

1 **MATERN LAW GROUP, PC**
Matthew J. Matern (SBN 159798)
2 Email: mmatern@maternlawgroup.com
Joshua D. Boxer (SBN 226712)
3 Email: jboxer@maternlawgroup.com
1230 Rosecrans Avenue, Suite 200
4 Manhattan Beach, California 90266
Telephone: (310) 531-1900
5 Facsimile: (310) 531-1901

6 **MATERN LAW GROUP, PC**
Corey B. Bennett (SBN 267816)
7 Email: cbennett@maternlawgroup.com
1330 Broadway, Suite 436
8 Oakland, California 94612
Telephone: (510) 227-3998
9 Facsimile: (310) 531-1901

10 Attorneys for Plaintiff,
MELISSA TUNA, individually and on
11 behalf of other persons similarly situated

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **FOR THE COUNTY OF SAN BERNARDINO**

14 MELISSA TUNA, an individual, on behalf
of herself and on behalf of other persons
15 similarly situated,

16 Plaintiff,

17 vs.

18 PRIME HEALTHCARE MANAGEMENT,
INC., a California corporation; and DOES 1
19 through 50, inclusive,

20 Defendants.
21
22
23
24
25
26
27
28

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

JUL 13 2023

BY: Kylie Meneses
Kylie Meneses, Deputy

Case No.: **CIV SB 2316215**

CLASS ACTION COMPLAINT:

1. Failure to Provide Required Meal Periods;
2. Failure to Provide Required Rest Periods;
3. Failure to Pay Overtime Wages;
4. Failure to Pay Minimum Wages;
5. Failure to Pay All Wages Due to Discharged and Quitting Employees;
6. Failure to Maintain Required Records;
7. Failure to Furnish Accurate Itemized Wage Statements;
8. Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties;
9. Unfair and Unlawful Business Practices

REPRESENTATIVE ACTION:

10. Penalties under the Labor Code Private Attorneys General Act, as Representative Action.

DEMAND FOR JURY TRIAL

1 Plaintiff MELISSA TUNA (“PLAINTIFF”), an individual, demanding a jury trial, on
2 behalf of herself and other persons similarly situated and aggrieved, hereby alleges as follows:

3 **INTRODUCTION**

4 1. PLAINTIFF brings this action on behalf of herself and all other similarly-situated
5 current and former non-exempt employees of Defendants, PRIME HEALTHCARE
6 MANAGEMENT, INC., (“PRIME HEALTHCARE”) and DOES 1 through 50 inclusive
7 (collectively, “DEFENDANTS”) in the State of California during the relevant statutory period to
8 recover penalties arising from DEFENDANTS’ failure to provide employees meal and rest
9 periods (or compensation therefore) as required under California law, failure to provide minimum
10 and overtimes wages for all hours worked, failure to timely pay wages during employment,
11 failure to pay wages due upon separation, failure to maintain required records, failure to provide
12 accurate itemized wage statements, and failure to indemnify employees for necessary
13 expenditures and/or losses incurred the discharge of their duties. PLAINTIFF also seeks
14 penalties, interest, attorneys’ fees, costs and expenses, and equitable, restitutionary and injunctive
15 relief.

16 **JURISDICTION AND VENUE**

17 2. The Superior Court of the State of California has jurisdiction in this matter because
18 PLAINTIFF is a citizen and resident of the State of California and DEFENDANT is a citizen and
19 resident of, and/or regularly conducts business in California. Further, no federal question is at issue
20 because the claims are based solely on California law.

21 3. Venue is proper in this judicial district and the County of San Bernardino,
22 California because DEFENDANT maintains offices and facilities and transacts business in the
23 County of San Bernardino, and DEFENDANT’s illegal policies and practices which are the
24 subject of this action were applied, at least in part, to PLAINTIFF and other persons similarly
25 situated in the County of San Bernardino.

26 \\\n

27 \\\n

28 \\\n

1 **PLAINTIFF**

2 4. PLAINTIFF is a citizen and resident of the State of California. On July 14, 2021,
3 PLAINTIFF began working as a collector at PRIME HEALTHCARE MANAGEMENT, INC., a
4 hospital in Ontario, California. PLAINTIFF was forced to resign on or about June 14, 2022, but at
5 all times material to this complaint was employed by DEFENDANTS in the State of California as
6 a non-exempt employee.

7 5. PLAINTIFF brings this action on behalf of herself and the following similarly
8 situated class of individuals ("CLASS MEMBERS"): all current and former non-exempt
9 employees of DEFENDANT in the State of California at any time within the period beginning
10 four (4) years prior to the filing of this action and ending at the time this action settles or proceeds
11 to final judgment (the "CLASS PERIOD"). PLAINTIFF reserves the right to name additional
12 class representatives.

13 **DEFENDANT**

14 6. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANT
15 PRIME HEALTHCARE is, and at all times relevant hereto was, a California limited liability
16 company. PLAINTIFF is further informed and believes, and thereon alleges, that PRIME
17 HEALTHCARE is authorized to and does conduct business in the State of California.
18 Specifically, PRIME HEALTHCARE maintains offices and facilities and conducts business in,
19 and engages in illegal payroll practices or policies in the County of San Bernardino, State of
20 California.

21 7. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
22 PLAINTIFF at this time, and PLAINTIFF therefore sues such DOE Defendants under fictitious
23 names. PLAINTIFF is informed and believes, and thereon alleges, that each Defendant
24 designated as a DOE is in some manner highly responsible for the occurrences alleged herein, and
25 that PLAINTIFF and other CLASS MEMBERS' injuries and damages, as alleged herein, were
26 proximately caused by the conduct of such DOE Defendants. PLAINTIFF will seek leave of the
27 court to amend this Complaint to allege their true names and capacities of such DOE Defendants
28 when ascertained.

1 8. At all relevant times herein, DEFENDANT was the joint employer of PLAINTIFF
2 and other CLASS MEMBERS. PLAINTIFF is informed and believes, and thereon alleges, that at
3 all times material to this Complaint DEFENDANT was the alter egos, divisions, affiliates,
4 integrated enterprises, joint employers, subsidiaries, parents, principals, related entities, co-
5 conspirators, authorized agents, partners, joint venturers, and/or guarantors, actual or ostensible,
6 of each other. Each Defendant was completely dominated by his, her or its co-Defendant, and
7 each was the alter ego of the other.

8 9. At all relevant times herein, PLAINTIFF and CLASS MEMBERS were employed
9 by DEFENDANT under employment agreements that were partly written, partly oral, and partly
10 implied. In perpetrating the acts and omissions alleged herein, DEFENDANT, and each of them,
11 acted pursuant to, and in furtherance of, their policies and practices of not paying PLAINTIFF
12 and other CLASS MEMBERS all wages earned and due, through methods and schemes which
13 include, but are not limited to, failing to pay overtime premiums; failing to provide rest and meal
14 periods; failing to properly maintain records; failing to provide accurate itemized statements for
15 each pay period; failing to properly compensate PLAINTIFF and CLASS MEMBERS for
16 necessary expenditures; and requiring, permitting or suffering the employees to work off the
17 clock, in violation of the California Labor Code and the applicable Welfare Commission ("IWC")
18 Orders.

19 10. PLAINTIFF is informed and believes, and thereon alleges, that each and every one
20 of the acts and omissions alleged herein were performed by, and/or attributable to, all
21 DEFENDANTS, each acting as agents and/or employees, and/or under the direction and control
22 of, each of the other DEFENDANTS, and that said acts and failures to act were within the course
23 and scope of said agency, employment and/or direction and control.

24 11. Pursuant to California Labor Code § 558.1, DEFENDANTS and any person acting
25 on behalf of any of the DEFENDANTS, are liable for violating, or causing to violate, any
26 provision regulating minimum wages or hours and days of work in any order of the Industrial
27 Welfare Commission, or Labor Code §§ 203, 226, 226.7, 1193.6, 1994, or 2802.

28 12. As a direct and proximate result of the unlawful actions of DEFENDANTS,

1 PLAINTIFF and CLASS MEMBERS have suffered, and continue to suffer, from loss of earnings
2 in amounts as yet unascertained, but subject to proof at trial, and within the jurisdiction of this
3 Court.

4 **CLASS ACTION ALLEGATIONS**

5 13. This action is appropriately suited for a Class Action because:

6 a. The potential class is a significant number. Joinder of all current and
7 former employees individually would be impractical.

8 b. This action involves common questions of law and fact to the potential
9 class because the action focuses on DEFENDANTS' systematic course of illegal payroll practices
10 and policies, which was applied to all non-exempt employees in violation of the Labor Code, the
11 applicable IWC Wage Order, and the Business and Professions Code which prohibits unfair
12 business practices arising from such violations.

13 c. PLAINTIFF's claims are typical of the class because DEFENDANTS
14 subjected all non-exempt employees to identical violations of the Labor Code, the applicable
15 IWC wage order, and the Business and Professions Code.

16 d. PLAINTIFF will fairly and adequately protect the interest of all CLASS
17 MEMBERS because it is in her best interests to prosecute the claims alleged herein to obtain full
18 compensation due to them for all services rendered and hours worked.

19 e. A class action is superior to other available methods for fairly and
20 efficiently adjudicating the controversy.

21 **FIRST CAUSE OF ACTION**

22 **Failure to Provide Required Meal Periods**

23 **[Cal. Labor Code §§ 226.7, 510, 512, 1194, 1197; IWC Wage Order No. 5-2001, § 11]**

24 **(Against all DEFENDANTS)**

25 14. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
26 factual allegations in the foregoing paragraphs.

27 15. During the CLASS PERIOD, as part of DEFENDANTS' illegal policies and
28 practices to deprive their current and former non-exempt employees all wages earned and due,

1 DEFENDANTS required, suffered or permitted PLAINTIFF and CLASS MEMBERS to take less
2 than the 30-minute meal period, or to work through them, and have failed to otherwise provide
3 the required meal periods to PLAINTIFF and CLASS MEMBERS pursuant to Labor Code §§
4 226.7 and 512 and IWC Order No. 5-2001, § 11.

5 16. DEFENDANTS further violated Labor Code §§ 226.7 and 512 and IWC Wage
6 Order No. 5-2001, §11 by failing to compensate PLAINTIFF and CLASS MEMBERS who were
7 not provided with a meal period, in accordance with the applicable IWC Wage Order, one
8 additional hour of compensation at each employee's regular rate of pay for each workday that a
9 meal period was not provided.

10 17. DEFENDANTS further violated California Labor Code §§ 226.7, 510, 1194,
11 1197, and IWC Wage Order No. 5-2001 by failing to compensate PLAINTIFF and CLASS
12 MEMBERS for all hours worked during their meal periods.

13 18. As a proximate result of the aforementioned violations, PLAINTIFF and CLASS
14 MEMBERS have been damaged in an amount according to proof at trial, and seek all wages
15 earned and due, interest, penalties, expenses, and costs of suit.

16 **SECOND CAUSE OF ACTION**

17 **Failure to Provide Required Rest Periods**

18 **[Cal. Labor Code §§ 226.7, 512; IWC Wage Order No. 5-2001, § 12]**

19 **(Against all DEFENDANTS)**

20 19. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
21 factual allegations in the foregoing paragraphs.

22 20. At all times relevant herein, as part of DEFENDANTS' illegal policies and
23 practices to deprive their current and former non-exempt employees all wages earned and due,
24 DEFENDANTS failed to provide rest periods to PLAINTIFF and CLASS MEMBERS as
25 required under Labor Code § 226.7 and 512, and IWC Wage Order No. 5-2001, § 12.

26 21. DEFENDANTS further violated Labor Code § 226.7 and IWC Wage Order No. 5-
27 2001, § 12 by failing to pay PLAINTIFF and CLASS MEMBERS who were not provided with a
28 rest period, in accordance with the applicable IWC Wage Order, one additional hour of

1 compensation at each employee's regular rate of pay for each workday that a rest period was not
2 provided.

3 22. As a proximate result of the aforementioned violations, PLAINTIFF and CLASS
4 MEMBERS have been damaged in an amount according to proof at trial, and seek all wages
5 earned and due, interest, penalties, expenses, and costs of suit.

6 **THIRD CAUSE OF ACTION**

7 **Failure to Pay Overtime Wages**

8 **[Cal. Labor Code §§ 510, 1194, 1198; IWC Wage Order No. 5-2001, § 3]**

9 **(Against all DEFENDANTS)**

10 23. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
11 factual allegations in the foregoing paragraphs.

12 24. Pursuant to Labor Code §§ 510 and 1194 and IWC Wage Order No. 5-2001, § 3,
13 DEFENDANTS are required to compensate PLAINTIFF and CLASS MEMBERS for all
14 overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for all hours
15 worked in excess of eight (8) hours per day and/or forty (40) hours per week, and for the first
16 eight (8) hours on the seventh consecutive workday, with double time for all hours worked in
17 excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours
18 on the seventh consecutive day of work in any workweek.

19 25. PLAINTIFF and CLASS MEMBERS are current and former non-exempt
20 employees entitled to the protections of California Labor Code §§ 510 and 1194 and IWC Wage
21 Order No. 5-2001. During the CLASS PERIOD, DEFENDANTS failed to compensate
22 PLAINTIFF and CLASS MEMBERS for all overtime hours worked as required under the
23 foregoing provisions of the Labor Code and IWC Wage Order by, among other things: failing to
24 pay overtime at one and one-half (1 ½) or double the regular rate of pay as provided by Labor
25 Code §§ 510, 1194, and IWC Wage Order No. 5-2001, § 3; requiring, suffering or permitting
26 PLAINTIFF and CLASS MEMBERS to work off the clock; requiring, permitting or suffering
27 PLAINTIFF and CLASS MEMBERS to work through meal breaks; illegally and inaccurately
28 recording time in which PLAINTIFF and CLASS MEMBERS worked; failing to properly

1 maintain PLAINTIFF's and CLASS MEMBERS' records; failing to provide accurate itemized
2 wage statements to PLAINTIFF for each pay period; and other methods to be discovered.

3 26. In violation of California law, DEFENDANTS have knowingly and willfully
4 refused to perform their obligations to compensate PLAINTIFF and CLASS MEMBERS for all
5 wages earned and all hours worked. As a proximate result, PLAINTIFF and CLASS MEMBERS
6 have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such
7 wages, lost interest on such wages, and expenses and attorneys' fees in seeking to compel
8 DEFENDANTS to fully perform their obligations under state law, all to their respective damages
9 in amounts according to proof at time of trial, and within the jurisdiction of this Court.

10 27. DEFENDANTS' conduct described herein violates California Labor Code §§ 510,
11 1194, 1198 and IWC Wage Order No. 5-2001, § 3. Therefore, pursuant to California Labor Code
12 §§ 200, 226, 558, 1194, 1197.1, and other applicable provisions under the California Labor Code
13 and IWC Wage Orders, PLAINTIFF and CLASS MEMBERS are entitled to recover the unpaid
14 balance of wages owed to them by DEFENDANTS, plus interest, penalties, attorneys' fees,
15 expenses, and costs of suit.

16 **FOURTH CAUSE OF ACTION**

17 **Failure to Pay Minimum Wages**

18 **[Cal Labor Code §§ 1194, 1197; IWC Wage Order No. 5-2001, § 4]**

19 **(Against all DEFENDANTS)**

20 28. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
21 factual allegations in the foregoing paragraphs.

22 29. Pursuant to California Labor Code §§ 1194 and 1197 and IWC Wage Order No. 5-
23 2001, § 4, payment to an employee of less than the applicable minimum wage for all hours
24 worked in a payroll period is unlawful.

25 30. During the CLASS PERIOD and in violation of California Labor Code §§ 1194
26 and 1197 and IWC Wage Order No. 5-2001, § 4, DEFENDANTS failed to pay PLAINTIFF and
27 CLASS MEMBERS the applicable minimum wages for all hours worked in a payroll period by,
28 among other things: requiring, suffering or permitting PLAINTIFF and CLASS MEMBERS to

1 work off the clock; requiring, suffering or permitting PLAINTIFF and CLASS MEMBERS to
2 work through meal and rest breaks; illegally and inaccurately recording time in which
3 PLAINTIFF and CLASS MEMBERS worked; failing to properly maintain PLAINTIFF's and
4 CLASS MEMBERS' records; failing to provide accurate itemized wage statements to
5 PLAINTIFF and CLASS MEMBERS for each pay period; and other methods to be discovered.

6 31. DEFENDANTS' conduct described herein violates California Labor Code §§
7 1194, 1197, and IWC Wage Order No. 5-2001, § 4. As a proximate result of the aforementioned
8 violations, PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to
9 proof at trial. Therefore, pursuant to California Labor Code §§ 200, 226, 558, 1194, 1197.1, and
10 other applicable provisions under the Labor Code and IWC Wage Orders, PLAINTIFF and
11 CLASS MEMBERS are entitled to recover the unpaid balance of wages owed to them by
12 DEFENDANTS, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

13 **FIFTH CAUSE OF ACTION**

14 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

15 **[Cal. Labor Code § 201, 202, 203]**

16 **(Against all DEFENDANTS)**

17 32. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
18 factual allegations in the foregoing paragraphs.

19 33. Pursuant to California Labor Code § 201, 202, and 203, DEFENDANTS are
20 required to pay all earned and unpaid wages to an employee who is discharged. California Labor
21 Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued
22 and unpaid at the time of discharge are due and payable immediately.

23 34. Furthermore, pursuant to California Labor Code § 202, DEFENDANTS are
24 required to pay all accrued wages due to an employee no later than 72 hours after the employee
25 quits his or her employment, unless the employee provided 72 hours previous notice of his or her
26 intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

27 35. California Labor Code § 203 provides that if an employer willfully fails to pay, in
28 accordance with California Labor Code §§ 201 and 202, any wages of an employee who is

1 discharged or who quits, the employer is liable for waiting time penalties in the form of continued
2 compensation to the employee at the same rate for up to 30 workdays.

3 36. During the CLASS PERIOD, DEFENDANTS have willfully failed to pay accrued
4 wages and other compensation to PLAINTIFF and CLASS MEMBERS in accordance with
5 California Labor Code §§ 201 and 202.

6 37. As a result, PLAINTIFF and CLASS MEMBERS are entitled to all available
7 statutory penalties, including the waiting time penalties provided in California Labor Code § 203,
8 together with interest thereon, as well as other available remedies.

9 38. As a proximate result of DEFENDANTS' unlawful actions and omissions,
10 PLAINTIFF and CLASS MEMBERS have been deprived of compensation in an amount
11 according to proof at the time of trial, but in excess of the jurisdiction of this Court, and are
12 entitled to recovery of such amounts, plus interest thereon, and attorneys' fees and costs, pursuant
13 to California Labor Code §§ 1194 and 2699.

14 **SIXTH CAUSE OF ACTION**

15 **Failure to Maintain Required Records**

16 **[Cal. Labor Code §§ 226(a), 1174(d); IWC Wage Order No. 5-2001, § 7]**

17 **(Against all DEFENDANTS)**

18 39. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
19 factual allegations in the foregoing paragraphs.

20 40. During the CLASS PERIOD, as part of DEFENDANTS' illegal payroll policies
21 and practices to deprive PLAINTIFF and CLASS MEMBERS of all wages earned and due,
22 DEFENDANTS knowingly and intentionally failed to maintain records as required under Labor
23 Code §§ 226(a) and 1174(d) and IWC Wage Order No. 5-2001, § 7, including but not limited to
24 the following records: total daily hours worked by each employee; applicable rates of pay; all
25 deductions; meal periods; time records showing when each employee begins and ends each work
26 period; and accurate itemized statements.

27 41. As a proximate result of DEFENDANTS' unlawful actions and omissions,
28 PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at

1 trial, and are entitled to all wages earned and due, plus interest thereon. Additionally,
2 PLAINTIFF and CLASS MEMBERS are entitled to all available statutory penalties, including
3 but not limited to civil penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5,
4 and an award of costs, expenses, and reasonable attorneys' fees, including but not limited to those
5 provided in California Labor Code § 226(e), as well as other available remedies.

6 **SEVENTH CAUSE OF ACTION**

7 **Failure to Furnish Accurate Itemized Wage Statements**

8 **[Cal. Labor Code § 226(a), 1174; IWC Wage Order No. 5-2001, § 7]**

9 **(Against all DEFENDANTS)**

10 42. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
11 factual allegations in the foregoing paragraphs.

12 43. During the CLASS PERIOD, DEFENDANTS routinely failed and continue to fail
13 to provide PLAINTIFF and CLASS MEMBERS with timely and accurate itemized wage
14 statements in writing showing each employee's gross wages earned, total hours worked, the
15 number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-
16 rate basis, all deductions made, net wages earned, the inclusive dates of the period for which the
17 employee is paid, the name of the employee and only the last four digits of his or her social
18 security number or employee identification number, the name and address of the legal entity or
19 entities employing PLAINTIFF and CLASS MEMBERS, and all applicable hourly rates in effect
20 during each pay period and the corresponding number of hours worked at each hourly rate, in
21 violation of California Labor Code § 226(a) and IWC Wage Order No. 5-2001, § 7.

22 44. During the CLASS PERIOD, DEFENDANTS knowingly and intentionally failed
23 to provide PLAINTIFF and CLASS MEMBERS with timely and accurate itemized wage
24 statements in accordance with Labor Code § 226(a).

25 45. As a proximate result of DEFENDANTS' unlawful actions and omissions,
26 PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at
27 trial, and seek all wages earned and due, plus interest thereon. Additionally, PLAINTIFF and
28 CLASS MEMBERS are entitled to all available statutory penalties, including but not limited to

1 civil penalties pursuant to California Labor Code §§ 226(e), 226.3, and 1174.5, and an award of
2 costs, expenses, and reasonable attorneys' fees, including but not limited to those provided in
3 California Labor Code § 226(e), as well as other available remedies.

4 **EIGHTH CAUSE OF ACTION**

5 **Failure to Indemnify Employees for Necessary Expenditures**

6 **Incurred in Discharge of Duties**

7 **[Cal. Labor Code § 2802]**

8 **(Against all DEFENDANTS)**

9 46. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
10 factual allegations in the foregoing paragraphs.

11 47. California Labor Code § 2802(a) requires an employer to indemnify an employee
12 for all necessary expenditures or losses incurred by the employee in direct consequence of the
13 discharge of her his or her duties, or of his or her obedience to the directions of the employer.

14 48. During the CLASS PERIOD, DEFENDANTS knowingly and willfully failed to
15 indemnify PLAINTIFF and CLASS MEMBERS for all business expenses and/or losses incurred
16 in direct consequence of the discharge of their duties while working under the direction of
17 DEFENDANTS, including but not limited to expenses for cell phone usage, and other
18 employment-related expenses, in violation of California Labor Code § 2802.

19 49. As a proximate result of DEFENDANTS' unlawful actions and omissions,
20 PLAINTIFF and CLASS MEMBERS have been damaged in an amount according to proof at
21 trial, and seek reimbursement of all necessary expenditures, plus interest thereon pursuant to
22 California Labor Code § 2802(b). Additionally, PLAINTIFF and CLASS MEMBERS are
23 entitled to all available statutory penalties and an award of costs, expenses, and reasonable
24 attorneys' fees, including those provided in California Labor Code § 2802(c), as well as other
25 available remedies.

26 \\\

27 \\\

28 \\\

1 **NINTH CAUSE OF ACTION**

2 **Unfair and Unlawful Business Practices**

3 **[Cal. Bus. & Prof. Code §§ 17200 et. seq.]**

4 **(Against all DEFENDANTS)**

5 50. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
6 factual allegations in the foregoing paragraphs.

7 51. Each and every one of DEFENDANTS' acts and omissions in violation of the
8 California Labor Code and/or the applicable IWC Wage Order as alleged herein, including but
9 not limited to DEFENDANTS' failure and refusal to provide required meal periods,
10 DEFENDANTS' failure and refusal to provide required rest periods, DEFENDANTS' failure and
11 refusal to pay overtime compensation, DEFENDANTS' failure and refusal to pay minimum
12 wages, DEFENDANTS' failure and refusal to pay all wages due to discharged or quitting
13 employees, DEFENDANTS' failure and refusal to furnish accurate itemized wage statements;
14 DEFENDANTS' failure and refusal to maintain required records, DEFENDANTS' failure and
15 refusal to indemnify PLAINTIFF and CLASS MEMBERS for necessary expenditures and/or
16 losses incurring in discharging their duties, constitutes an unfair and unlawful business practice
17 under California Business and Professions Code § 17200 et seq.

18 52. DEFENDANTS' violations of California wage and hour laws constitute a business
19 practice because DEFENDANTS' aforementioned acts and omissions were done repeatedly over
20 a significant period of time, and in a systematic manner, to the detriment of PLAINTIFF and
21 CLASS MEMBERS.

22 53. DEFENDANTS have avoided payment of wages, overtime wages, meal periods,
23 rest periods, and other benefits as required by the California Labor Code, the California Code of
24 Regulations, and the applicable IWC Wage Order. Further, DEFENDANTS have failed to
25 record, report, and pay the correct sums of assessment to the state authorities under the California
26 Labor Code and other applicable regulations.

27 54. As a result of DEFENDANTS' unfair and unlawful business practices,
28 DEFENDANTS have reaped unfair and illegal profits during the CLASS PERIOD at the expense

1 of PLAINTIFF, CLASS MEMBERS, and members of the public. DEFENDANTS should be
2 made to disgorge their ill-gotten gains and to restore them to PLAINTIFF and CLASS
3 MEMBERS.

4 55. DEFENDANTS' unfair and unlawful business practices entitle PLAINTIFF and
5 CLASS MEMBERS to seek preliminary and permanent injunctive relief, including but not
6 limited to orders that DEFENDANTS account for, disgorge, and restore to PLAINTIFF and
7 CLASS MEMBERS the wages and other compensation unlawfully withheld from them.
8 PLAINTIFF and CLASS MEMBERS are entitled to restitution of all monies to be disgorged
9 from DEFENDANTS in an amount according to proof at the time of trial, but in excess of the
10 jurisdiction of this Court.

11 **TENTH CAUSE OF ACTION**

12 **Representative Action for Civil Penalties**

13 **[Cal. Labor Code §§ 2698–2699.5]**

14 **(Against All DEFENDANTS)**

15 56. PLAINTIFF incorporates herein by specific reference as though fully set forth the
16 factual allegations in all preceding paragraphs, with exception of the allegations in paragraph 13
17 and the subparagraphs thereto.

18 57. PLAINTIFF is an “aggrieved employee” within the meaning of California Labor
19 Code § 2699(c), and a proper representative to bring a civil action on behalf of herself and other
20 current and former non-exempt employees of DEFENDANTS pursuant to the procedures
21 specified in California Labor Code § 2699.3, because PLAINTIFF and CLASS MEMBERS were
22 employed by DEFENDANTS and the alleged violations of the California Labor Code were
23 committed against PLAINTIFF and CLASS MEMBERS.

24 58. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”),
25 Labor Code §§ 2698–2699.5, PLAINTIFF and CLASS MEMBERS seeks to recover civil
26 penalties, including but not limited to penalties under California Labor Code §§ 2699, 210,
27 226.3, 558, 1174.5, 1197.1, and IWC Wage Order No. 5-2001, § 20, from DEFENDANTS in a
28 representative action for the violations set forth above, including but not limited to violations of

1 California Labor Code §§ 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1198, and 2802.
2 PLAINTIFF and CLASS MEMBERS are also entitled to an award of reasonable attorneys' fees
3 and costs pursuant to California Labor Code § 2699(g)(1).

4 59. Pursuant to California Labor Code §§ 2699.3, PLAINTIFF gave written notice on
5 _____ by online filing to the California Labor and Workforce Development Agency
6 ("LWDA") and by certified mail to DEFENDANTS of the specific provisions of the California
7 Labor Code and IWC Wage Orders alleged to have been violated, including the facts and theories
8 to support the alleged violations. More than sixty-five (65) days from the _____ postmark
9 date of PLAINTIFF's written notice have passed before filing this action and the LWDA has not
10 provided notice to PLAINTIFF that it intends to investigate the alleged violations.

11 60. Therefore, PLAINTIFF has complied with all of the requirements set forth in
12 California Labor Code § 2699.3 to commence a representative action under PAGA.

13 **PRAYER FOR RELIEF**

14 **WHEREFORE**, PLAINTIFF, individually and on behalf of all other persons similarly
15 situated, respectfully prays for relief against DEFENDANT PRIME HEALTHCARE and DOES
16 1 through 50, inclusive, and each of them, as follows:

- 17 1. For compensatory damages in an amount to be ascertained at trial;
- 18 2. For restitution of all monies due to PLAINTIFF and CLASS MEMBERS, as well
19 as disgorged profits from DEFENDANTS' unfair and unlawful business practices;
- 20 3. For meal and rest period compensation pursuant to California Labor Code § 226.7
21 and IWC Wage Order No. 5-2001;
- 22 4. For liquidated damages pursuant to California Labor Code §§ 1194.2 and 1197.1;
- 23 5. For preliminary and permanent injunctive relief enjoining DEFENDANTS from
24 violating the relevant provisions of the California Labor Code and the IWC Wage Orders, and
25 from engaging in the unlawful business practices complained of herein;
- 26 6. For waiting time penalties pursuant to California Labor Code § 203;
- 27 7. For statutory and civil penalties according to proof, including but not limited to all
28 penalties authorized by the California Labor Code §§ 226(e) and §§ 2698–2699.5;

1 8. For interest on the unpaid wages at 10% per annum pursuant to California Labor
2 Code §§ 218.6, 1194, 2802, California Civil Code §§ 3287, 3288, and/or any other applicable
3 provision providing for pre-judgment interest;

4 9. For reasonable attorneys' fees and costs pursuant to California Labor Code
5 §§ 1194, 2699, 2802, California Civil Code § 1021.5, and any other applicable provisions
6 providing for attorneys' fees and costs;

7 10. For declaratory relief;

8 11. For an order requiring and certifying the First, Second, Third, Fourth, Fifth, Sixth,
9 Seventh, Eighth, and Ninth Causes of Action as a class action;

10 12. For an order appointing PLAINTIFF as class representative, and PLAINTIFF's
11 counsel as class counsel; and

12 13. For such further relief that the Court may deem just and proper.

13
14 DATED: July 12, 2023

Respectfully submitted,

15 **MATERN LAW GROUP, PC**

16
17 By: _____

18 Matthew J. Matern
19 Joshua D. Boxer
20 Corey B. Bennett
21 Attorneys for Plaintiff
22 MELISSA TUNA, individually and on
23 behalf of other persons similarly situated
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

DATED: July 12, 2023

MATERN LAW GROUP, PC

Bxer

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28