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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF BUTTE

ANGELA PORTILLO and KISHA
VAZQUEZ, individuals, on behalf of
themselves and on behalf of all persons
similarly situated, and on behalf of the State of
California, as a private attorney general,

Plaintiffs,

vs.

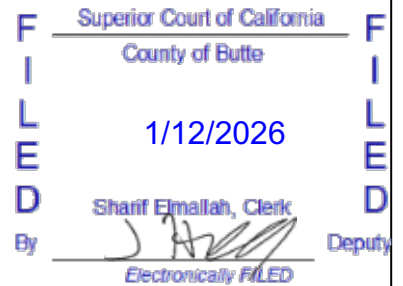
ORCHARD HOSPITAL, a California
Corporation; ORCHARD GRIDLEY
HOSPITAL, INC., a Corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. 23CV03393
[Consolidated with 24CV00173 and
24CV00755]

**FIRST AMENDED CONSOLIDATED
CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE § 510;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;



1 7. FAILURE TO REIMBURSE EMPLOYEES
2 FOR REQUIRED EXPENSES IN VIOLATION
3 OF CAL. LAB. CODE § 2802;
4 8. FAILURE TO PAY SICK PAY WAGES IN
5 VIOLATION OF CAL. LAB CODE §§201-204,
6 233, 246;
7 9.FAILURE TO MAINTAIN RECORDS
8 REQUIRED UNDER LABOR CODE §§ 1174,
9 1174.5; and,
10 10. VIOLATION OF THE PRIVATE
11 ATTORNEYS GENERAL ACT [LABOR
12 CODE §§ 2698, et seq.]

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DEMAND FOR A JURY TRIAL

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1 Angela Portillo and Kisha Vazquez (“PLAINTIFFS”), an individual, on behalf of
2 themselves and all other similarly situated current and former employees alleges on information and
3 belief, except for her own acts and knowledge which are based on personal knowledge, the following.

4 **THE PARTIES**

5 1. Orchard Hospital is a Corporation that at all relevant times mentioned herein conducted
6 and continues to conduct substantial business in California.

7 2. Orchard Gridley Hospital, Inc. is a Corporation that at all relevant times mentioned
8 herein conducted and continues to conduct substantial business in California.

9 3. Orchard Hospital and Orchard Gridley Hospital, Inc. are the joint employers of
10 PLAINTIFFS as evidenced by paycheck and by the company PLAINTIFFS performed work for
11 respectively, and are therefore jointly responsible as employers for the conduct alleged herein, and are
12 therefore collectively referred to herein as (“DEFENDANT”).

13 4. DEFENDANT owns and operates a hospital in Butte County.

14 5. PLAINTIFF Angela Portillo has been employed by DEFENDANT in California since
15 May of 2022. PLAINTIFF has been at all times classified by DEFENDANT as a non-exempt
16 employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and
17 payment of minimum and overtime wages due for all time worked.

18 6. PLAINTIFF Kisha Vazquez has been employed during the relevant period by
19 Defendants as a certified medical assistant, and Defendants have tasked her with duties that include
20 patient care such as taking vitals, giving injections, rooming patients, dispersing medication, cleaning
21 and sanitizing rooms, inputting patient data, and sending faxes.

22 7. PLAINTIFFS bring this Class Action on behalf of themselves and a California class,
23 defined as all individuals who are or previously were employed by Defendants Orchard Hospital and
24 Orchard Gridley Hospital, Inc. (collectively, “Defendant”) who were classified as non-exempt in the
25 State of California from December 7, 2019 to the earlier of preliminary approval or August 10, 2025
26 (the “CALIFORNIA CLASS PERIOD ”). The amount in controversy for the aggregate claim of
27 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).
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8. PLAINTIFFS bring this Class Action on behalf of themselves and a CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANT's policy and practice which failed to lawfully compensate these employees. DEFENDANT's policy and practice alleged herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained and continues to retain wages due PLAINTIFFS and the other members of the CALIFORNIA CLASS. PLAINTIFFS and the other members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFFS and the other members of the CALIFORNIA CLASS who have been economically injured by DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable relief.

9. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFFS who therefore sue these Defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFFS will seek leave to amend this Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFFS are informed and believe, and based upon that information and belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are responsible in some manner for one or more of the events and happenings that proximately caused the injuries and damages hereinafter alleged.

10. The agents, servants and/or employees of the Defendants and each of them acting on behalf of the Defendants acted within the course and scope of his, her or its authority as the agent, servant and/or employee of the Defendants, and personally participated in the conduct alleged herein on behalf of the Defendants with respect to the conduct alleged herein. Consequently, the acts of each Defendant are legally attributable to the other Defendants and all Defendants are jointly and severally liable to PLAINTIFFS and the other members of the CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the Defendants' agents, servants and/or employees.

THE CONDUCT

11. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was required to pay PLAINTIFFS and CALIFORNIA CLASS Members for all their time worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work. DEFENDANT requires PLAINTIFFS and CALIFORNIA CLASS Members to work without paying them for all the time they are under DEFENDANT's control. Among other things, DEFENDANT requires PLAINTIFFS to work while clocked out during what is supposed to be PLAINTIFFS' off-duty meal break. PLAINTIFFS was from time to time interrupted by work assignments while clocked out for what should have been PLAINTIFFS' off-duty meal break. DEFENDANT, as a matter of established company policy and procedure, administers a uniform practice of rounding the actual time worked and recorded by PLAINTIFFS and CALIFORNIA CLASS Members, always to the benefit of DEFENDANT, so that during the course of their employment, PLAINTIFFS and CALIFORNIA CLASS Members are paid less than they would have been paid had they been paid for actual recorded time rather than "rounded" time. Additionally, DEFENDANT engages in the practice of requiring PLAINTIFFS and CALIFORNIA CLASS Members to perform work off the clock in that DEFENDANT, as a condition of employment, required these employees to submit to mandatory temperature checks and symptom questionnaires for COVID-19 screening prior to clocking into DEFENDANT's timekeeping system for the workday. PLAINTIFFS and CALIFORNIA CLASS Members clocked in on the computers, the computers had to be booted up in advance of their scheduled shift starts times to avoid clocking in late. DEFENDANT also told PLAINTIFFS and CALIFORNIA CLASS Members that they could not work more than their scheduled shift times, so PLAINTIFFS and CALIFORNIA CLASS Members frequently clocked out and then finished up their tasks for the day. As a result, PLAINTIFFS and other CALIFORNIA CLASS Members forfeit minimum wage, overtime wage compensation, and off-duty meal breaks by working without their time being correctly recorded and without compensation at the applicable rates. DEFENDANT's policy and practice not to pay PLAINTIFFS and other CALIFORNIA CLASS Members for all time worked, is evidenced by DEFENDANT's business records.

12. State and federal law provides that employees must be paid overtime and meal and rest break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFFS and other

1 CALIFORNIA CLASS Members are compensated at an hourly rate plus incentive pay that is tied to
2 specific elements of an employee's performance.

3 13. The second component of PLAINTIFFS' and other CALIFORNIA CLASS Members'
4 compensation is DEFENDANT's non-discretionary incentive program that paid PLAINTIFFS and
5 other CALIFORNIA CLASS Members incentive wages based on their performance for
6 DEFENDANT. The non-discretionary incentive program provided all employees paid on an hourly
7 basis with incentive compensation when the employees met the various performance goals set by
8 DEFENDANT. Additionally, DEFENDANT paid PLAINTIFFS and CALIFORNIA CLASS
9 Members shift differentials for working certain shifts, like weekend shifts. However, when calculating
10 the regular rate of pay in order to pay overtime and meal and rest break premiums to PLAINTIFFS
11 and other CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive
12 compensation and shift differentials as part of the employees' "regular rate of pay" for purposes of
13 calculating overtime pay and meal and rest break premium pay. Management and supervisors
14 described the incentive program to potential and new employees as part of the compensation package.
15 As a matter of law, the incentive compensation and shift differentials received by PLAINTIFFS and
16 other CALIFORNIA CLASS Members must be included in the "regular rate of pay." The failure to
17 do so has resulted in a underpayment of overtime compensation and meal and rest break premiums to
18 PLAINTIFFS and other CALIFORNIA CLASS Members by DEFENDANT.

19 14. As a result of their rigorous work schedules, PLAINTIFFS and other CALIFORNIA
20 CLASS Members were from time to time unable to take thirty (30) minute off duty meal breaks and
21 were not fully relieved of duty for their meal periods. PLAINTIFFS and other CALIFORNIA CLASS
22 Members were required from time to time to perform work as ordered by DEFENDANT for more
23 than five (5) hours during some shifts without receiving a meal break. Further, DEFENDANT from
24 time to time failed to provide PLAINTIFFS and CALIFORNIA CLASS Members with a second off-
25 duty meal period for some workdays in which these employees were required by DEFENDANT to
26 work ten (10) hours of work. DEFENDANT also engaged in the practice of rounding the meal period
27 times to avoid paying penalties to PLAINTIFFS and other CALIFORNIA CLASS Members.
28

1 PLAINTIFFS and other members of the CALIFORNIA CLASS therefore forfeit meal breaks without
2 additional compensation and in accordance with DEFENDANT's corporate policy and practice.

3 15. During the CALIFORNIA CLASS PERIOD, PLAINTIFFS and other CALIFORNIA
4 CLASS Members were also required from time to time to work in excess of four (4) hours without
5 being provided ten (10) minute rest periods. Further, these employees were denied their first rest
6 periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from
7 time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of
8 between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at
9 least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time.
10 PLAINTIFFS and other CALIFORNIA CLASS Members were also not provided with one hour wages
11 in lieu thereof. Additionally, the applicable California Wage Order requires employers to provide
12 employees with off-duty rest periods, which the California Supreme Court defined as time during
13 which an employee is relieved from all work related duties and free from employer control. In so
14 doing, the Court held that the requirement under California law that employers authorize and permit
15 all employees to take rest period means that employers must relieve employees of all duties and
16 relinquish control over how employees spend their time which includes control over the locations
17 where employees may take their rest period. Employers cannot impose controls that prohibit an
18 employee from taking a brief walk - five minutes out, five minutes back. Here, DEFENDANT's
19 policy restricted PLAINTIFFS and other CALIFORNIA CLASS Members from unconstrained walks
20 and is unlawful based on DEFENDANT's rule which states PLAINTIFFS and other CALIFORNIA
21 CLASS Members cannot leave the work premises during their rest period.

22 16. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to accurately record
23 and pay PLAINTIFFS and other CALIFORNIA CLASS Members for the actual amount of time these
24 employees worked. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
25 required to pay PLAINTIFFS and other CALIFORNIA CLASS Members for all time worked,
26 meaning the time during which an employee was subject to the control of an employer, including all
27 the time the employee was permitted or suffered to permit this work. DEFENDANT required these
28 employees to work off the clock without paying them for all the time they were under DEFENDANT's

1 control. As such, DEFENDANT knew or should have known that PLAINTIFFS and the other
2 members of the CALIFORNIA CLASS were under compensated for all time worked. As a result,
3 PLAINTIFFS and other CALIFORNIA CLASS Members forfeited time worked by working without
4 their time being accurately recorded and without compensation at the applicable minimum wage and
5 overtime wage rates. Defendants have either failed to maintain timekeeping records for PLAINTIFFS
6 and the other members of the CALIFORNIA CLASS that would permit PLAINTIFFS and the other
7 members of the CALIFORNIA CLASS to discover the nature and extent of the off-the-clock work
8 Defendants required and the actual hours PLAINTIFFS and the other members of the CALIFORNIA
9 CLASS worked or the breaks they received. By failing to pay for all hours worked, and by under-
10 recording regular hours to the detriment of the Class Members, DEFENDANT have committed
11 knowing and intentional ongoing violations of the record keeping requirements under the Labor Code,
12 including sections 226, 1174, 1174.5, and 1198 by either failing to maintain records or retaining
13 inaccurate ones. To the extent that the time worked off the clock does not qualify for overtime
14 premium payment, DEFENDANT fails to pay minimum wages for the time worked off-the-clock in
15 violation of Cal. Lab. Code §§ 1194, 1197, and 1197.1.

16 17. From time to time, DEFENDANT also failed to provide PLAINTIFFS and the other
17 members of the CALIFORNIA CLASS with complete and accurate wage statements which failed to
18 show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226 provides that
19 every employer shall furnish each of his or her employees with an accurate itemized wage statement
20 in writing showing, among other things, gross wages earned and all applicable hourly rates in effect
21 during the pay period and the corresponding amount of time worked at each hourly rate. PLAINTIFFS
22 and CALIFORNIA CLASS Members were paid on an hourly basis. As such, the wage statements
23 should reflect all applicable hourly rates during the pay period and the total hours worked, and the
24 applicable pay period in which the wages were earned pursuant to California Labor Code Section
25 226(a). The wage statements DEFENDANT provided to PLAINTIFFS and other CALIFORNIA
26 CLASS Members failed to identify such information. More specifically, the wage statements failed to
27 identify the accurate total hours worked each pay period. When the hours shown on the wage
28 statements were added up, they did not equal the actual total hours worked during the pay period in

1 violation of Cal. Lab. Code 226(a)(2). Aside, from the violations listed above in this paragraph,
2 DEFENDANT failed to issue to PLAINTIFFS an itemized wage statement that lists all the
3 requirements under California Labor Code 226 et seq. As a result, DEFENDANT from time to time
4 provided PLAINTIFFS and the other members of the CALIFORNIA CLASS with wage statements
5 which violated Cal. Lab. Code § 226.

6 18. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be deemed
7 satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid
8 not more than seven (7) calendar days following the close of the payroll period. Cal. Lab. Code § 210
9 provides:

10 [I]n addition to, and entirely independent and apart from, any other penalty provided in this
11 article, every person who fails to pay the wages of each employee as provided in Sections. . .
12 .204. . .shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred
13 dollars (\$100) for each failure to pay each employee; (2) For each subsequent violation, or any
14 willful or intentional violation, two hundred dollars (\$200) for each failure to pay each
15 employee, plus 25 percent of the amount unlawfully withheld.

16 19. DEFENDANT from time to time failed to pay PLAINTIFFS and members of the
17 CALIFORNIA LABOR SUB-CLASS Members within seven (7) days of the close of the payroll
18 period in accordance with Cal. Lab. Code § 204(d), including but not limited to for the “Hourly”
19 regular wage payments.

20 20. DEFENDANT underpaid sick pay wages to PLAINTIFFS and other CALIFORNIA
21 CLASS Members by failing to pay such wages at the regular rate of pay in violation of Cal. Lab. Code
22 Section 246. Specifically, PLAINTIFFS and other non-exempt employees earn non-discretionary
23 remuneration. Rather than pay sick pay at the regular rate of pay, DEFENDANT underpaid sick pay
24 to PLAINTIFFS and other CALIFORNIA CLASS Members at their base rates of pay.

25 21. Cal. Lab. Code Section 246(l)(2) requires that paid sick time for nonexempt employees
26 be calculated by dividing the employee’s total wages, not including overtime premium pay, by the
27 employee’s total hours worked in the full pay periods of the prior 90 days of employment.

28 22. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at the
regular rate of pay. PLAINTIFFS and CALIFORNIA CLASS Members routinely earned non-
discretionary incentive wages which increased their regular rate of pay. However, when sick pay was

1 paid, it was paid at the base rate of pay for PLAINTIFFS and members of the CALIFORNIA CLASS,
2 as opposed to the correct, higher regular rate of pay, as required under Cal. Lab. Code Section 246.

3 23. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFFS and
4 other members of the CALIFORNIA CLASS their correct wages and accordingly owe waiting time
5 penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFFS are informed and believe and
6 based thereon alleges that such failure to pay sick pay and vacation pay at regular rate was willful,
7 such that PLAINTIFFS and members of the CALIFORNIA CLASS whose employment has separated
8 are entitled to waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

9 24. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer to
10 collect or receive from an employee any part of wages theretofore paid by said employer to said
11 employee." DEFENDANT failed to pay all compensation due to PLAINTIFFS and other
12 CALIFORNIA LABOR SUB-CLASS Members, made unlawful deductions from compensation
13 payable to PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members, failed to disclose all
14 aspects of the deductions from compensation payable to PLAINTIFFS and CALIFORNIA LABOR
15 SUB-CLASS Members, and thereby failed to pay these employees all wages due at each applicable
16 pay period and upon termination. PLAINTIFFS and members of the CALIFORNIA LABOR SUB-
17 CLASS seek recovery of all illegal deductions from wages according to proof, related penalties,
18 interest, attorney fees and costs.

19 25. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
20 PLAINTIFFS and the other CALIFORNIA CLASS Members for required business expenses incurred
21 by the PLAINTIFFS and other CALIFORNIA CLASS Members in direct consequence of discharging
22 their duties on behalf of DEFENDANT. Under California Labor Code Section 2802, employers are
23 required to indemnify employees for all expenses incurred in the course and scope of their
24 employment. Cal. Lab. Code § 2802 expressly states that "an employer shall indemnify his or her
25 employee for all necessary expenditures or losses incurred by the employee in direct consequence of
26 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even
27 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
28 unlawful."

1 26. In the course of their employment PLAINTIFFS and other CALIFORNIA CLASS
2 Members as a business expense, were required by DEFENDANT to use their own personal cellular
3 phones as a result of and in furtherance of their job duties as employees for DEFENDANT but are not
4 reimbursed or indemnified by DEFENDANT for the cost associated with the use of their personal
5 cellular phones for DEFENDANT's benefit. Specifically, PLAINTIFFS and other CALIFORNIA
6 CLASS Members were required by DEFENDANT to use their personal cellular phones. As a result,
7 in the course of their employment with DEFENDANT, PLAINTIFFS and other members of the
8 CALIFORNIA CLASS incurred unreimbursed business expenses which included, but were not
9 limited to, costs related to the use of their personal cellular phones all on behalf of and for the benefit
10 of DEFENDANT.

11 27. In violation of the applicable sections of the California Labor Code and the
12 requirements of the applicable Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT
13 as a matter of company policy, practice and procedure, intentionally, knowingly and systematically
14 failed to provide PLAINTIFFS and the other Aggrieved Employees suitable seating when the nature
15 of these employees' work reasonably permitted sitting.

16 28. DEFENDANT knew or should have known that PLAINTIFFS and other Aggrieved
17 Employees were entitled to suitable seating and/or were entitled to sit when it did not interfere with
18 the performance of their duties, and that DEFENDANT did not provide suitable seating and/or did not
19 allow them to sit when it did not interfere with the performance of their duties.

20 29. By reason of this conduct applicable to PLAINTIFFS and all Aggrieved Employees,
21 DEFENDANT violated California Labor Code Section 1198 and California Code of Regulations, Title
22 8, Section 11070(14) (Failure to Provide Seating), Wage Order 4-2001, Section 14 by failing to
23 provide suitable seats. PLAINTIFFS seek penalties on behalf of PLAINTIFFS and other Aggrieved
24 Employees as provided herein. Providing suitable seating is the DEFENDANT's burden. As a result
25 of DEFENDANT's intentional disregard of the obligation to meet this burden, DEFENDANT violated
26 the California Labor Code and regulations promulgated thereunder as herein alleged.

27 30. In light of the foregoing, PLAINTIFFS and CALIFORNIA CLASS Members bring
28 this action pursuant to, inter alia, Labor Code §§ 201, 202, 203, 204, , 210, 218, 218.5, 218.6, 221, ,

226, , 226.4, 226.7, 227.3, 245, 246, 248.1, 248.2, 248.5, , 510, 511, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, and 2802; Business and Professions Code sections 17200-17208; California Code of Regulations, Title 8, section 11000 et seq; California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B); California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating); and the applicable Wage Order(s).

JURISDICTION AND VENUE

31. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This action is brought as a Class Action on behalf of PLAINTIFFS and similarly situated employees of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

32. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections 395 and 395.5, because PLAINTIFFS worked in this County for DEFENDANT and DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities in this County and/or conducts substantial business in this County, and (ii) committed the wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

THE CALIFORNIA CLASS

33. PLAINTIFFS brings the First Cause of Action for Unfair, Unlawful and Deceptive Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, et seq. (the "UCL") as a Class Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all individuals who are or previously were employed by Defendants Orchard Hospital and Orchard Gridley Hospital, Inc. (collectively, "Defendant") who were classified as non-exempt in the State of California from December 7, 2019 to the earlier of preliminary approval or August 10, 2025 (the "CALIFORNIA CLASS PERIOD"). The amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

34. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

1 35. DEFENDANT, as a matter of company policy, practice and procedure, and in violation
2 of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order requirements, and
3 the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in a
4 practice whereby DEFENDANT failed to record all meal and rest breaks missed by PLAINTIFFS and
5 other CALIFORNIA CLASS Members, even though DEFENDANT enjoyed the benefit of this work,
6 required employees to perform this work and permits or suffers to permit this work.

7 36. DEFENDANT has the legal burden to establish that each and every CALIFORNIA
8 CLASS Member was paid accurately for all meal and rest breaks missed as required by California
9 laws. The DEFENDANT, however, as a matter of policy and procedure failed to have in place during
10 the CALIFORNIA CLASS PERIOD and still fails to have in place a policy or practice to ensure that
11 each and every CALIFORNIA CLASS Member is paid as required by law. This common business
12 practice is applicable to each and every CALIFORNIA CLASS Member can be adjudicated on a class-
13 wide basis as unlawful, unfair, and/or deceptive under Cal. Business & Professions Code §§ 17200, et
14 seq. (the “UCL”) as causation, damages, and reliance are not elements of this claim.

15 37. The CALIFORNIA CLASS is so numerous that joinder of all CALIFORNIA CLASS
16 Members is impracticable.

17 38. DEFENDANT violated the rights of the CALIFORNIA CLASS under California law
18 by:

- 19 (a) Committing an act of unfair competition in violation of, Cal. Bus. & Prof. Code §§
20 17200, et seq. (the "UCL"), by unlawfully, unfairly and/or deceptively having in place
21 company policies, practices and procedures that failed to record and pay PLAINTIFFS
22 and the other members of the CALIFORNIA CLASS for all time worked, including
23 minimum wages owed and overtime wages owed for work performed by these
24 employees; and,
25 (b) Committing an act of unfair competition in violation of the UCL, by failing to provide
26 the PLAINTIFFS and the other members of the CALIFORNIA CLASS with the legally
27 required meal and rest periods.
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1 39. This Class Action meets the statutory prerequisites for the maintenance of a Class
2 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

3 (a) The persons who comprise the CALIFORNIA CLASS are so numerous that the joinder
4 of all such persons is impracticable and the disposition of their claims as a class will
5 benefit the parties and the Court;

6 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are raised
7 in this Complaint are common to the CALIFORNIA CLASS will apply to every
8 member of the CALIFORNIA CLASS;

9 (c) The claims of the representative PLAINTIFFS are typical of the claims of each member
10 of the CALIFORNIA CLASS. PLAINTIFFS, like all the other members of the
11 CALIFORNIA CLASS, was classified as a non-exempt employee paid on an hourly
12 basis who was subjected to the DEFENDANT's deceptive practice and policy which
13 failed to provide the legally required meal and rest periods to the CALIFORNIA
14 CLASS and thereby underpaid compensation to PLAINTIFFS and CALIFORNIA
15 CLASS. PLAINTIFFS sustained economic injury as a result of DEFENDANT's
16 employment practices. PLAINTIFFS and the members of the CALIFORNIA CLASS
17 were and are similarly or identically harmed by the same unlawful, deceptive and unfair
18 misconduct engaged in by DEFENDANT; and,

19 (d) The representative PLAINTIFFS will fairly and adequately represent and protect the
20 interest of the CALIFORNIA CLASS, and has retained counsel who are competent and
21 experienced in Class Action litigation. There are no material conflicts between the
22 claims of the representative PLAINTIFFS and the members of the CALIFORNIA
23 CLASS that would make class certification inappropriate. Counsel for the
24 CALIFORNIA CLASS will vigorously assert the claims of all CALIFORNIA CLASS
25 Members.

26 40. In addition to meeting the statutory prerequisites to a Class Action, this action is
27 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:
28

- 1 (a) Without class certification and determination of declaratory, injunctive, statutory and
2 other legal questions within the class format, prosecution of separate actions by
3 individual members of the CALIFORNIA CLASS will create the risk of:
- 4 1) Inconsistent or varying adjudications with respect to individual members of the
5 CALIFORNIA CLASS which would establish incompatible standards of
6 conduct for the parties opposing the CALIFORNIA CLASS; and/or,
7 2) Adjudication with respect to individual members of the CALIFORNIA CLASS
8 which would as a practical matter be dispositive of interests of the other
9 members not party to the adjudication or substantially impair or impede their
10 ability to protect their interests.
- 11 (b) The parties opposing the CALIFORNIA CLASS have acted or refused to act on
12 grounds generally applicable to the CALIFORNIA CLASS, making appropriate class-
13 wide relief with respect to the CALIFORNIA CLASS as a whole in that DEFENDANT
14 failed to pay all wages due to members of the CALIFORNIA CLASS as required by
15 law;
- 16 1) With respect to the First Cause of Action, the final relief on behalf of the
17 CALIFORNIA CLASS sought does not relate exclusively to restitution because
18 through this claim PLAINTIFFS seek declaratory relief holding that the
19 DEFENDANT's policy and practices constitute unfair competition, along with
20 declaratory relief, injunctive relief, and incidental equitable relief as may be
21 necessary to prevent and remedy the conduct declared to constitute unfair
22 competition;
- 23 (c) Common questions of law and fact exist as to the members of the CALIFORNIA
24 CLASS, with respect to the practices and violations of California law as listed above,
25 and predominate over any question affecting only individual CALIFORNIA CLASS
26 Members, and a Class Action is superior to other available methods for the fair and
27 efficient adjudication of the controversy, including consideration of:
28

- 1) The interests of the members of the CALIFORNIA CLASS in individually controlling the prosecution or defense of separate actions in that the substantial expense of individual actions will be avoided to recover the relatively small amount of economic losses sustained by the individual CALIFORNIA CLASS Members when compared to the substantial expense and burden of individual prosecution of this litigation;
- 2) Class certification will obviate the need for unduly duplicative litigation that would create the risk of:
 - A. Inconsistent or varying adjudications with respect to individual members of the CALIFORNIA CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or,
 - B. Adjudications with respect to individual members of the CALIFORNIA CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;
- 3) In the context of wage litigation because a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,
- 4) A class action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment will obviate the need for unduly and unnecessary duplicative litigation that is likely to result in the absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

41. This Court should permit this action to be maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382 because:

- (a) The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the

1 DEFENDANT's employment practices are applied with respect to the CALIFORNIA
2 CLASS;

3 (b) A Class Action is superior to any other available method for the fair and efficient
4 adjudication of the claims of the members of the CALIFORNIA CLASS because in the
5 context of employment litigation a substantial number of individual CALIFORNIA
6 CLASS Members will avoid asserting their rights individually out of fear of retaliation
7 or adverse impact on their employment;

8 (c) The members of the CALIFORNIA CLASS are so numerous that it is impractical to
9 bring all members of the CALIFORNIA CLASS before the Court;

10 (d) PLAINTIFFS, and the other CALIFORNIA CLASS Members, will not be able to
11 obtain effective and economic legal redress unless the action is maintained as a Class
12 Action;

13 (e) There is a community of interest in obtaining appropriate legal and equitable relief for
14 the acts of unfair competition, statutory violations and other improprieties, and in
15 obtaining adequate compensation for the damages and injuries which DEFENDANT's
16 actions have inflicted upon the CALIFORNIA CLASS;

17 (f) There is a community of interest in ensuring that the combined assets of DEFENDANT
18 are sufficient to adequately compensate the members of the CALIFORNIA CLASS for
19 the injuries sustained;

20 (g) DEFENDANT has acted or refused to act on grounds generally applicable to the
21 CALIFORNIA CLASS, thereby making final class-wide relief appropriate with respect
22 to the CALIFORNIA CLASS as a whole;

23 (h) The members of the CALIFORNIA CLASS are readily ascertainable from the business
24 records of DEFENDANT; and,

25 (i) Class treatment provides manageable judicial treatment calculated to bring a efficient
26 and rapid conclusion to all litigation of all wage and hour related claims arising out of
27 the conduct of DEFENDANT as to the members of the CALIFORNIA CLASS.
28

42. DEFENDANT maintains records from which the Court can ascertain and identify by job title each of DEFENDANT's employees who have been intentionally subjected to DEFENDANT's company policy, practices and procedures as herein alleged. PLAINTIFFS will seek leave to amend the Complaint to include any additional job titles of similarly situated employees when they have been identified.

THE CALIFORNIA LABOR SUB-CLASS

43. PLAINTIFFS further bring the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth causes Action on behalf of a California sub-class, defined as all members of the CALIFORNIA CLASS who are or previously were employed by Defendants Orchard Hospital and Orchard Gridley Hospital, Inc. (collectively, "Defendant") who were classified as non-exempt in the State of California (the "CALIFORNIA LABOR SUB-CLASS") from December 7, 2019 to the earlier of preliminary approval or August 10, 2025 (the "CALIFORNIA LABOR SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million dollars (\$5,000,000.00).

44. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order requirements, and the applicable provisions of California law, intentionally, knowingly, and willfully, engaged in a practice whereby DEFENDANT failed to correctly calculate compensation for the time worked by PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to these employees, even though DEFENDANT enjoyed the benefit of this work, required employees to perform this work and permitted or suffered to permit this work. DEFENDANT has denied these CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are entitled in order to unfairly cheat the competition and unlawfully profit. To the extent equitable tolling operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted accordingly.

45. DEFENDANT maintains records from which the Court can ascertain and identify by name and job title, each of DEFENDANT's employees who have been intentionally subjected to DEFENDANT's company policy, practices and procedures as herein alleged. PLAINTIFFS will seek

1 leave to amend the complaint to include any additional job titles of similarly situated employees when
2 they have been identified.

3 46. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
4 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

5 47. Common questions of law and fact exist as to members of the CALIFORNIA LABOR
6 SUB-CLASS, including, but not limited, to the following:

- 7 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay compensation
8 due to members of the CALIFORNIA LABOR SUB-CLASS for missed meal and rest
9 breaks in violation of the California Labor Code and California regulations and the
10 applicable California Wage Order;
- 11 (b) Whether DEFENDANT failed to provide the PLAINTIFFS and the other members of
12 the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage statements;
- 13 (c) Whether DEFENDANT has engaged in unfair competition by the above listed
14 conduct;
- 15 (d) The proper measure of damages and penalties owed to the members of the
16 CALIFORNIA LABOR SUB-CLASS; and,
- 17 (e) Whether DEFENDANT's conduct was willful.

18 48. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS under
19 California law by:

- 20 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the PLAINTIFFS and the
21 members of the CALIFORNIA LABOR SUB-CLASS all wages due for overtime
22 worked, for which DEFENDANT is liable pursuant to Cal. Lab. Code § 1194;
- 23 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 et seq., by failing to accurately pay
24 PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS the
25 correct minimum wage pay for which DEFENDANT is liable pursuant to Cal. Lab.
26 Code §§ 1194 and 1197;

- 1 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFFS and the members
2 of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized statement in
3 writing showing the corresponding correct amount of wages earned by the employee;
- 4 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFFS and the
5 other members of the CALIFORNIA LABOR SUB-CLASS with all legally required
6 off-duty, uninterrupted thirty (30) minute meal breaks and the legally required off-duty
7 rest breaks;
- 8 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an
9 employee is discharged or quits from employment, the employer must pay the
10 employee all wages due without abatement, by failing to tender full payment and/or
11 restitution of wages owed or in the manner required by California law to the members
12 of the CALIFORNIA LABOR SUB-CLASS who have terminated their employment;
13 and,
- 14 (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS and the
15 CALIFORNIA LABOR SUB-CLASS members with necessary expenses incurred in
16 the discharge of their job duties.

17 49. This Class Action meets the statutory prerequisites for the maintenance of a Class
18 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 19 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so numerous
20 that the joinder of all CALIFORNIA LABOR SUB-CLASS Members is impracticable
21 and the disposition of their claims as a class will benefit the parties and the Court;
- 22 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are raised
23 in this Complaint are common to the CALIFORNIA LABOR SUB-CLASS and will
24 apply to every member of the CALIFORNIA LABOR SUB-CLASS;
- 25 (c) The claims of the representative PLAINTIFFS are typical of the claims of each member
26 of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFFS, like all the other members
27 of the CALIFORNIA LABOR SUB-CLASS, was a non-exempt employee paid on an
28 hourly basis who was subjected to the DEFENDANT's practice and policy which failed

1 to pay the correct amount of wages due to the CALIFORNIA LABOR SUB-CLASS.
2 PLAINTIFFS sustained economic injury as a result of DEFENDANT's employment
3 practices. PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-CLASS
4 were and are similarly or identically harmed by the same unlawful, deceptive, and
5 unfair misconduct engaged in by DEFENDANT; and,

- 6 (d) The representative PLAINTIFFS will fairly and adequately represent and protect the
7 interest of the CALIFORNIA LABOR SUB-CLASS, and has retained counsel who are
8 competent and experienced in Class Action litigation. There are no material conflicts
9 between the claims of the representative PLAINTIFFS and the members of the
10 CALIFORNIA LABOR SUB-CLASS that would make class certification
11 inappropriate. Counsel for the CALIFORNIA LABOR SUB-CLASS will vigorously
12 assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

13 50. In addition to meeting the statutory prerequisites to a Class Action, this action is
14 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

- 15 (a) Without class certification and determination of declaratory, injunctive, statutory and
16 other legal questions within the class format, prosecution of separate actions by
17 individual members of the CALIFORNIA LABOR SUB-CLASS will create the risk
18 of:

- 19 1) Inconsistent or varying adjudications with respect to individual members of the
20 CALIFORNIA LABOR SUB-CLASS which would establish incompatible
21 standards of conduct for the parties opposing the CALIFORNIA LABOR SUB-
22 CLASS; or,
23 2) Adjudication with respect to individual members of the CALIFORNIA
24 LABOR SUB-CLASS which would as a practical matter be dispositive of
25 interests of the other members not party to the adjudication or substantially
26 impair or impede their ability to protect their interests.

- 27 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or refused
28 to act on grounds generally applicable to the CALIFORNIA LABOR SUB-CLASS,

1 making appropriate class-wide relief with respect to the CALIFORNIA LABOR SUB-
2 CLASS as a whole in that DEFENDANT fails to pay all wages due. Including the
3 correct wages for all time worked by the members of the CALIFORNIA LABOR SUB-
4 CLASS as required by law;

5 (c) Common questions of law and fact predominate as to the members of the
6 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and violations of
7 California Law as listed above, and predominate over any question affecting only
8 individual CALIFORNIA LABOR SUB-CLASS Members, and a Class Action is
9 superior to other available methods for the fair and efficient adjudication of the
10 controversy, including consideration of:

11 1) The interests of the members of the CALIFORNIA LABOR SUB-CLASS in
12 individually controlling the prosecution or defense of separate actions in that
13 the substantial expense of individual actions will be avoided to recover the
14 relatively small amount of economic losses sustained by the individual
15 CALIFORNIA LABOR SUB-CLASS Members when compared to the
16 substantial expense and burden of individual prosecution of this litigation;

17 2) Class certification will obviate the need for unduly duplicative litigation that
18 would create the risk of:

19 A. Inconsistent or varying adjudications with respect to individual
20 members of the CALIFORNIA LABOR SUB-CLASS, which would
21 establish incompatible standards of conduct for the DEFENDANT;
22 and/or,

23 B. Adjudications with respect to individual members of the CALIFORNIA
24 LABOR SUB-CLASS would as a practical matter be dispositive of the
25 interests of the other members not parties to the adjudication or
26 substantially impair or impede their ability to protect their interests;

27 3) In the context of wage litigation because a substantial number of individual
28 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their legal

1 rights out of fear of retaliation by DEFENDANT, which may adversely affect
2 an individual's job with DEFENDANT or with a subsequent employer, the
3 Class Action is the only means to assert their claims through a representative;
4 and,

- 5 4) A class action is superior to other available methods for the fair and efficient
6 adjudication of this litigation because class treatment will obviate the need for
7 unduly and unnecessary duplicative litigation that is likely to result in the
8 absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

9 51. This Court should permit this action to be maintained as a Class Action pursuant to
10 Cal. Code of Civ. Proc. § 382 because:

- 11 (a) The questions of law and fact common to the CALIFORNIA LABOR SUB-CLASS
12 predominate over any question affecting only individual CALIFORNIA LABOR SUB-
13 CLASS Members;
- 14 (b) A Class Action is superior to any other available method for the fair and efficient
15 adjudication of the claims of the members of the CALIFORNIA LABOR SUB-CLASS
16 because in the context of employment litigation a substantial number of individual
17 CALIFORNIA LABOR SUB-CLASS Members will avoid asserting their rights
18 individually out of fear of retaliation or adverse impact on their employment;
- 19 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so numerous that it is
20 impractical to bring all members of the CALIFORNIA LABOR SUB-CLASS before
21 the Court;
- 22 (d) PLAINTIFFS, and the other CALIFORNIA LABOR SUB-CLASS Members, will not
23 be able to obtain effective and economic legal redress unless the action is maintained
24 as a Class Action;
- 25 (e) There is a community of interest in obtaining appropriate legal and equitable relief for
26 the acts of unfair competition, statutory violations and other improprieties, and in
27 obtaining adequate compensation for the damages and injuries which DEFENDANT's
28 actions have inflicted upon the CALIFORNIA LABOR SUB-CLASS;

- 1 (f) There is a community of interest in ensuring that the combined assets of DEFENDANT
2 are sufficient to adequately compensate the members of the CALIFORNIA LABOR
3 SUB-CLASS for the injuries sustained;
- 4 (g) DEFENDANT has acted or refused to act on grounds generally applicable to the
5 CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide relief
6 appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as a whole;
- 7 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily ascertainable
8 from the business records of DEFENDANT. The CALIFORNIA LABOR SUB-
9 CLASS consists of all CALIFORNIA CLASS Members who worked for
10 DEFENDANT in California at any time during the CALIFORNIA LABOR SUB-
11 CLASS PERIOD; and,
- 12 (i) Class treatment provides manageable judicial treatment calculated to bring a efficient
13 and rapid conclusion to all litigation of all wage and hour related claims arising out of
14 the conduct of DEFENDANT as to the members of the CALIFORNIA LABOR SUB-
15 CLASS.

16 //

17 //

18 **FIRST CAUSE OF ACTION**

19 **For Unlawful Business Practices**

20 **[Cal. Bus. And Prof. Code §§ 17200, et seq.]**

21 **(By PLAINTIFFS and the CALIFORNIA CLASS and Against All Defendants)**

22 52. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and
23 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

24 53. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof. Code §
25 17021.

26 54. California Business & Professions Code §§ 17200, et seq. (the “UCL”) defines unfair
27 competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203 authorizes
28 injunctive, declaratory, and/or other equitable relief with respect to unfair competition as follows:

1 Any person who engages, has engaged, or proposes to engage in unfair competition may be
2 enjoined in any court of competent jurisdiction. The court may make such orders or judgments,
3 including the appointment of a receiver, as may be necessary to prevent the use or employment
4 by any person of any practice which constitutes unfair competition, as defined in this chapter,
or as may be necessary to restore to any person in interest any money or property, real or
personal, which may have been acquired by means of such unfair competition.

5 Cal. Bus. & Prof. Code § 17203.

6 55. By the conduct alleged herein, DEFENDANT has engaged and continues to engage in
7 a business practice which violates California law, including but not limited to, the applicable Industrial
8 Wage Order(s), the California Code of Regulations and the California Labor Code including Sections
9 204, 210, 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198, 2802 and the Fair Labor Standards Act
10 and federal regulations promulgated thereunder, for which this Court should issue declaratory and
11 other equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be necessary to prevent and
12 remedy the conduct held to constitute unfair competition, including restitution of wages wrongfully
13 withheld.

14 56. By the conduct alleged herein, DEFENDANT's practices were unlawful and unfair in
15 that these practices violate public policy, were immoral, unethical, oppressive, unscrupulous or
16 substantially injurious to employees, and were without valid justification or utility for which this Court
17 should issue equitable and injunctive relief pursuant to Section 17203 of the California Business &
18 Professions Code, including restitution of wages wrongfully withheld.

19 57. By the conduct alleged herein, DEFENDANT's practices were deceptive and
20 fraudulent in that DEFENDANT's policy and practice failed to provide the legally mandated meal and
21 rest periods, the required amount of compensation for missed meal and rest periods and overtime and
22 minimum wages owed, failed to timely pay wages, and failed to reimburse all necessary business
23 expenses incurred, and failed to provide Fair Labor Standards Act overtime wages due for overtime
24 worked as a result of failing to include non-discretionary incentive compensation into their regular
25 rates of pay for purposes of computing the proper overtime pay due to a business practice that cannot
26 be justified, pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission
27 requirements in violation of Cal. Bus. Code §§ 17200, et seq., and for which this Court should issue
28

1 injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of
2 wages wrongfully withheld.

3 58. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair
4 and deceptive in that DEFENDANT's employment practices caused PLAINTIFFS and the other
5 members of the CALIFORNIA CLASS to be underpaid during their employment with DEFENDANT.

6 59. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair
7 and deceptive in that DEFENDANT's policies, practices and procedures failed to provide all legally
8 required meal breaks to PLAINTIFFS and the other members of the CALIFORNIA CLASS as
9 required by Cal. Lab. Code §§ 226.7 and 512.

10 60. Therefore, PLAINTIFFS demand on behalf of themselves and on behalf of each
11 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty meal
12 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for each
13 workday in which a second off-duty meal period was not timely provided for each ten (10) hours of
14 work.

15 61. PLAINTIFFS further demand on behalf of themselves and each member of the
16 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off duty paid
17 rest period was not timely provided as required by law.

18 62. By and through the unlawful and unfair business practices described herein,
19 DEFENDANT has obtained valuable property, money and services from PLAINTIFFS and the other
20 members of the CALIFORNIA CLASS, including earned wages for all time worked, and has deprived
21 them of valuable rights and benefits guaranteed by law and contract, all to the detriment of these
22 employees and to the benefit of DEFENDANT so as to allow DEFENDANT to unfairly compete
23 against competitors who comply with the law.

24 63. All the acts described herein as violations of, among other things, the Industrial Welfare
25 Commission Wage Orders, the California Code of Regulations, and the California Labor Code, were
26 unlawful and in violation of public policy, were immoral, unethical, oppressive and unscrupulous,
27 were deceptive, and thereby constitute unlawful, unfair and deceptive business practices in violation
28 of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

1 64. PLAINTIFFS and the other members of the CALIFORNIA CLASS are entitled to, and
2 do, seek such relief as may be necessary to restore to them the money and property which
3 DEFENDANT has acquired, or of which PLAINTIFFS and the other members of the CALIFORNIA
4 CLASS have been deprived, by means of the above described unlawful and unfair business practices,
5 including earned but unpaid wages for all time worked.

6 65. PLAINTIFFS and the other members of the CALIFORNIA CLASS are further entitled
7 to, and do, seek a declaration that the described business practices are unlawful, unfair and deceptive,
8 and that injunctive relief should be issued restraining DEFENDANT from engaging in any unlawful
9 and unfair business practices in the future.

10 66. PLAINTIFFS and the other members of the CALIFORNIA CLASS have no plain,
11 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of
12 DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a result
13 of the unlawful and unfair business practices described herein, PLAINTIFFS and the other members
14 of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal and economic
15 harm unless DEFENDANT is restrained from continuing to engage in these unlawful and unfair
16 business practices.

17 **SECOND CAUSE OF ACTION**

18 **For Failure to Pay Minimum Wages**

19 **[Cal. Lab. Code §§ 1194, 1197 and 1197.1]**

20 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS**

21 **and Against All Defendants)**

22 67. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB- CLASS,
23 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
24 Complaint.

25 68. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS
26 bring a claim for DEFENDANT's willful and intentional violations of the California Labor Code and
27 the Industrial Welfare Commission requirements for DEFENDANT's failure to accurately calculate
28 and pay minimum wages to PLAINTIFFS and CALIFORNIA CLASS Members.

1 69. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
2 policy, an employer must timely pay its employees for all hours worked.

3 70. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the
4 commission is the minimum wage to be paid to employees, and the payment of a less wage than the
5 minimum so fixed is unlawful.

6 71. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
7 including minimum wage compensation and interest thereon, together with the costs of suit.

8 72. DEFENDANT maintained a wage practice of paying PLAINTIFFS and the other
9 members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of time
10 they work. As set forth herein, DEFENDANT's policy and practice was to unlawfully and
11 intentionally deny timely payment of wages due to PLAINTIFFS and the other members of the
12 CALIFORNIA LABOR SUB-CLASS.

13 73. DEFENDANT's unlawful wage and hour practices manifested, without limitation,
14 applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a
15 policy and practice that denies accurate compensation to PLAINTIFFS and the other members of the
16 CALIFORNIA LABOR SUB-CLASS in regards to minimum wage pay.

17 74. In committing these violations of the California Labor Code, DEFENDANT
18 inaccurately calculated the correct time worked and consequently underpaid the actual time worked
19 by PLAINTIFFS and other members of the CALIFORNIA LABOR SUB-CLASS. DEFENDANT
20 acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of
21 the California Labor Code, the Industrial Welfare Commission requirements and other applicable laws
22 and regulations.

23 75. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
24 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive the
25 correct minimum wage compensation for their time worked for DEFENDANT.

26 76. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT required,
27 permitted or suffered PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members to work
28 without paying them for all the time they were under DEFENDANT's control. During the

1 CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and the other members of the
2 CALIFORNIA LABOR SUB-CLASS were paid less for time worked that they were entitled to,
3 constituting a failure to pay all earned wages.

4 77. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
5 compensation to PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS
6 for the true time they worked, PLAINTIFFS and the other members of the CALIFORNIA LABOR
7 SUB-CLASS have suffered and will continue to suffer an economic injury in amounts which are
8 presently unknown to them and which will be ascertained according to proof at trial.

9 78. DEFENDANT knew or should have known that PLAINTIFFS and the other members
10 of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time worked.
11 DEFENDANT elected, either through intentional malfeasance or gross nonfeasance, to not pay
12 employees for their labor as a matter of company policy, practice and procedure, and DEFENDANT
13 perpetrated this scheme by refusing to pay PLAINTIFFS and the other members of the CALIFORNIA
14 LABOR SUB-CLASS the correct minimum wages for their time worked.

15 80. In performing the acts and practices herein alleged in violation of California labor laws,
16 and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for all time
17 worked and provide them with the requisite compensation, DEFENDANT acted and continues to act
18 intentionally, oppressively, and maliciously toward PLAINTIFFS and the other members of the
19 CALIFORNIA LABOR SUB-CLASS with a conscious and utter disregard for their legal rights, or
20 the consequences to them, and with the despicable intent of depriving them of their property and legal
21 rights, and otherwise causing them injury in order to increase company profits at the expense of these
22 employees.

23 81. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS
24 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as
25 the assessment of any statutory penalties against DEFENDANT, in a sum as provided by the California
26 Labor Code and/or other applicable statutes. To the extent minimum wage compensation is
27 determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members who have terminated
28 their employment, DEFENDANT's conduct also violates Labor Code §§ 201 and/or 202, and therefore

1 these individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which
2 penalties are sought herein on behalf of these CALIFORNIA LABOR SUB-CLASS Members.
3 DEFENDANT's conduct as alleged herein was willful, intentional and not in good faith. Further,
4 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and
5 recover statutory costs.

6 **THIRD CAUSE OF ACTION**

7 **For Failure to Pay Overtime Compensation**

8 **[Cal. Lab. Code § 510]**

9 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

10 82. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,
11 reallege and incorporate by this reference, as though full set forth herein, the prior paragraphs of this
12 Complaint.

13 83. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS
14 bring a claim for DEFENDANT's willful and intentional violations of the California Labor Code and
15 the Industrial Welfare Commission requirements for DEFENDANT's failure to pay these employees
16 for all overtime worked, including, work performed in excess of eight (8) hours in a workday, and/or
17 twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

18 84. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and public
19 policy, an employer must timely pay its employees for all hours worked.

20 85. Cal. Lab. Code § 510 further provides that employees in California shall not be
21 employed more than eight (8) hours per workday and more than forty (40) hours per workweek unless
22 they receive additional compensation beyond their regular wages in amounts specified by law.

23 86. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
24 including minimum wage and overtime compensation and interest thereon, together with the costs of
25 suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours than
26 those fixed by the Industrial Welfare Commission is unlawful.

27 87. During the CALIFORNIA LABOR SUB CLASS PERIOD, PLAINTIFFS and
28

1 CALIFORNIA LABOR SUB CLASS Members were required, permitted or suffered by
2 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked, including
3 overtime work.

4 88. DEFENDANT's unlawful wage and hour practices manifested, without limitation,
5 applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a
6 policy and practice that failed to accurately record overtime worked by PLAINTIFFS and other
7 CALIFORNIA LABOR SUB-CLASS Members and denied accurate compensation to PLAINTIFFS
8 and the other members of the CALIFORNIA LABOR SUB-CLASS for overtime worked, including,
9 the overtime work performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in a
10 workday, and/or forty (40) hours in any workweek.

11 89. In committing these violations of the California Labor Code, DEFENDANT
12 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
13 PLAINTIFFS and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted in an
14 illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the
15 California Labor Code, the Industrial Welfare Commission requirements and other applicable laws
16 and regulations. As a direct result of DEFENDANT's unlawful wage practices as alleged herein, the
17 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive full
18 compensation for overtime worked.

19 90. Cal. Lab. Code § 515 sets out various categories of employees who are exempt from
20 the overtime requirements of the law. None of these exemptions are applicable to the PLAINTIFFS
21 and the other members of the CALIFORNIA LABOR SUB-CLASS. Further, PLAINTIFFS and the
22 other members of the CALIFORNIA LABOR SUB-CLASS were not subject to a valid collective
23 bargaining agreement that would preclude the causes of action contained herein this Complaint.
24 Rather, PLAINTIFFS bring this Action on behalf of themselves and the CALIFORNIA LABOR SUB-
25 CLASS based on DEFENDANT's violations of non-negotiable, non-waiveable rights provided by the
26 State of California.

1 91. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and the
2 other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime worked
3 that they are entitled to, constituting a failure to pay all earned wages.

4 92. DEFENDANT failed to accurately pay the PLAINTIFFS and the other members of the
5 CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in excess
6 of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 & 1198, even
7 though PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS were
8 required to work, and did in fact work, overtime as to which DEFENDANT failed to accurately record
9 and pay as evidenced by DEFENDANT's business records and witnessed by employees.

10 93. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
11 compensation to PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS
12 for the true amount of time they worked, PLAINTIFFS and the other members of the CALIFORNIA
13 LABOR SUB-CLASS have suffered and will continue to suffer an economic injury in amounts which
14 are presently unknown to them and which will be ascertained according to proof at trial.

15 94. DEFENDANT knew or should have known that PLAINTIFFS and the other members
16 of the CALIFORNIA LABOR SUB-CLASS were under compensated for all overtime worked.
17 DEFENDANT elected, either through intentional malfeasance or gross nonfeasance, to not pay
18 employees for their labor as a matter of company policy, practice and procedure, and DEFENDANT
19 perpetrated this scheme by refusing to pay PLAINTIFFS and the other members of the CALIFORNIA
20 LABOR SUB-CLASS for overtime worked.

21 95. In performing the acts and practices herein alleged in violation of California labor laws,
22 and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for all overtime
23 worked and provide them with the requisite overtime compensation, DEFENDANT acted and
24 continues to act intentionally, oppressively, and maliciously toward PLAINTIFFS and the other
25 members of the CALIFORNIA LABOR SUB-CLASS with a conscious of and utter disregard for their
26 legal rights, or the consequences to them, and with the despicable intent of depriving them of their
27 property and legal rights, and otherwise causing them injury in order to increase company profits at
28 the expense of these employees.

1 96. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS
2 therefore request recovery of all overtime wages, according to proof, interest, statutory costs, as well
3 as the assessment of any statutory penalties against DEFENDANT, in a sum as provided by the
4 California Labor Code and/or other applicable statutes. To the extent minimum and/or overtime
5 compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members who
6 have terminated their employment, DEFENDANT's conduct also violates Labor Code §§ 201 and/or
7 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab. Code
8 § 203, which penalties are sought herein on behalf of these CALIFORNIA LABOR SUB-CLASS
9 Members. DEFENDANT's conduct as alleged herein was willful, intentional and not in good faith.
10 Further, PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek
11 and recover statutory costs.

12 **FOURTH CAUSE OF ACTION**

13 **For Failure to Provide Required Meal Periods**

14 **[Cal. Lab. Code §§ 226.7 & 512]**

15 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

16 97. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,
17 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
18 Complaint.

19 98. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time failed
20 to provide all the legally required off-duty meal breaks to PLAINTIFFS and the other CALIFORNIA
21 LABOR SUB-CLASS Members as required by the applicable Wage Order and Labor Code. The
22 nature of the work performed by PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS
23 MEMBERS did not prevent these employees from being relieved of all of their duties for the legally
24 required off-duty meal periods. As a result of their rigorous work schedules, PLAINTIFFS and other
25 CALIFORNIA LABOR SUB-CLASS Members were from time to time not fully relieved of duty by
26 DEFENDANT for their meal periods. Additionally, DEFENDANT's failure to provide PLAINTIFFS
27 and the CALIFORNIA LABOR SUB-CLASS Members with legally required meal breaks prior to
28 their fifth (5th) hour of work is evidenced by DEFENDANT's business records from time to time.

1 Further, DEFENDANT failed to provide PLAINTIFFS and CALIFORNIA CLASS Members with a
2 second off-duty meal period in some workdays in which these employees were required by
3 DEFENDANT to work ten (10) hours of work from time to time. As a result, PLAINTIFFS and other
4 members of the CALIFORNIA LABOR SUB-CLASS therefore forfeited meal breaks without
5 additional compensation and in accordance with DEFENDANT's strict corporate policy and practice.

6 99. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable IWC
7 Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS
8 Members who were not provided a meal period, in accordance with the applicable Wage Order, one
9 additional hour of compensation at each employee's regular rate of pay for each workday that a meal
10 period was not provided.

11 100. As a proximate result of the aforementioned violations, PLAINTIFFS and
12 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according to proof
13 at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

14
15 **FIFTH CAUSE OF ACTION**

16 **For Failure to Provide Required Rest Periods**

17 **[Cal. Lab. Code §§ 226.7 & 512]**

18 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

19 101. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,
20 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
21 Complaint.

22 102. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were from
23 time to time required to work in excess of four (4) hours without being provided ten (10) minute rest
24 periods. Further, these employees from time to time were denied their first rest periods of at least ten
25 (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second rest period
26 of at least ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first,
27 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours or
28 more from time to time. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were

1 also not provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,
2 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members were periodically denied
3 their proper rest periods by DEFENDANT and DEFENDANT's managers.

4 103. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable
5 IWC Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS
6 Members who were not provided a rest period, in accordance with the applicable Wage Order, one
7 additional hour of compensation at each employee's regular rate of pay for each workday that rest
8 period was not provided.

9 104. As a proximate result of the aforementioned violations, PLAINTIFFS and
10 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according to proof
11 at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

12 **SIXTH CAUSE OF ACTION**

13 **For Failure to Provide Accurate Itemized Statements**

14 **[Cal. Lab. Code § 226]**

15 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

16 105. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,
17 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
18 Complaint.

19 106. Cal. Labor Code § 226 provides that an employer must furnish employees with an
20 "accurate itemized" statement in writing showing:

- 21 (1) gross wages earned,
- 22 (2) total hours worked by the employee, except for any employee whose compensation is solely
23 based on a salary and who is exempt from payment of overtime under subdivision (a) of Section
24 515 or any applicable order of the Industrial Welfare Commission,
- 25 (3) the number of piecerate units earned and any applicable piece rate if the employee is paid
26 on a piece-rate basis,
- 27 (4) all deductions, provided that all deductions made on written orders of the employee may
28 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 his or her social security number, except that by January 1,
2008, only the last four digits of his or her social security number or an employee identification
number other than a social security number may be shown on the itemized statement,
- (8) the name and address of the legal entity that is the employer, and

1 (9) all applicable hourly rates in effect during the pay period and the corresponding number of
2 hours worked at each hourly rate by the employee.

3 107. From time to time, DEFENDANT also failed to provide PLAINTIFFS and the other
4 members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate wage statements
5 which failed to show, among other things, the correct gross and net wages earned. Cal. Lab. Code §
6 226 provides that every employer shall furnish each of his or her employees with an accurate itemized
7 wage statement in writing showing, among other things, gross wages earned and all applicable hourly
8 rates in effect during the pay period and the corresponding amount of time worked at each hourly rate.
9 PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members were paid on an hourly basis. As
10 such, the wage statements should reflect all applicable hourly rates during the pay period and the total
11 hours worked, and the applicable pay period in which the wages were earned pursuant to California
12 Labor Code Section 226(a). The wage statements DEFENDANT provided to PLAINTIFFS and other
13 CALIFORNIA LABOR SUB-CLASS Members failed to identify such information. More specifically,
14 the wage statements failed to identify the accurate total hours worked each pay period. When the
15 hours shown on the wage statements were added up, they did not equal the actual total hours worked
16 during the pay period in violation of Cal. Lab. Code 226(a)(2). Aside, from the violations listed above
17 in this paragraph, DEFENDANT failed to issue to PLAINTIFFS an itemized wage statement that lists
18 all the requirements under California Labor Code 226 et seq. As a result, DEFENDANT from time to
19 time provided PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS with
20 wage statements which violated Cal. Lab. Code § 226.

21 108. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code §
22 226, causing injury and damages to PLAINTIFFS and the other members of the CALIFORNIA
23 LABOR SUB-CLASS. These damages include, but are not limited to, costs expended calculating the
24 correct wages for all missed meal and rest breaks and the amount of employment taxes which were
25 not properly paid to state and federal tax authorities. These damages are difficult to estimate.
26 Therefore, PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS may
27 elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the
28 violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period

1 pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no event
2 more than four thousand dollars (\$4,000.00) for PLAINTIFFS and each respective member of the
3 CALIFORNIA LABOR SUB-CLASS herein).

4 **SEVENTH CAUSE OF ACTION**

5 **For Failure to Reimburse Employees for Required Expenses**

6 **[Cal. Lab. Code § 2802]**

7 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

8 109. PLAINTIFFS and the other CALIFORNIA LABOR SUB-CLASS members reallege
9 and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
10 Complaint.

11 110. Cal. Lab. Code § 2802 provides, in relevant part, that:

12 An employer shall indemnify his or her employee for all necessary expenditures or losses
13 incurred by the employee in direct consequence of the discharge of his or her duties, or of his
14 or her obedience to the directions of the employer, even though unlawful, unless the
15 employee, at the time of obeying the directions, believed them to be unlawful.

16 111. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by failing
17 to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members for
18 required expenses incurred in the discharge of their job duties for DEFENDANT's benefit.
19 DEFENDANT failed to reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS
20 members for expenses which included, but were not limited to, costs related to using their personal
21 cellular phones on behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFFS and
22 other CALIFORNIA LABOR SUB-CLASS Members were required by DEFENDANT to use their
23 personal cellular phones and home offices in order to perform work related job tasks. DEFENDANT's
24 policy and practice was to not reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS
25 members for expenses resulting from using their personal cellular phones and home offices for
26 DEFENDANT within the course and scope of their employment for DEFENDANT. These expenses
27 were necessary to complete their principal job duties. DEFENDANT is estopped by DEFENDANT's
28 conduct to assert any waiver of this expectation. Although these expenses were necessary expenses
incurred by PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS members, DEFENDANT
failed to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS

1 members for these expenses as an employer is required to do under the laws and regulations of
2 California.

3 112. PLAINTIFFS therefore demands reimbursement for expenditures or losses incurred by
4 themselves and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their job duties
5 for DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the statutory
6 rate and costs under Cal. Lab. Code § 2802.

7 **EIGHTH CAUSE OF ACTION**

8 **For Failure to Pay Sick Pay Wages**

9 **[Cal. Lab. Code §§ 201-204, 210, 233, 246]**

10 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

11 113. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-CLASS,
12 reallege and incorporate by reference, as though fully set forth herein, the prior paragraphs of this
13 Complaint.

14 114. Cal Lab. Code § 233 provides that an employer must permit an employee to use accrued
15 sick leave in accordance with Cal Lab. Code § 246.5 at the employee's then current rate of entitlement.
16 Cal Lab. Code § 246 provides that an employee is entitled to sick pay wages for use of accrued sick
17 leave pursuant to Cal Lab. Code § 246.5. Specifically, once accrued sick leave is used as paid sick
18 time, an employee has a vested right to sick pay wages, which an employer must calculate and
19 compensate based on one of two calculations: (i) "Paid sick time for nonexempt employees shall be
20 calculated in the same manner as the regular rate of pay for the workweek in which the employee uses
21 paid sick time, whether or not the employee actually works overtime in that workweek," or (ii) "Paid
22 sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not
23 including overtime premium pay, by the employee's total hours worked in the full pay periods of the
24 prior 90 days of employment." Under Cal Lab. Code §§ 218 and 233, employees may sue to recover
25 underpaid sick pay wages as damages.

26 115. As a matter of policy and practice, DEFENDANT pays sick pay wages to
27 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS at the incorrect rate
28 of pay. PLAINTIFFS and the other members of the CALIFORNIA LABOR-SUB-CLASS regularly

1 use accrued sick leave in the workweeks in which they also earn non-hourly remuneration. As a matter
2 of policy and practice, DEFENDANT pays sick pay wages to PLAINTIFFS and the other members
3 of the CALIFORNIA LABOR-SUB-CLASS at the base hourly pay, as opposed to the regular rate of
4 pay, which would consider all non-hourly remuneration in addition to base hourly wages, or the rate
5 resulting from dividing the employee's total wages, not including overtime premium pay, by the
6 employee's total hours worked in the full pay periods of the prior 90 days of employment. As a result,
7 DEFENDANT underpaid sick pay wages to PLAINTIFFS and the other members of the
8 CALIFORNIA LABOR-SUB-CLASS.

9 116. Cal. Lab. Code § 204 provides that wages generally are due and payable twice during
10 each calendar month and are to be paid no later than the payday for the next regular payroll period.
11 Consistent with Cal. Lab. Code § 204, Cal. Lab. Code § 246 specifically requires that, upon use of
12 accrued sick leave, vested sick pay wages are due and to be paid no later than the payday for the next
13 regular payroll period after accrued sick leave is used as paid sick time. Similarly, Cal. Lab. Code §
14 201 provides that if an employer discharges an employee, wages earned and unpaid at the time of
15 discharge are due and payable immediately. Cal. Lab. Code § 202 provides that an employee is entitled
16 to receive all unpaid wages no later than 72 hours after an employee quits his or her employment,
17 unless the employee has given 72-hour notice of his or her intention to quit, in which case the employee
18 is entitled to his or her wages at the time of quitting. The Labor Code penalizes untimely payments.
19 For example, Cal. Lab. Code § 203 provides that if an employer willfully fails to pay wages owed in
20 accordance with Cal. Lab. Code §§ 201-202, then the wages of the employee shall continue as a
21 penalty from the due date, and at the same rate until paid, but the wages shall not continue for more
22 than thirty (30) days. Likewise, Cal. Lab. Code § 210 provides penalties for violations of Cal. Lab.
23 Code § 204 and untimely payments during employment. Under Cal. Lab. Code §§ 203, 210 and 218,
24 employees may sue to recover applicable penalties.

25 117. As alleged herein and as a matter of policy and practice, DEFENDANT routinely
26 underpays sick pay wages and thus did not timely pay PLAINTIFFS and the other members of the
27 CALIFORNIA LABOR-SUB-CLASS all owing and underpaid sick pay wages. As a result,
28 DEFENDANT violates Cal. Lab. Code §§ 201-204, 210, 233, and 246, among other Labor Code

1 provisions. PLAINTIFFS are informed and believe that DEFENDANT was advised by skilled
2 lawyers and knew, or should have known, of the mandates of the Labor Code as it relates to
3 PLAINTIFFS' allegations, especially since the California Supreme Court has explained that "[c]ourts
4 have recognized that 'wages' also include those benefits to which an employee is entitled as a part of
5 his or her compensation, including money, room, board, clothing, vacation pay, *and sick pay.*" *Murphy*
6 *v. Kenneth Cole Prods., Inc.*, 40 Cal. 4th 1094, 1103 (2007) (emphasis added). Because DEFENDANT
7 willfully fails to timely pay PLAINTIFFS and the other members of the CALIFORNIA LABOR-SUB-
8 CLASS all sick pay wages due, DEFENDANT is subject to applicable penalties.

9 118. Such a pattern, practice, and uniform administration of corporate policy is
10 unlawful and entitles PLAINTIFFS and the other members of the CALIFORNIA LABOR-SUB-
11 CLASS to underpaid sick pay wages, including interest thereon, applicable penalties, attorney's fees,
12 and costs of suit.

13 **NINTH CAUSE OF ACTION**

14 **For Failure to Maintain Records**

15 **[Cal. Lab. Code §§ 1174, 1174.5]**

16 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

17 119. PLAINTIFFS re-allege and incorporate all preceding paragraphs, as though set forth in
18 full herein.

19 120. California Labor Code § 1174 requires that all employers shall keep accurate time and
20 wage records for all employees. California Labor Code § 1174.5 further requires that any employee
21 suffering injury due to a willful violation of the aforementioned obligations may seek damages,
22 including civil penalties, from the employer.

23 121. During the course of PLAINTIFFS' and the CALIFORNIA CLASS members'
24 employment, DEFENDANT consistently failed to maintain accurate time and wage records for
25 PLAINTIFFS and the CALIFORNIA CLASS members as required by California Labor Code § 1174
26 by failing to pay them proper wages, overtime, and premium pay as discussed above and failing to
27 document and pay for actual hours worked.
28

122. DEFENDANT is also required by the California Labor Code § 1198 and the applicable Wage Order to maintain a tracking system that accurately records the times during which Employees work.

123. DEFENDANT has maintained a common unlawful policy and practice of failing to accurately record all hours worked and all meal period start and end times and by adjusting or otherwise rounding and shaving them down. DEFENDANT also manipulated timekeeping records to reflect less time worked or to shift time to avoid premiums.

124. DEFENDANT's failure to pay wages, as alleged above, was willful in that DEFENDANT knew wages to be due but failed to pay them.

125. Accordingly, DEFENDANT is liable for civil penalties pursuant to the California Labor Code including § 1174.5, for the three years prior to the filing of this Complaint

TENTH CAUSE OF ACTION

For Violation of the Private Attorneys General Act

[Cal. Lab. Code §§ 2698, et seq.]

(By PLAINTIFFS and Against All Defendants)

126. PLAINTIFFS realleges and incorporates by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

127. PAGA is a mechanism by which the State of California itself can enforce state labor laws through the employee suing under the PAGA who do so as the proxy or agent of the state's labor law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a law enforcement action designed to protect the public and not to benefit private parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means of "deputizing" citizens as private attorneys general to enforce the Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the public interest to allow aggrieved employees, acting as private attorneys general to recover civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA claims cannot be subject to arbitration.

1 128. PLAINTIFFS, and such persons that may be added from time to time who satisfy the
2 requirements and exhaust the administrative procedures under the Private Attorney General Act, bring
3 this Representative Action on behalf of the State of California with respect to themselves and all
4 individuals who are or previously were employed by Defendants Orchard Hospital and Orchard
5 Gridley Hospital, Inc. who were classified as non exempt in the State of California ("AGGRIEVED
6 EMPLOYEES") during the time period September 27, 2022 to the earlier of preliminary approval or
7 August 10, 2025 (the "PAGA PERIOD").

8 129. On September 27 2023, PLAINTIFF Angela Portillo gave written notice by electronic
9 mail to the Labor and Workforce Development Agency (the "Agency") and by certified mail to the
10 employer of the specific provisions of this code alleged to have been violated as required by Labor
11 Code § 2699.3. PLAINTIFF Kisha Vazquez exhausted her administrative remedies by submitting a
12 certified letter to the LWDA and Defendants on March 7, 2024 (LWDA-CM-1015421-24) addressing
13 in detail the specific provisions of the Labor Code Defendants have violated and addressing the facts
14 and legal theories to support the alleged violations and requested penalties. The statutory waiting
15 period for PLAINTIFFS to add these allegations to the Complaint has expired. As a result, pursuant
16 to Section 2699.3, PLAINTIFFS may pursue a representative civil action under PAGA pursuant to
17 Section 2699 as the proxy of the State of California with respect to all AGGRIEVED EMPLOYEES
18 as herein defined.

19 130. The policies, acts and practices heretofore described were and are an unlawful
20 business act or practice because DEFENDANT (a) failed to provide PLAINTIFFS and the
21 AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to properly record and
22 provide legally required meal and rest periods, (c) failed to pay minimum wages, (d) failed to pay
23 overtime wages and sick pay wages, (e) failed to reimburse employees for required expenses, (f) failed
24 to provide wages when due, (g) failed to provide suitable seating, and (h) failed to provide gratuities,
25 (i) failed to maintain records; all in violation of the applicable Labor Code sections listed in Labor
26 Code §§ 201, 202, 203, 204 et seq., 206.5, 210, 218, 221, 226, 226.2, 225.4, 226.7, 227.3, 245, 246,
27 248.1, 248.2, 432.5, 510, 512, 558, 558.1, 1174, 1174.5, 1181.12, 1185, 1194, 1194.1, 1194.2, 1197,
28 1197.1, 1197.5, 1198, 1198.5, 1199, 2699, 2699.5, 2802, 2926, 2927, California Code of Regulations,

1 Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1
2 1070(14) (Failure to Provide Seating), and the applicable Wage Order(s), and thereby gives rise to
3 civil penalties as a result of such conduct.¹ PLAINTIFFS hereby seek recovery of civil penalties as
4 prescribed by the Labor Code Private Attorney General Act of 2004 as the representatives of the State
5 of California for the illegal conduct perpetrated on PLAINTIFFS and the AGGRIEVED
6 EMPLOYEES.

7 131. All of the conduct and violations alleged herein occurred during the PAGA PERIOD.
8 To the extent that any of the conduct and violations alleged herein did not affect PLAINTIFFS during
9 the PAGA PERIOD, PLAINTIFFS seek penalties for those violations that affected the AGGRIEVED
10 EMPLOYEES pursuant to *Carrington v. Starbucks Corp.* 2018 AJDAR 12157 (Certified for
11 Publication 12/19/18).

12 **PRAYER FOR RELIEF**

13 WHEREFORE, PLAINTIFFS pray for judgment against each Defendant, jointly and
14 severally, as follows:

15 1. On behalf of the CALIFORNIA CLASS:

16 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS
17 as a class action pursuant to Cal. Code of Civ. Proc. § 382;

18 B) An order temporarily, preliminarily and permanently enjoining and restraining
19 DEFENDANT from engaging in similar unlawful conduct as set forth herein;

20 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully withheld
21 from compensation due to PLAINTIFFS and the other members of the CALIFORNIA CLASS; and,

22 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for
23 restitution of the sums incidental to DEFENDANT's violations due to PLAINTIFFS and to the other
24 members of the CALIFORNIA CLASS.

25 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:
26
27

28 ¹ Plaintiffs specifically exclude and/or do not allege any claims under California Labor Code §558(a)(3).

1 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth
2 Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action pursuant to
3 Cal. Code of Civ. Proc. § 382;

4 B) Compensatory damages, according to proof at trial, including compensatory damages
5 for minimum and overtime compensation due PLAINTIFFS and the other members of the
6 CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR SUB-CLASS
7 PERIOD plus interest thereon at the statutory rate;

8 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which
9 a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA LABOR
10 SUB-CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of
11 four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;

12 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the
13 applicable IWC Wage Order;

14 E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and 1197;

15 F) The amount of the expenses PLAINTIFFS and each member of the CALIFORNIA
16 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and costs of suit.; and,

17 G) The wages of all terminated employees in the CALIFORNIA LABOR SUB CLASS as
18 a penalty from the due date thereof at the same rate until paid or until an action therefore is
19 commenced, in accordance with Cal. Lab. Code § 203.

20 3. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

21 A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General
22 Act of 2004.

23 4. On all claims:

24 A) An award of interest, including prejudgment interest at the legal rate;

25 B) Such other and further relief as the Court deems just and equitable; and,

26 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law,
27 including, but not limited to, pursuant to Labor Code § 218.5, 218.6, 221, §226, §1194, and/or §2802.
28

1 Dated: January 12, 2026

2 BLUMENTHAL NORDREHAUG BHOWMIK
3 DE BLOUW LLP

4 By: /s/ Christine T. LeVu

5 Norman B. Blumenthal

6 Nicholas J. De Blouw

7 Christine T. LeVu

8 *Attorneys for Plaintiffs*

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DEMAND FOR A JURY TRIAL

PLAINTIFFS demand a jury trial on issues triable to a jury.

Dated: January 12, 2026

BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP

By: /s/ Christine T. LeVu
Norman B. Blumenthal
Nicholas J. De Blouw
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