

1 LYFE LAW, LLP
Gregory P. Wong (SBN 204502)
2 864 S. Robertson Blvd., 3rd Floor
Los Angeles, CA 90035
3 Tel: 888.203.1402
gregw@lyfe.com

4 LAZARSKI LAW PRACTICE, P.C.
Bryan J. Lazarski (SBN 248349)
5 1901 Avenue of the Stars, Ste. 224
Los Angeles, CA 90067
6 Tel: (323) 952-3200
bryan@lazarskilaw.com

7 Attorneys for Plaintiffs STACY O'BRAZA, RACHEL ELIAS-BERG, and
8 HEATHER FICHTNER, on behalf of themselves and all others similarly
situated

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF SACRAMENTO**

12 STACY O'BRAZA, an individual,
13 RACHEL ELIAS-BERG, an individual, and
14 HEATHER FICHTNER, an individual, on
behalf of themselves and all others similarly
situated,

15 Plaintiffs,

16 vs.

17 DIGNITY HEALTH, a California
18 Corporation; and DOES 1-10, inclusive,

19 Defendants.
20
21
22
23
24
25
26
27
28

CASE NO. _____

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. **Violation of California Labor Code Sections 204, 510, 511 & 1194 (Failure to Pay Regular, Overtime, and/or Double Time Wages);**
2. **Violation of California Labor Code Sections 201-203 (Failure to Pay All Wages Upon Termination);**
3. **Violation of California Labor Code Section 226(a) (Failure to Provide Accurate, Itemized Wage Statements);**
4. **Violation of California Business and Professions Code Section 17200 (Unfair Business Practice); and**
5. **Violation of California Labor Code Section 2698, et seq. (Private Attorney General Act ("PAGA")).**

DEMAND FOR JURY TRIAL

1 Plaintiffs STACY O'BRAZA, RACHEL ELIAS-BERG, and HEATHER FICHTNER on behalf
2 of themselves and all others similarly situated hereby allege as follows:

3 **PARTIES AND JURISDICTION**

4 1. Plaintiff Stacy O'Braza ("Ms. O'Braza") was at all relevant times herein a resident in the
5 County of Sacramento, California.

6 2. Plaintiff Rachel Elias-Berg ("Ms. Elias-Berg") was at all relevant times herein a resident
7 in the County of Sacramento, California.

8 3. Plaintiff Heather Fichtner ("Ms. Fichtner") was at all relevant times herein a resident in
9 the County of Sacramento, California.

10 4. Defendant Dignity Health, and Does 1-10, inclusive, (collectively "Dignity Health" or
11 "Defendants") were at all relevant times herein located licensed to do business in California and was
12 doing business in the Counties of Sacramento, Shasta, and Yolo, California, and employed in excess of
13 five employees.

14 5. The events that are the subject of this Action occurred in the Counties of Sacramento,
15 Shasta, and Yolo, California at the seven (7) hospital facilities in the Sacramento metro area owned
16 and/or operated by Dignity Health (collectively, "the Sacramento Hospitals"):

- 17 a. Woodland Memorial Hospital, 1325 Cottonwood St., Woodland, CA 95695;
- 18 b. Mercy General Hospital, 4001 J Street, Sacramento, CA 95819;
- 19 c. Mercy Folsom Hospital, 1650 Creekside Drive, Folsom, CA 95630;
- 20 d. Mercy San Juan Hospital, 6501 Coyle Ave., Carmichael, CA 95608;
- 21 e. Methodist Hospital of Sacramento, 6500 Hospital Drive, Sacramento, CA 95823;
- 22 f. Sierra Nevada Memorial Hospital, 155 Glasson Way, Grass Valley, CA 95945;
- 23 g. Mercy Redding Hospital, 2175 Rosaline Avenue, Redding, CA 96001.

24 6. Dignity Health holds itself out to the public as an owner and/or operator of hospital
25 facilities in California. On information and belief, given the work performed at Defendants' facilities, its
26 employees would be governed by California Industrial Welfare Commission Order No. 5-2001
27 Regulating Wages, Hours and Working Conditions in the Public Housekeeping Industry ("Wage Order
28

5”).

7. Ms. O’Braza has been employed by Defendants as a non-exempt Registered Nurse from in or about July 2007 to present. Ms. O’Braza regularly and customarily works in the Medical-Surgical unit of Woodland Memorial Hospital, but has floated on occasion to other Dignity Health hospitals in the Sacramento Area and is generally familiar with the uniform policies and practices relating to timekeeping and wage payments in each Sacramento Hospital.

8. Ms. Elias-Berg was employed by Defendants as a non-exempt Registered Nurse from in or about September 23, 2013 to May 2017. Ms. Elias-Berg worked in the mental health unit at Woodland Memorial Hospital until about August 2015, whereupon she transferred to the Medical-Surgical unit at the same hospital for the remainder of her tenure. She worked both day and night shifts throughout her employment. Ms. Elias-Berg is generally familiar with the uniform policies and practices relating to timekeeping and wage payments in each Sacramento Hospital.

9. Ms. Fichtner was employed by Defendants as a non-exempt Registered Nurse from in or about September 23, 2013 to March 15, 2017. Ms. Fichtner worked in the mental health unit at Woodland Memorial Hospital until June 2015, whereupon she transferred to the Medical-Surgical unit at the same hospital for the remainder of her tenure. She worked both day and night shifts throughout her employment. Ms. Fichtner is generally familiar with the uniform policies and practices relating to timekeeping and wage payments in each Sacramento Hospital.

10. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants, DOES 1 through 10 inclusive, are unknown to Plaintiffs, who therefore sue said defendants by such fictitious names. Plaintiffs are informed and believe and therefore allege that each of the defendants designated herein as a DOE is legally responsible in some manner for the events and happenings herein referred to, and legally caused injury and damage thereby to Plaintiffs, and each of them, as herein alleged.

11. Based on all of the above allegations, this Court properly has jurisdiction over this matter, and venue is proper in the County of Sacramento, California.

1 **COMMON FACTS AND CLASS ALLEGATIONS**

2 12. Plaintiffs, and each of them, bring this action individually, as well as on behalf of each
3 and all persons similarly situated, and thus, seeks class certification under California Code of Civil
4 Procedure Section 382.

5 13. Plaintiffs allege violations of Labor Code sections 200, 201, 201.3, 201.5, 201.6, 201.7,
6 201.8, 201.9, 202, 203, 204, 206, 210, 216, 218, 218.5, 218.6, 221, 223, 224, 225, 225.5, 226, 226.3,
7 227.3, 256, 510, 511, 512, 515, 516, 550, 551, 552, 554, 558, 1174, 1174.5, 1194, 1194.2, 1194.3, 1197,
8 1197.1, 1197.2, 1198, and 2698 et seq., 2699 et seq.).

9 14. All claims alleged herein arise under California law for which Plaintiffs seek relief
10 authorized under California law.

11 15. Central to each of Plaintiffs' Five (5) Causes of Action are Defendants' uniform policies
12 and practices with respect to the timekeeping and non-payment of hours worked by Registered Nurses
13 ("RNs") and Licensed Vocational Nurses ("LVNs") in each of the Sacramento Hospitals' Medical-
14 Surgical, Telemetry, or Specialty Care units, or other similar units having a 1:4 or 1:5 nurse-to-patient
15 ratio as defined and required by 22 C.C.R. 70217(a)(10-12) (the "Affected Units"). These policies and
16 practices have been in effect throughout the entire relevant period, dating back over four (4) years from
17 the date of this Complaint. The uniform policies and practices at issue are as follows:

- 18 a. **Uniform Practice of Requiring Off-the-Clock Work.** RNs and LVNs at the
19 Sacramento Hospitals' Affected Units work under an alternative workweek schedule of
20 three (3) twelve-hour shifts (a "3/12 Schedule"), as authorized under Wage Order 5.
21 Shift changes occur at 7 a.m. and 7 p.m. at each Sacramento Hospital.¹ However, it is the
22 customary and uniform practice of RNs and LVNs in the Affected Units to, with
23 Defendant's knowledge and consent, report 20-30 minutes prior to the start of their shift,
24 and stay for 10-20 minutes after the end of the shift. During the time prior to the shift,

25 _____
26 ¹ On information and belief some Sacramento Hospitals do their shift change at 6:45 a.m./6:45 p.m.
27 However, all of the same arguments herein apply in those instances and the nurses are subject to the
28 same unpaid wages regardless of the actual time the shift change occurs.

nurses are expected and required to receive their patient assignments, review charts and notes, plan patient care for the day, receive information from the shift nurses being relieved, complete paperwork, and complete other preparations for the upcoming shift. During the time following the shift, nurses are expected and required to provide information to the following shift nurses, complete additional paperwork, and complete other duties for the transition to the succeeding shift. These practices are uniform across all Affected Units at the Sacramento Hospitals, occur on a routine and daily basis, and are within the employer's knowledge such that Defendants knew or should have known the RNs and LVNs were being suffered or permitted to work off the clock. Moreover, consistent with the ruling in Troester v. Starbucks Corp., No. S234969, 2018 WL 3582702 (Cal. July 26, 2018), the work performed off the clock is not "de minimis" in nature, nor are Defendants otherwise excused from payment of wages for the time worked.

- b. **Impermissible rounding of time entered on TEAM Software:** The uniform timekeeping software used for RNs and LVNs in each of the Sacramento Hospitals is Time and Attendance Software ("TEAM"). Using the TEAM Software, RNs and LVNs are not permitted to clock in for a 7:00 shift until seven (7) minutes before at 6:53; however, even if the time clocked in is before 7:00, the time paid is still rounded to 7:00 regardless of the actual time clocked in. Likewise, if the nurse clocks out after 7:00, the time will be rounded back to 7:00 regardless of the actual time of clock out. The result is RNs and LVNs are only paid for exactly 12.00 hours of work each shift (which is consistent with their paystubs), regardless of when they actually clock in or out. Although the purported "grace period" would theoretically also allow a nurse to clock in as late as 7:07 and receive credit for clocking in at 7:00, this does not occur outside of highly unusual circumstances because the nurses in the Affected Units are already there early as described in Paragraph (a) above, and moreover, incidents of clocking in at any time after 7:00 (including within the grace period) routinely are met by discipline from

Defendants. As a result, the rounding policy at issue is always to the employer's benefit and never to the employee's benefit – making it distinct from cases such as See's Candy Shops, Inc. v. Superior Court, 210 Cal.App.4th 889, 907 (2012), which also cautioned such a policy is only valid “if the rounding policy is fair and neutral on its face and it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked.” On information and belief, records and/or metadata within the TEAM software should be able to show the actual clock in/out times that employees should have been paid for, allowing a reasonable degree of certainty to calculating minimum damages throughout the putative class.

16. Plaintiffs seek to represent a class comprising all of Defendants' RNs and LVNs in the Affected Units of the Sacramento Hospitals who fall into any of the following sub-classes composed of and defined as follows:

(a) **Unpaid Wages and/or “3/12 Workweek” Daily Overtime Sub-class:** All current and former non-exempt employees who worked for Defendants at any time during the period from September 4, 2014 until the date Notice of Class Certification is mailed and were not paid all wages for work performed off the clock, including, as applicable, daily overtime and/or double-time wages earned;

(b) **Waiting Time Sub-class:** All current and former non-exempt employees who worked for Defendants and were terminated or resigned at any time during the period commencing September 4, 2015 until the date Notice of Class Certification is mailed and were not paid all wages required under California Labor Sections 201, 202, and 203;²

² Plaintiffs are aware of the settlement reached in the matter of Ryan v. Dignity Health, et al, Sacramento County Superior Court Case No. 2013-00147371, and are aware that certain putative class members in this Action may be seeking double recovery here for penalties arising under Labor Code secs. 203, 226, and 2698, et. seq. if they participated in the Ryan settlement. If certified, Plaintiffs will take measures to ensure such members' recoveries of penalties in this action will be offset or barred by what they received in the Ryan settlement. Otherwise, the substantive issues contained in this case are

1 (c) **Wage Statement Sub-class:** All current and former non-exempt employees who
2 worked for Defendants during the period commencing September 4, 2017 until the date Notice of Class
3 Certification is mailed and were not furnished an accurate, itemized wage statement as required by
4 California Labor Code section 226(a);

5 (d) **UCL Sub-class:** All current and former non-exempt employees who worked for
6 Defendants at any time during the period commencing September 4, 2014 until the date Notice of Class
7 Certification is mailed and are entitled to restitution for Defendants' unlawful business practices,
8 including, but not limited to, failure to pay all wages earned.

9 (e) **PAGA Sub-class:** All current and former non-exempt employees who worked for
10 Defendants at any time during the period commencing September 4, 2017 (one year prior to the
11 applicable tolling agreement) until the date Notice of Class Certification is mailed and suffered
12 violations of California Labor Code sections 201, 202, 203, 204, 226(a), 510, 511, 512, and 1194.

13 (f) The members of the proposed Class and Sub-classes, and each of them, are so
14 numerous that joinder of all members would be unfeasible and not practicable. The membership of the
15 entire Class is unknown to Plaintiffs at this time, however, the class is estimated to be greater than two
16 hundred (200) individuals and the identity of the class membership is readily ascertainable by inspection
17 of Defendants' payroll and personnel records.

18 22. Ms. O'Braza has been, at all material times, a member of the Class and each Sub-Class,
19 except for the "Waiting Time Sub-class." Ms. O'Braza is qualified to, and will, fairly and adequately
20 represent the interests of each class member with whom there is a shared, well-defined, community of
21 interests. Ms. O'Braza's claims are typical of all class members claims as they arise out of the same
22 policies and course of conduct, and are predicated on the same violations of law.

23 23. Ms. Elias-Berg has been, at all material times, a member of the Class and each Sub-
24 Class. Ms. Elias-Berg is qualified to, and will, fairly and adequately represent the interests of each class
25

26
27 completely unique from Ryan and not subject to estoppel by Ryan or any other pending litigation known
28 to Plaintiffs.

1 member with whom there is a shared, well-defined, community of interests. Ms. Elias-Berg's claims are
2 typical of all class members claims as they arise out of the same policies and course of conduct, and are
3 predicated on the same violations of law.

4 24. Ms. Fichtner has been, at all material times, a member of the Class and each Sub-Class.
5 Ms. Fichtner is qualified to, and will, fairly and adequately represent the interests of each class member
6 with whom there is a shared, well-defined, community of interests. Ms. Fichtner's claims are typical of
7 all class members claims as they arise out of the same policies and course of conduct, and are predicated
8 on the same violations of law.

9 25. There are questions of law and fact as to the class and sub-classes which predominate
10 over questions affecting only individual members including, without limitation:

11 (a) Whether Defendants systematically required Class Members to work off the clock
12 before and/or after their scheduled shifts and therefore failed to pay Class Members all regular, overtime
13 and/or double time wages owed under the California Labor Code and the California Industrial Welfare
14 Commission's Wage Orders, and all other applicable employment laws and regulations;

15 (b) Whether Defendants systematically altered Class Members' time records by the
16 rounding default in place on the TEAM Software to avoid payment for work before and/or after their
17 scheduled shifts;

18 (c) Whether Defendants systematically put measure in place to prevent Class
19 Members' from recording all time work by defaults in place on the TEAM Software (only allowing
20 clock in/out within 7 minutes of scheduled shifts) to avoid payment work off the clock before and/or
21 after their scheduled shifts;

22 (d) Whether Defendants owe Class Members waiting time penalties pursuant to
23 California Labor Code section 203;

24 (e) Whether Defendants complied with wage reporting as required by the California
25 Labor Code, including, but not limited to, California Labor Code section 226(a);

26 (f) Whether Defendants' conduct was willful or reckless;

27 (g) Whether Defendants engaged in unfair business practices in violation of
28

1 California Business and Professions Code section 17200, et seq.;

2 (h) Whether penalties are appropriate under the California Private Attorneys General
3 Act; and

4 (i) The appropriate amount of damages, restitution, and/or monetary penalties
5 resulting from Defendants' violations of California law.

6 26. The Court should permit this action to be maintained as a class action pursuant to
7 California Code of Civil Procedure section 382, because:

8 (a) Questions of law and fact common to the Class predominate over any questions
9 affecting individual members;

10 (b) The Class Action mechanism is superior to any other available method for the fair
11 and efficient adjudication of the claims of the members of the Class;

12 (c) The members of the Class are so numerous that it is impractical to bring all
13 members of the Class before the Court;

14 (d) Plaintiffs, and the other members of the Class, will not be able to obtain effective
15 and economic legal redress unless the action is maintained as a class action;

16 (e) There is a community of interest in obtaining appropriate legal and equitable
17 relief for the statutory violations, and in obtaining adequate compensation for the damages and injuries
18 for which Defendants are responsible in an amount sufficient to adequately compensate the members of
19 the Class for the injuries sustained;

20 (f) Without Class Certification, the prosecution of separate actions by individual
21 members of the Class would create a risk of:

22 (i) Inconsistent or varying adjudications with respect to individual members
23 of the Class which would establish incompatible standards of conduct for Defendants; and/or

24 (ii) Adjudications with respect to the individual members which would, as a
25 practical matter, be dispositive of the interests of other members not parties to the adjudications, or
26 would substantially impair or impede their ability to protect their interests, including, but not limited to,
27 the potential for exhausting the funds available from those parties who are, or may be, responsible for
28

Defendants; and

(g) Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the Class and each Sub-class as a whole.

FIRST CAUSE OF ACTION

(Violation of California Labor Code Section 204(a), 510, 511, and 1194

Failure to Timely Pay All Regular, Overtime and/or Double Time Wages – Against all Defendants)

27. Plaintiffs refer to and incorporate herein by reference paragraphs 1 through 26 as though fully set forth herein.

28. California Labor Code section 204(a) provides that all wages earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.

29. California Labor Code section 510 requires an employer to compensate its employees at a rate of no less than one and one-half (1.5) times their regular rate of pay for any work: in excess of eight (8) hours in one (1) workday, in excess of forty (40) hours in any one (1) workweek, and during the first eight (8) hours worked on the seventh (7th) day of work in any one (1) workweek.

30. California Labor Code section 510 requires an employer to compensate its employees at a rate of no less than two (2) times their regular rate of pay for any work: in excess of twelve (12) hours in one (1) workday, and in excess of eight (8) hours on the seventh (7th) day of work in any one (1) workweek.

31. Wage Order 9 authorizes and permits RNs and LVNs to elect an alternative workweek schedule of three twelve-hour shifts per workweek (Wage Order 9, Sec. 3(B)(8)). However, any work on any day in excess of twelve hours pursuant to such a 3/12 schedule must be compensated at double

1 the employees' regular rate of pay. (Wage Order 9, Sec. 3(B)(8)(a))

2 32. At all times relevant herein, Plaintiffs and the members of the Class worked hours "off-
3 the-clock" for which they were suffered and/or permitted to work by Defendants without any
4 compensation for the time worked.

5 33. At all times relevant herein, Plaintiffs and the members of the Class worked hours in
6 excess of twelve (12) hours in one (1) workday subject to a 3/12 Schedule without receiving
7 compensation at a rate of no less than double (2x) their regular rate of pay.

8 34. As a result of these practices, Plaintiffs allege violations of Labor Code sections 200,
9 204, 206, 210, 216, 218, 218.5, 218.6, 227.3, 256, 510, 511, 515, 516, 558, 1194, 1194.2, 1194.3, 1197,
10 1197.1, 1197.2, and 2698 et seq., 2699 et seq.).

11 35. Defendants acted intentionally, oppressively, and maliciously toward Plaintiffs and the
12 members of the Class, with a conscious disregard of their rights, or the consequences to them, with the
13 intent of depriving them of property and legal rights and otherwise causing them injury.

14 36. As a proximate cause of the aforementioned violations, Plaintiffs and the Class have been
15 damaged in an amount according to proof at time of trial, but in an amount in excess of the jurisdiction
16 of this Court. Plaintiffs and the Class are entitled to recover the unpaid balance of wages owed,
17 penalties, including penalties available pursuant to California Labor Code section 558, plus interest, and
18 reasonable attorneys' fees and costs of suit according to California Labor Code section 1194, et seq.

19 **SECOND CAUSE OF ACTION**

20 **(Violation of California Labor Code Sections 201-203**

21 **Failure to Pay All Wages upon Termination – Against all Defendants)**

22 37. Plaintiffs refer to and incorporate herein by reference paragraphs 1 through 35 as though
23 fully set forth herein.

24 38. Pursuant to California Labor Code sections 201-203, if an employer discharges an
25 employee, the wages earned and unpaid at the time of discharge are due and payable immediately.

26 39. Plaintiffs Elias-Berg and Fichtner are informed and believe, and based thereon allege,
27 that they and other members of the Class resigned or were terminated from their employment with
28

1 Defendants and have not received compensation for all wages owed at the time of termination.

2 40. Defendants willfully failed to pay Plaintiffs Elias-Berg and Fichtner, and members of the
3 Class all wages that were due and owed within the time limits set forth in California Labor Code
4 sections 201-203.

5 41. Therefore, Plaintiffs Elias-Berg and Fichtner, and the Class are entitled to continuing
6 wages, restitution and penalties as provided by the California Labor Code, including, but not limited to
7 sections 203, 256,.

8 **THIRD CAUSE OF ACTION**

9 **(Violation of California Labor Code Section 226, 226.3**

10 **Failure to Provide Accurate, Itemized Wage Statements – Against all Defendants)**

11 42. Plaintiffs refer to and incorporate herein by reference paragraphs 1 through 40 as though
12 fully set forth herein.

13 43. California Labor Code section 226(a) provides that every employer shall, semi-monthly
14 or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part
15 of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by
16 personal check or cash, an accurate itemized statement in writing showing gross wages earned.

17 44. Each Plaintiff is informed and believes, and based thereon alleges, that throughout the
18 relevant time period, Defendants repeatedly failed to furnish Plaintiffs and the Class with accurate,
19 itemized wage statements in writing showing all hours worked and all wages earned.

20 45. As a result of the Defendants' conduct, Plaintiffs and the Class have been damaged and
21 are entitled to recover, for each member of the Class, the greater of actual damages or \$50.00 for the
22 initial pay period in which a violation occurred and \$100.00 for each violation in a subsequent pay
23 period, not exceeding an aggregate penalty of \$4,000.00, in an amount to be determined at trial.

24 46. In addition, as a direct result of the conduct of Defendants, and each of them, as set forth
25 above, Plaintiffs and the members of the Class were forced to incur substantial attorney's fees and costs
26 which are recoverable under California Labor Code section 226(e) in an amount to be determined at
27 trial.
28

1 **FOURTH CAUSE OF ACTION**

2 **(Violation of California Business and Professions Code**

3 **Section 17200 – Against All Defendants)**

4 47. Plaintiffs refer to and incorporate herein by reference paragraphs 1 through 45 as though
5 fully set forth herein.

6 48. California Business and Professions Code section 17200, et seq., prohibits acts of unfair
7 competition which means and includes “any unlawful, unfair, or fraudulent business act or practice.”

8 49. Within the four (4) years preceding the filing of this action, Defendants have engaged in
9 unlawful, unfair, and/or fraudulent business acts and/or practices by engaging in the conduct set forth
10 above. These business acts and practices violated numerous provisions of the law, including, but not
11 limited to, the California Labor Code (including, but not limited to California Labor Code sections 200,
12 201, 201.3, 201.5, 201.6, 201.7, 201.8, 201.9, 202, 203, 204, 206, 210, 216, 218, 218.5, 218.6, 221, 223,
13 224, 225, 225.5, 226, 226.3, 227.3, 256, 510, 511, 512, 515, 516, 550, 551, 552, 554, 558, 1174, 1174.5,
14 1194, 1194.2, 1194.3, 1197, 1197.1, 1197.2, 1198, and 2698 *et seq.*, 2699 *et seq.*), California Wage
15 Orders, and California public policy. Plaintiffs reserve the right to identify additional violations of law
16 as further investigation warrants.

17 50. Defendants’ acts and practices, as detailed above, constitute acts of unfair competition.
18 Defendants have engaged in an unlawful, unfair, and/or fraudulent business act and/or practices within
19 the meaning of California Business and Professions Code section 17200, et seq.

20 51. By reason of Defendants’ fraudulent, deceptive, unfair, and other wrongful conduct, as
21 alleged herein, Defendants has violated California Business and Professions Code section 17200, et seq.,
22 by consummating an unlawful, unfair, and fraudulent business practice designed to deprive Plaintiffs,
23 the members of the Class, and members of the general public of their legal rights.

24 52. Such conduct is ongoing and continues to this date.

25 53. By reason of the foregoing, Plaintiffs, the Class, and members of the general public have
26 suffered, and continue to suffer, damages, and are therefore entitled to the relief available under
27 California Business and Professions Code section 17200, et seq., including, but not limited to,
28

1 restitution, disgorgement, and injunctive relief.

2 54. As such, Plaintiffs, on behalf of themselves, the Class, and the general public, seek a
3 temporary, preliminary, and/or permanent order from this Court prohibiting Defendants from continuing
4 to engage in the unlawful, unfair, and/or fraudulent business acts or practices set forth in this Complaint,
5 in addition to disgorgement and restitution by Defendants to all persons with a vested interest therein
6 who have been adversely affected by the practices at issue.

7 **FIFTH CAUSE OF ACTION**

8 **(Violation of California Labor Code Section 2698, et seq.**

9 **(Private Attorneys General Act (“PAGA”)) – Against all Defendants)**

10 55. Plaintiffs refer to and incorporate herein by reference paragraphs 1 through 53 as though
11 fully set forth herein.

12 56. California Labor Code section 2698, et seq., the Private Attorneys General Act
13 (“PAGA”), allows an aggrieved employee to bring suit against an employer for violations of most
14 California Labor Code provisions, including, but not limited to, violations of California Labor Code
15 sections 201, 202, 203, 204, 210, 226, 226.7, 510, 511, 512, 558, 1194, et seq., 2698, et seq., 2699, et
16 seq., and 2699.3. By virtue of Defendants’ numerous violations of the California Labor Code as against
17 Plaintiffs as described herein, Plaintiffs are aggrieved employees as it is defined in California Labor
18 Code section 2698, et seq.

19 57. The above-mentioned civil action has been brought by Plaintiffs against Defendant on
20 behalf of all current and former non-exempt employees who worked for Defendant during the PAGA
21 Period at Woodland Memorial Hospital, Mercy General Hospital, Mercy Folsom Hospital, Mercy San
22 Juan Hospital, Methodist Hospital of Sacramento, Sierra Nevada Memorial Hospital, and Mercy
23 Redding Hospital (the “Sacramento Hospitals”) for at least one (1) workweek during the limitations
24 period relevant to such claims and who experienced unpaid wages, including, failure to pay minimum
25 wages, straight time compensation, overtime compensation, double-time compensation, and interest; the
26 calculation of the regular rate of pay; wages related to alleged illegal time rounding;
27 missed/short/late/interrupted meal period, rest period, and/or recovery period wages/premiums; failure
28

1 to provide meal periods; failure to authorize and permit rest periods and/or recovery periods; the
2 calculation of meal period, rest period, and/or recovery period premiums; payment for all hours worked,
3 including off-the-clock work; wage statements; deductions; failure to keep/maintain accurate records
4 including payroll records; unfair business practices in violation of the California Labor Code sections
5 200, 201, 201.3, 201.5, 201.6, 201.7, 201.8, 201.9, 202, 203, 204, 206, 210, 216, 218, 218.5, 218.6, 221,
6 223, 224, 225, 225.5, 226, 226.3, 227.3, 256, 510, 511, 512, 515, 516, 550, 551, 552, 554, 558, 1174,
7 1174.5, 1194, 1194.2, 1194.3, 1197, 1197.1, 1197.2, 1198, and 2698 *et seq.*, 2699 *et seq.*

8 58. Plaintiffs contend that Defendant's uniform and consistent policies and practices have
9 resulted in the systematic violation of the labor code sections alleged. Plaintiffs' theories of liability
10 include their allegation that Defendant did not pay overtime and minimum wages due to Defendant's
11 policies and practices, which included rounding employee time records to the nearest quarter hour. As a
12 result of these practices, Plaintiffs allege violations of Labor Code sections 200, 201, 201.3, 201.5,
13 201.6, 201.7, 201.8, 201.9, 202, 203, 204, 206, 210, 216, 218, 218.5, 218.6, 221, 223, 224, 225, 225.5,
14 226, 226.3, 227.3, 256, 510, 511, 512, 515, 516, 550, 551, 552, 554, 558, 1174, 1174.5, 1194, 1194.2,
15 1194.3, 1197, 1197.1, 1197.2, 1198, and 2698 *et seq.*, 2699 *et seq.*

16 59. Defendants' acts constitute an ongoing unlawful activity prohibited by the California
17 Labor Code, and, therefore, these acts constitute violations of the PAGA.

18 60. On February 27, 2025, Plaintiffs provided Supplemental Notice of these violations
19 pursuant to California Labor Code section 2699.3 and specifically asked the California Labor &
20 Workforce Development Agency (hereinafter "CLWDA") if it intends to investigate the alleged
21 violations (the "Second PAGA Letter"). Thereafter, on June 13, 2025, Plaintiffs provided a Third PAGA
22 Letter to clarify the scope of this claim and the intended claims to be released under the Parties'
23 settlement. True and correct copies of the Second and Third PAGA letters are attached hereto as Exhibit
24 "A." Through this supplemental PAGA Notice, Plaintiffs clarify and amend the scope of potentially
25 aggrieved employees to include all current and former non exempt employees who worked at least one
26 week at one or more of the Sacramento Hospitals since September 10, 2014. Plaintiffs have not
27 received any response back from the CLWDA as of the date of this filing. Barring a response by the
28

1 CLWDA within the time limits outlined in California Labor Code section 2699.3 with notification that it
2 intends to investigate the alleged violations, Plaintiffs are entitled to prosecute their PAGA claims under
3 California Labor Code section 2699, et seq.

4 61. Defendants' conduct of violating the California Labor Code constitutes violations of the
5 PAGA.

6 62. Therefore, Plaintiffs request penalties against Defendants under the provisions of PAGA
7 section 2699(f).

8 63. Further, as a direct and proximate result of the conduct of Defendants, as set forth above,
9 Plaintiffs and the members of the Class were forced to incur substantial attorney's fees and costs which
10 are recoverable under California Labor Code Section 2699(g)(1).

11 64. Accordingly, Plaintiffs and all aggrieved employees respectfully request that the Court
12 award judgment and relief in their favor as described herein.

13 **DEMAND FOR JURY TRIAL**

14 Plaintiffs O'Braza, Elias-Berg and Fichtner hereby demand a jury trial in this matter.

15 **PRAYER**

16 WHEREFORE, Plaintiffs, and each of them, pray for judgment against Defendants Dignity
17 Health and DOES 1 through 10, inclusive, and each of them, jointly and severally, as follows:

18
19 **ON THE FIRST CAUSE OF ACTION (FAILURE TO PAY WAGES):**

- 20 1. That the Court declare, adjudge, and decree that Defendants violated California Labor
21 Code sections 204, 510, 511 and 1194;
- 22 2. For unpaid regular, overtime, and/or double time wages and such general and special
23 damages as may be appropriate;
- 24 3. For pre-judgment interest on any unpaid compensation commencing from the date such
25 amounts were due until paid in full;
- 26 4. For penalties arising out of Defendant's violations of the California Labor Code and
27 Industrial Welfare Commission Wage Orders pursuant to Labor Code Section 558;
- 28

5. For reasonable attorneys' fees and for costs of suit incurred herein; and
6. For such other and further relief as the Court may deem fair and appropriate.

ON THE SECOND CAUSE OF ACTION (WAITING TIME PENALTIES):

1. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 201, 202, and 203 and is subject to penalties pursuant to California Labor Code section 203;
2. For an award of penalties pursuant to California Labor Code section 203 to Plaintiffs Elias-Berg and Fichtner, and all Class members in an amount to be determined at trial; and
3. For such other and further relief as the Court may deem fair and appropriate.

ON THE THIRD CAUSE OF ACTION (WAGE STATEMENTS):

1. That the Court declare, adjudge, and decree that Defendants violated California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiffs and Class members, and willfully failed to provide accurate, itemized wage statements thereto;
2. For all actual, consequential, and incidental losses and damages according to proof;
3. For statutory penalties pursuant to California Labor Code section 226(e);
4. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h); and
5. For such other and further relief as the Court may deem fair and appropriate.

ON THE FOURTH CAUSE OF ACTION (UNFAIR BUSINESS PRACTICE):

1. For restitution of all profits and gains resulting from Defendants' unfair, unlawful, and/or fraudulent business acts and/or practices to Plaintiffs and all persons with a vested interest therein who have been adversely affected by the practices at issue;
2. For an injunction permanently enjoining Defendants from continuing to engage in any further acts of unfair, unlawful, and/or fraudulent business acts and/or practices;
3. For reasonable attorneys' fees and for costs of suit incurred herein; and
4. For such other and further relief as the Court may deem fair and appropriate.

1 **ON THE FIFTH CAUSE OF ACTION (PAGA):**

- 2 1. That the Court impose penalties against Defendants on behalf of Plaintiffs and all
3 aggrieved employees according to the Private Attorneys General Act (“PAGA”); and
4 2. For an award of reasonable attorneys’ fees and costs.

5 **AS TO ALL CAUSES OF ACTION:**

- 6 1. For an award of reasonable attorneys’ fees, costs, expert costs, and expenses pursuant to
7 statutory and common law; and
8 2. For such other and further relief as this Court may deem just, fair, and proper.

9 Respectfully submitted,

10 DATED: June 13, 2025

LAZARSKI LAW PRACTICE, P.C.

11
12 By  _____

13 Bryan J. Lazarski

14 Attorneys for Plaintiffs Stacy O’Braza, Rachel Elias-Berg,
15 and Heather Fichtner, on behalf of themselves and all
16 others similarly situated
17
18
19
20
21
22
23
24
25
26
27
28