2

All current and former hourly non-exempt employees who work or worked for Defendants pursuant to an Alternative Workweek Schedule (AWS) from four (4) years preceding the filing of this complaint through the date of the class certification order, who were required to leave work between the eighth and tenth hour of their shift and were not paid daily overtime. (**10 Hr. AWS Class**)

Class 2:

All California hourly employees employed by Defendants as hourly employees during the time period from four years preceding the filing of this complaint to the date of the class certification order, who were subjected to Defendants' meal period policies and practices (**Meal Break Violation Class**);

Subclass 3:

All current and former California-based non-exempt hourly employees who worked for Defendants from four (4) years preceding the filing of this complaint through the date of the class certification order, who signed a meal waiver of one (1) of the two (2) meal periods on a

shift of ten (10) hours or more when hired by Defendants. (**Meal Period Waiver Subclass**)

Class 3:

All hourly paid non-exempt persons employed by Defendants in California at any time from four (4) years preceding the date of filing of the Complaint in this action through the date of class certification, who were not provided with 10-minute rest periods for each 4-hours of work or major fraction thereof. (**Rest Break Class**).

Class 4:

All California-based non-exempt hourly employees who worked for Defendants from four (4) years preceding the filing of this complaint through the date of the class certification order, who were subject to Defendants' rounding, time-shaving and/or auto-deduct policies and practices. (**Rounding Class**);

Class 5:

All California-based non-exempt hourly employees who worked for Defendants from one (1) year preceding the filing of this complaint through the date of the class certification order, who were provided a paystub (a.k.a. wage statement) by Defendants (**Pay Stub Class**);

Class 6:

All California-based non-exempt former hourly employees whose employment by Defendants ended during the period commencing 3 years prior to the filing of this complaint through the date of the class certification order. (**Former Employee Class**);

Class 7:

All California-based non-exempt former hourly employees whose employment by Defendants ended during the period commencing 4 years prior to the filing of this complaint through the date of the class certification order. (**Vacation Pay Class**).

The members of the classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the classes is unknown to Plaintiffs at this time; however, it is estimated that each of the classes number greater than 100 individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment

1 records.

2 18. There are common questions of law and fact as to Plaintiffs and all others
3 similarly situated which predominate over questions affecting only individual members
4 including, without limitation to:

- 5 i. Whether Defendants violated the applicable Labor Code provisions
6 including §§510 and 1194 by requiring substantial overtime work and not
7 paying for said work according to the overtime laws of the State of
8 California;
- 9 ii. Whether Defendants failed to pay the appropriate straight time and
10 premium overtime compensation to their non-exempt hourly employees;
- 11 iii. Whether Defendants improperly retained, appropriated or deprived
12 Plaintiffs and the class members of the use of monies or sums to which
13 Plaintiffs and the class were legally entitled;
- 14 iv. Whether Defendants engaged in unfair business practices;
- 15 v. Whether each of the Defendants participated in the alleged unlawful
16 conduct;
- 17 vi. Whether Defendants' conduct was willful or reckless;
- 18 vii. The effect upon and the extent of injuries suffered by Plaintiffs and all
19 others similarly situated and the appropriate measure of compensation;
- 20 viii. The appropriate amount of monetary penalties allowed by Labor Code
21 §§201, et seq. and 226;
- 22 ix. Whether Defendants knowingly and intentionally failed to maintain
23 records as required by Labor Code §§1174-1175 and §7 of California
24 Industrial Welfare Commission Wage Order 5-2001 ("IWC Wage Order
25 5-2001");
- 26 x. Whether Defendants willfully violated provisions of the Labor
27 Code; and
28

- 1 xi. Whether Defendants fail to provide regularly compliant meal periods;
2 xii. Whether Defendants authorize and permit legally compliant rest breaks;
3 xiii. Whether Defendants are obligated to pay civil penalties pursuant to Labor
4 Code §§2698, et seq.

5 19. Plaintiffs' claims are typical of the claims of all members of the classes and
6 subclasses mentioned herein. Plaintiffs will fairly and adequately represent and protect the
7 interest of the classes by vigorously pursuing this suit through their attorneys who are skilled and
8 experienced in handling matters of this type. Plaintiffs have no claim or interest that is
9 antagonistic to any class member.

10 20. The nature of this action and the nature of laws available to the members of the
11 classes and subclasses identified herein make use of the class action format a particularly
12 efficient and appropriate procedure to afford relief for the wrongs alleged herein. Further, this
13 claim involves one (1) large corporate employer, Defendant GAMC, and a large number of
14 individual employees (Plaintiffs and all others similarly situated) with many relatively small
15 claims with common issues of law and fact. If each employee were required to file an individual
16 lawsuit, the corporate Defendants would necessarily gain an unconscionable advantage since
17 they would be able to exploit and overwhelm the limited resources of each individual Plaintiff
18 with their vastly superior financial and legal resources. Requiring each class member to pursue
19 an individual remedy would also discourage the assertion of lawful claims by employees who
20 would be disinclined to pursue an action against their present and/or former employer for an
21 appreciable and justifiable fear of retaliation and permanent damage to their careers at present
22 and/or subsequent employment. Proof of a common business practice or factual pattern such as
23 that experienced by the named Plaintiffs is representative of the classes mentioned herein and
24 will establish the right of each of the members of the named classes to recovery on the causes of
25 action alleged herein.

26 21. The prosecution of separate actions by the individual class members, even if
27 possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with
28

1 respect to the individual class members against Defendants herein; would establish potentially
2 incompatible standards of conduct for Defendants; and/or as a practical matter would be
3 dispositive of the interest of the other class members not parties to adjudications and/or which
4 would substantially impair or impede the ability of the class members to protect their interests.
5 Further, the claims of the individual members of the class are not sufficiently large to warrant
6 vigorous individual prosecution considering all of the concomitant costs and expenses attending
7 thereto.

8 22. Plaintiffs and all others similarly situated are entitled to the wages and other
9 monies unlawfully withheld. This action is brought for the benefit of the public.

10 **FIRST CAUSE OF ACTION**

11 **Violation of B&PC §§17200, et seq.**

12 **(By Plaintiffs On Behalf of the Classes Against All Defendants)**

13 23. Plaintiffs re-allege and incorporate by reference herein the allegations of all
14 preceding paragraphs as though fully set forth herein.

15 24. Beginning on an exact date unknown to Plaintiffs but believed to have occurred at
16 least since four (4) years before the filing of these actions, Defendants have engaged in a pattern
17 and practice of acts of unfair competition in violation of B&PC §17200, including the practices
18 alleged herein.

19 **FAILURE TO PAY PROPER WAGES AND OVERTIME COMPENSATION**

20 25. Plaintiffs are informed and believe and thereon allege that as part of Defendants'
21 ongoing unfair business practice, Defendants' California employees were and are employed and
22 scheduled as a matter of established company policy to work, and in fact, worked in excess of
23 eight (8) hour shifts and forty (40) hour weeks. The hours worked by Plaintiffs and the class in
24 excess of eight (8) hours per day, and in excess of forty (40) hours per week were worked at
25 times without payment of proper overtime premiums. The Defendants are in violation of Labor
26 Code §§510 and 1194, and the relevant California Industrial Welfare Commission Orders 5-
27 2001, et seq.

1 26. Under Labor Code §1194, an employee is not fully compensated for the unpaid
2 balance of their overtime compensation unless the employee is paid all unpaid compensation for
3 the regular hours and overtime hours worked during an overtime shift.

4 27. Defendants, and each of them, consistently administered a corporate policy
5 regarding, both staffing levels, duties and responsibilities of employees, and “regular rate” which
6 required that the employees work overtime without proper premium overtime pay. Plaintiffs and
7 all others similarly situated are entitled to restitution of these unpaid wages obtained by
8 Defendants.

9 28. This corporate policy and pattern of conduct is accomplished with the advance
10 knowledge and designed intent not to pay the employees at a premium rate for all overtime
11 hours. Further, Plaintiffs and all others similarly situated are entitled to restitution of these wages
12 obtained by Defendant, and each of them.

13 29. Further, Plaintiffs and all others similarly situated are entitled to restitution of all
14 unpaid wages obtained by Defendants, and each of them. Plaintiffs and the class may seek
15 restitution for unpaid straight time wages under B&PC §§17200, et seq. Any business act or
16 practice that violates the Labor Code through a failure to pay wages is by definition an unfair
17 business practice under §17200. Section 17200 provides an action to recover wages as
18 restitution, even if such recovery might be barred if brought pursuant to the Labor Code, if the
19 failure to pay constitutes a business practice. Unpaid straight time wages and unpaid overtime
20 wages are recoverable as restitution under §17200 based on Defendants’ subterfuge which
21 constitutes an unfair business practice that fails to pay earned wages in violation of the Labor
22 Code.

23 30. Plaintiffs and all others similarly situated identified herein were and are employed
24 and scheduled as a matter of established company policy to work and in fact worked as non-
25 exempt hourly employees in excess of eight (8) hours per day. At times Defendants employed
26 and scheduled all employees without providing proper overtime compensation for such excess
27 daily overtime hours worked in violation of Labor Code §§ 510, 1194, 1198 and IWC Wage
28

1 Order 5-2001 without a valid exemption. Further, Plaintiffs are informed and believe and
2 thereon allege that Defendants failed to institute a valid Alternative Workweek Schedule (AWS)
3 pursuant to Labor Code §511 and the election procedures required by Wage Order 05-2001
4 (“WO 05-01”) section 3; Cal. Code Regs, tit. 8, §11050(3); Cal. Lab. Code §517. Pursuant to
5 Labor Code § 1198, it is unlawful to employ persons for longer than the hours set by the IWC or
6 under conditions prohibited by the applicable IWC Wage Orders. IWC Wage Order No. 5, as
7 amended, applies to the Plaintiffs and the Overtime Class. Defendants instituted an invalid AWS
8 pay structure and failed to pay daily overtime for regularly scheduled ten (10) and twelve (12)
9 hour shifts without a valid exemption.

10 32. An employer must comply with Labor Code §511 and the election procedures set
11 forth in Section 3 of Wage Order 5-2001 in adopting an alternative workweek schedule. Wage
12 Order 5-2001 section 3 requires, in part, that (1) the employer proposes the AWS in the form of a
13 written agreement that specifies the number of work days and work hours that are regularly
14 recurring, (WO 05-01(3)(C)(1)); (2) two-thirds (2/3) or more of the “affected employees” in the
15 defined “work unit” vote “yes” to adopt the AWS by secret ballot, (LC §511(a); WO 05-
16 01(3)(C)(2)); (3) at least 14 days prior to the secret ballot election the employer must conduct a
17 “disclosure meeting” and provide a written “disclosure statement” to the “affected employees”
18 stating the effects of the proposed AWS arrangement on the “affected employees” wages, hours,
19 and benefits with the specific provision that failing to do so shall make the election null and void,
20 (WO 05-01(3)(C)(3)); (4) the employer must send the Department of Labor Statistics and
21 Research (“DLSR”) within thirty (30) days after the results are final a report that includes the
22 final tally of the vote, the size of the unit, and the nature of the employer’s business (WO 05-
23 01(3)(C)(6); (5) affected employees may not be required to work the new alternative workweek
24 schedule for at least 30 days after the announcement of the final results of the election (WO 05-
25 01(3)(C)(7)); (6) employers shall not intimidate or coerce employees to vote either in support or
26 in opposition to a proposed alternative workweek (WO 05-01(3)(C)(8)); and (7) an employer
27 shall make a reasonable effort to find a work schedule not to exceed eight hours in a workday in
28

1 order to accommodate any affected employee who was eligible to vote or was hired after the date
2 of the election and is unable to work the alternative schedule hours established as a result of the
3 election (Labor Code §511(d)). An employer shall not reduce an employee's regular rate of
4 hourly pay as a result of the adoption, repeal, or nullification of an alternative workweek
5 schedule. Labor Code §511(c).

6 **VIOLATION OF MEAL PERIOD PROVISIONS**

7 33. Defendants' improper meal policies are in violation of California law including,
8 but not limited to Labor Code §§226.7 and 512, and IWC Wage Order 5-2001. Plaintiffs and all
9 others similarly situated are entitled to a half hour meal period within the first five (5) hours of
10 their shift. Defendants violated the meal break provisions and did not provide Plaintiffs and all
11 others similarly situated with duty free meal periods within the first five (5) hours of their shift.
12 Plaintiffs and the class were entitled to 1 hour of pay for each meal break violation at their
13 regular rate of pay. Defendants and each of them failed and continue to fail to pay for meal break
14 violations at the employees' regular rate of pay in violation of IWC Wage Order 5-2001, §11.

15 **FAILURE TO PERMIT AND AUTHORIZE REST PERIOD BREAKS**

16 34. Plaintiffs and all others similarly situated, during their employment by Defendant,
17 including within the Class Period, were entitled to the benefits of Labor Code §226.7 and IWC
18 Wage Order 5-2001. Pursuant to Labor Code §226.7 and IWC Wage Order 5-2001, Plaintiffs
19 and all others similarly situated were entitled to separate rest periods of at least 10 minutes for
20 each four (4) hour period of work or major fraction thereof, and one hour of additional pay for
21 every shift a rest period was not provided in conformance with this obligation.

22 35. Plaintiffs are informed and believe, and thereon allege that Defendants
23 consistently compelled Plaintiffs and all others similarly situated, employed for shifts of more
24 than four (4) hours, to take only one (1) rest break during their shifts, instead of two (2) and/or
25 three (3) rest breaks as required by shift lengths. Plaintiffs are further informed and believe, and
26 thereon allege, that Rest Period Class members employed for shorter shifts, at times, were
27 systematically denied the opportunity to take all legally compliant rest breaks.
28

1 36. Plaintiffs seek restitution and injunctive relief for all the aforementioned
2 violations.

3 37. Defendants have engaged in unfair business practices in California by practicing,
4 employing and utilizing the employment practices complained of herein. Defendants' use of such
5 practices constitutes an unfair business practice, unfair competition, and provides an unfair
6 advantage over Defendants' competitors. Plaintiffs and all others similarly situated seek full
7 restitution of said monies, as necessary and according to proof, to restore any and all monies
8 withheld and/or acquired by Defendants by means of the unfair business practices complained of
9 herein. Plaintiffs seek, on behalf of all current and former employees of Defendants, restitution
10 of said monies. Plaintiffs further seek, on behalf of themselves and all others similarly situated,
11 the appointment of a receiver, as necessary, to establish the total restitutionary relief from
12 Defendants. The restitution includes all wages withheld by Defendants as a result of the unfair
13 business practices, including interest thereon. Absent a statutory provision specifically governing
14 the type of claim at issue, the prejudgment interest rate is 10 percent. The acts complained of
15 herein occurred, at least in part, within the four (4) years preceding the filing of the original
16 Complaint.

17 38. Plaintiffs are informed and believe and thereon allege that at all times herein
18 mentioned, Defendants have engaged in unlawful, deceptive, and unfair business practices
19 prohibited by California B&PC §17200, thereby depriving their employees and the putative class
20 the minimum working condition, standards and conditions due to them under the Labor Code
21 and IWC Wage Order 5-2001 as specifically described herein. Plaintiffs seek an injunction
22 preventing Defendants from continuing their unfair business practice of improperly depriving
23 employees of overtime pay. Plaintiffs further seek an order requiring Defendants to identify by
24 full name, telephone number, and last known address employees who worked or still work for
25 Defendant from four (4) years preceding the filing of the original Complaint through the date of
26 judgment; Plaintiffs further seek an order requiring Defendants to timely pay restitution to all
27 current and former employees, including back wages, and interest. The acts complained of herein
28

1 occurred, at least in part, within the four (4) years preceding the filing of the original Complaint.

2 39. Plaintiffs are informed and believe and thereon allege that as part of Defendants'
3 ongoing unfair business practices, Defendants failed to provide its employees with proper and
4 understandable itemized wage statement, as required by Labor Code §226.

5 40. Plaintiffs are informed, and believe, and thereon allege, that Defendants, and each
6 of them, failed to provide each employee with an itemized statement which states the actual
7 regular rate paid, the total hours worked by the employee, the net wages earned, and all applicable
8 hourly rates in effect during the pay period and the corresponding number of hours worked at
9 each hourly rate by the employee.

10 41. By and through its unfair, unlawful, and/or fraudulent business practices and acts
11 described herein, Defendants have obtained valuable services from Plaintiffs and all others
12 similarly situated and has deprived Plaintiffs and all others similarly situated of valuable rights
13 and benefits guaranteed by law, all to their detriment.

14 42. Plaintiffs, and all persons similarly situated, and all persons in interest, are entitled
15 to and do seek such relief as may be necessary to restore to them the money and property which
16 Defendants have acquired, or of which Plaintiffs and all others similarly situated have been
17 deprived by means of the herein described unfair, unlawful, and/or fraudulent business practices.

18 43. Plaintiffs and all persons similarly situated, and all persons in interest, are further
19 entitled to and do seek a declaration that the above described business practices are unfair,
20 unlawful, and/or fraudulent, and injunctive relief restraining Defendants from engaging in any of
21 the herein described unfair, unlawful, and/or fraudulent business practices at all times in the
22 future.

23 44. Plaintiffs request attorney's fees and costs pursuant to Code of Civil Procedure
24 §1021.5 since this action is brought to vindicate important rights of a large class and the public.

25 //

26 //

27 //

1 **SECOND CAUSE OF ACTION**

2 **RECOVERY OF UNPAID WAGES & PENALTIES**

3 **Violation of Labor Code §§218, 226, 510, 511, 1194 and 1198**

4 **(Plaintiffs on Behalf of the Overtime Class Against All Defendants)**

5 45. Plaintiffs re-allege and incorporate by reference herein the allegations of all
6 preceding paragraphs as though fully set forth herein.

7 46. Plaintiffs and all others similarly situated identified herein were and are employed
8 and scheduled as a matter of established company policy to work and in fact worked as non-
9 exempt hourly employees in excess of eight (8) hours per day and/or in excess of forty (40)
10 hours per week. Defendants employed and scheduled all employees without consistently
11 providing proper overtime compensation for such excess hours worked in violation of Labor
12 Code §§510 and 1194 and IWC Wage Order 5-2001. Labor Code §204 establishes the
13 fundamental right of all employees in the state of California to be paid the proper amount of
14 wages in a timely fashion for their work, including overtime.

15 47. Pursuant to Labor Code §§218 and 1194(a), Plaintiffs may bring a civil action for
16 overtime wages directly against the employer without first filing a claim with the Division of
17 Labor Standards Enforcement (hereinafter "DLSE") and may recover such wages, together with
18 interest thereon, penalties, attorneys' fees and costs.

19 48. At all times relevant hereto, Defendant has failed to pay to Plaintiffs and all others
20 similarly situated wages when due as required by Labor Code §204.

21 49. Pursuant to Labor Code §1198, it is unlawful to employ persons for longer than
22 the hours set by the IWC or under conditions prohibited by IWC Wage Order 5-2001, which
23 applies to Plaintiffs.

24 50. At all times relevant hereto, Plaintiffs are informed and believe and thereon
25 alleges that Defendants have treated Plaintiffs and all others similarly situated, as hourly non-
26 exempt employees. Despite this classification, Defendants have willfully violated the Labor
27 Code with respect to meeting the requirements of paying all wages earned, including but not
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1 limited to minimum wages owing pursuant to Labor Code §§1182.12 and 1199, straight time
2 pay, overtime, and remuneration when calculating the hourly non-exempt employees' regular
3 rate of pay, as herein before alleged.

4 51. Plaintiffs are informed and believe and thereon allege that the hourly non-exempt
5 class was never paid any premium compensation or paid significantly less premium
6 compensation for work accomplished in excess of forty (40) hours per pay period, and/or eight
7 (8) hours per day than required by law.

8 52. Labor Code §204 establishes the fundamental right of all employees in the State
9 of California to be paid wages in a timely fashion for their work.

10 53. Plaintiffs are informed and believe and thereon allege that Defendants
11 consistently administered a corporate policy regarding both staffing levels and duties and
12 responsibilities of the members of the classes which required the entirety of all classes to work
13 overtime without proper premium pay. This included a uniform corporate policy and practice of
14 requiring employees to work in excess of eight (8) hours a day without paying premium
15 overtime. This corporate policy and pattern of conduct was/is accomplished with the advance
16 knowledge and design of all Defendants herein. Thus, Plaintiffs and all others similarly situated
17 routinely, regularly and customarily performed overtime work. Accordingly, Plaintiffs and all
18 others similarly situated are entitled to overtime compensation under California law.

19 54. Plaintiffs are informed and believe and thereon allege that the obligations and
20 responsibilities of both class employees are irrelevant because Plaintiffs and all others similarly
21 situated merely allege wrongdoing with Defendants' pay plans and practices. Further, the duties
22 of Plaintiffs and all others similarly situated are not relevant in certifying any of the classes.
23 Defendants' hourly non-exempt employees work routinely included work in excess of eight (8)
24 hours per day, forty (40) hours per pay period and/or and they were not, and have never been,
25 paid the proper premium compensation for their overtime work.

26 55. Defendants, and each of them, in violation of Labor Code §§201 and 202, et seq.,
27 respectively, had a consistent and uniform policy, practice and procedure of willfully failing to
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1 pay the earned and unpaid wages of all such former employees. Defendants have willfully failed
2 to pay the earned and unpaid wages of such individuals.

3 56. Plaintiffs and all others similarly situated identified herein were and are employed
4 and scheduled as a matter of established company policy to work and in fact worked as non-
5 exempt hourly employees in excess of eight (8) hours per day without overtime. Defendants
6 employed and scheduled all employees without providing proper overtime compensation for
7 such excess daily overtime hours worked in violation of Labor Code §§510, 1194, 1198 and
8 IWC Wage Order 5-2001. Pursuant to Labor Code §1198, it is unlawful to employ persons for
9 longer than the hours set by the IWC or under conditions prohibited by IWC Wage Order 5-
10 2001, without a valid exemption. Plaintiffs are informed and believe that Defendants do not
11 have a valid exemption from the daily overtime requirement.

12 57. Accordingly, Plaintiffs seek all wages Defendants have failed to pay, which are
13 owing, including interest thereon, willful penalties, attorneys' fees, and costs of suit according to
14 the mandate of Labor Code §1194, et seq.

15 **THIRD CAUSE OF ACTION**

16 **FAILURE TO PAY ALL WAGES DUE TO ILLEGAL ROUNDING**

17 **(Plaintiffs on Behalf of the Rounding Class Against All Defendants)**

18 58. Plaintiffs incorporate by reference and reallege each and every one of the
19 allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set
20 forth herein.

21 59. Labor Code §510(a) states in pertinent part: "Any work in excess of eight hours in
22 one workday and any work in excess of 40 hours in any one workweek ... shall be compensated
23 at the rate of no less than one and one-half times the regular rate of pay for any employee."

24 60. California Code of Regulations Title 8, §11000(2) and the IWC Wage Orders
25 §4(A) state: "Every employer shall pay to each employee ... wages not less than eight dollars
26 (\$8.00) per hour for all hours worked, effective January 1, 2008...".

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

5 62. Further, pursuant to Labor Code §1197, § 1182.12 and 1199 payment of less than
6 the minimum wage fixed by the Labor Commission is unlawful.

7 63. Pursuant to Labor Code §1198, it is unlawful to employ persons for longer than
8 the hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC
9 Wage Order(s).

10 64. Pursuant to the IWC Wage Order(s), Defendants are required to pay the members
11 of the Rounding Class for all hours worked, meaning the time during which an employee is
12 subject to the control of an employer, including all the time the employee is suffered or permitted
13 to work, whether or not required to do so.

14 65. Defendants, as a matter of established company policy and procedure, at each and
15 every one of the individual facilities owned and/or operated by Defendants, consistently:

- 16 a. Administered a uniform company policy and practice as to the rounding
17 policies regarding the members of the Rounding Class; and
18 b. Rounded the actual time worked and recorded by the members of the
19 Rounding Class, usually down, so that during the course of their
20 employment, the members of the Rounding Class were paid far less than
21 they would have been paid had they been paid for actual recorded time
22 rather than "rounded" time.

23 66. Because Defendants required the members of the Rounding Class to remain under
24 Defendants' control without paying therefore, this resulted in the members of the Rounding
25 Class earning less than the legal minimum wage in the State of California or the full amount of
26 overtime compensation for overtime hours worked.

27 67. Defendants' pattern, practice and uniform administration of corporate policy
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1 regarding illegal employee compensation as described herein is unlawful and creates an
2 entitlement, pursuant to Labor Code §218, to recovery by Plaintiffs and the members of the
3 Rounding Class, in a civil action, of the unpaid balance of the full amount of wages owing,
4 calculated at the appropriate rate.

5 68. Further, Defendants' pattern and practice in uniform administration of corporate
6 policy regarding their failure to pay the legal minimum wage owing pursuant to, inter alia,
7 Labor Code §§1182.12 and 1199 to the members of the Rounding Class as described herein is
8 unlawful and creates entitlement, pursuant to Labor Code §1194(a), to recovery by the members
9 of the Rounding Class, in a civil action, for the unpaid balance of the full amount of the unpaid
10 minimum wages owed or the full amount of earned unpaid overtime compensation, including
11 interest thereon.

12 69. That calculation of individual damages for the members of the Rounding Class
13 may at some point be required does not foreclose the possibility of taking common evidence on
14 questions regarding their entitlement to overtime compensation (see, e.g. *Collins v. Rocha* (1972)
15 7 Cal.3d 232; *Hypolite v. Carleson* (1975) 52 Cal.App.3d 566; *Employment Development Dept.*
16 *v. Superior Court* (1981) 30 Cal.3d 256).

17 70. Pursuant to Labor Code §218.6, Labor Code §1194(a) and CC §3287, the
18 members of the Rounding Class seek recovery of pre-judgment interest on all amounts recovered
19 herein.

20 71. Pursuant to Labor Code §218.5 and/or Labor Code §1194, the members of the
21 Rounding Class request that the Court award reasonable attorneys' fees and costs incurred by
22 them in this action.

23 **FOURTH CAUSE OF ACTION**

24 **FAILURE TO PROVIDE MEAL BREAKS**

25 **(Plaintiffs and the Meal Break Class Against All Defendants)**

26 72. Plaintiffs incorporate by reference as if fully set forth herein, the allegations set
27 forth above.

1 73. Labor Code §226.7 requires an employer to pay an additional hour of
2 compensation for each meal period the employer fails to provide. Plaintiffs allege that
3 Defendants failed to provide legally compliant meals in addition to impeding, discouraging
4 and/or dissuading employees from taking legally compliant meal periods. Employees are entitled
5 to a meal period of at least thirty (30) minutes per five (5) hour work period. Plaintiffs and all
6 others similarly situated worked over five (5) hour shifts without meal periods due to
7 Defendants' policy of discouraging, dissuading and/or impeding Plaintiffs and all others
8 similarly situated from taking meal periods. Pursuant to the Labor Code, Plaintiffs and all others
9 similarly situated are entitled to a meal period of not less than thirty (30) minutes that commence
10 prior to the end of the fifth hour of employment, and a second meal period for hours worked over
11 ten (10) in a day.

12 74. Defendants failed to provide, impeded and/or discouraged Plaintiffs and all others
13 similarly situated from taking timely meal breaks of not less than thirty (30) minutes as required
14 by the Labor Code during the relevant class period and/or failed to obtain legal waivers waiving
15 the first or second meal period. Plaintiffs and all others similarly situated were deducted for
16 thirty (30) minute meal periods regardless if they took the meal periods. Such deductions are
17 prohibited by law. Plaintiffs are informed, believe, and thereon allege that Defendants during the
18 relevant time period has had a uniform policy and procedure wherein Defendants deduct all
19 thirty (30) minute meal periods from the class members' wages and/or time cards as stated supra.
20 Plaintiffs and all others similarly situated have been subjected to the illegal and unlawful
21 deductions on at least one occasion during their employment with Defendants. This practice
22 amounts to an unlawful forfeiture.

23 75. Pursuant to Labor Code §226.7, Plaintiffs are entitled to damages in an amount
24 equal to one (1) hour of wages per missed meal break, in a sum to be proven at trial.

25 76. Pursuant to Labor Code §218.5 Plaintiffs request that the court award reasonable
26 attorney's fees and costs incurred by them in this action.

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1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

3 **PURSUANT TO LABOR CODE §226**

4 **(Plaintiffs and the Pay Stub Class Against All Defendants)**

5 77. Plaintiffs re-allege and incorporate by reference herein the allegations of all
6 preceding paragraphs as though fully set forth herein.

7 78. IWC Wage Order 5-2001, §7 provides:

8 Every employer shall semimonthly or at the time of each payment of wages
9 furnish each employee, either as a detachable part of the check, draft, or voucher
10 paying the employee's wages, or separately, an itemized statement in writing
11 showing: (1) all deductions; (2) the inclusive dates of the period for which the
12 employee is paid; (3) the name of the employee or the employee's social security
13 number; and (4) the name of the employer, provided all deductions made on
14 written orders of the employee may be aggregated and shown as one item.

15 Subsection (e) provides: "Any employee suffering injury as a result of a knowing
16 and intentional failure by an employer to comply with subdivision (a) shall be
17 entitled to recover the greater of all actual damages or fifty dollars (\$50) for the
18 initial pay period in which a violation occurs and one hundred dollars (\$100) per
19 employee for each violation in a subsequent pay period, not exceeding an
20 aggregate penalty of four thousand dollars (\$4,000), and shall be entitled to an
21 award of costs and reasonable attorney's fees.

22 79. During the Class Period, Defendants knowingly and intentionally failed to
23 provide the Class Members, including Plaintiffs, with timely and accurate wage and hour
24 statements showing gross wages earned, total hours worked, all deductions made, net wages
25 earned, the name and address of the legal entity employing that Class Member, and all applicable
26 hourly rates in effect during each pay period and the corresponding number of hours worked at
27 each hourly rate by that Class Member.

28 80. Defendants thus required the Class Members, including Plaintiffs, to work under
conditions prohibited by order of the Industrial Welfare Commission, in violation of those
orders. The Class Members, including Plaintiffs, suffered injury as a result of Defendants'
knowing and intentional failure to provide the Class Members, including Plaintiffs, with the
wage and hour statements required by law.

81. Based on Defendants' conduct as alleged herein, Defendants are liable for actual

1 damages, statutory damages and/or statutory penalties pursuant to California Labor Code §226,
2 including attorney's fees and costs.

3 **SIXTH CAUSE OF ACTION**

4 **FAILURE TO PROVIDE REST PERIODS**

5 **(Plaintiffs and the Class Against All Defendants)**

6 82. Plaintiffs and all others similarly situated re-allege and incorporate by reference
7 all prior paragraphs, as though fully set forth herein.

8 83. Labor Code §226.7 provides that employers authorize and permit all employees to
9 take rest periods at the rate of ten (10) minutes rest time per four (4) hours of work or major
10 fraction thereof.

11 84. Labor Code §226.7(b) provides that if an employer fails to provide an employee
12 rest periods in accordance with this section, the employer shall pay the employee one (1) hour of
13 pay at the employees' regular rate of compensation for each workday that the rest period is not
14 provided.

15 85. Defendants, and each of them, failed and/or refused to implement a relief system
16 by which Plaintiffs and all others similarly situated could receive rest breaks and/or work free
17 rest breaks for every four hours worked, or major fraction thereof. Furthermore, due to
18 Defendants' relief system, Plaintiffs and all others similarly situated did not receive their rest
19 breaks within the required statutory time frame. By and through their actions, Defendants
20 intentionally and improperly denied statutorily required rest periods to Plaintiffs and all others
21 similarly situated in violation of Labor Code §§226.7 and 512.

22 86. At all times relevant hereto, Plaintiffs and all others similarly situated have
23 worked more than four (4) hours in a workday.

24 87. By virtue of the Defendants' unlawful failure to provide rest periods to Plaintiffs
25 and all others similarly situated, Plaintiffs and all others similarly situated have suffered, and will
26 continue to suffer, damages, in amounts which are presently unknown, but which exceed the
27 jurisdictional limits of this Court and which will be ascertained according to proof at trial.

1 88. Plaintiffs, individually, and on behalf of all others similarly situated, request
2 recovery of rest period compensation pursuant to Labor Code §226.7, which they are owed
3 beginning four (4) years before the filing of these actions through the date of judgment as the
4 assessment of any statutory penalties against the Defendants, and each of them, in a sum as
5 provided by the Labor Code and/or any other statute.

6 **SEVENTH CAUSE OF ACTION**

7 **VIOLATION OF LABOR CODE 227.3**

8 **(Plaintiff Bernal and the Vacation Pay Class Against all Defendants)**

9 89. Plaintiffs and all others similarly situated re-allege and incorporate by reference
10 all prior paragraphs, as though fully set forth herein.

11 90. At relevant times, Plaintiff Bernal and the other members of the Vacation Pay
12 Class were employees of Defendants covered by Labor Code Section 227.3 whose employment
13 ended during the class period applicable to the Vacation Pay Class.

14 91. Pursuant to Labor Code Section 227.3, Plaintiff Bernal and the other members of
15 the Vacation Pay Class were entitled to receive pay for all their unused vested vacation at the end
16 of their employment by Defendants.

17 92. At times during the Class period, Defendants failed to pay, and have continued to
18 fail to pay, Plaintiff Bernal and other members of the Vacation Pay Class all unused vested
19 vacation pay.

20 93. As a result of Defendants' unlawful conduct, Plaintiff Bernal and other members
21 of the Vacation Pay Class have suffered damages in an amount, subject to proof, to the extent
22 they were not paid all their accrued vested vacation pay.

23 94. Pursuant to Labor Code § 218, Plaintiff Bernal and other members of the
24 Vacation Pay Class are entitled to recover the full amount of their unpaid vacation pay. Pursuant
25 to Labor Code § 218.5, Plaintiff Bernal and other members of the Vacation Pay Class are entitled
26 to recover their reasonable attorney's fees and costs of suit. Pursuant to Labor Code § 218.6 or
27 Civil Code § 3287(a), Plaintiff Bernal and other members of the Vacation Pay Class are entitled
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1 to recover judgment interest on the unpaid vacation.

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3 **EIGHTH CAUSE OF ACTION**

4 **VIOLATION OF LABOR CODE 201 ET SEQ.**

5 **(Plaintiff Bernal and the Former Employee Class Against all Defendants)**

6 95. Plaintiffs re-allege and incorporate by reference herein the allegations of all
7 preceding paragraphs as though fully set forth herein.

8 96. Labor Code §§201, et seq., provides that an employer is required to pay an
9 employee all wages (including accrued vacation), within twenty-four (24) hours of the
10 employees' involuntary separation from employment; and within seventy-two (72) hours, if the
11 employee voluntarily separated, but did not give at least seventy-two (72) hours' notice.

12 97. Plaintiff Bernal on behalf of all members of the Former Employee Class, given
13 the underpayment of wages previously alleged, allege that Defendants did not comply with
14 Labor Code §§201, et seq., and their conduct in this regard was willful.

15 98. Pursuant to Labor Code §§200, et seq., each member of the Former Employee
16 Class are entitled to one (1) day of pay in penalties for each day that he or she was paid late, until
17 payment was made, up on a maximum of thirty (30) days in addition to the wages owed to them
18 at the time of their separations from employment.

19 **NINTH CAUSE OF ACTION**

20 **VIOLATION OF CALIFORNIA LABOR CODE**

21 **PRIVATE ATTORNEY GENERAL ACT**

22 **CAL. LABOR CODE §2698-2699**

23 **(Plaintiffs Bright and Bernal Against All Defendants)**

24 99. Plaintiffs re-allege and incorporate by reference all prior paragraphs as though fully
25 set forth herein.

26 100. Labor Code §§2698-2699, the Labor Code Private Attorney General Act of 2004,
27 provides for a civil penalty to be assessed and collected by the Labor and Workforce
28

1 Development Agency (LWDA), or any of its departments, divisions, commissions, boards,
2 agencies or employees for a violation of the Labor Code, may be recovered through a civil action
3 by an aggrieved employee on behalf of himself or herself, and collectively on behalf of all other
4 current or former employees.

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

9 102. Plaintiffs and all non-exempt employees of Defendants are “aggrieved
10 employees” as defined by Labor Code §2699, in that they are all current or former employees of
11 Defendants, and one or more of the alleged violations was committed against them.

12 103. Prior to filing their Complaints, Plaintiffs gave written notice by certified mail to
13 the LWDA and the employer, of the specific provisions of this code alleged to have been
14 violated, including the facts and theories to support the alleged violations as required by Labor
15 Code §2699.3. Plaintiffs did not receive any response from the LWDA and the time to respond
16 has expired.

17 104. Plaintiffs assert all of the claims in this Complaint against Defendants,
18 individually and on behalf of all aggrieved hourly non-exempt employees in their capacity as
19 private attorney generals and seek all civil penalties available under the Labor Code. In addition
20 to the claims set forth in the above-Causes of Action, in the Notice of Claim Plaintiff Bernal
21 sent to the LWDA, she asserted violations of Labor Code § 206 for failure to pay concededly
22 due wages, Labor Code § 1175 for failure to furnish information required under Labor Code
23 §1174, and failure to adhere to the consecutive day/ day of rest requirements of Labor Code § §
24 551 and 552 .

25 99. Pursuant to Labor Code §2699, Plaintiffs, individually and on behalf of all
26 aggrieved hourly non-exempt employees, request and are entitled to recover from the Defendants
27 and/or whoever may be liable under Labor Code §558.1, overtime compensation, rest and meal
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1 period compensation, waiting period wages, and penalties according to proof, and Plaintiffs are
2 further entitled to recover interest, attorney's fees and costs pursuant to Labor Code §2699(g)(1),
3 as well as all statutory penalties and attorneys' fees against Defendants, and each of them for all
4 violations asserted in their LWDA claims, including, but not limited to:

5 A. Penalties under Labor Code §2699 in the amount of \$100 for each
6 aggrieved employee per pay period for each initial violation, and \$200 for each aggrieved
7 employee per pay period for each subsequent violation;

8 B. Penalties under Code of Regulations, Title 8 §11070 in the amount of \$50
9 for each aggrieved employee per pay period for the initial violation, and \$200 for each
10 aggrieved employee per pay period for each subsequent violation;

11 C. Penalties under Labor Code §210, in addition to and entirely independent
12 and apart from other penalty provided in the Labor Code, in the amount of \$100 for each
13 aggrieved employee per pay period for each violation, and \$200 for each aggrieved employee
14 per pay period for each subsequent violation, plus 25% of the wage wrongly withheld;

15 D. Penalties under Labor Code §256, in addition to and entirely independent
16 and apart from other penalty provided in the Labor Code, including Labor Code §2699, *et seq.*,
17 for any aggrieved employee who was discharged or quit, and was not paid all earned wages at
18 termination in accordance with Labor Code §§201, 201.1, 201.5, 202, and 205.5, in the amount
19 of a civil penalty of one day of pay, at the same rate, for each day that he or she was paid late,
20 until payment was/is made, up to a maximum of thirty (30) days;

21 E. Penalties under Labor Code §558, in addition to and entirely independent
22 and apart from other penalty provided in the Labor Code, in the amount of \$50 for each
23 underpaid aggrieved employee for each pay period the aggrieved employee was underpaid in
24 addition to an amount sufficient to recover underpaid wages, and \$100 for each subsequent
25 violation for each underpaid employee for each pay period for which the employee was
26 underpaid in addition to an amount sufficient to recover underpaid wages, with all wages
27 recovered pursuant to Labor Code §558 provided to the affected employees;
28

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

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

10 H. Any and all additional penalties and sums as provided by the Cal. Labor
11 Code and/or other statutes.

12 106. In addition, Plaintiffs seek and are entitled to 50% of all penalties obtained under
13 Labor Code §2699 to be allocated to the General Fund, and 25% of all penalties obtained to be
14 allocated to the LWDA, for education of employers and employees about their rights and
15 responsibilities under the Labor Code, and 25% to all aggrieved employees.

16 107. Further, Plaintiffs are entitled to seek and recover reasonable attorney's fees and
17 costs pursuant to Labor Code §§2699(g)(1), 1194, 210, and 212 and any other applicable
18 statute.

19 **TENTH CAUSE OF ACTION**

20 **FAIR LABOR STANDARDS ACT**

21 **(Plaintiffs Against All Defendants)]**

22 108. Plaintiffs re-allege and incorporate by reference all prior paragraphs as though fully
23 set forth herein.

24 **FLSA COLLECTIVE ACTION ALLEGATIONS**

25 109. Plaintiffs' claim for failure to pay overtime wages in violation of the FLSA is
26 brought as a collective action pursuant to 29 U.S.C. § 216(b) on behalf of himself and all others
27 similarly situated.

110. At all relevant times, Plaintiffs and others similarly situated have been subject to Defendants' common practices, policies, programs, procedures, protocols and/or plans which have resulted in the willful failure to pay overtime wages for all overtime hours worked in violation of the FLSA.

111. By virtue of the Defendants' unlawful and willful failure to comply with the FLSA, Plaintiffs and all others similarly situated are owed all their unpaid overtime, liquidated damages, interest, and attorneys' fees, according to proof at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray:

1. That the Court determine this action may be maintained as a class action;

FIRST CAUSE OF ACTION

2. For an order preliminarily and permanently enjoining Defendants from engaging in the practices challenged herein;

3. An order for full restitution of all monies, as necessary and according to proof, to restore any and all monies withheld by the Defendants by means of the unfair practice complained of herein. Plaintiffs also seek, on behalf of the putative class, the appointment of a receiver, as necessary. The restitution includes all monies retained as wages, as defined in Labor Code §§200, et seq., 510, and 1194, and interest, and attorneys' fees as a result of the unfair business practices or retained in violation of Labor Code §1198 and IWC Wage Order 5-2001;

4. For an order finding and declaring that Defendants' acts and practices as challenged herein are unlawful, and unfair and/or fraudulent;

5. For an accounting, under administration of Plaintiffs and subject to Court Review, to determine the amount to be returned by Defendants and the amounts to be refunded to members who are or were not paid all their wages due to Defendants' unfair business practices;

6. For the creation of an administrative process wherein each injured current and former employee receives his or her back wages in the form of overtime pay or alternatively that each current or former eligible employee may submit a claim in order to receive his/her money;

7. For an order requiring Defendants to make full restitution and payment pursuant to B&PC §§17200, et seq. for unfair business practices that violate Labor Code §§200, et seq., 510, and 1194;

8. For reasonable attorneys' fees under CCP §1021.5 all other appropriate declaratory and equitable relief;

9. For pre-judgment interest to the extent permitted by law;

10. For pre-judgment interest to the extent permitted by law and the California Constitution;

11. For an order requiring Defendant to identify, by name, address and telephone number of each person who worked as an hourly non-exempt employee for Defendant from four (4) years before filing of the original complaint in this action through the time of judgment;

SECOND CAUSE OF ACTION

12. For damages according to proof, as set forth in Labor Code §§204, 218, 226, 510, 1194, and 1198, et seq. and IWC Wage Order 5-2001 regarding wages due and owing;

13. For unpaid straight time and premium wages pursuant to Labor Code §1194.

14. For pre-judgment interest as allowed by Labor Code §1194 and Civil Code §3287(b), and for reasonable attorneys' fees;

THIRD CAUSE OF ACTION

15. For recovery of the unpaid balance of the full amount of unpaid minimum wage or overtime and double time compensation, per Labor Code §§ 204, 218, 510, 1194, 1194.2, 1197, and 1198 due and owing, according to proof;

16. For liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon for the uncompensated non-overtime hours of work, as authorized by Labor Code §1194.2(a);

17. For pre-judgment interest as allowed by Labor Code §218.6, Labor Code §1194(a) and CC §3287;

18. For an award of reasonable attorneys' fees and costs pursuant to Labor Code §218.5 and/or Labor Code §1194(a);

1 **FOURTH CAUSE OF ACTION**

2 19. One (1) hour of pay at each of the employees' regular rate of compensation for
3 each workday that a meal break was not provided, impeded, discouraged and/or dissuaded;

4 **FIFTH CAUSE OF ACTION**

5 20. For recovery as authorized by Labor Code §226(e);

6 21. For injunctive relief to ensure Defendants' compliance with Labor Code §226 and
7 IWC Wage Order 5-2001, §7(A) pursuant to Labor Code §226(g);

8 22. For an award of costs and reasonable attorneys' fees pursuant to Labor Code
9 §226(e) and/or §226(g);

10 **SIXTH CAUSE OF ACTION**

11 23. One (1) hour of pay at each of the employees' regular rate of compensation for
12 each workday that a rest break was not provided, impeded, interrupted, discouraged and/or
13 dissuaded;

14 **SEVENTH CAUSE OF ACTION**

15 24. For unpaid vacation pay for all former employees not timely paid all the vacation
16 wages they were owed at the time of the separation of their employment by Defendants;

17 25. For reasonable attorneys' fees and costs;

18 **EIGHTH CAUSE OF ACTION**

19 26. For unpaid wages and waiting time penalties for all former employees not timely
20 paid all the wages they were owed at the time of the separation of their employment by
21 Defendants;

22 27. For reasonable attorneys' fees and costs;

23 **NINTH CAUSE OF ACTION**

24 28. On behalf of all current and former employees, for all civil penalties authorized
25 by Labor Code Private Attorney General Act of 2004 as specified in California Labor Code
26 §558 plus Labor Code §1197.1 for former or current employees who are due overtime and other
27 wage payments;

1 29. For civil penalties per Labor Code §226.3 in the amount of \$250 for each
2 aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved employee
3 per pay period for each subsequent violation;

4 30. For civil penalties per Labor Code §256 in the amount of one day of pay, at the
5 same rate, for each day that an aggrieved employee was paid late, at the time of termination,
6 until payment was/is made, up to a maximum of thirty (30) days;

7 31. For civil penalties pursuant to Labor Code § 558 as follows:

8 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee
9 for each pay period for which the employee was underpaid in addition to an amount sufficient
10 to recover underpaid wages;

11 (2) For each subsequent violation, one hundred dollars (\$100) for each
12 underpaid employee for each pay period for which the employee was underpaid in addition to
13 an amount sufficient to recover underpaid wages;

14 (3) For any and all unpaid wages that shall be paid to the affected employee;

15 32. For civil penalties under Labor Code §210, in addition to and entirely
16 independent and apart from other penalty provided in the Labor Code, in the amount of \$100 for
17 each aggrieved employee per pay period for each violation, and \$200 for each aggrieved
18 employee per pay period for each subsequent violation, plus 25% of the wage wrongly
withheld;

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

24 **TENTH CAUSE OF ACTION**

25 34. For unpaid overtime pay, liquidated damages, attorneys' fees and interest
26 according to proof.

27 **AS TO ALL CAUSES OF ACTION**

28 35. For reasonable attorneys' fees and costs incurred;

36. For such other and further relief as this Court may deem just and proper.

Dated: March 5, 2019

MOSS BOLLINGER LLP

By: _____
Dennis F. Moss, Attorney for Plaintiffs