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

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SONOMA

MARIA ISORDIA on behalf of herself,
all others similarly situated, and on
behalf of the general public,

Plaintiffs,

v.

TRESTLES HOLDINGS LLC DBA
HILLCREST POST ACUTE; and
DOES 1-100,

Defendants.

Case No. **23CV01288**

**PLAINTIFF MARIA ISORDIA'S PRIVATE
ATTORNEYS GENERAL ACT OF 2004 ("PAGA")
COMPLAINT FILED PURSUANT TO
CALIFORNIA LABOR CODE § 2698, ET. SEQ.**

- 1. Violation of the PAGA for Failure to Pay All
Straight Time Wages;**
- 2. Violation of the PAGA for Failure to Pay All
Overtime Wages;**
- 3. Violation of PAGA for Failure to Provide Meal
Periods;**
- 4. Violation of PAGA for Failure to Provide Rest
Periods;**
- 5. Violation of the PAGA for Knowing and
Intentional Failure to Comply with Itemized
Employee Wage Statement Provisions;**
- 6. Violation of the PAGA for Failure to Pay All
Wages Due at the Time of Termination of
Employment;**
- 7. Violation of PAGA for Failure to Adopt a
Compliant Sick Pay/Paid Time Off Policy and
Failure to Provide Written Notice Setting Forth
Amount of Sick Leave Available; and**
- 8. Violation of PAGA for Failure to Reimburse
Business Expenses Incurred in Discharging
Duties (Cal. Lab. Code § 2698, et. seq.).**

DEMAND FOR JURY TRIAL

1 Plaintiff MARIA ISORDIA (hereinafter referred to as “Plaintiff”), on behalf herself and all
2 other non-exempt, hourly employees who worked in California (hereinafter referred to as the
3 “Aggrieved Employees”), files this Complaint against Defendant TRESTLES HOLDINGS LLC DBA
4 HILLCREST POST ACUTE (hereinafter referred to as “HILLCREST POST ACUTE”) and/or DOES
5 1-100.

6 **I. INTRODUCTION**

7 1. This is a representative action seeking recovery of penalties under the California Labor Code
8 Private Attorneys General Act of 2004 (“PAGA”), California Labor Code Sections 2698 et.
9 seq., against HILLCREST POST ACUTE and/or DOES 1-100. The PAGA permits an
10 “aggrieved employee” to bring a lawsuit on behalf of herself and other current and former
11 employees to address an employer’s violations of the *California Labor Code*.

12 2. HILLCREST POST ACUTE and/or DOES operate skilled nursing facilities.

13 3. HILLCREST POST ACUTE is a California corporation and operates out of locations in
14 California.

15 4. HILLCREST POST ACUTE and/or DOES employ hourly, non-exempt employees to work at
16 its locations.

17 5. HILLCREST POST ACUTE and/or DOES have maintained uniform policies that violate the
18 wage and hour rights of Plaintiff and similarly situated non-exempt employees in the manner
19 complained of herein.

20 6. This action is brought on behalf of Plaintiff and all other Aggrieved Employees of
21 HILLCREST POST ACUTE and/or DOES who: worked a shift of at least five (5) hours
22 without receiving a meal period; worked four (4) hours, or a major fraction thereof, without
23 receiving a ten (10) minute net rest break; were not provided accurate itemized wage
24 statements; were not paid compensation for all time worked at the straight or overtime rate;
25 were not paid waiting time penalties; were not provided with sick pay in compliance with
26 California law; were not provided with written notices setting forth the amount of sick leave
27 available, and were not provided reimbursement for business expenses. Plaintiff seeks
28 penalties on behalf of herself and all other Aggrieved Employees of Defendant and/or DOES

as provided herein. This Complaint also seeks attorneys' fees and costs under the PAGA, *California Labor Code* section 2699(g)(1).

7. At all times mentioned herein, Plaintiff and the other Aggrieved Employees were not classified as "Exempt" or primarily employed in an executive, professional, or administrative capacity. Thus, under California law, Plaintiff and the Aggrieved Employees should be: paid compensation for all time worked at the regular or overtime rate; provided meal periods; authorized and permitted to take rest periods; paid one hour of premium pay for all unprovided meal periods; paid one hour of premium pay for all rest periods that were not authorized and/or permitted; paid penalties for not being provided itemized wage statements; paid penalties for not being paid timely at the time of termination; provided with sick pay in compliance with California law; and reimbursed for business expenses.

8. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES control the working conditions of Plaintiff and the Aggrieved Employees including, but not limited to, having the authority to hire and fire Plaintiff and the Aggrieved Employees, setting the wages of Plaintiff and the Aggrieved Employees, and instructing Plaintiff and the Aggrieved Employees when and/or where to work. In addition, HILLCREST POST ACUTE and/or DOES develop, wrote, dictated, approved and/or authorized wage and hour policies and/or practices that Plaintiff and the Aggrieved Employees labored under. These policies and/or practices included, but were not limited to, policies and/or practices regarding straight-time, overtime, meal periods, rest periods, wage statements, timing of payment, paying compensation at the time of termination, sick pay/paid time off, and reimbursement of business expenses. Further, HILLCREST POST ACUTE and/or DOES have the ability to prevent Plaintiff and the Aggrieved Employees from working.

II. JURISDICTION AND VENUE

9. Plaintiff is an individual residing in California. At all times relevant to this action, Plaintiff was employed by HILLCREST POST ACUTE and/or DOES in California. Plaintiff, and each of the Aggrieved Employees, were employees of HILLCREST POST ACUTE and/or DOES, and/or its operating divisions and subsidiaries, within the State of California. Plaintiff and each

1 of the Aggrieved Employees were subject to the unlawful policies beginning one (1) year prior
2 to the date Plaintiff sent Notice to the State of California Labor and Workforce Development
3 Agency (LWDA).

4 10. Venue as to each Defendant and/or DOE is proper in this judicial district. Each Defendant
5 and/or DOE operate industrial facilities, employ hourly employees, conduct business, and
6 commit *California Labor Code* violations within Sonoma County and California. Each
7 Defendant and/or DOE is within the jurisdiction of this Court for service of process purposes.
8 The unlawful acts alleged herein have a direct effect on Plaintiff and the other aggrieved
9 employees situated within the State of California and within Sonoma County. HILLCREST
10 POST ACUTE and/or DOES employ numerous aggrieved employees in California and/or
11 Sonoma County.

12 11. Plaintiff brings this action on behalf of herself and the Aggrieved Employees of HILLCREST
13 POST ACUTE and/or DOES pursuant to the PAGA. Plaintiff, as personal representatives of
14 the general public, will and does seek to recover any and all penalties for each and every
15 violation shown to exist or to have occurred during the one (1) year period before Plaintiff filed
16 Notice with the LWDA of her intent to bring this action, in an amount according to proof, as
17 to those penalties that are otherwise only available to public agency enforcement
18 actions. Funds recovered will be distributed in accordance with the PAGA, with at least
19 seventy-five (75) percent of the penalties recovered being reimbursed to the State of California
20 and the LWDA.

21 12. There is no federal question at issue as the issues herein are based solely upon California
22 statutes and law, including the *California Labor Code*, IWC Wage Orders, Code of Civil
23 Procedure, and Civil Code.

24 13. The California Superior Court also has jurisdiction in this matter because the penalties sought
25 exceed the minimum jurisdictional limits of the Superior Court and will be established at trial,
26 according to proof. Defendant and/or DOES either own, maintain offices, transact business,
27 have an agent or agents, have their principal place of business in, and/or otherwise are found
28 within the County of Sonoma, California.

1 **III. THE PARTIES**

2 **A. Plaintiffs**

3 14. Throughout the Statutory Period, Plaintiff MARIA ISORDIA is and was a resident of
4 California. During the Statutory Period, Plaintiff MARIA ISORDIA was employed in a non-
5 exempt hourly capacity by Defendant HILLCREST POST ACUTE and/or DOES in
6 California. Plaintiff MARIA ISORDIA ended her employment with Defendant HILLCREST
7 POST ACUTE and/or DOES on or about February 22, 2023.

8 15. Plaintiff and the Aggrieved Employees were and are employed in the State of California by
9 HILLCREST POST ACUTE and/or DOES. Plaintiff and the Aggrieved Employees are or were
10 employed in a non-exempt, hourly capacity.

11 16. A notice correspondence showing compliance with *California Labor Code* Section 2699.3 was
12 sent to the LWDA and HILLCREST POST ACUTE on June 9, 2023. This notice demonstrates
13 that Plaintiff is an aggrieved employee and has standing to bring a representative action on
14 behalf of the LWDA and as a private attorney general. The violations alleged in this notice
15 also form the basis for the allegations herein. No notice of cure by Defendant HILLCREST
16 POST ACUTE and/or DOES was provided and no notice of investigation was received from
17 the LWDA in the statutorily proscribed sixty-five (65) day period since the mailing of the
18 notice of the action. Accordingly, Plaintiff files this action as a “Representative Action” as
19 authorized by *California Labor Code* section 2699.3(a)(2)(C).

20 **B. Defendants**

21 17. HILLCREST POST ACUTE operates skilled nursing facilities.

22 18. HILLCREST POST ACUTE has a strong foothold in California, including the County of
23 Sonoma.

24 19. HILLCREST POST ACUTE is a California corporation and operates out of locations in
25 California.

26 20. HILLCREST POST ACUTE employs hourly, non-exempt employees to work at its locations.

27 21. HILLCREST POST ACUTE employed Plaintiff and similarly situated hourly non-exempt
28 employees to work at its locations in California.

22. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation in the conduct alleged, of the Defendants sued as DOES 1 through 100, inclusive, but on information and belief alleges that said Defendants are now, and/or at all times mentioned in this Complaint were doing business in the State of California and/or throughout the United States. Plaintiff is informed and believes that each of the Defendants designated as a DOE is legally responsible in some manner for the unlawful acts alleged. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE Defendants when ascertained.

23. Plaintiff is informed and believes each Defendant acted, in whole or in part, in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants as each Defendant has ratified, approved, and/or authorized the acts of each of the remaining Defendants.

24. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 100 are partners, agents, owners, and/or shareholders of Defendants and/or DOES and were acting on behalf of Defendants and/or DOES at all times.

IV. GENERAL ALLEGATIONS

25. During all, or a portion, of the one (1) year period before Plaintiff filed notice of her claims with the LWDA, Plaintiff and each of the Aggrieved Employees were employed by HILLCREST POST ACUTE and/or DOES in the State of California. Plaintiff and the Aggrieved Employees are composed of all current and former non-exempt, hourly employees of HILLCREST POST ACUTE and/or DOES within the State of California.

26. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES fail to pay Plaintiff and the Aggrieved Employees all straight time and overtime wages owed. For example, HILLCREST POST ACUTE and/or DOES have a continuous and consistent policy of requiring employees to work before clocking in, after clocking out, and during meal periods. Plaintiff and the Aggrieved employees are not paid for this time.

27. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES have had a continuous policy of requiring Plaintiff and the aggrieved employees to clock out but continue

- 1 working off the clock to finish work tasks such as cleaning.
- 2 28. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES would call and/or
- 3 text Plaintiff and the aggrieved employees outside of work hours to inform employees of the
- 4 hours for their next shift, to ask questions about an employee's prior shift, and to ask if
- 5 employees could work extra shifts.
- 6 29. During COVID-19, HILLCREST POST ACUTE and/or DOES locked the main entrance. In
- 7 order to gain entry to the facility, Plaintiff and the aggrieved employees would have to ring the
- 8 main entrance to be let in. The process of ringing to be let in and waiting for someone to
- 9 respond could take ten to fifteen minutes. This time was not compensated. If Plaintiff or the
- 10 aggrieved employees left the facility for meal periods, they would have to use some of their
- 11 unpaid meal period time to undergo this process to be let back into the facility.
- 12 30. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES would require
- 13 Plaintiff and the aggrieved employees to clock out early so they would not work any overtime
- 14 hours. After Plaintiff and the aggrieved employees clocked out, they would have to continue
- 15 working until they finished their work duties.
- 16 31. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES fail to pay Plaintiff
- 17 and the aggrieved employees at the appropriate regular rate of pay for all overtime hours
- 18 worked. HILLCREST POST ACUTE and/or DOES fail to incorporate bonuses employees
- 19 were paid when calculating employees' regular rate of pay for purposes of paying overtime
- 20 compensation. For example, Plaintiff and the aggrieved employees are paid non-discretionary
- 21 bonuses, yet these bonuses were not included in employees' regular rate of pay.
- 22 32. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES fail to provide
- 23 Plaintiff and the Aggrieved Employees with meal periods that comply with California law and
- 24 fail to authorize and permit rest periods that comply with California law.
- 25 33. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES knew and/or should
- 26 have known that Plaintiff and the Aggrieved Employees were entitled to be provided legally
- 27 compliant meal periods in a timely manner or payment of one hour of pay as additional
- 28 compensation at Plaintiff's and the aggrieved employees' regular rate of pay when they did

- 1 not receive a timely, uninterrupted meal period.
- 2 34. At all times mentioned herein, Plaintiff and the aggrieved employees were not relieved of all
3 work duties and employer control during meal periods. HILLCREST POST ACUTE and/or
4 DOES would require Plaintiff and the aggrieved employees to clock out for meal period but
5 continue working.
- 6 35. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES require Ms. Isordia
7 and Aggrieved employees to clock out and continue to work through their meal periods thereby
8 denying Plaintiff and Aggrieved employees of the right to be completely free from employer
9 control under California law.
- 10 36. At all times mentioned herein, when Plaintiff and the Aggrieved employees are able to take
11 meal periods, Plaintiff and the Aggrieved employees are not relieved of all duties and/or
12 employer control during their meal periods. For example, Plaintiff and the aggrieved
13 employees would have their meal period time interrupted. HILLCREST POST ACUTE and/or
14 DOES would ask Plaintiff and the aggrieved employees to do work tasks during meal periods
15 such as bring items, meals, and/or snacks to patients. As such, Plaintiff and the aggrieved
16 employees are not relieved of all work duties and employer control during meal periods.
- 17 37. During COVID-19, HILLCREST POST ACUTE and/or DOES locked the main entrance. In
18 order to gain entry to the facility, Plaintiff and the aggrieved employees would have to ring the
19 main entrance to be let in. The process of ringing to be let in and waiting for someone to
20 respond could take ten to fifteen minutes. If Plaintiff or the aggrieved employees left the facility
21 for meal periods, they would have to use some of their meal period time to undergo this process
22 to be let back into the facility.
- 23 38. By failing to provide a duty-free meal period of not less than thirty (30) minutes for every shift
24 of at least five (5) hours worked per day by Plaintiff and all Aggrieved Employees, and by
25 failing to provide compensation for these unprovided meal periods, HILLCREST POST
26 ACUTE and/or DOES willfully violate the provisions of Labor Code section 226.7, IWC Wage
27 Order No. 5-2001, and California Code of Regulations, Section 11050(11). In addition,
28 HILLCREST POST ACUTE and/or DOES fail to provide Plaintiff and the Aggrieved

Employees with another duty-free meal period of not less than thirty (30) minutes for every shift of more than ten (10) hours per day.

39. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES knew and/or should have known that Plaintiff and the Aggrieved Employees were entitled to be authorized and/or permitted to take legally compliant rest periods in a timely manner or payment of one hour of pay as additional compensation at Plaintiff's and the Aggrieved Employees' regular rate of pay when they were not authorized and/or permitted to take a legally compliant rest period.

40. At all times mentioned herein, employees are not free of all work duties and/or employer control during rest periods.

41. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES have a consistent policy and/or practice of not providing net ten-minute rest periods to Ms. Isordia and all Aggrieved employees and/or providing compensation in lieu thereof.

42. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES breach the legal duty to provide rest periods to employees by imposing a continuous and consistent policy requiring Ms. Isordia and Aggrieved employees to keep working during their rest periods, thereby denying Ms. Isordia and Aggrieved employees of the right to be completely free from employer control under California law.

43. At all times mentioned herein, when Plaintiff and the Aggrieved employees were able to take a rest period, Plaintiff and the aggrieved employees are not relieved of all duties and/or employer control during their rest periods. HILLCREST POST ACUTE and/or DOES would ask Plaintiff and the aggrieved employees to do work tasks during rest periods such as bring items, meals, and/or snacks to patients. As such, Plaintiff and the aggrieved employees are not relieved of all work duties and employer control during rest periods.

44. During COVID-19, HILLCREST POST ACUTE and/or DOES locked the main entrance. In order to gain entry to the facility, Plaintiff and the aggrieved employees would have to ring the main entrance to be let in. The process of ringing to be let in and waiting for someone to respond could take ten to fifteen minutes. If Plaintiff or the aggrieved employees left the facility for rest periods, they would have to use some of their rest period time to undergo this process

1 to be let back into the facility.

2 45. By failing to provide paid net ten (10) minute rest periods for every four (4) hours or major
3 fraction thereof, worked per day by Plaintiff and all Aggrieved Employees and by failing to
4 provide compensation for these periods, HILLCREST POST ACUTE and/or DOES willfully
5 violate the provisions of Labor Code section 226.7, IWC Wage Order No. 5-2001, and
6 California Code of Regulations, Section 11050(12).

7 46. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES knowingly and
8 intentionally provide wage statements to employees that fail to specifically itemize everything
9 required under *California Labor Code* section 226(a).

10 47. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES knowingly and
11 intentionally fail to include the accurate legal name and address of the employer on wage
12 statements.

13 48. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES knew and/or should
14 have known that Plaintiff and the Aggrieved Employees were entitled to receive complete and
15 accurate pay statements in accordance with California law.

16 49. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES knew and/or should
17 have known that they were not providing complete and accurate pay statements in accordance
18 with California law to Plaintiff and the Aggrieved Employees.

19 50. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES fail to pay all wages
20 owed to Plaintiff and to other terminated or resigned Aggrieved Employees and failed to timely
21 pay wages during employment.

22 51. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES knew and/or should
23 have known that they had a duty to compensate Plaintiff and the Aggrieved Employees in
24 accordance with California law, and that HILLCREST POST ACUTE and DOES have the
25 ability to pay such compensation, but willfully and intentionally failed to do so, and
26 HILLCREST POST ACUTE and DOES falsely represent to Plaintiff and the Aggrieved
27 Employees that they were properly compensating Plaintiff and the Aggrieved Employees.

28 52. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES knowingly and

intentionally fail to pay all wages owed to non-exempt, hourly employees in a timely manner at the time non-exempt, hourly employees terminated their employment – either voluntarily or involuntarily – with HILLCREST POST ACUTE and/or DOES.

53. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES knew and/or should have known that Plaintiff and the Aggrieved Employees were entitled to timely wages at the time of termination. HILLCREST POST ACUTE and/or DOES did not timely pay all wages owed, straight-time wages owed, overtime wages owed, meal period premiums, and rest period premiums owed at the time of termination.

54. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES fail to pay Plaintiff and the Aggrieved Employees a sum certain at the time of termination or within seventy-two (72) hours of their resignation, and have failed to pay those sums for thirty (30) days thereafter.

55. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES did not reimburse Plaintiff and the other Aggrieved Employees for business expenses including but not limited to the use of their personal cell phones and purchase of work uniforms.

56. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES knew and/or should have known that Plaintiff and the other Aggrieved Employees were entitled to be reimbursed for expenses incurred in direct consequence of their duties.

57. Plaintiff brings this action on behalf of herself and all Aggrieved Employees defined as all HILLCREST POST ACUTE's non-exempt employees employed in California beginning one year prior to the date Plaintiff sent notice to the LWDA.

58. Plaintiff reserves the right to amend or modify the definition of Aggrieved Employees with respect to the issues or in any other way.

FIRST CAUSE OF ACTION AGAINST HILLCREST POST ACUTE AND/OR DOES:

Violation of the PAGA for Failure to Pay Straight Time Wages (*California Labor Code §2698 et. seq.*).

59. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

60. HILLCREST POST ACUTE and/or DOES have had a continuous policy of not paying

- 1 Plaintiff and the Aggrieved Employees for all hours worked.
- 2 61. It is fundamental that an employer must pay its employees for the time worked. *California*
3 *Labor Code* section 222 prohibits the withholding on part of a wage. *California Labor Code*
4 section 223 prohibits the payment of less than a statutory or contractual wage scale. *California*
5 *Labor Code* sections 1194 – 1197.1 prohibit the payment of less than the minimum wage.
6 *California Labor Code* section 224 only permits deductions from wages when the employer is
7 required or empowered to do so by state or federal law or when the deduction is expressly
8 authorized in writing by the employee for specified purposes that do not in effect reduce the
9 agreed upon wage.
- 10 62. Section 1197.1 of the *California Labor Code* states “[a]ny employer or other person acting
11 individually as an officer, agent, or employee of another person, who pays or causes to be paid
12 to any employee a wage less than the minimum fixed by an applicable state or local law, or by
13 an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated
14 damages payable to the employee, and any applicable penalties pursuant to Section 203.”
- 15 63. HILLCREST POST ACUTE and/or DOES have had a continuous policy of not paying
16 Plaintiff and those similarly situated for all hours worked. For example, HILLCREST POST
17 ACUTE has a continuous and consistent policy of requiring employees to work before clocking
18 in, after clocking out, and during meal periods. Plaintiff and the aggrieved employees are not
19 paid for this time. Failing to pay for all hours worked while under HILLCREST POST
20 ACUTE’s control and/or while suffered or permitted to work has resulted in Plaintiff and
21 Aggrieved employees being deprived of straight time wages throughout the Statutory Period.
- 22 64. HILLCREST POST ACUTE and/or DOES have a continuous policy of requiring Plaintiff and
23 the aggrieved employees to clock out but continue working off the clock to finish work tasks
24 such as cleaning.
- 25 65. In addition, Plaintiff and the aggrieved employees were not relieved of all work duties and
26 employer control during meal periods. HILLCREST POST ACUTE and/or DOES require
27 Plaintiff and the aggrieved employees to clock out for meal period but continue working.
- 28 66. During COVID-19, HILLCREST POST ACUTE and/or DOES locked the main entrance. In

order to gain entry to the facility, Plaintiff and the aggrieved employees would have to ring the main entrance to be let in. The process of ringing to be let in and waiting for someone to respond could take ten to fifteen minutes. This time was not compensated. If Plaintiff or the aggrieved employees left the facility for meal periods, they would have to use some of their unpaid meal period time to undergo this process to be let back into the facility.

67. Defendant and/or DOES have a continuous and consistent policy of failing to pay full wages to Plaintiff and the Aggrieved Employees by deducting a portion of the wages earned by Plaintiff and the Aggrieved Employees when they worked through their meal periods, are not relieved of all work duties during their meal periods and/or when HILLCREST POST ACUTE recorded a meal period for Plaintiff and the Aggrieved Employees when no meal period was taken.

68. Defendant and/or DOES have a continuous and consistent policy of clocking-out Plaintiff and those similarly situated for a thirty (30) minute meal period and/or otherwise recording a meal period, even though Plaintiff and all Aggrieved Employees work through their meal periods and/or were subject to HILLCREST POST ACUTE's control during meal periods. Thus, HILLCREST POST ACUTE and/or DOES do not pay Plaintiff and each and every Aggrieved Employee for all time worked each and every day they work without a meal period and have time deducted.

69. Failing to pay for all hours worked while under HILLCREST POST ACUTE's and/or DOES' control and/or while suffered or permitted to work has resulted in Plaintiff and the Aggrieved Employees being deprived of straight time wages.

70. Plaintiff and the Aggrieved Employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

71. Plaintiff and the Aggrieved Employees were employed by HILLCREST POST ACUTE and/or DOES at all relevant times. HILLCREST POST ACUTE and/or DOES were required to compensate Plaintiff and the Aggrieved Employees for all hours worked and were prohibited from making deductions that had the effect of reducing the agreed upon wage.

72. HILLCREST POST ACUTE and/or DOES commit the acts alleged herein knowingly and

1 willfully, with the wrongful and deliberate intention of injuring Plaintiff and the Aggrieved
2 Employees.

3 73. These claims are on behalf of Plaintiff and all non-exempt hourly employees employed by
4 Defendant and/or DOES in California.

5 74. Plaintiff, as former “non-exempt” hourly employee of HILLCREST POST ACUTE and/or
6 DOES who HILLCREST POST ACUTE and/or DOES fail to pay all wages. Therefore,
7 Plaintiff is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff
8 satisfied all prerequisites to serve as representatives of the general public to enforce
9 California’s labor laws, and the penalty provisions identified in *California Labor Code* section
10 2699.5.

11 75. Plaintiff, as a representative of the people of the State of California, will seek any and all
12 penalties otherwise capable of being collected by the Labor Commission and/or the
13 Department of Labor Standards Enforcement (“DLSE”). This includes each of the following,
14 as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a)
15 applies to any alleged violation of the following provisions: sections 510, 1194, 1197, and
16 1199.

17 76. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on
18 behalf of herself and the other Aggrieved Employees, seeks recovery of applicable civil
19 penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the
20 initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars
21 (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per
22 *California Labor Code* section 2699(f)(2).

23 77. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other Aggrieved
24 Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations
25 pursuant to this chapter or any provisions regulating hours and days of the week of the
26 Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

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28 ///

1 **SECOND CAUSE OF ACTION AGAINST HILLCREST POST ACUTE AND/OR DOES:**

2 **Violation of the PAGA for Failure to Pay All Overtime Wages Owed**

3 78. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
4 as if fully plead.

5 79. *California Labor Code* section 510 states that eight (8) hours of labor constitutes a day's work.
6 Any work in excess of eight (8) hours in one workday and any work in excess of forty (40)
7 hours in any one workweek and the first eight (8) hours worked on the seventh day of work in
8 any one workweek shall be compensated at the rate of no less than one and one-half (1.5) times
9 the regular rate of pay for an employee.

10 80. *California Labor Code* section 510 dictates that any work in excess of twelve (12) hours in
11 one day shall be compensated at the rate of no less than twice the regular rate of pay for an
12 employee. In addition, any work in excess of eight (8) hours on any seventh day of a workweek
13 shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

14 81. HILLCREST POST ACUTE and/or DOES fail to pay overtime when employees worked over
15 eight (8) hours per day and when employees worked over forty (40) hours per week.

16 82. HILLCREST POST ACUTE and/or DOES have had a continuous policy of not paying
17 Plaintiff and those similarly situated for all hours worked. For example, HILLCREST POST
18 ACUTE and/or DOES fail to pay for all time during which Plaintiff and the Aggrieved
19 employees work throughout their shift. Specifically, HILLCREST POST ACUTE has a
20 continuous and consistent policy of requiring employees to work before clocking in, after
21 clocking out, and during meal periods. Plaintiff and the aggrieved employees are not paid for
22 this time. When employees work over eight (8) hours in a day, these hours are owed at an
23 overtime rate.

24 83. HILLCREST POST ACUTE and/or DOES have a continuous policy of requiring Plaintiff and
25 the aggrieved employees to clock out but continue working off the clock to finish work tasks
26 such as cleaning. When employees work over eight (8) hours in a day, these hours are owed at
27 an overtime rate.

28 84. HILLCREST POST ACUTE and/or DOES require Plaintiff and the aggrieved employees to

1 clock out early so they would not work any overtime hours. After Plaintiff and the aggrieved
2 employees clocked out, they would have to continue working until they finished their work
3 duties.

4 85. During COVID-19, HILLCREST POST ACUTE and/or DOES locked the main entrance. In
5 order to gain entry to the facility, Plaintiff and the aggrieved employees would have to ring the
6 main entrance to be let in. The process of ringing to be let in and waiting for someone to
7 respond could take ten to fifteen minutes. This time was not compensated. If Plaintiff or the
8 aggrieved employees left the facility for meal periods, they would have to use some of their
9 unpaid meal period time to undergo this process to be let back into the facility. When
10 employees work over eight (8) hours in a day, these hours are owed at an overtime rate.

11 86. Defendant and/or DOES fails to pay for all time during which Plaintiff and Aggrieved
12 Employees work throughout their shift. As most shifts worked are at least eight hours in length,
13 this time during which employees are uncompensated before clocking in and/or during meal
14 periods but under Defendant's control, should be, but was not, paid at the applicable overtime
15 rate.

16 87. Additionally, HILLCREST POST ACUTE and/or DOES fail to pay Plaintiff and the aggrieved
17 employees at the appropriate regular rate of pay for all overtime hours worked. HILLCREST
18 POST ACUTE and/or DOES fail to incorporate bonuses employees were paid when
19 calculating employees' regular rate of pay for purposes of paying overtime compensation. For
20 example, Plaintiff and the aggrieved employees are paid non-discretionary bonuses, yet these
21 bonuses were not included in employees' regular rate of pay.

22 88. Plaintiff and the Aggrieved Employees have suffered, and continue to suffer, substantial
23 unpaid wages, and lost interest on such wages, and expenses.

24 89. These claims are on behalf of Plaintiff and all non-exempt employees employed by Defendant
25 and/or DOES in California.

26 90. Plaintiff, as a representative of the people of the State of California, will seek any and all
27 penalties otherwise capable of being collected by the Labor Commission and/or the
28 Department of Labor Standards Enforcement (DLSE) for violations of *California Labor Code*

- 1 section 510.
- 2 91. Plaintiff, as a representative of the people of the State of California, will seek all penalties
3 otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes
4 each of the following, as set forth in *California Labor Code* section 2699.5, which provides
5 that section 2699.3(a) applies to any alleged violation of the following provisions: sections
6 222, 223, and 510.
- 7 92. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on
8 behalf of herself and the other Aggrieved Employees, seeks recovery of applicable civil
9 penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the
10 initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars
11 (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per
12 *California Labor Code* section 2699(f)(2).
- 13 93. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other Aggrieved
14 Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations
15 pursuant to this chapter or any provisions regulating hours and days of the week of the
16 Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

17 **THIRD CAUSE OF ACTION AGAINST HILLCREST POST ACUTE AND/OR DOES:**

18 **Violation of the PAGA for Failure to Provide Meal Periods (*California Labor Code* §2698 et.**
19 **seq.).**

- 20 94. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
21 as if fully plead.
- 22 95. Under *California Labor Code* section 512, and IWC Wage Order 5-2001, no employer shall
23 employ any person for a work period of more than five (5) hours without providing a meal
24 period of not less than thirty (30) minutes. During this meal period of not less than thirty (30)
25 minutes, the employee is to be completely free of the employer's control and must not perform
26 any work for the employer. If the employee does perform work for the employer during the
27 thirty (30) minute meal period, the employee has not been provided a meal period in
28 accordance with the law. Also, the employee is to be compensated for any work performed

- 1 during the thirty (30) minute meal period.
- 2 96. In addition, an employer may not employ an employee for a work period of more than ten (10)
- 3 hours per day without providing the employee with another meal period of not less than thirty
- 4 (30) minutes.
- 5 97. Under *California Labor Code* section 226.7, if the employer does not provide an employee a
- 6 meal period in accordance with the above requirements, the employer shall pay the employee
- 7 one (1) hour of pay at the employee's regular rate of compensation for each workday that the
- 8 meal period is not provided.
- 9 98. HILLCREST POST ACUTE and/or DOES have a consistent policy and/or practice of not
- 10 providing meal periods to Plaintiff and the Aggrieved Employees and/or providing
- 11 compensation in lieu thereof.
- 12 99. HILLCREST POST ACUTE and/or DOES fail to provide thirty (30) minute, uninterrupted
- 13 meal periods to Plaintiff and Aggrieved employees who worked for work periods of more than
- 14 five (5) consecutive hours. As such, Plaintiff and Aggrieved employees were required to work
- 15 over five (5) consecutive hours at a time without being provided a thirty (30) minute
- 16 uninterrupted, duty-free meal period within that time.
- 17 100. HILLCREST POST ACUTE and/or DOES fail to provide thirty (30) minute, uninterrupted
- 18 meal periods to Plaintiff and Aggrieved employees for every five (5) continuous hours worked.
- 19 101. Further, HILLCREST POST ACUTE and/or DOES breach the legal duty to provide meal
- 20 periods to employees by imposing a continuous and consistent policy requiring Plaintiff and
- 21 the Aggrieved employees to clock out and keep working during their meal periods, thereby
- 22 denying Plaintiff and the Aggrieved employees of the right to be completely free from
- 23 employer control under California law.
- 24 102. HILLCREST POST ACUTE breached the legal duty to provide meal periods to employees by
- 25 imposing a continuous and consistent policy of failing to provide sufficient staffing so that
- 26 Plaintiff and the aggrieved employees could freely take their meal periods.
- 27 103. When Plaintiff and the aggrieved employees are able to take a meal period, Plaintiff and the
- 28 aggrieved employees are not relieved of all duties and/or employer control during their meal

1 periods. For example, Plaintiff and the aggrieved employees would have their meal period time
2 interrupted. HILLCREST POST ACUTE and/or DOES would ask Plaintiff and the aggrieved
3 employees to do work tasks during meal periods such as bring items, meals, and/or snacks to
4 patients. As such, Plaintiff and the aggrieved employees are not relieved of all work duties and
5 employer control during meal periods.

6 104. During COVID-19, HILLCREST POST ACUTE and/or DOES locked the main entrance. In
7 order to gain entry to the facility, Plaintiff and the aggrieved employees would have to ring the
8 main entrance to be let in. The process of ringing to be let in and waiting for someone to
9 respond could take ten to fifteen minutes. If Plaintiff or the aggrieved employees left the facility
10 for meal periods, they would have to use some of their meal period time to undergo this process
11 to be let back into the facility.

12 105. HILLCREST POST ACUTE and/or DOES have a consistent policy and/or practice of
13 requiring Plaintiff and the Aggrieved Employees to work at least five (5) hours without a meal
14 period and failing to pay such employees one (1) hour of pay at the employees' regular rate of
15 compensation for each workday that the meal period is not provided, or other compensation in
16 lieu thereof, as required by California's state wage and hour laws.

17 106. In addition, HILLCREST POST ACUTE and/or DOES breach the legal duty to provide meal
18 periods to employees by imposing a continuous and consistent policy requiring Plaintiff and
19 the Aggrieved Employees to work through their meal periods to satisfy the demanding
20 workload duties imposed by HILLCREST POST ACUTE and/or DOES, thereby denying
21 Plaintiff and the Aggrieved Employees of the right to be completely free from employer control
22 under California law. Plaintiff and the Aggrieved Employees were not free of all work duties
23 and/or employer control during meal periods, including the demand that employees be ready
24 and available to answer calls and texts for work related purposes during meal periods, which
25 often included being called back to work.

26 107. Throughout the statutory period, HILLCREST POST ACUTE and/or DOES valued
27 productivity over providing meal periods and, because of this, meal breaks were not priorities
28 to HILLCREST POST ACUTE and/or DOES.

1 108. HILLCREST POST ACUTE and/or DOES have a consistent policy and/or practice of not
2 providing second meal periods to Plaintiff and the Aggrieved Employees and/or providing
3 compensation in lieu thereof. Specifically, Plaintiff and the Aggrieved Employees were not
4 provided with second meal periods when they worked ten (10) to twelve (12) hours.

5 109. By failing to provide statutory first and/or second meal periods, and by failing to provide
6 compensation for unprovided meal periods, as alleged above, HILLCREST POST ACUTE
7 and/or DOES willfully violate the provisions of the *California Labor Code* section 226.7 and
8 512.

9 110. These claims are on behalf of Plaintiff and all non-exempt employees employed by Defendant
10 and/or DOES in California.

11 111. By failing to provide statutory first and/or second meal periods, and by failing to provide
12 compensation for unprovided meal periods, as alleged above, HILLCREST POST ACUTE
13 and/or DOES willfully violate the provisions of *California Labor Code* sections 226.7 and 512,
14 and IWC Wage Order No. 5-2001.

15 112. As a result of the unlawful acts of HILLCREST POST ACUTE and/or DOES, Plaintiff and
16 the Aggrieved Employees have been deprived of premium wages and/or other compensation
17 in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest,
18 attorneys' fees, and costs.

19 113. During the relevant time period, Plaintiff and the Aggrieved Employees who were scheduled
20 to work for a period of time in excess of six (6) hours were required to work for periods longer
21 than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes.

22 114. During the relevant time period, Plaintiff and the Aggrieved Employees who were scheduled
23 to work for a period of time in excess of ten (10) hours and/or (12) hours, and who did not
24 waive their legally-mandated meal periods by mutual consent were required to work in excess
25 of ten (10) hours and/or twelve (12) hours without receiving a second uninterrupted meal
26 period of not less than thirty (30) minutes.

27 115. During the relevant time period, HILLCREST POST ACUTE and/or DOES fail to pay Plaintiff
28 and the Aggrieved Employees the full meal period premium due pursuant to *California Labor*

Code section 226.7.

116. HILLCREST POST ACUTE's and/or DOES' conduct violates applicable IWC Wage Order 5-2001 and *California Labor Code* sections 226.7 and 512(a).

117. Plaintiff, as a non-exempt employee who unlawfully was deprived of first and second meal periods, is an Aggrieved Employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for violations of *California Labor Code* sections 226.7 and 512.

118. Plaintiff, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 226.7, and 512.

119. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an Aggrieved Employee, on behalf of herself and the other Aggrieved Employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).

120. In the alternative, Plaintiff, as an Aggrieved Employee, on behalf of herself and other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

FOURTH CAUSE OF ACTION AGAINST HILLCREST POST ACUTE AND/OR DOES:
Violation of the PAGA for Failure to Provide Rest Periods (*California Labor Code* §2698 et. seq.).

121. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

- 1 122. Industrial Welfare Commission Order No. 5-2001 section 12(A) states “[e]very employer shall
2 authorize and permit all employees to take rest periods, which insofar as practicable shall be
3 in the middle of each work week period. The authorized rest period time shall be based on the
4 total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major
5 fraction thereof.”
- 6 123. At all times mentioned herein, HILLCREST POST ACUTE and/or DOES fail to authorize
7 and/or permit rest period time based upon the total hours worked daily at the rate of ten (10)
8 minutes net rest time per four (4) hours or major fraction thereof.
- 9 124. Further, Plaintiff and the Aggrieved employees are required to work eight (8) to twelve (12)
10 hour shifts but are not provided with first, second and/or third rest breaks free of employer’s
11 control.
- 12 125. HILLCREST POST ACUTE and/or DOES also breach the legal duty to provide rest periods
13 to employees by imposing a continuous and consistent policy of requiring Plaintiff and
14 Aggrieved employees to work through their rest periods thereby denying Plaintiff and the
15 Aggrieved employees of the right to be completely free from employer control under California
16 law.
- 17 126. HILLCREST POST ACUTE breached the legal duty to provide rest periods to employees by
18 imposing a continuous and consistent policy of failing to provide sufficient staffing so that
19 Plaintiff and the aggrieved employees could freely take their net ten (10) minute rest periods.
- 20 127. When Plaintiff and the Aggrieved employees were able to take rest periods, Plaintiff and the
21 Aggrieved employees are not free of all work duties and/or employer control during rest
22 periods. For example, HILLCREST POST ACUTE and/or DOES would ask Plaintiff and the
23 aggrieved employees to do work tasks during rest periods such as bring items, meals, and/or
24 snacks to patients. As such, Plaintiff and the aggrieved employees are not relieved of all work
25 duties and employer control during rest periods.
- 26 128. During COVID-19, HILLCREST POST ACUTE and/or DOES locked the main entrance. In
27 order to gain entry to the facility, Plaintiff and the aggrieved employees would have to ring the
28 main entrance to be let in. The process of ringing to be let in and waiting for someone to

respond could take ten to fifteen minutes. If Plaintiff or the aggrieved employees left the facility for rest periods, they would have to use some of their rest period time to undergo this process to be let back into the facility.

129. HILLCREST POST ACUTE's and/or DOES' business model was such that Aggrieved Employees were assigned too much work that could not be reasonably completed within their assigned shift, resulting in Aggrieved Employees routinely and regularly being forced to work through their rest periods.

130. HILLCREST POST ACUTE and/or DOES breach the legal duty to provide rest periods to employees by imposing a continuous and consistent policy of requiring Plaintiff and non-exempt employees to work through their rest periods.

131. Throughout the statutory period, HILLCREST POST ACUTE and/or DOES have a pattern and practice of assigning too much work to be completed in too short of time frames, resulting in Plaintiff and those similarly situated not to take rest periods.

132. By failing to provide rest periods for every four (4) hours or major fraction thereof worked per day by Plaintiff and the Aggrieved Employees, and by failing to provide compensation for these unprovided rest periods, as alleged above, HILLCREST POST ACUTE and/or DOES willfully violate the provisions of *California Labor Code* section 226.7.

133. These claims are on behalf of Plaintiff and all hourly non-exempt employees employed by Defendant and/or DOES in California.

134. Plaintiff, as a non-exempt employee who was unlawfully deprived of paid ten (10) minute rest periods, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for violations of *California Labor Code* section 226.7.

135. Plaintiff, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: section

226.7.

136. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an Aggrieved Employee, on behalf of herself and the other Aggrieved Employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).

137. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

FIFTH CAUSE OF ACTION AGAINST HILLCREST POST ACUTE AND/OR DOES:

Violation of the PAGA for Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (*California Labor Code* §2698 et. seq.).

138. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

139. *California Labor Code* section 226(a) requires HILLCREST POST ACUTE and/or DOES to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Plaintiff and the Aggrieved Employees. *California Labor Code* section 226(a) requires HILLCREST POST ACUTE and/or DOES, at the time of each payment of wages, to “furnish each of her or her employees, either as an detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee...(3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or

an employee identification number other than the social security number, (8) the name and address of the legal entity that is the employer...(9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate and the corresponding number of hours worked at each hourly rate by the employee....”

140. *California Labor Code* section 226(a) also requires that “deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.”

141. HILLCREST POST ACUTE and/or DOES have knowingly and intentionally failed to comply with *California Labor Code* section 226(a) on each and every wage statement provided to Plaintiff and the Aggrieved Employees.

142. *California Labor Code* section 1174 requires HILLCREST POST ACUTE and/or DOES to maintain and preserve, in a centralized location, records showing the daily hours worked by and the wages paid to its employees. HILLCREST POST ACUTE and/or DOES have knowingly and intentionally failed to comply with *California Labor Code* section 1174. The failure of HILLCREST POST ACUTE and/or DOES, and each of them, to comply with *California Labor Code* section 1174 is unlawful pursuant to *California Labor Code* section 1175.

143. HILLCREST POST ACUTE and/or DOES fail to maintain accurate time records - as required by IWC Wage Order No. 5-2001(7), and *California Code of Regulations*, Title 8, section 11050 - showing, among other things, when the employee begins and ends each work period, the total daily hours worked in itemized wage statements, total wages, bonuses and/or incentives earned, and all deductions made.

144. HILLCREST POST ACUTE and/or DOES have knowingly and intentionally failed to provide Plaintiff and the Aggrieved Employees with accurate itemized wage statements which show: “(1) gross wages earned, (2) total hours worked by the employee... (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4)

1 all deductions, provided that all deductions made on written orders of the employee may be
2 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period
3 for which the employee is paid, (7) the name of the employee and only the last four digits of
4 his or her social security number or an employee identification number other than a social
5 security number, (8) the name and address of the legal entity that is the employer and, if the
6 employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name
7 and address of the legal entity that secured the services of the employer, and (9) all applicable
8 hourly rates in effect during the pay period and the corresponding number of hours worked at
9 each hourly rate by the employee[.]” *California Labor Code* section 226(a).

10 145. HILLCREST POST ACUTE and/or DOES knowingly and intentionally did not include the
11 gross wages earned on wage statements. HILLCREST POST ACUTE therefore knowingly
12 and intentionally failed to itemize the gross wages earned on Plaintiff’s and the Aggrieved
13 Employees’ wage statements.

14 146. In every pay period during the period of the relevant statute of limitations, HILLCREST POST
15 ACUTE and/or DOES knowingly and intentionally did not itemize the total hours worked on
16 wage statements as *California Labor Code* section 226(a) requires. In every pay period during
17 the period of the relevant statute of limitations, HILLCREST POST ACUTE and/or DOES
18 knowingly and intentionally did not include the total hours worked on wage statements. As
19 outlined above, HILLCREST POST ACUTE and/or DOES have a continuous policy of not
20 paying Plaintiff and similarly aggrieved employees for all hours worked by requiring
21 employees to work before clocking in, after clocking out, and during meal periods. Plaintiff
22 and the aggrieved employees are not paid for this time. For example, HILLCREST POST
23 ACUTE and/or DOES require Plaintiff and the aggrieved employees to clock out but continue
24 working off the clock to finish work tasks such as cleaning. Further, HILLCREST POST
25 ACUTE and/or DOES would call and/or text Plaintiff and the aggrieved employees outside of
26 work hours to inform employees of the hours for their next shift, to ask questions about an
27 employee’s prior shift, and to ask if employees could work extra shifts. Plaintiff and the
28 aggrieved employees are owed wages for meal period time during with they are subject to

Defendant's control and during which they are not free from all work duties. During COVID-19, HILLCREST POST ACUTE and/or DOES locked the main entrance. In order to gain entry to the facility, Plaintiff and the aggrieved employees would have to ring the main entrance to be let in. The process of ringing to be let in and waiting for someone to respond could take ten to fifteen minutes. This time was not compensated. If Plaintiff or the aggrieved employees left the facility for meal periods, they would have to use some of their unpaid meal period time to undergo this process to be let back into the facility. As such, HILLCREST POST ACUTE and/or DOES fail to pay Plaintiff and the aggrieved employees for all time worked.

147. In addition, HILLCREST POST ACUTE and/or DOES knowingly and intentionally did not itemize meal and rest period premiums owed to Plaintiff and the Aggrieved Employees on wage statements.

148. Section 246(i) of the *California Labor Code* states, "[a]n employer shall provide an employee with written notice that sets forth the amount of sick leave available, or paid time off an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages."

149. HILLCREST POST ACUTE and/or DOES fail to itemize sick leave available, or paid time off an employer provides in lieu of sick leave, for use on Plaintiff's and the Aggrieved Employees' itemized wage statements or in a separate writing provided on the designated pay date with the employee's payment of wages.

150. In every pay period during the period of the relevant statute of limitations, HILLCREST POST ACUTE and/or DOES knowingly and intentionally did not include the net wages earned on wage statements.

151. As a result of the knowing and intentional failure by HILLCREST POST ACUTE and/or DOES to comply with itemized employee wage statement provisions, Plaintiff and the Aggrieved Employees have been able to reconstruct only a reasonable estimate of the hours worked and have, therefore, not received full compensation.

152. These claims are on behalf of Plaintiff and all non-exempt employees employed by Defendant

and/or DOES in California.

153. Plaintiff, as a non-exempt hourly employee who Defendants and/or DOES failed to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5.

154. Plaintiff, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 226, 1174, 1199.

155. Pursuant to Labor Code section 2699(f), Plaintiff, as an Aggrieved Employee, on behalf of herself and the other Aggrieved Employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation per Labor Code section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).

156. In the alternative, Plaintiff, as an Aggrieved Employee, on behalf of herself and other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

SIXTH CAUSE OF ACTION AGAINST DEFENDANTS AND/OR DOES: Violation of the PAGA for Failure to Pay Wages Due at Termination and During Employment (*California Labor Code* §2698 et. seq.).

157. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

158. HILLCREST POST ACUTE and/or DOES and/or their officers and/or managing agents

- willfully failed to pay, in a timely manner, wages owed to the Aggrieved Employees who left HILLCREST POST ACUTE's and/or DOES' employ or who were terminated.
159. Aggrieved Employees who ended their employment with HILLCREST POST ACUTE and/or DOES during the last year were entitled to be promptly paid all lawful compensation, and other premiums, as required by *California Labor Code* sections 201 through 203.
160. At all relevant times, *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 if an employee quits his or her employment, his or her wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' 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.
161. During the relevant time period, HILLCREST POST ACUTE and/or DOES intentionally and willfully fail to pay the Aggrieved Employees who are no longer employed by HILLCREST POST ACUTE and/or DOES their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving HILLCREST POST ACUTE's and/or DOES' employ.
162. HILLCREST POST ACUTE's and/or DOES' failure to pay Plaintiff and the Aggrieved Employees who are no longer employed by HILLCREST POST ACUTE and/or DOES their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving HILLCREST POST ACUTE's and/or DOES' employ, is in violation of *California Labor Code* sections 201 and 202.
163. *California Labor Code* section 203 provides that when an employer willfully fails to pay wages owed, in accordance with *California Labor Code* sections 201 and 202, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until and action is commenced; but the wages shall not continue for more than thirty (30) days.
164. Plaintiff, as a non-exempt employee who HILLCREST POST ACUTE and/or DOES failed to pay all wages, failed to provide a minimum statutory first and/or second meal periods, and failed to provide paid net ten (10) minute rest periods, is an Aggrieved Employee with standing to bring an action under the PAGA. Plaintiff satisfied all prerequisites to serve as a

representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5.

165. Plaintiff, as a representative of the people of the State of California, seeks all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 201 through 203.

166. These claims are on behalf of Plaintiff and all non-exempt hourly employees employed by Defendant and/or DOES in California.

167. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself and the other Aggrieved Employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).

168. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* section 558(a)(1) and 558(a)(2).

SEVENTH CAUSE OF ACTION AGAINST HILLCREST POST ACUTES AND/OR DOES:

Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Provide Paid Sick Days and Failure to Provide Written Notice Setting Forth the Amount of Sick Leave Available (*California Labor Code* §2698 et. seq.).

169. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

170. Section 246(a)(1) of the *California Labor Code* states: "An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section."

- 1 171. Section 246(c) of the *California Labor Code* states: “An employee shall be entitled to use
2 accrued paid sick days beginning on the 90th day of employment, after which day the employee
3 may use paid sick days as they are accrued.”
- 4 172. Section 233(c) of the *California Labor Code* states: “An employer shall not deny an employee
5 the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any
6 manner discriminate against an employee for using, or attempting to exercise the right to use,
7 sick leave to attend to an illness or the preventive care of a family member, or for any other
8 reason specified in subdivision (a) of Section 246.5.”
- 9 173. Section 233(d) of the *California Labor Code* provides relief for violations of this section,
10 stating that “[a]ny employee aggrieved by a violation of this section shall be entitled to
11 reinstatement and actual damages or one day’s pay, whichever is greater, and to appropriate
12 equitable relief.”
- 13 174. Section 234 of the *California Labor Code* further forbids employers from adopting an “absence
14 control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead
15 to or result in discipline, discharge, demotion, or suspension is a per se violation of Section
16 233. An employee working under this policy is entitled to appropriate legal and equitable relief
17 pursuant to Section 233.”
- 18 175. Section 246.5 of the *California Labor Code* requires employers provide paid sick days for
19 “[d]iagnosis, care, or treatment of an existing health condition of, or preventative care for, an
20 employee or an employee’s family member.”
- 21 176. Section 246(k) of the *California Labor Code* provides that, “[a]n employee may determine
22 how much paid sick leave they need to use, provided that an employer may set a renewable
23 minimum increment, not to exceed two hours, for the use of paid sick leave.”
- 24 177. HILLCREST POST ACUTE and/or DOES fail to provide paid sick days in accordance with
25 these provisions.
- 26 178. HILLCREST POST ACUTE and/or DOES operate under an absence control policy that counts
27 sick leave taken pursuant to Section 233 as an unauthorized absence that may result in
28 discipline, discharge, demotion, or termination. Thus, HILLCREST POST ACUTE and/or

- DOES' sick pay policy punishes Plaintiff and Aggrieved Employees by way of suspension and/or termination for use of protected and appropriate sick leave.
179. Section 246(i) of the *California Labor Code* states, "[a]n employer shall provide an employee with written notice that sets forth the amount of sick leave available, or paid time off an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages."
180. HILLCREST POST ACUTE and/or DOES fail to itemize sick leave available, or paid time off an employer provides in lieu of sick leave, for use on Plaintiff's and the Aggrieved Employees' itemized wage statements or in a separate writing provided on the designated pay date with the employee's payment of wages.
181. HILLCREST POST ACUTE's and/or DOES' sick pay policy fails to pay sick pay for all appropriate and protected purposes enumerated in *California Labor Code* sections 233, 234, 246, and 246.5, and HILLCREST POST ACUTE and/or DOES fail to itemize the amount of accrued/available sick leave Plaintiff and Aggrieved Employees have on wage statements each pay period.
182. As a result of the unlawful acts of HILLCREST POST ACUTE and/or DOES, Plaintiff and the Aggrieved Employees she seeks to represent have been incurred damages, in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees and costs, pursuant to *California Labor Code* section 233(e).
183. These claims are on behalf of Plaintiff and all non-exempt employees employed by Defendant and/or DOES in California.
184. Plaintiff, as a non-exempt employee who was subject to HILLCREST POST ACUTE's and/or DOES' unlawful sick pay/paid time off policy, is an Aggrieved Employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5
185. Plaintiff, as a representative of the people of the State of California, seeks all penalties

otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: for violations of the *California Labor Code* sections 233, 234, 246, and 246.5.

186. Pursuant to *California Labor Code* section 2699(f), Plaintiff, as an Aggrieved Employee, on behalf of herself and the other Aggrieved Employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each Aggrieved Employee per pay period for the initial violation per *California Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each Aggrieved Employee per pay period for each subsequent violation, per *California Labor Code* section 2699(f)(2).

187. In the alternative, Plaintiff, as an aggrieved employee, on behalf of herself and other Aggrieved Employees, seeks penalties pursuant to *California Labor Code* section 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under *California Labor Code* sections 558(a)(1) and 558(a)(2).

EIGHTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failing to Reimburse Employees for Business Expenses (California Labor Code §2698 et. seq.)

188. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

189. Section 2802(a) of the *California Labor Code* requires “[a]n employer [to] indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.”

190. HILLCREST POST ACUTE and/or DOES fail to reimburse Plaintiff and Aggrieved employees for all necessary expenses incurred in the performance of their jobs including, but not limited to, having to use their personal cell phones for business purposes. In addition, Plaintiff and the Aggrieved employees are required to purchase, maintain, and launder uniforms that they must wear in completing employment duties without reimbursement. HILLCREST POST ACUTE and/or DOES fails to reimburse Mr. Heredia and the Aggrieved

employees for these expenses.

191. *Labor Code* section 2802(a) entitles Plaintiff and the aggrieved employees to reimbursement for said necessary expenditures, plus interest and expenses.

192. These claims are on behalf of Plaintiff and all non-exempt employees employed by Defendant and/or DOES in California.

193. Plaintiff, as a non-exempt employee who incurred business expenses which Defendant and/or DOES failed to reimburse, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5.

194. Plaintiff, as a representative of the people of the State of California, seeks all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: for violations of the *California Labor Code* section 2802.

195. Pursuant to *Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per *Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per *Labor Code* section 2699(f)(2).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other Aggrieved Employees, prays for relief and judgment against Defendant HILLCREST POST ACUTE and/or DOES, jointly and severally, as follows:

A. For penalties as provided under *California Labor Code* sections 558(a)(1) and 558(a)(2).

B. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section 2699, et. seq. for failure to provide compensation at the regular and overtime rate for all time worked;

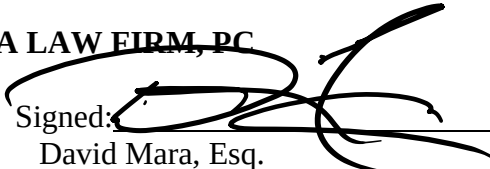
- 1 C. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
2 2699, et. seq. for failure to provide compliant meal periods;
- 3 D. For all statutory penalties for each pay period during which an employee was underpaid due to
4 failure to provide compliant meal periods;
- 5 E. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
6 2699, et. seq. for failure to provide all rest periods;
- 7 F. For all statutory penalties provided under *California Labor Code* for each pay period during
8 which an employee was underpaid due to failure to provide paid rest periods;
- 9 G. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
10 2699, et. seq. for failure to provide accurate, itemized wage statements;
- 11 H. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
12 2699, et. seq. for failure to timely pay wages at separation;
- 13 I. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
14 2699, et. seq. for failure to adopt a lawful sick pay policy;
- 15 J. For penalties as provided, per each violation, by the PAGA, *California Labor Code* section
16 2699, et. seq. for failure to reimburse business expenses; and
- 17 K. For reasonable attorneys' fees and costs under the PAGA, *California Labor Code* section
18 2699(g)(1).

19 **DEMAND FOR JURY TRIAL**

20 Plaintiff demands a jury trial as to liability.

21
22
23 Date: October 30, 2023

MARA LAW FIRM, PC

Signed: 

David Mara, Esq.

Jill Vecchi, Esq.

Attorneys for Plaintiff MARIA ISORDIA, on
behalf of herself and all others similarly
situated, and on behalf of the general public