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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

ANGELICA GARCIA, individually, and on
behalf of other members of the general
public similarly situated, and as an
aggrieved employee pursuant to the Private
Attorneys General Act ("PAGA"),

Plaintiff,

vs.

COLUMBIA RIVERSIDE, INC., a
California corporation; RIVERSIDE
HEALTHCARE SYSTEM, L.P., a
California limited partnership; and DOES 1
through 10, inclusive,

Defendants.

Case No.: CVRI2203402

**FIRST AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, *ET
SEQ.***

- (1) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (2) Violation of California Labor Code §§ 226.7, 512(a), and 1198 (Failure to Pay Meal Period Premiums at the Regular Rate of Pay);
- (3) Violation of California Labor Code §§ 226.7 and 1198 (Failure to Pay Rest Period Premiums at the Regular Rate of Pay);
- (4) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (5) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (6) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (7) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*

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- (8) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); and
- (9) Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices)

Jury Trial Demanded

1 Plaintiff Angelica Garcia, individually and on behalf of all other members of the public
2 similarly situated, and as an aggrieved employee and on behalf of all aggrieved employees,
3 alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of damages, penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice. There is no basis for federal diversity jurisdiction in this action
23 because there is no complete diversity, and this case falls within the statutory exceptions to
24 “minimal diversity” jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4).
25 Upon information and belief, two-thirds or more of the class members and Defendants are
26 citizens of California and/or (a) two-thirds of the class members and Defendants are citizens
27 of California; (b) the alleged wage and hour violations occurred in California; (c) significant
28 relief is being sought against Defendants whose violations of California wage and hour laws

1 form a significant basis for Plaintiff's claims; and (d) no other class action has been filed
2 within the past three (3) years on behalf of the same proposed class against Defendants
3 asserting the same or similar factual allegations.

4 3. Venue is proper in this Court, because Defendants employ persons in this
5 county, and employed Plaintiff in this county, and thus a substantial portion of the transactions
6 and occurrences related to this action occurred in this county.

7 **THE PARTIES**

8 4. Plaintiff Angelica Garcia is a resident of Highland, in San Bernardino County,
9 California. Defendants employed Plaintiff as an hourly paid, non-exempt Registered Nurse
10 from approximately October 2019 to August 2021. Plaintiff worked for Defendants at their
11 Riverside Community Hospital location in Riverside, California. During her employment,
12 Plaintiff typically worked five (12) or more hours per day and three (3) or more days per
13 week. Plaintiff's primary job duties included, without limitation, checking patients' vital
14 signs, providing wound care, cleaning patients, coordinating with doctors and physical
15 therapists regarding treatments, preparing patients for medical procedures, completing charts
16 for every patient, and communicating with patients' family members.

17 5. COLUMBIA RIVERSIDE, INC. was and is, upon information and belief, a
18 California corporation, and at all times hereinafter mentioned, an employer whose employees
19 are engaged throughout this county, the State of California, or the various states of the United
20 States of America.

21 6. RIVERSIDE HEALTHCARE SYSTEM, L.P. was and is, upon information and
22 belief, a California limited partnership, and at all times hereinafter mentioned, an employer
23 whose employees are engaged throughout this county, the State of California, or the various
24 states of the United States of America.

25 7. Plaintiff is unaware of the true names or capacities of the Defendants sued
26 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
27 amend the complaint and serve such fictitiously named Defendants once their names and
28 capacities become known.

1 8. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
2 were the partners, agents, owners, or managers of COLUMBIA RIVERSIDE, INC. and
3 RIVERSIDE HEALTHCARE SYSTEM, L.P. at all relevant times.

4 9. Plaintiff is informed and believes, and thereon alleges, that each and all of the
5 acts and omissions alleged herein was performed by, or is attributable to, COLUMBIA
6 RIVERSIDE, INC.; RIVERSIDE HEALTHCARE SYSTEM, L.P.; and/or DOES 1 through 10
7 (collectively, “Defendants” or “RIVERSIDE COMMUNITY HOSPITAL”), each acting as the
8 agent, employee, alter ego, and/or joint venturer of, or working in concert with, each of the
9 other co-Defendants and was acting within the course and scope of such agency, employment,
10 joint venture, or concerted activity with legal authority to act on the others’ behalf. The acts
11 of any and all Defendants were in accordance with, and represent, the official policy of
12 Defendants.

13 10. At all relevant times, Defendants, and each of them, ratified each and every act
14 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
15 and abetted the acts and omissions of each and all the other Defendants in proximately causing
16 the damages herein alleged.

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

20 12. Under California law, Defendants are jointly and severally liable as employers
21 for the violations alleged herein because they have each exercised sufficient control over the
22 wages, hours, working conditions, and employment status of Plaintiff and class members.
23 Each Defendant had the power to hire and fire Plaintiff and class members, supervised and
24 controlled their work schedule and/or conditions of employment, determined their rate of pay,
25 and maintained their employment records. Defendants suffered or permitted Plaintiff and
26 class members to work and/or “engaged” Plaintiff and class members so as to create a
27 common-law employment relationship. As joint employers of Plaintiff and class members,
28 Defendants are jointly and severally liable for the civil penalties and all other relief available

1 to Plaintiff and class members under the law.

2 13. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
3 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and class
4 members because Defendants have:

- 5 (a) jointly exercised meaningful control over the work performed by
6 Plaintiff and class members;
- 7 (b) jointly exercised meaningful control over Plaintiff's and class members'
8 wages, hours, and working conditions, including the quantity, quality
9 standards, speed, scheduling, and operative details of the tasks
10 performed by Plaintiff and class members;
- 11 (c) jointly required that Plaintiff and class members perform work which is
12 an integral part of Defendants' businesses; and
- 13 (d) jointly exercised control over Plaintiff and class members as a matter of
14 economic reality in that Plaintiff and class members were dependent on
15 Defendants, who shared the power to set the wages of Plaintiff and class
16 members and determined their working conditions, and who jointly
17 reaped the benefits from the underpayment of their wages and
18 noncompliance with other statutory provisions governing their
19 employment.

20 14. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
21 there has existed a unity of interest and ownership between Defendants such that any
22 individuality and separateness between the entities has ceased.

23 15. COLUMBIA RIVERSIDE, INC.; RIVERSIDE HEALTHCARE SYSTEM,
24 L.P.; and DOES 1 through 10 are therefore alter egos of each other.

25 16. Adherence to the fiction of the separate existence of Defendants would permit
26 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
27 from liability for the wrongful acts committed by them under the name RIVERSIDE
28 COMMUNITY HOSPITAL.

17. Plaintiff further alleges, upon information and belief, that Defendants COLUMBIA RIVERSIDE, INC. and RIVERSIDE HEALTHCARE SYSTEM, L.P. are alter egos of each other for the following reasons:

- (a) On the California Secretary of State's website (<https://bizfileonline.sos.ca.gov>), COLUMBIA RIVERSIDE, INC. and RIVERSIDE HEALTHCARE SYSTEM, L.P. share the same entity address and mailing address, "ONE PARK PLAZA NASHVILLE TN 37203;"
- (b) According to HCA Healthcare, Inc.'s SEC 10-K filing for 2021, COLUMBIA RIVERSIDE, INC. and RIVERSIDE HEALTHCARE SYSTEM, L.P. are California subsidiaries of HCA Healthcare, Inc.;¹
- (c) According to the Secretary of State's website, RIVERSIDE HEALTHCARE SYSTEM, L.P.'s statement of information form indicates that COLUMBIA RIVERSIDE, INC. is a general partner of RIVERSIDE HEALTHCARE SYSTEM, L.P.;
- (d) On information and belief, COLUMBIA RIVERSIDE, INC. and RIVERSIDE HEALTHCARE SYSTEM, L.P. share the same agent for service of process, "C T CORPORATION SYSTEM;" and
- (e) On information and belief, COLUMBIA RIVERSIDE, INC. and RIVERSIDE HEALTHCARE SYSTEM, L.P. utilize the same standardized employment forms and issue the same employment policies.

GENERAL ALLEGATIONS

18. Defendants are a leading healthcare provider in Riverside, California. Defendants operate Riverside Community Hospital, a 478 licensed bed, full-service acute care hospital in the Inland Empire. Upon information and belief, Defendants maintain a single,

¹ 10-K Annual Report 2/18/2022, "HCA Healthcare - Financials - SEC Filings," <https://investor.hcahealthcare.com/financials/sec-filings/default.aspx> (last accessed August 8, 2022).

1 centralized Human Resources (“HR”) department at their company headquarters in Nashville,
2 Tennessee, which is responsible for the recruiting and hiring of new employees, and
3 communicating and implementing Defendants’ company-wide policies, including timekeeping
4 policies and meal and rest period policies, to employees throughout California.

5 19. In particular, Plaintiff and class members, on information and belief, received
6 the same standardized documents and/or written policies. Upon information and belief, the
7 usage of standardized documents and/or written policies, including new-hire documents,
8 indicate that Defendants dictated policies at the corporate level and implemented them
9 company-wide, regardless of their employees’ assigned locations or positions. Upon
10 information and belief, Defendants set forth uniform policies and procedures in several
11 documents provided at an employee’s time of hire.

12 20. Upon information and belief, Defendants maintain a centralized Payroll
13 department at their company headquarters in Nashville, Tennessee, which processes payroll
14 for all non-exempt, hourly paid employees working for Defendants at their various locations
15 and jobsites in California, including Plaintiff and class members. Based upon information and
16 belief, Defendants issue the same formatted wage statements to all non-exempt, hourly paid
17 employees in California, irrespective of their work locations. Upon information and belief,
18 Defendants process payroll for departing employees in the same manner throughout the State
19 of California, regardless of the manner in which each employee’s employment ends.

20 21. Defendants continue to employ non-exempt or hourly paid employees in
21 California.

22 22. Plaintiff is informed and believes, and thereon alleges, that at all times herein
23 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
24 and advisors knowledgeable about California labor and wage law, employment and personnel
25 practices, and about the requirements of California law.

26 23. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class
27 members were not paid for all hours worked because all hours worked were not recorded.

28 24. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and class members were entitled to receive at least minimum
2 wages for compensation and that they were not receiving at least minimum wages for work
3 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff
4 and class members were not paid at least minimum wages for work done off-the-clock.

5 25. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and class members were entitled to be paid at a regular rate
7 of pay for meal period premiums, that included as eligible income all remuneration required
8 by law, including, but not limited to, all income derived from shift differential pay, incentive
9 pay, nondiscretionary bonuses, and/or other forms of compensation, but failed to include all
10 forms of remuneration in calculating the regular rate of pay for Plaintiff and class members.

11 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and class members were entitled to be paid at a regular rate
13 of pay for rest period premiums, that included as eligible income all remuneration required by
14 law, including, but not limited to, all income derived from shift differential pay, incentive pay,
15 nondiscretionary bonuses, and/or other forms of compensation, but failed to include all forms
16 of remuneration in calculating the regular rate of pay for Plaintiff and class members.

17 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and class members were entitled to receive complete and
19 accurate wage statements in accordance with California law. In violation of the California
20 Labor Code, Plaintiff and class members were not provided complete and accurate wage
21 statements.

22 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that they had a duty to maintain accurate and complete payroll records in
24 accordance with the California Labor Code and applicable IWC Wage Order, but willfully,
25 knowingly, and intentionally failed to do so.

26 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and class members were entitled to timely payment of all
28 wages earned upon termination of employment. In violation of the California Labor Code,

1 Plaintiff and class members did not receive payment of all wages due, including, but not
2 limited to, minimum wages and/or meal and rest period premiums, within permissible time
3 periods.

4 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that Plaintiff and class members were entitled to timely payment of wages
6 during their employment. In violation of the California Labor Code, Plaintiff and class
7 members did not receive payment of all wages, including, but not limited to, minimum wages
8 and/or meal and rest period premiums, within permissible time periods.

9 31. Plaintiff is informed and believes, and thereon alleges, that at all times herein
10 mentioned, Defendants knew or should have known that they had a duty to compensate
11 Plaintiff and class members for all hours worked, and that Defendants had the financial ability
12 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and
13 falsely represented to Plaintiff and class members that they were properly denied wages, all in
14 order to increase Defendants' profits.

15 **PAGA REPRESENTATIVE ALLEGATIONS**

16 32. At all times herein set forth, PAGA provides that any provision of law under
17 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
18 assessed and collected by the LWDA for violations of the California Labor Code and
19 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
20 civil action brought on behalf of themselves and other current or former employees pursuant
21 to procedures outlined in California Labor Code section 2699.3.

22 33. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
23 person who was employed by the alleged violator and against whom one or more of the alleged
24 violations was committed."

25 34. Plaintiff and other current and former employees of Defendants are "aggrieved
26 employees" as defined by Labor Code section 2699(c) in that they are all Defendants' current
27 or former employees and one or more of the alleged violations were committed against them.

28 35. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved

1 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
2 following requirements have been met:

- 3 (a) The aggrieved employee or representative shall give written notice by
4 online filing with the LWDA and by certified mail to the employer of
5 the specific provisions of the California Labor Code alleged to have
6 been violated, including the facts and theories to support the alleged
7 violation.
- 8 (b) An aggrieved employee's notice filed with the LWDA pursuant to
9 2699.3(a) and any employer response to that notice shall be
10 accompanied by a filing fee of seventy-five dollars (\$75).
- 11 (c) The LWDA shall notify the employer and the aggrieved employee or
12 representative by certified mail that it does not intend to investigate the
13 alleged violation ("LWDA Notice") within sixty (60) calendar days of
14 the postmark date of the aggrieved employee's notice. Upon receipt of
15 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
16 (65) calendar days of the postmark date of the aggrieved employee's
17 notice, the aggrieved employee may commence a civil action pursuant
18 to California Labor Code section 2699 to recover civil penalties.

19 36. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
20 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
21 provision other than those listed in Section 2699.5 after the following requirements have been
22 met:

- 23 (a) The aggrieved employee or representative shall give written notice by
24 online filing with the LWDA and by certified mail to the employer of
25 the specific provisions of the California Labor Code alleged to have
26 been violated (other than those listed in Section 2699.5), including the
27 facts and theories to support the alleged violation.
- 28 (b) An aggrieved employee's notice filed with the LWDA pursuant to

2699.3(c) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars (\$75).

(c) The employer may cure the alleged violation within thirty-three (33) calendar days of the postmark date of the notice sent by the aggrieved employee or representative. The employer shall give written notice within that period of time by certified mail to the aggrieved employee or representative and by online filing with the LWDA if the alleged violation is cured, including a description of actions taken, and no civil action pursuant to Section 2699 may commence. If the alleged violation is not cured within the 33-day period, the aggrieved employee may commence a civil action pursuant to Section 2699.

37. On August 2, 2022, Plaintiff provided written notice by online filing to the LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including facts and theories to support the alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff's written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned Plaintiff PAGA Case Number LWDA-CM-899231-22. A true and correct copy of Plaintiff's written notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

38. As of the filing date of this complaint, over 65 days have passed since Plaintiff sent the notice described above to the LWDA, and the LWDA has not responded that it intends to investigate Plaintiff's claims and Defendants have not cured the violations.

39. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, and 1198.

40. Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any

1 provision regulating hours and days of work in any order of the Industrial Welfare
2 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
3 dollars (\$50) for each underpaid employee for each pay period for which the employee was
4 underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each
5 underpaid employee for each pay period for which the employee was underpaid. . . .” Labor
6 Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition
7 to any other civil or criminal penalty provided by law.”

8 41. Defendants, at all times relevant to this complaint, were employers or persons
9 acting on behalf of an employer(s) who violated Plaintiff’s and other aggrieved employees’
10 rights by violating various sections of the California Labor Code as set forth above.

11 42. As set forth below, Defendants have violated numerous provisions of both the
12 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
13 Order.

14 43. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
15 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a
16 private attorney general, seeks assessment and collection of civil penalties for herself, all other
17 aggrieved employees, and the State of California against Defendants for violations of
18 California Labor Code sections 201, 202, 204, 226(a), 226.7, 512(a), 516, 1174(d), 1182.12,
19 1194, 1197, 1197.1, and 1198.

20 **CLASS ACTION ALLEGATIONS**

21 44. Plaintiff brings this action on her own behalf, as well as on behalf of each and
22 all other persons similarly situated, and thus seeks class certification under California Code of
23 Civil Procedure section 382.

24 45. All claims alleged herein arise under California law for which Plaintiff seeks
25 relief authorized by California law.

26 46. Plaintiff’s proposed class consists of and is defined as follows:

27 All persons who worked for Defendants as non-exempt, hourly
28 paid employees in California, within four years prior to the filing

1 of the initial complaint² until the date of trial (“Class”).

2 47. Plaintiff’s proposed subclass consists of and is defined as follows:

3 All persons who worked for Defendants as non-exempt, hourly
4 paid employees in California and who received at least one wage
5 statement within one (1) year prior to the filing of the initial
6 complaint until the date of trial (“Subclass”).

6 48. Members of the Class and Subclass are referred to herein as “class members.”

7 49. Plaintiff reserves the right to redefine the Class and Subclass and to add
8 additional subclasses as appropriate based on further investigation, discovery, and specific
9 theories of liability.

10 50. There are common questions of law and fact as to class members that
11 predominate over questions affecting only individual members, including, but not limited to:

- 12 (a) Whether Defendants failed to pay Plaintiff and class members at least
13 minimum wages for all hours worked;
- 14 (b) Whether Defendants failed to pay meal period premiums at the proper
15 rate (by failing to include all forms of remuneration in the “regular rate”
16 of pay, as required by law) to Plaintiff and class members;
- 17 (c) Whether Defendants failed to pay rest period premiums at the proper
18 rate (by failing to include all forms of remuneration in the “regular rate”
19 of pay, as required by law) to Plaintiff and class members;
- 20 (d) Whether Defendants provided Plaintiff and class members with complete
21 and accurate wage statements as required by California Labor Code
22 section 226(a);
- 23 (e) Whether Defendants maintained accurate payroll records as required by
24 California Labor Code section 1174(d);
- 25 (f) Whether Defendants failed to pay earned minimum wages and/or meal
26 and rest period premiums due to Plaintiff and class members upon their

27 ² Subject to applicable tolling rules and period(s) of tolling, which include, but are not
28 limited to, tolling under Emergency Rule 9 of the California Rules of Court.

1 discharge;

- 2 (g) Whether Defendants failed to timely pay minimum wages and/or meal
3 and rest period premiums to Plaintiff and class members during their
4 employment;
- 5 (h) Whether Defendants engaged in unlawful and unfair business practices
6 in violation of California Business & Professions Code sections 17200,
7 *et seq.*; and
- 8 (i) The appropriate amount of damages, restitution, or monetary penalties
9 resulting from Defendants' violations of California law.

10 51. There is a well-defined community of interest in the litigation and the class
11 members are readily ascertainable:

- 12 (a) Numerosity: The class members are so numerous that joinder of all
13 members would be unfeasible and impractical. The membership of the
14 entire class is unknown to Plaintiff at this time; however, the class is
15 estimated to be greater than one hundred (100) individuals and the
16 identity of such membership is readily ascertainable by inspection of
17 Defendants' employment records.
- 18 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately
19 protect the interests of each class member with whom she has a well-
20 defined community of interest, and Plaintiff's claims (or defenses, if
21 any) are typical of all class members as demonstrated herein.
- 22 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
23 protect the interests of each class member with whom she has a well-
24 defined community of interest and typicality of claims, as demonstrated
25 herein. Plaintiff acknowledges that she has an obligation to make
26 known to the Court any relationship, conflicts or differences with any
27 class member. Plaintiff's attorneys, the proposed class counsel, are
28 versed in the rules governing class action discovery, certification, and

1 settlement. Plaintiff has incurred, and throughout the duration of this
2 action, will continue to incur costs and attorneys' fees that have been,
3 are, and will be necessarily expended for the prosecution of this action
4 for the substantial benefit of each class member.

5 (d) Superiority: The nature of this action makes the use of class action
6 adjudication superior to other methods. A class action will achieve
7 economies of time, effort, and expense as compared with separate
8 lawsuits, and will avoid inconsistent outcomes because the same issues
9 can be adjudicated in the same manner and at the same time for the
10 entire class.

11 (e) Public Policy Considerations: Employers in the State of California
12 violate employment and labor laws every day. Current employees are
13 often afraid to assert their rights out of fear of direct or indirect
14 retaliation. Former employees are fearful of bringing actions because
15 they believe their former employers might damage their future
16 endeavors through negative references and/or other means. Class
17 actions provide the class members who are not named in the complaint
18 with a type of anonymity that allows for the vindication of their rights
19 while simultaneously protecting their privacy.

20 **FIRST CAUSE OF ACTION**

21 **Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid** 22 **Minimum Wages** 23 **(Against all Defendants)**

24 52. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
25 and every allegation set forth above.

26 53. At all relevant times, California Labor Code sections 1182.12, 1194, 1197,
27 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the
28 minimum wage to be paid to employees, and the payment of a wage less than the minimum so

1 fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as “the
2 time during which an employee is suffered or permitted to work for the employer, whether or
3 not required to do so, as interpreted in accordance with the provisions of the Fair Labor
4 Standards Act.” Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining “Hours Worked”).

5 54. During the relevant period, Defendants implemented, on a company-wide basis,
6 an employer-imposed requirement that Plaintiff and class members undergo mandatory
7 COVID-19 temperature checks and/or health screenings before clocking in for their scheduled
8 shifts. Prior to her shift, Plaintiff was required to spend up to a few minutes per instance
9 undergoing a temperature check, before being permitted to clock in for her shift. Even though
10 Defendants required these health screenings, Defendants did not provide Plaintiff and class
11 members a mechanism to record this time worked so they could be compensated for the time
12 spent undergoing mandatory temperature checks and/or health screenings.

13 55. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
14 and class members off-the-clock, in violation of California Labor Code sections 1182.12,
15 1194, 1197, 1197.1, and 1198.

16 56. As a result, Defendants regularly failed to pay at least minimum wages to
17 Plaintiff and class members for all of the hours they worked in violation of California Labor
18 Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to California Labor Code
19 section 1194.2, Plaintiff and class members are entitled to recover liquidated damages in an
20 amount equal to the wages unlawfully unpaid and interest thereon.

21 **SECOND CAUSE OF ACTION**

22 **Violation of California Labor Code, §§ 226.7, 512(a), and 1198—Failure to Pay Meal**

23 **Period Premiums at the Regular Rate of Pay**

24 **(Against all Defendants)**

25 57. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
26 and every allegation set forth above.

27 58. At all relevant times herein set forth, the applicable IWC Wage Order and
28 California Labor Code sections 226.7, 512(a), and 1198 were applicable to Plaintiff’s and

1 class members' employment by Defendants.

2 59. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC
3 Wage Order, an employer may not require, cause or permit an employee to work for a period
4 of more than five (5) hours per day without providing the employee with an uninterrupted
5 meal period of not less than thirty (30) minutes, except that if the total work period per day of
6 the employee is not more than six (6) hours, the meal period may be waived by mutual
7 consent of both the employer and the employee. Labor Code section 512(a) and the applicable
8 IWC Wage Order also require employers to provide a second meal period of not less than
9 thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee
10 one (1) additional hour of pay at the employee's regular rate, except that if the total hours
11 worked is no more than twelve (12) hours, the second meal period may be waived by mutual
12 consent of the employer and the employee only if the first meal period was not waived.

13 60. Pursuant to Labor Code section 226.7(c) and the applicable IWC Wage Order,
14 if an employer fails to provide an employee a meal period, the employer shall pay the
15 employee one (1) additional hour of pay at the employee's regular rate of compensation for
16 each work day that the meal period was not provided. An employee's regular rate of
17 compensation includes all remuneration for employment paid to, or on behalf of, the
18 employee, including nondiscretionary bonuses and incentive pay. *Ferra v. Loews Hollywood*
19 *Hotel, LLC*, 11 Cal. 5th 858, 878 (2021) ("the term 'regular rate of compensation' in section
20 226.7(c) has the same meaning as 'regular rate of pay' in section 510(a) and encompasses not
21 only hourly wages but all nondiscretionary payments for work performed by the employee.").

22 61. During the relevant time period, at times, Plaintiff and class members worked
23 shifts in which they were prevented from being relieved of all duties and required to perform
24 some of their assigned duties during meal periods. When this occurred, Defendants were
25 required to pay Plaintiff and class members meal period premiums when meal periods were
26 late, missed, shortened, or interrupted.

27 62. Defendants engaged in a company-wide practice and/or policy of not paying
28 full meal period premiums owed when compliant meal periods are not provided. To the extent

1 that Defendants did pay Plaintiff and class members meal period premiums, they did so at the
2 incorrect rates. In addition to an hourly wage, Defendants paid Plaintiff and class members
3 shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of
4 remuneration. However, in violation of the California Labor Code, Defendants failed to
5 include all forms of compensation, including shift differential pay, incentive pay,
6 nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the
7 regular rate of pay. Therefore, during times when Plaintiff and class members received meal
8 period premiums and these other forms of pay, Defendants failed to pay full meal period
9 premiums by paying a lower rate than required. Specifically, Defendants paid Plaintiff and
10 class members meal period premiums at their straight hourly rate of pay instead of at their
11 regular rate of pay. Defendants' failure to properly calculate the rates of pay for meal period
12 premiums based on all remuneration paid has resulted in an underpayment of meal period
13 premiums to Plaintiff and class members on a company-wide basis.

14 63. Defendants' conduct violates the applicable IWC Wage Order, and California
15 Labor Code sections 226.7, 512(a), and 1198. Plaintiff and class members are therefore
16 entitled to recover from Defendants the full amount of their unpaid additional pay for meal
17 period violations.

18 **THIRD CAUSE OF ACTION**

19 **Violation of California Labor Code, §§ 226.7 and 1198—Failure to Pay Rest Period**

20 **Premiums at the Regular Rate of Pay**

21 **(Against all Defendants)**

22 64. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
23 and every allegation set forth above.

24 65. At all relevant times herein set forth, the applicable IWC Wage Order and
25 California Labor Code sections 226.7 and 1198 were applicable to Plaintiff's and class
26 members' employment by Defendants.

27 66. At all relevant times, California Labor Code section 226.7 provides that no
28 employer shall require an employee to work during any rest period mandated by an applicable

1 order of the California IWC.

2 67. At all relevant times, the applicable IWC Wage Order provides that “[e]very
3 employer shall authorize and permit all employees to take rest periods, which insofar as
4 practicable shall be in the middle of each work period” and that the “rest period time shall be
5 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
6 hours or major fraction thereof” unless the total daily work time is less than three and one-half
7 (3 ½) hours.

8 68. Pursuant to Labor Code section 226.7(c) and the applicable IWC Wage Order,
9 if an employer fails to provide an employee a rest period, the employer shall pay the employee
10 one (1) additional hour of pay at the employee’s regular rate of compensation for each work
11 day that the rest period was not provided. An employee’s regular rate of compensation
12 includes all remuneration for employment paid to, or on behalf of, the employee, including
13 nondiscretionary bonuses and incentive pay. *Ferra*, 11 Cal. 5th at 878 (“the term ‘regular rate
14 of compensation’ in section 226.7(c) has the same meaning as ‘regular rate of pay’ in section
15 510(a) and encompasses not only hourly wages but all nondiscretionary payments for work
16 performed by the employee.”).

17 69. During the relevant time period, at times, Plaintiff and class members worked
18 shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without
19 receiving all uninterrupted 10-minute rest periods to which they were entitled. When this
20 occurred, Defendants were required to pay Plaintiff and class members rest period premiums
21 for missed rest periods.

22 70. Defendants engaged in a company-wide practice and/or policy of not paying
23 full rest period premiums owed when compliant rest periods are not authorized and permitted.
24 To the extent that Defendants did pay Plaintiff and class members one (1) additional hour of
25 premium pay for missed rest periods, Defendants did not pay Plaintiff and class members at
26 the correct rate of pay for premiums because Defendants failed to include all forms of
27 compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or
28 other forms of remuneration, in the regular rate of pay. Defendants’ failure to properly

1 calculate the rates of pay for rest period premiums based on all remuneration paid has resulted
2 in an underpayment of rest period premiums to Plaintiff and class members on a company-
3 wide basis.

4 71. Defendants' conduct violates the applicable IWC Wage Order, and California
5 Labor Code sections 226.7 and 1198. Plaintiff and class members are therefore entitled to
6 recover from Defendants the full amount of their unpaid additional pay for rest period
7 violations.

8 **FOURTH CAUSE OF ACTION**

9 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage** 10 **Statements and Failure to Maintain Accurate Payroll Records** 11 **(Against all Defendants)**

12 72. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
13 and every allegation set forth above.

14 73. At all relevant times herein set forth, California Labor Code section 226(a)
15 provides that every employer shall furnish each of his or her employees an accurate and
16 complete itemized wage statement in writing, including, but not limited to, the name and
17 address of the legal entity that is the employer, the inclusive dates of the pay period, total
18 hours worked, and all applicable rates of pay.

19 74. At all relevant times, Defendants have knowingly and intentionally provided
20 Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements.
21 For example, Defendants issued uniform wage statements to Plaintiff and Subclass members
22 that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all
23 applicable hourly rates in effect during the pay period, including rates of pay for meal and rest
24 period premiums, and the corresponding number of hours worked at each hourly rate.
25 Specifically, Defendants violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

26 75. Because Defendants did not record the time Plaintiff and Subclass members
27 spent working off the clock, Defendants did not list the correct amount of gross wages and net
28 wages earned by Plaintiff and Subclass members in compliance with section 226(a)(1) and

1 226(a)(5). For the same reason, Defendants failed to accurately list the total number of hours
2 worked by Plaintiff and Subclass members in violation of section 226(a)(2), and failed to list
3 the applicable hourly rates of pay in effect during the pay period and corresponding accurate
4 number of work hours worked at each hourly rate in violation of section 226(a)(9).

5 76. Additionally, because Defendants did not calculate Plaintiff's and Subclass
6 members' regular rate of pay correctly for purposes of paying meal and rest period premiums,
7 Defendants did not list the correct amount of gross wages in compliance with section
8 226(a)(1). For the same reason, Defendants failed to list the correct amount of net wages in
9 violation of section 226(a)(5). Defendants also failed to correctly list all applicable hourly
10 rates in effect during the pay period, namely, correct rates of pay for meal and rest premiums,
11 in violation of section 226(a)(9).

12 77. The wage statement deficiencies also include, without limitation, failing to list
13 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
14 a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period
15 for which employees were paid; failing to list the name of the employee and only the last four
16 digits of his or her social security number or an employee identification number other than a
17 social security number; failing to list the name and address of the legal entity that is the
18 employer, and/or failing to state all hours worked as a result of not recording or stating hours
19 worked off-the-clock.

20 78. California Labor Code section 1174(d) provides that "[e]very person employing
21 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
22 employed and the ages of all minors" and "[k]eep, at a central location in the state or at the
23 plants or establishments at which employees are employed, payroll records showing the hours
24 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
25 applicable piece rate paid to, employees employed at the respective plants or
26 establishments. . . ." At all relevant times, and in violation of Labor Code section 1174(d),
27 Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass
28 members showing the daily hours they worked and the wages paid thereto as a result of failing

1 to record the off-the-clock hours that they worked.

2 79. California Labor Code section 1198 provides that the maximum hours of work
3 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
4 set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he
5 employment of any employees for longer hours than those fixed by the order or under
6 conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC
7 Wage Order, employers are required to keep accurate time records showing when the
8 employee begins and ends each work period and meal period. During the relevant time
9 period, Defendants engaged in company-wide practices and/or policies of failing to record
10 actual hours worked, and thereby failed to keep accurate records of work period and meal
11 period start and stop times for Plaintiff and Subclass members, in violation of section 1198.

12 80. Plaintiff and Subclass members are entitled to recover from Defendants the
13 greater of their actual damages caused by Defendants’ failure to comply with California Labor
14 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per
15 employee.

16 **FIFTH CAUSE OF ACTION**

17 **Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid Upon** 18 **Termination** 19 **(Against all Defendants)**

20 81. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
21 and every allegation set forth above.

22 82. This cause of action is dependent upon, and wholly derivative of, the minimum
23 wages and/or meal and rest period premiums that were not timely paid to Plaintiff and those
24 class members no longer employed by Defendants upon their termination.

25 83. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
26 that if an employer discharges an employee, the wages earned and unpaid at the time of
27 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
28 her employment, his or her wages shall become due and payable not later than seventy-two

(72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

84. Defendants willfully failed to pay Plaintiff and class members who are no longer employed by Defendants the earned and unpaid wages set forth above, including but not limited to, minimum wages and/or meal and rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

85. Defendants' failure to pay Plaintiff and class members who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SIXTH CAUSE OF ACTION

Violation of California Labor Code § 204—Failure to Timely Pay Wages During Employment (Against all Defendants)

86. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

87. This cause of action is dependent upon, and wholly derivative of, the minimum wages and/or meal and rest period premiums that were not timely paid to Plaintiff and class members during their employment.

88. At all times relevant herein set forth, Labor Code section 204 provides that all wages earned by any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was performed. Labor Code section 204 further provides that all wages earned by any person in any employment between the sixteenth (16th) and the

1 last day, inclusive, of any calendar month, other than those wages due upon termination of an
2 employee, are due and payable between the first (1st) and the tenth (10th) day of the following
3 month.

4 89. At all times relevant herein, Labor Code section 204 provides that all wages
5 earned for labor in excess of the normal work period shall be paid no later than the payday for
6 the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section
7 204 provides that the requirements of this section are deemed satisfied by the payment of
8 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than
9 seven (7) calendar days following the close of the payroll period.

10 90. During the relevant time period, Defendants willfully failed to pay Plaintiff and
11 class members all wages due including, but not limited to, minimum wages and/or meal and
12 rest period premiums within the time periods specified by California Labor Code section 204.

13 91. Defendants' failure to pay Plaintiff and class members all wages due violates
14 Labor Code section 204. Plaintiff and class members are therefore entitled to recover from
15 Defendants the statutory penalty wages pursuant to California Labor Code section 210.

16 **SEVENTH CAUSE OF ACTION**

17 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

18 **(Against all Defendants)**

19 92. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
20 and every allegation set forth above.

21 93. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover
22 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
23 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7,
24 512(a), 1174(d), 1194, 1197, 1197.1, and 1198. Labor Code section 2699.3(c) permits
25 aggrieved employees, including Plaintiff, to recover civil penalties for violations of those
26 Labor Code sections not found in section 2699.5, including sections 516 and 1182.12.

27 94. Defendants' conduct, as alleged herein, violates numerous sections of the
28 California Labor Code, including, but not limited to, the following:

- 1 (a) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, and
2 1198, and the applicable IWC Wage Order for Defendants' failure to
3 compensate Plaintiff and other aggrieved employees with at least
4 minimum wages for all hours worked, as alleged herein;
- 5 (b) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
6 applicable IWC Wage Order for Defendants' failure to pay meal period
7 premiums at the proper rate (by failing to include all forms of
8 remuneration in the "regular rate" of pay, as required by law) to Plaintiff
9 and other aggrieved employees, as alleged herein;
- 10 (c) Violation of Labor Code sections 226.7, 516, and 1198, and the
11 applicable IWC Wage Order for Defendants' failure to pay rest period
12 premiums at the proper rate (by failing to include all forms of
13 remuneration in the "regular rate" of pay, as required by law) to Plaintiff
14 and other aggrieved employees, as alleged herein;
- 15 (d) Violation of Labor Code sections 226(a) and 1198, and the applicable
16 IWC Wage Order for failure to provide accurate and complete wage
17 statements to Plaintiff and other aggrieved employees, as alleged herein;
- 18 (e) Violation of Labor Code sections 1174(d) and 1198, and the applicable
19 IWC Wage Order for failure to maintain payroll records, as alleged
20 herein;
- 21 (f) Violation of Labor Code sections 201 and 202 for failure to pay all
22 earned wages upon termination, as alleged herein; and
- 23 (g) Violation of Labor Code section 204 for failure to pay all earned wages
24 during employment, as alleged herein.

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1 **EIGHTH CAUSE OF ACTION**

2 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

3 **Unlawful Business Practices**

4 **(Against all Defendants)**

5 95. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
6 and every allegation set forth above.

7 96. Defendants are “persons” as defined by California Business & Professions
8 Code sections 17201, as they are corporations, firms, partnerships, joint stock companies,
9 and/or associations.

10 97. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair,
11 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
12 suffered injury in fact and has lost money as a result of Defendants’ unlawful business
13 practices. Plaintiff seeks to enforce important rights affecting the public interest within the
14 meaning of Code of Civil Procedure section 1021.5.

15 98. Defendants’ activities, as alleged herein, are violations of California law, and
16 constitute unlawful business acts and practices in violation of California Business &
17 Professions Code sections 17200, *et seq.*

18 99. A violation of California Business & Professions Code sections 17200, *et seq.*
19 may be predicated on the violation of any state or federal law. In the instant case, Defendants’
20 policies and practices have violated state law in at least the following respects:

- 21 (a) Failing to pay at least minimum wage to Plaintiff and class members in
22 violation of California Labor Code sections 1182.12, 1194, 1197,
23 1197.1, and 1198, and the applicable IWC Wage Order, as alleged
24 herein;
- 25 (b) Failing to pay meal period premiums at the proper rate (by failing to
26 include all forms of remuneration in the “regular rate” of pay, as
27 required by law) to Plaintiff and class members in violation of
28 California Labor Code sections 226.7, 512(a), and 1198, and the

applicable IWC Wage Order, as alleged herein;

- (c) Failing to pay rest period premiums at the proper rate (by failing to include all forms of remuneration in the “regular rate” of pay, as required by law) to Plaintiff and class members in violation of California Labor Code sections 226.7 and 1198, and the applicable IWC Wage Order, as alleged herein;
- (d) Failing to provide Plaintiff and class members with accurate wage statements and failing to maintain accurate payroll records in violation of California Labor Code sections 226(a), 1174(d), and 1198, and the applicable IWC Wage Order, as alleged herein; and
- (e) Failing to timely pay all earned wages to Plaintiff and class members in violation of California Labor Code section 204, as alleged herein.

100. As a result of the violations of California law herein described, Defendants unlawfully gained an unfair advantage over other businesses. Plaintiff and class members have suffered pecuniary loss by Defendants’ unlawful business acts and practices alleged herein.

101. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and class members; and an award of attorneys’ fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

NINTH CAUSE OF ACTION

Violation of California Business & Professions Code §§ 17200, *et seq.* –

Unfair Business Practices

(Against all Defendants)

102. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

103. Defendants are “persons” as defined by California Business & Professions Code section 17201, as they are corporations, firms, partnerships, joint stock companies, and/or associations.

104. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair, and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered injury in fact and has lost money as a result of Defendants’ unfair business practices. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

105. Defendants’ activities, namely Defendants’ company-wide practice and/or policy of not paying Plaintiff and class members all meal and rest period premiums due to them under California Labor Code section 226.7, deprived Plaintiff and class members of the compensation guarantee and enhanced enforcement implemented by section 226.7. The statutory remedy provided by section 226.7 is a “‘dual-purpose’ remedy intended primarily to compensate employees, and secondarily to shape employer conduct.” *Safeway, Inc. v. Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7 were guaranteed to Plaintiff and class members as part of their employment with Defendants, and thus Defendants’ practice and/or policy of denying these statutory benefits constitutes an unfair business practice in violation of California Business & Professions Code sections 17200, *et seq.* (*Id.*)

106. A violation of California Business & Professions Code sections 17200, *et seq.* may be predicated on any unfair business practice. In the instant case, Defendants’ policies and practices have violated the spirit of California’s meal and rest period laws and constitute acts against the public policy behind these laws.

107. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory benefits implemented by California Labor Code section 226.7 withheld and retained by Defendants during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring Defendants to pay all statutory benefits implemented by

1 California Labor Code section 226.7 due to Plaintiff and class members; an award of
2 attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and other
3 applicable laws; and an award of costs.

4 **REQUEST FOR JURY TRIAL**

5 Plaintiff requests a trial by jury.

6 **PRAYER FOR RELIEF**

7 Plaintiff, on behalf of all others similarly situated, prays for relief and judgment
8 against Defendants, jointly and severally, as follows:

9 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
10 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff
11 reserves the right to amend her prayer for relief to seek a different amount.

12 **Class Certification**

13 2. That this case be certified as a class action;

14 3. That Plaintiff be appointed as the representative of the Class and Subclass;

15 4. That counsel for Plaintiff be appointed as class counsel.

16 **As to the First Cause of Action**

17 5. That the Court declare, adjudge and decree that Defendants violated California
18 Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable IWC Wage
19 Order by willfully failing to pay minimum wages to Plaintiff and class members;

20 6. For general unpaid wages and such general and special damages as may be
21 appropriate;

22 7. For pre-judgment interest on any unpaid compensation from the date such
23 amounts were due, or as otherwise provided by law;

24 8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
25 California Labor Code section 1194(a);

26 9. For liquidated damages pursuant to California Labor Code section 1194.2; and

27 10. For such other and further relief as the Court may deem equitable and
28 appropriate.

As to the Second Cause of Action

11. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7, 512(a), and 1198 and the applicable IWC Wage Order by willfully failing to pay meal period premiums at the regular rate of pay to Plaintiff and class members;

12. For all actual, consequential, and incidental losses and damages, according to proof;

13. For underpaid premiums pursuant to California Labor Code section 226.7(c);

14. For pre-judgment interest on any unpaid meal period premiums from the date such amounts were due, or as otherwise provided by law;

15. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

16. For such other and further relief as the Court may deem equitable and appropriate.

As to the Third Cause of Action

17. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7 and 1198 and the applicable IWC Wage Order by willfully failing to pay rest period premiums at the regular rate of pay to Plaintiff and class members;

18. For all actual, consequential, and incidental losses and damages, according to proof;

19. For underpaid premiums pursuant to California Labor Code section 226.7(c);

20. For pre-judgment interest on any unpaid rest period premiums from the date such amounts were due, or as otherwise provided by law;

21. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

22. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated the

recordkeeping provisions of California Labor Code section 226(a) and the applicable IWC Wage Order as to Plaintiff and Subclass members, and willfully failed to provide accurate itemized wage statements thereto;

24. For all actual, consequential, and incidental losses and damages, according to proof;

25. For injunctive relief pursuant to California Labor Code section 226(h);

26. For statutory penalties pursuant to California Labor Code section 226(e);

27. For attorneys' fees and costs pursuant to California Labor Code section 226(e)(1); and

28. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fifth Cause of Action

29. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201 and 202 by willfully failing to pay minimum wages and/or meal and rest period premiums owed at the time of termination of the employment of Plaintiff and other terminated class members;

30. For all actual, consequential and incidental losses and damages, according to proof;

31. For waiting time penalties according to proof pursuant to California Labor Code section 203 for all employees who have left Defendants' employ;

32. For pre-judgment interest on any unpaid wages from the date such amounts were due, or as otherwise provided by law;

33. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

34. For such other and further relief as the Court may deem equitable and appropriate.

As to the Sixth Cause of Action

35. That the Court declare, adjudge and decree that Defendants violated California

1 Labor Code section 204 by willfully failing to timely pay Plaintiff and class members
2 minimum wages and/or meal and rest period premiums during their employment;

3 36. For all actual, consequential and incidental losses and damages, according to
4 proof;

5 37. For statutory penalties according to proof pursuant to California Labor Code
6 section 210;

7 38. For pre-judgment interest on any unpaid wages from the date such amounts
8 were due, or as otherwise provided by law;

9 39. For attorneys' fees pursuant to California Code of Civil Procedure section
10 1021.5, or as otherwise provided by law; and

11 40. For such other and further relief as the Court may deem equitable and
12 appropriate.

13 **As to the Seventh Cause of Action**

14 41. That the Court declare, adjudge and decree that Defendants violated the
15 following California Labor Code provisions as to Plaintiff and/or other aggrieved employees:
16 1182.12, 1194, 1197, 1197.1, and 1198 (by failing to pay at least minimum wages for all
17 hours worked); 226.7, 512(a), 516, and 1198 (by failing to include all forms of remuneration
18 in the "regular rate" of pay for purposes of paying meal period premiums); 226.7, 516, and
19 1198 (by failing to include all forms of remuneration in the "regular rate" of pay for purposes
20 of paying rest period premiums); 226(a), 1174(d), and 1198 (by failing to provide accurate
21 wage statements and maintain accurate payroll records); 201 and 202 (by failing to timely pay
22 all earned wages upon termination); and 204 (by failing to timely pay all earned wages during
23 employment);

24 42. For civil penalties pursuant to the California Labor Code, including sections
25 210, 226.3, 256, 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code
26 sections 201, 202, 204, 226(a), 226.7, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, and
27 1198;

28 43. For attorneys' fees and costs pursuant to California Labor Code section

2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, and 1198;

44. For pre-judgment and post-judgment interest as provided by law; and

45. For such other and further relief as the Court may deem equitable and appropriate.

As to the Eighth Cause of Action

46. That the Court declare, adjudge and decree that Defendants' conduct of failing to provide Plaintiff and class members all minimum wages due to them, failing to include all forms of remuneration in the "regular rate" of pay for purposes of paying meal period premiums to Plaintiff and class members, failing to include all forms of remuneration in the "regular rate" of pay for purposes of paying rest period premiums to Plaintiff and class members, failing to provide Plaintiff and class members accurate and complete wage statements, failing to maintain accurate payroll records for Plaintiff and class members, and failing to timely pay Plaintiff and class members all earned wages during employment, constitutes an unlawful business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

47. For restitution of unpaid wages and underpayment of premiums to Plaintiff and all class members and prejudgment interest from the day such amounts were due and payable;

48. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code sections 17200, *et seq.*;

49. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5; and

50. For such other and further relief as the Court may deem equitable and appropriate.

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As to the Ninth Cause of Action

51. That the Court declare, adjudge and decree that Defendants' conduct of denying Plaintiff and class members the statutory benefits guaranteed under California Labor Code section 226.7 constitutes an unfair business practice in violation of California Business and Professions Code sections 17200, *et seq.*;

52. For restitution of the statutory benefits under California Labor Code section 226.7 unfairly withheld from Plaintiff and class members and prejudgment interest from the day such amounts were due and payable;

53. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code sections 17200, *et seq.*;

54. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5;

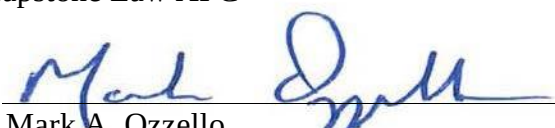
55. For pre-judgment and post-judgment interest as provided by law; and

56. For such other and further relief as the Court may deem equitable and appropriate.

Dated: October 7, 2022

Respectfully submitted,

Capstone Law APC

By: 

Mark A. Ozzello
Brandon K. Brouillette
Joseph Hakakian

Attorneys for Plaintiff Angelica Garcia

EXHIBIT “1”

NINEL KOCHARYAN
310.712.8146 Direct
Ninel.Kocharyan@capstonelawyers.com

August 2, 2022

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Angelica Garcia v. Columbia Riverside, Inc., et al.*

Dear PAGA Administrator:

This office represents Angelica Garcia in connection with her claims under the California Labor Code. Ms. Garcia was an employee of COLUMBIA RIVERSIDE, INC. and/or RIVERSIDE HEALTHCARE SYSTEM, L.P. For the purpose of this letter, Ms. Garcia collectively refers to these entities as "RCH."

The employers may be contacted directly at the addresses below:

COLUMBIA RIVERSIDE, INC.
ONE PARK PLAZA
NASHVILLE TN 37203

RIVERSIDE HEALTHCARE SYSTEM, L.P.
ONE PARK PLAZA
NASHVILLE TN 37203

Ms. Garcia intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Garcia seeks relief on behalf of herself, the State of California, and other persons who are or were employed by RCH as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

RCH employed Ms. Garcia as hourly paid, non-exempt employee from approximately October 2019 to August 2021. Ms. Garcia worked for RCH as a Registered Nurse at its Riverside Community Hospital location in Riverside, California. During her employment, Ms. Garcia typically worked twelve (12) to thirteen (13) or more hours per day and three (3) or more days per week. At the time Ms. Garcia's employment with RCH ended, she earned \$48.48 per hour. Her job duties included, without limitation, checking patients' vital signs, providing wound care, cleaning patients, coordinating with doctors and physical therapists regarding treatments, preparing patients for medical procedures, completing charts for every patient, and communicating with patients' family members.

RCH committed one or more of the following Labor Code violations against Ms. Garcia, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

RCH’s Company-Wide and Uniform Payroll and HR Practices

COLUMBIA RIVERSIDE, INC. is a California corporation, and RIVERSIDE HEALTHCARE SYSTEM, L.P. is a California limited partnership. Together, they are a leading healthcare provider in Riverside, California. RCH operates Riverside Community Hospital, a 478 licensed bed, full-service acute care hospital in the Inland Empire. Upon information and belief, RCH maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Nashville, Tennessee, for all non-exempt, hourly paid employees working for RCH in California, including Ms. Garcia and other aggrieved employees. At all relevant times, RCH issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Garcia and other aggrieved employees, regardless of their location or position.

Upon information and belief, RCH maintains a centralized Payroll department at its corporate headquarters in Nashville, Tennessee, which processes payroll for all non-exempt, hourly paid employees working for RCH in California, including Ms. Garcia and other aggrieved employees. Further, RCH issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Garcia and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, RCH utilized the same methods and formulas when calculating wages due to Ms. Garcia and other aggrieved employees in California.

Violation of California Labor Code §§ 510, 511, and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

California Labor Code section 511 and the applicable IWC Wage Order allow employers, with the employees’ approval, to offer an alternative workweek schedule that authorizes employees to work no more than ten (10) hours per day and forty (40) hours per week without receiving overtime

¹ These facts, theories, and claims are based on Ms. Garcia’s experience and counsel’s review of those records currently available relating to Ms. Garcia’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Garcia reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

compensation. An alternative workweek schedule must pay the employees overtime at one and one-half times their regular hourly rate for work in excess of ten (10) hours per day or forty (40) hours per week. Overtime must be paid at twice the employees' regular hourly rate for work in excess of twelve (12) hours a day. Labor Code 511 and the applicable IWC Wage order further provide that an employer may not implement an alternative workweek schedule unless at least two-thirds of the affected employees approve the schedule through a secret ballot election, and the results must be reported to the California Division of Labor Standards Enforcement within 30 days after the results are final.

RCH willfully failed to pay all overtime wages owed to Ms. Garcia and other aggrieved employees. During the relevant time period, Ms. Garcia and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of ten (10) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, during the relevant period, RCH had a company-wide policy and/or practice of strictly limiting the amount of overtime employees could accrue. On information and belief, this limitation on overtime accrual was based on a company-wide policy of staffing its locations strictly based on the labor hours or labor budget set by corporate. This policy of limiting overtime, coupled with RCH's understaffing policy, as well as the assignment of heavy workloads and deadlines for company events (*see infra*), led other aggrieved employees to work off-the-clock before and after their scheduled shift times in order to complete their assigned tasks. As a result of this restriction on overtime accrual, RCH forced other aggrieved employees to perform work off-the-clock outside of their scheduled shifts, including on their off-days, such as responding to vendors and sponsors, completing assignments, traveling to events, and completing online trainings. RCH discouraged and impeded other aggrieved employees from recording hours worked that were outside of their scheduled shifts, upon threat of discipline for incurring unapproved overtime hours. Thus, other aggrieved employees were required to work off-the-clock performing tasks before and after their scheduled shifts, but were prevented from accounting for and recording this time in the Kronos electronic timekeeping system.

Further, during the relevant period, RCH implemented, on a company-wide basis, an employer-imposed requirement that Ms. Garcia and other aggrieved employees undergo mandatory COVID-19 temperature checks and/or health screenings before clocking in for their scheduled shifts. Prior to her shift, Ms. Garcia was required to spend up to a few minutes per instance undergoing a temperature check, before being permitted to clock in for her shift. Even though RCH required these health screenings, RCH did not provide Ms. Garcia and other aggrieved employees a mechanism to record this time worked so they could be compensated for the time spent undergoing mandatory temperature checks and/or health screenings.

Second, during the relevant time period, RCH had, and continues to have, a company-wide policy and/or practice of understaffing its locations while assigning heavy workloads and failing to schedule and/or adhere to a schedule for meal periods, resulting in a failure to provide Ms. Garcia and other aggrieved employees with adequate meal period coverage. Ms. Garcia and other aggrieved employees worked through meal periods or had their meal periods cut short or interrupted because there were not enough employees on duty to handle the workload. Additionally, Ms. Garcia and other aggrieved employees would be required to respond to calls from doctors and patients on her company-issued phone during unpaid meal periods. As a result, Ms. Garcia and other aggrieved employees were not afforded timely, uninterrupted thirty (30) minute meal periods during shifts in which they were entitled to receive meal periods. RCH knew or should have known that Ms. Garcia

and other aggrieved employees were being made to work during unpaid meal periods, including communicating with their patients and doctors in order to meet RCH's expectations, but failed to compensate them for this off-the-clock work.

Third, RCH's company-wide Kronos timekeeping system locked out Ms. Garcia and other aggrieved employees once they clocked out for a meal period and would not permit them to clock back in from a meal before 30 minutes elapsed, preventing Ms. Garcia and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted. For example, Ms. Garcia's meal periods were occasionally interrupted by phone calls from doctors and patients which she was expected to answer. Additionally, on information and belief, because RCH frowned upon employees accruing meal period penalties, RCH pressured other aggrieved employees to clock out for meal periods and/or adjusted employee time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that RCH would otherwise owe. Thus, Ms. Garcia and other aggrieved employees performed work during meal periods for which they were not paid.

RCH knew or should have known that as a result of these company-wide practices and/or policies, Ms. Garcia and other aggrieved employees were performing assigned duties off-the-clock before and after their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Garcia and other aggrieved employees worked shifts of eight (8) hours or more a day and/or shifts of ten (10) hours or more a day, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Garcia and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Moreover, RCH did not pay Ms. Garcia and/or other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, RCH paid Ms. Garcia and/or other aggrieved employees shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, RCH failed to incorporate all compensation, including shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when Ms. Garcia and/or other aggrieved employees worked overtime and received these other forms of pay, RCH failed to pay all overtime wages by paying the hourly rate instead of the regular rate.

RCH's failure to pay Ms. Garcia and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510, 511, and 1198. Ms. Garcia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which an employee is suffered or permitted to work for the employer, whether or not

required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards Act.” Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining “Hours Worked”).

As set forth above, due to RCH’s restrictions on overtime accrual and company-wide policies and/or practices of understaffing while assigning heavy workloads, Ms. Garcia and/or other aggrieved employees performed work off-the-clock before and after their scheduled shifts, including submitting to mandated pre-shift COVID-19 temperature checks and health screenings. Additionally, as set forth above, due to RCH’s company-wide policies and/or practices of understaffing while assigning heavy workloads, failure to schedule and/or adhere to a schedule of meal periods, and resultant lack of meal period coverage, Ms. Garcia and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. In addition, RCH systematically failed to pay Ms. Garcia and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded. As set forth above, RCH’s timekeeping system did not permit Ms. Garcia and other aggrieved employees to clock back in early when their meal periods were interrupted and RCH required Ms. Garcia and other aggrieved employees to clock out for meal periods, even though Ms. Garcia and other aggrieved employees performed additional duties and were subject to RCH’s control during this time.

Moreover, RCH maintained and implemented a company-wide policy of requiring employees to travel to a medical facility on their own time and using their own personal vehicles to undergo mandatory physical examinations, tuberculin (TB) testing, and/or drug testing. At all times, RCH was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. However, RCH did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities and undergoing the mandatory physical examinations, TB testing, and/or drug testing.

Thus, RCH did not pay at least minimum wages for all hours worked by Ms. Garcia and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, RCH did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, RCH regularly failed to pay at least minimum wages to Ms. Garcia and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Ms. Garcia and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee’s regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period

may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived. The applicable IWC Wage Order further provides that employees in the health care industry who work shifts in excess of eight (8) hours in a workday may waive one of their two meal periods, if the waiver is signed by both the employee and employer. Cal. Code. Regs. tit. 8, § 11050(11)(D).

During the relevant time period, as stated, RCH had, and continues to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads and deadlines. As a result, Ms. Garcia and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period, have their meal periods interrupted, and/or had to forgo their meal periods altogether. For example, during her employment, Ms. Garcia's meal periods were interrupted because she was required to answer calls on her work-issued phone from patients and doctors to discuss patient care matters. Further, as stated, RCH had a company-wide practice of failing to schedule meal periods and/or adhere to a schedule for meal periods, which further caused Ms. Garcia and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Ms. Garcia would take her meal periods after 7 or 8 hours, instead of before the end of the fifth hour of work, as required by California law.

In addition, as stated, RCH's company-wide Kronos timekeeping system locked out Ms. Garcia and other aggrieved employees once they clocked out for a meal period and would not permit them to clock back in from a meal before 30 minutes elapsed, preventing Ms. Garcia and other aggrieved employees from recording shortened or interrupted meal periods. Furthermore, on information and belief, because RCH frowned upon employees accruing meal period penalties, RCH's management would adjust other aggrieved employees' time records and/or pressured employees to clock out for meal periods to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that would need to be paid by RCH.

RCH also did not schedule second meal periods and had no policy for permitting Ms. Garcia and other aggrieved employees to take second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. For example, Ms. Garcia would work in excess of ten (10) hours per day nearly every shift, and was not provided her second meal period during these shifts. RCH did not present Ms. Garcia and other aggrieved employees with the opportunity to voluntarily choose whether to waive their second 30-minute meal period on any given day. Instead, RCH had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. For example, Ms. Garcia signed RCH's blanket "Meal Period Waiver" near the time she was hired on October 2, 2019.

Because RCH took the position that non-exempt, hourly paid employees had waived their rights to one of their two meal periods for the entirety of their employment, RCH did not provide them with all meal periods to which they were entitled. Specifically, RCH's "Meal Period Waiver" form provides, in relevant part,

By signing below, I _____, voluntarily agree to (please check all that apply):

...

___ Waive one of my two meal periods for each day in which I work more than 10 hours. I agree that this Meal Period Waiver shall remain in effect until I exercise, or the Hospital exercises, the option to revoke it. I understand that I or the Hospital may revoke this Waiver at any time by providing at least one day's notice to the other.

RCH's company-wide use of blanket meal period waivers signed at or near the time of hire and imposition on employees to revoke the meal period waiver in writing discouraged and prevented Ms. Garcia and/or other aggrieved employees from taking all meal periods to which they were entitled. And, RCH's presumption that second meal periods would not be provided for shifts in excess of ten (10) hours due to blanket second meal period waivers discouraged Ms. Garcia and other aggrieved employees from taking second meal periods. Further, the applicable IWC Wage Order provides that meal waivers for healthcare industry employees must be signed by both the employee and employer in order to be valid, and the blanket meal period waivers were signed by only Ms. Garcia and other aggrieved employees, and not by RCH.

As a result of RCH's practices and/or policies, Ms. Garcia and other aggrieved employees were forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods interrupted, and/or had to forgo their meal periods altogether. RCH knew or should have known that as a result of its policies, Ms. Garcia and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. RCH further knew or should have known that it did not pay Ms. Garcia and/or other aggrieved employees meal period premium wages when meal periods were missed, late, short, and/or interrupted, because RCH adjusted employee time records to reflect compliant meal periods, even if none were taken.

Furthermore, RCH engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Garcia and other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that RCH did pay Ms. Garcia and/or other aggrieved employees premium pay for missed, late, and interrupted meal periods, RCH did not pay Ms. Garcia and/or other aggrieved employees at the correct rate of pay for premiums because RCH systematically failed to include all forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, RCH failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Garcia and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order

provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest.” *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, RCH regularly failed to authorize and permit Ms. Garcia and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, RCH’s company-wide policies and/or practice of understaffing and assigning heavy workloads prevented Ms. Garcia and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. Additionally, RCH failed to schedule rest periods and/or adhere to schedule for rest periods, which, coupled with RCH’s failure to provide adequate rest period coverage, further led to Ms. Garcia and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Furthermore, during the relevant time period, RCH maintained and implemented a company-wide on-premises rest period policy, which mandated Ms. Garcia and other aggrieved employees remain on the work premises during their rest periods. Because Ms. Garcia and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as leaving to purchase a meal nearby. Thus, RCH effectively maintained control over Ms. Garcia and other aggrieved employees during rest periods.

As a result, Ms. Garcia and other aggrieved employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without being permitted and authorized to take all ten (10) minute rest periods to which they were entitled. For example, Ms. Garcia missed rest periods at least three (3) times per week because of the heavy workload and lack of coverage. In addition, her rest periods would be interrupted by patients requiring immediate assistance or by doctors needing to discuss patient care. RCH failed to authorize and permit Ms. Garcia and other aggrieved employees to take another rest period when their rest periods were interrupted to respond to the needs of patients.

RCH also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Garcia and other aggrieved employees have not received all premium pay for missed rest periods. Alternatively, to the extent that RCH did pay Ms. Garcia and/or other aggrieved employees one (1) additional hour of premium pay for missed rest periods, RCH did not pay Ms. Garcia and/or other aggrieved employees at the correct rate of pay for premiums because RCH failed to include all forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, RCH failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Garcia and other aggrieved employees are entitled to civil

penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, RCH has knowingly and intentionally provided Ms. Garcia and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, RCH issued uniform wage statements to Ms. Garcia and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, RCH violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

First, because RCH did not record the time Ms. Garcia and other aggrieved employees spent working off-the-clock and deducted time from their meal periods that were missed and/or interrupted (and therefore time for which they should have been paid), RCH did not list the correct amount of gross wages and net wages earned by Ms. Garcia and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, RCH failed to accurately list the total number of hours worked by Ms. Garcia and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Second, because RCH did not calculate Ms. Garcia's and/or other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest period premiums, RCH did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, RCH also failed to list the correct amount of net wages in violation of section 226(a)(5). RCH also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages and/or meal and rest period premiums, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to

list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), RCH willfully failed to maintain accurate payroll records for Ms. Garcia and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, RCH engaged in company-wide practices and/or policies of failing to record actual hours worked (including falsifying Ms. Garcia’s and/or other aggrieved employees’ time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken), and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Garcia and other aggrieved employees in violation of section 1198. Furthermore, in light of RCH’s failure to provide Ms. Garcia and other aggrieved employees with second 30-minute meal periods to which they were entitled, RCH kept no records of meal start and end times for second meal periods.

Because RCH failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Garcia and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Garcia and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Garcia and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following

month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, RCH failed to pay Ms. Garcia and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, within any time period specified by California Labor Code section 204.

Ms. Garcia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

RCH willfully failed to pay Ms. Garcia and other aggrieved employees who are no longer employed by RCH all their earned wages, including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving RCH's employ.

Ms. Garcia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 222.5 – Failure to Pay for Costs of Mandatory Physical Exams and/or Drug Testing

At all times herein set forth, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

During the relevant time period, RCH implemented, on a company-wide basis, an employer-imposed requirement that other aggrieved employees undergo mandatory physical examinations, tuberculin (TB) testing, and/or drug testing, but required them to do so at their own expense. As stated, RCH had a company-wide policy requiring that other aggrieved employees travel to a specified medical facility on their own time and use their own means of transportation to undergo physical examinations, TB testing, and/or drug testing. At all times, RCH was in control of scheduling the date and time for the examinations and/or testing, selecting the provider/facility where the examinations and/or testing were to take place, and determining the scope of the examinations and/or testing.

However, RCH did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities, for the time they spent undergoing the physical examinations, TB testing, and/or drug testing, or reimburse them for the travel expenses they incurred getting to and from the medical facilities. RCH's policy and/or practice of not paying for all costs other aggrieved employees incurred obtaining mandatory physical examinations, TB testing, and/or drug testing is in violation of California Labor Code section 222.5.

Other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198 further requires that "... the standard conditions of labor fixed by the commission shall be the ... standard conditions of labor for employees. The employment of any employee ... under conditions of labor prohibited by the order is unlawful."

California Code of Regulations, Title 8, section 11050(5)(A) provides that "[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage." The "primary purpose of the reporting time regulation" is "to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer." *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, RCH violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because RCH failed to pay Ms. Garcia and other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the regularly scheduled day's work.

RCH had a company-wide practice of sending Ms. Garcia and other aggrieved employees home early from their shifts, including before they had worked at least half of their regular shift, but would not pay Ms. Garcia and other aggrieved employees for half of their scheduled shift. For example, when scheduled to work a twelve and a half (12.5) hour shift, Ms. Garcia was sent home after five (5) hours, but was only paid for the time that she had worked. Although Ms. Garcia and other aggrieved employees would report to work based on the schedule that RCH provided to them, RCH would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay. Accordingly, Ms. Garcia and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A).

Ms. Garcia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 5-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.” IWC Wage Order No. 5-2001 further provides that: “[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.”

First, during the relevant time period, RCH required Ms. Garcia and other aggrieved employees to wear medical scrubs, including shirts and/or pants. However, due to the nature of hospital patient care, Ms. Garcia's and other aggrieved employees' uniforms would become exposed to germs, bacteria, bodily fluids such that they were unable to mix these clothes in with other laundry. As a result, they had to wash their uniform items separately from their other clothing items, thus incurring additional utility and laundry expenses for the upkeep of their uniforms. Thus, RCH failed to maintain the uniforms it required Ms. Garcia and other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

Second, RCH had a company-wide policy of requiring other aggrieved employees to utilize their own personal cellular phones and cellular data to carry out their job duties, but RCH failed to reimburse them for the costs of their work-related cellular phone expenses. Other aggrieved employees were required to use their personal cellular phones to complete their work-related tasks, such as discussing requests from management and work assignments. Although RCH required other aggrieved employees to utilize their personal cellular phones to carry out their work-related responsibilities, RCH failed to reimburse them for this cost.

Third, during the relevant time period, RCH had a company-wide policy of requiring other aggrieved employees to travel to medical facilities on their own time and using their personal vehicles to obtain mandatory physical examinations, tuberculin (TB) testing, and/or drug testing, but did not reimburse them for their travel expenses, including mileage. At all times, RCH was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. RCH gave other aggrieved employees strict instructions to obtain drug testing, TB testing, and/or physical examinations, and other aggrieved employees underwent the testing and/or physical examinations for the sole benefit of RCH. Although RCH required other aggrieved employees to use their own vehicles or obtain alternate transportation to undergo physical examinations, TB testing, and/or drug testing, RCH never reimbursed them for their travel expenses.

RCH could have provided Ms. Garcia and other aggrieved employees with the actual tools required for use on the job, such as company phones and company vehicles to be used for fulfilling work-related tasks, and access to laundering services. Or, RCH could have reimbursed employees for the costs of their cellular phone, mileage, travel expenses, and laundering expenses or provided a

uniform maintenance allowance. Instead, RCH passed these operating costs off onto Ms. Garcia and other aggrieved employees.

Thus, RCH had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Garcia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

RCH failed to provide Ms. Garcia and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). RCH's failure to provide Ms. Garcia and other aggrieved employees with written notice of basic information regarding their employment with RCH is in violation of Labor Code section 2810.5.

Ms. Garcia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." RCH, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Garcia's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Garcia seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular

California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Garcia, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against RCH for violations of California Labor Code sections 201, 202, 204, 222.5, 226(a), 226.7, 510, 511, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Garcia seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Ms. Garcia's reasonable attempt to settle her dispute with RCH prior to litigation. Pursuant to *Graham v. Daimler Chrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform RCH while affording RCH a reasonable opportunity to satisfy Ms. Garcia's demands.

Demand is hereby made that RCH shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. RCH shall pay Ms. Garcia and all other aggrieved employees employed by RCH at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. RCH shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked, provided lawful meal and rest periods, and paid reporting time pay.
3. RCH shall conduct a survey or interview all current and former aggrieved employees in California who worked for RCH in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted, the number of rest periods which were not authorized and permitted; and the number of employees who were required to pay for mandatory medical examinations, uniform maintenance, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.
4. RCH shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. RCH also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. RCH shall provide aggrieved employees who are required to report for work and do report but are not put to work or are furnished less than half their usual or scheduled day's work, with pay for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the aggrieved employee's regular rate of pay.

6. RCH shall reimburse those aggrieved employees who were required to pay for any business expenses incurred for RCH's benefit, including, but not limited to, mandatory medical examinations, uniform maintenance, or other expenditures, as required by Labor Code sections 222.5 and 2802.
7. RCH shall pay accrued legal interest to all aggrieved employees at the rate of 10% per annum for said unpaid wages.
8. RCH shall provide Ms. Garcia and all aggrieved employees employed by RCH at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
9. RCH shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
10. RCH shall provide aggrieved employees who are required to report for work and do report but are not put to work or are furnished less than half their usual or scheduled day's work, with pay for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the aggrieved employee's regular rate of pay.
11. RCH shall provide all aggrieved employees written notice of basic information regarding their employment that includes the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
12. RCH shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 225, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and Wage Order No. 5-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Ninel Kocharyan
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,



Ninel Kocharyan

Copy: COLUMBIA RIVERSIDE, INC. (via U.S. Certified Mail); RIVERSIDE HEALTHCARE SYSTEM, L.P. (via U.S. Certified Mail)

Capstone
LAW APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067

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☐ Addressee

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ONE PARK PLAZA
NASHVILLE TN 37203

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NASHVILLE TN 37203

9590 9402 7420 2055 3570 13

2. Article Number (Transfer from service label)

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PS Form 3811, July 2020 PSN 7530-02-000-9053

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1. Article Addressed to: COLUMBIA RIVERSIDE, INC. ONE PARK PLAZA NASHVILLE TN 37203  9590 9402 7420 2055 3570 20	3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500) ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery
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1. Article Addressed to: RIVERSIDE HEALTHCARE SYSTEM, L.P. ONE PARK PLAZA NASHVILLE TN 37203  9590 9402 7420 2055 3570 13	3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Insured Mail ☐ Insured Mail Restricted Delivery (over \$500) ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery
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1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the State of California, County of Los Angeles. I am over the age of
4 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite
5 1000, Los Angeles, California 90067.

6 On **October 7, 2022**, I served the document(s) described as:

7 **FIRST AMENDED CLASS ACTION COMPLAINT & ENFORCEMENT ACTION**
8 **UNDER THE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA LABOR CODE**
9 **§§2698, ET SEQ.**

10 on the interested parties in this action by sending [] the original [or] [✓] a true copy
11 thereof [] to interested parties as follows [or] [✓] as stated on the attached service list:

12 SHEPPARD, MULLIN, RICHTER & HAMPTON
13 LLP A Limited Liability Partnership
14 Including Professional Corporations
15 RICHARD J. SIMMONS, Cal. Bar No. 72666
16 rsimmons@sheppardmullin.com
17 JASON W. KEARNAGHAN, Cal. Bar No. 207707
18 jkeamaghan@sheppardmullin.com
19 HILARY A. HABIB, Cal. Bar No. 293431
20 hhabib@sheppardmullin.com
21 333 South Hope Street, 43rd Floor
22 Los Angeles, California 90071-1422
23 Telephone: 213-620-1780
24 Facsimile: 213-620-1398

25 MELANIE M. HAMILTON, Cal. Bar No.
26 268037 mhamilton@sheppardmullin.com
27 650 Town Center Drive, 10th Floor
28 Costa Mesa, California 92626
Telephone: 714-513-5100
Facsimile: 714-513-5130

Attorneys for Defendants COLUMBIA RIVERSIDE, INC. and RIVERSIDE HEALTH CARE
SYSTEM, L.P.

1 [] **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the
2 envelope(s) for mailing in the ordinary course of business at Los Angeles, California.
3 I am "readily familiar" with this firm's practice of collection and processing
4 correspondence for mailing. Under that practice, sealed envelopes are deposited with
5 the U.S. Postal Service that same day in the ordinary course of business with postage
6 thereon fully prepaid at Los Angeles, California.

7 [✓] **BY ELECTRONIC SERVICE:** I caused the document(s) to be transmitted
8 electronically via One Legal eService to the individuals listed above, as they exist on
9 that database. This will constitute service of the document(s).

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

12 Executed this **October 7, 2022** at Los Angeles, California.

13 Jasmine Garcia
14 Type or Print Name

15 
16 Signature