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Superior Court of California
County of Fresno
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8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF FRESNO
11

12 LOURDES ANDRADE, as an
13 aggrieved employee pursuant to the
Private Attorneys General Act
14 (“PAGA”), on behalf of the State of
California and other non-party
15 Aggrieved Employees,

16 Plaintiff,

17 vs.

18 COALINGA MEDICAL CENTER,
19 LLC, a California limited liability
company; COALINGA REGIONAL
20 MEDICAL CENTER AUXILIARY, a
California corporation; and DOES 1
21 through 10, inclusive,

22 Defendants.
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Case No.: [23CECG05277](#)

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

(1) Claim for Civil Penalties for Violations of
California Labor Code, Pursuant to PAGA,
§§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiff Lourdes Andrade, as an aggrieved employee and on behalf of the State of
2 California and all other non-party Aggrieved Employees, alleges as follows:

3 JURISDICTION AND VENUE

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants in California as a non-exempt, hourly paid
8 employee and received at least one wage statement and against whom one or more violations
9 of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating
10 hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage
11 Order were committed, as set forth in this complaint, at any time between one year prior to the
12 filing of the pre-filing written notice to the Labor and Workforce Development Agency
13 (“LWDA”) in this case on October 24, 2023, until judgment (“non-party Aggrieved
14 Employees”). Plaintiff’s share of civil penalties sought in this action does not exceed
15 \$75,000.

16 2. This Court has jurisdiction over this action pursuant to the California
17 Constitution, Article VI, section 10. The statute under which this action is brought does not
18 specify any other basis for jurisdiction.

19 3. This Court has jurisdiction over all Defendants because, on information and
20 belief, Defendants are either citizens of California, have sufficient minimum contacts in
21 California, or otherwise intentionally avail themselves of the California market so as to render
22 the exercise of jurisdiction over them by the California courts consistent with traditional
23 notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction
24 in this action given that the State of California, as the real party in interest in this action, is not
25 a “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*,
26 726 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be
27 aggregated to satisfy the amount in controversy requirement for federal diversity jurisdiction
28 in this action, and that diversity jurisdiction cannot be established when Plaintiff’s share of the

1 civil penalties attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

2 4. Venue is proper in this Court, because Defendants filed Statement of
3 Information forms with the California Secretary of State designating a California principal
4 place of business in Coalinga, County of Fresno, in accordance with California Corporations
5 Code section 2105(a)(3). Cal. Code Civ. P. § 395.5. Venue is also proper in this Court
6 because Defendants employ persons in this county, and employed Plaintiff in this county, and
7 thus a substantial portion of the transactions and occurrences related to this action occurred in
8 this county.

9 5. California Labor Code sections 2698, *et seq.*, the “Labor Code Private
10 Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private
11 attorneys general their current or former employers for various civil penalties for violations of
12 various provisions in the California Labor Code.

13 **THE PARTIES**

14 6. Plaintiff Lourdes Andrade is a resident of Coalinga, in Fresno County,
15 California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from
16 approximately April 2021 to May 2023. Plaintiff worked as a Cook for Defendants at their
17 facility located in Coalinga, California. During her employment, Plaintiff typically worked
18 nine (9) or more hours per day and four (4) or more days per week. At the time Plaintiff’s
19 employment with Defendants ended, she was compensated approximately \$16.48 per hour.
20 Plaintiff’s primary job duties included, without limitation, preparing ingredients for patient
21 and resident meals, cooking meals according to hospital provided menus, cleaning work areas,
22 and washing dishes.

23 7. On information and belief, Defendants required some employees, including
24 Plaintiff, to execute an arbitration agreement at the time of their hire or during their
25 employment. On further information and belief, Defendants’ arbitration agreement was and is
26 both procedurally and substantively unconscionable. Specifically, Defendants presented
27 employees with an “BINDING ARBITRATION AGREEMENT” (“Arbitration Agreement”)
28 during the onboarding process, which had to be reviewed and acknowledged immediately.

Specifically, the Arbitration Agreement was one of several documents presented to new employees for signature during the orientation process, including Employee/Volunteer Dress Code, California Meal Break Waiver Agreement, and Confidentiality Agreement, among other documents. Also, employees did not have a meaningful opportunity to negotiate the terms of the Arbitration Agreement. Rather, it was provided to Defendants' employees for them to sign on a take-it or leave-it basis, along with all of the other on-boarding documents. Further, Defendants did not set forth in the agreements or otherwise provide employees with the rules which will govern the arbitration, instead forcing employees to seek this information out on their own.

8. COALINGA MEDICAL CENTER, LLC was and is, upon information and belief, a California limited liability company, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county, and the State of California.

9. COALINGA REGIONAL MEDICAL CENTER AUXILIARY was and is, upon information and belief, a California corporation, and at all times hereinafter mentioned, an employer whose employees are engaged throughout this county, and the State of California.

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

11. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10 were the partners, agents, owners, or managers of COALINGA MEDICAL CENTER, LLC and COALINGA REGIONAL MEDICAL CENTER AUXILIARY, at all relevant times.

12. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein was performed by, or is attributable to, COALINGA MEDICAL CENTER, LLC; COALINGA REGIONAL MEDICAL CENTER AUXILIARY; and/or DOES 1 through 10 (collectively, "Defendants" or "CMC"), each acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert with, each of the other co-

1 Defendants and was acting within the course and scope of such agency, employment, joint
2 venture, or concerted activity with legal authority to act on the others' behalf. The acts of any
3 and all Defendants were in accordance with, and represent, the official policy of Defendants.

4 13. At all relevant times, Defendants, and each of them, ratified each and every act
5 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
6 and abetted the acts and omissions of each and all the other Defendants in proximately causing
7 the damages herein alleged.

8 14. Plaintiff is informed and believes, and thereon alleges, that each of said
9 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
10 omissions, occurrences, and transactions alleged herein.

11 15. Under California law, Defendants are jointly and severally liable as employers
12 for the violations alleged herein because they have each exercised sufficient control over the
13 wages, hours, working conditions, and employment status of Plaintiff and other non-party
14 Aggrieved Employees. Each Defendant had the power to hire and fire Plaintiff and other non-
15 party Aggrieved Employees, supervised and controlled their work schedule and/or conditions
16 of employment, determined their rate of pay, and maintained their employment records.
17 Defendants suffered or permitted Plaintiff and other non-party Aggrieved Employees to work
18 and/or "engaged" Plaintiff and other non-party Aggrieved Employees so as to create a
19 common-law employment relationship. As joint employers of Plaintiff and other non-party
20 Aggrieved Employees, Defendants are jointly and severally liable for the civil penalties
21 available to Plaintiff and other non-party Aggrieved Employees under the law.

22 16. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
23 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other
24 non-party Aggrieved Employees because Defendants have:

- 25 (a) jointly exercised meaningful control over the work performed by
26 Plaintiff and other non-party Aggrieved Employees;
27 (b) jointly exercised meaningful control over Plaintiff's and other non-party
28 Aggrieved Employees' wages, hours, and working conditions, including

1 the quantity, quality standards, speed, scheduling, and operative details
2 of the tasks performed by Plaintiff and other non-party Aggrieved
3 Employees;

4 (c) jointly required that Plaintiff and other non-party Aggrieved Employees
5 perform work which is an integral part of Defendants' businesses; and

6 (d) jointly exercised control over Plaintiff and other non-party Aggrieved
7 Employees as a matter of economic reality in that Plaintiff and other
8 non-party Aggrieved Employees were dependent on Defendants, who
9 shared the power to set the wages of Plaintiff and other non-party
10 Aggrieved Employees and determined their working conditions, and
11 who jointly reaped the benefits from the underpayment of their wages
12 and noncompliance with other statutory provisions governing their
13 employment.

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

17 18. COALINGA MEDICAL CENTER, LLC; COALINGA REGIONAL
18 MEDICAL CENTER AUXILIARY; and/or DOES 1 through 10 are therefore alter egos of
19 each other.

20 19. Adherence to the fiction of the separate existence of Defendants would permit
21 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
22 from liability for the wrongful acts committed by them under the name CMC.

23 20. Plaintiff further alleges, upon information and belief, that the Defendants
24 COALINGA MEDICAL CENTER, LLC and COALINGA REGIONAL MEDICAL CENTER
25 AUXILIARY are alter egos of each other for the following reasons:

26 (a) According to their most recent "Form 990-N" notice filed with the IRS
27 (<https://apps.irs.gov/app/eos/details/>), COALINGA REGIONAL
28 MEDICAL CENTER AUXILIARY shares the same mailing address as

1 the principal address for COALINGA MEDICAL CENTER, LLC
2 according to their most recent “Statement of Information” forms filed
3 with the California Secretary of State, “1191 PHELPS AVE[NUE],
4 COALINGA, CA 93210”;

5 (b) On information and belief, COALINGA MEDICAL CENTER, LLC and
6 COALINGA REGIONAL MEDICAL CENTER AUXILIARY utilize
7 the same standardized employment forms and issue the same
8 employment policies.

9 **PAGA REPRESENTATIVE ALLEGATIONS**

10 21. Defendants own and operate Coalinga Medical Regional Center, a community
11 hospital that provides health services to western Fresno and Kings counties, with a medical
12 laboratory, medical offices, skilled nursing facilities, and surgical facilities. Upon information
13 and belief, Defendants maintain a single, centralized Human Resources (HR) department at
14 their corporate headquarters in Coalinga, California, for all non-exempt, hourly paid
15 employees working for Defendants in California, which is responsible for the recruiting and
16 hiring of new employees, and communicating and implementing Defendants’ company-wide
17 policies, including timekeeping policies and meal and rest period policies, to employees
18 throughout California.

19 22. In particular, Plaintiff and other non-party Aggrieved Employees, on
20 information and belief, received the same standardized documents and/or written policies.
21 Upon information and belief, the usage of standardized documents and/or written policies,
22 including new-hire documents, indicate that Defendants dictated policies at the corporate level
23 and implemented them company-wide, regardless of their employees’ assigned locations or
24 positions. Upon information and belief, Defendants set forth uniform policies and procedures
25 in several documents provided at an employee’s time of hire.

26 23. Upon information and belief, Defendants maintain a centralized Payroll
27 department at their corporate headquarters in Coalinga, California, which processes payroll for
28 all non-exempt, hourly paid employees working for Defendants in California, including

1 Plaintiff and other non-party Aggrieved Employees. Based upon information and belief,
2 Defendants issue the same formatted wage statements to all non-exempt, hourly paid
3 employees in California, irrespective of their work locations. Upon information and belief,
4 Defendants process payroll for departing employees in the same manner throughout the State
5 of California, regardless of the manner in which each employee's employment ends.

6 24. Defendants continue to employ non-exempt or hourly paid employees in
7 California.

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

12 26. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other
13 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
14 were not recorded.

15 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
17 receive certain wages for overtime compensation and that they were not receiving certain
18 wages for overtime compensation.

19 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that other non-party Aggrieved Employees were entitled to be paid at a
21 regular rate of pay, and corresponding rates of pay for overtime wages and/or meal and rest
22 period premiums, that included as eligible income all remuneration required by law, including
23 but not limited to, all income derived from shift differential pay, incentive pay,
24 nondiscretionary bonuses, and/or other forms of compensation, but failed to include all forms
25 of remuneration in calculating the regular rate of pay for other non-party Aggrieved
26 Employees.

27 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to

1 receive at least minimum wages for compensation and that they were not receiving at least
2 minimum wages for work that was required to be done off-the-clock. In violation of the
3 California Labor Code, Plaintiff and other non-party Aggrieved Employees were not paid at
4 least minimum wages for work done off-the-clock.

5 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
6 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
7 meal periods in accordance with the California Labor Code and applicable IWC Wage Order
8 or payment of one (1) additional hour of pay at their regular rates of pay when they were not
9 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and
10 other non-party Aggrieved Employees were not provided with all meal periods or payment of
11 one (1) additional hour of pay at their regular rates of pay when they did not receive a timely,
12 uninterrupted, thirty (30) minute meal period.

13 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
14 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
15 rest periods in accordance with the California Labor Code and applicable IWC Wage Order or
16 payment of one (1) additional hour of pay at their regular rates of pay when they were not
17 authorized and permitted to take a compliant rest period and that Plaintiff and other non-party
18 Aggrieved Employees were not authorized and permitted to take compliant rest periods or
19 provided with payment of one (1) additional hour of pay at their regular rates of pay when
20 they were not authorized and permitted to take a compliant rest period.

21 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
23 receive complete and accurate wage statements in accordance with California law. In
24 violation of the California Labor Code, Plaintiff and other non-party Aggrieved Employees
25 were not provided complete and accurate wage statements.

26 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that they had a duty to maintain accurate and complete payroll records in
28 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,

1 and intentionally failed to do so.

2 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
3 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
4 timely payment of wages during their employment. In violation of the California Labor Code,
5 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
6 including, but not limited to, overtime wages, minimum wages, and/or meal and rest period
7 premiums, within permissible time periods.

8 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
9 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
10 timely payment of all wages earned upon termination of employment. In violation of the
11 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
12 payment of all wages due, including, but not limited to, overtime wages, minimum wages,
13 and/or meal and rest period premiums, within permissible time periods.

14 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that other non-party Aggrieved Employees were entitled to one day's rest in
16 seven. In violation of the California Labor Code, Defendants required other non-party
17 Aggrieved Employees to work more than six consecutive days without a day of rest, where the
18 total hours worked exceeded 30 hours in any week or six hours in any one day thereof.

19 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
20 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
21 suitable resting facilities to cease work and recover during meal or rest periods, but failed to
22 provide suitable resting facilities.

23 38. Plaintiff is informed and believes, and thereon alleges, that at all times herein
24 mentioned, Defendants knew or should have known that Defendants had a duty to provide
25 Plaintiff and other non-party Aggrieved Employees with written notice of the material terms of
26 their employment with Defendants as required by the California Wage Theft Prevention Act, but
27 failed to do so.

28 39. Plaintiff is informed and believes, and thereon alleges, that at all times herein

1 mentioned, Defendants knew or should have known that they had a duty to compensate
2 Plaintiff and other non-party Aggrieved Employees for all hours worked, and that Defendants
3 had the financial ability to pay such compensation, but willfully, knowingly, and intentionally
4 failed to do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees
5 that they were properly denied wages, all in order to increase Defendants' profits.

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

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

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

18 43. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
19 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
20 following requirements have been met:

- 21 (a) The aggrieved employee shall give written notice by online filing
22 (hereinafter "Employee's Notice") to the LWDA and by certified mail
23 to the employer of the specific provisions of the California Labor Code
24 alleged to have been violated, including the facts and theories to support
25 the alleged violations.
- 26 (b) An aggrieved employee's notice filed with the LWDA pursuant to
27 2699.3(a) and any employer response to that notice shall be
28 accompanied by a filing fee of seventy-five dollars (\$75).

1 (c) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
2 employer and the aggrieved employee by certified mail that it does not
3 intend to investigate the alleged violation within sixty (60) calendar
4 days of the postmark date of the Employee’s Notice. Upon receipt of
5 the LWDA Notice, or if the LWDA Notice is not provided within sixty-
6 five (65) calendar days of the postmark date of the Employee’s Notice,
7 the aggrieved employee may commence a civil action pursuant to
8 California Labor Code section 2699 to recover civil penalties in addition
9 to any other penalties to which the employee may be entitled.

10 44. Pursuant to California Labor Code section 2699.3(c), aggrieved employees,
11 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
12 provision other than those listed in Section 2699.5 after the following requirements have been
13 met:

14 (a) The aggrieved employee or representative shall give written notice by
15 online filing to the LWDA and by certified mail to the employer of the
16 specific provisions of the California Labor Code alleged to have been
17 violated (other than those listed in Section 2699.5), including the facts
18 and theories to support the alleged violation.

19 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
20 2699.3(c) and any employer response to that notice shall be
21 accompanied by a filing fee of seventy-five dollars (\$75).

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

1 civil action pursuant to Section 2699.

2 45. On October 24, 2023, Plaintiff provided written notice by online filing to the
3 LWDA and by certified mail to Defendants of the specific provisions of the California Labor
4 Code alleged to have been violated, including facts and theories to support the alleged
5 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
6 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
7 LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned
8 Plaintiff PAGA Case Number LWDA-CM-989670-23. A true and correct copy of Plaintiff's
9 written notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

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

13 47. Thus, Plaintiff has satisfied the administrative prerequisites under California
14 Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
15 violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516,
16 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, and 2810.5.

17 48. Labor Code section 558(a) provides "[a]ny employer or other person acting on
18 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
19 provision regulating hours and days of work in any order of the Industrial Welfare
20 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
21 dollars (\$50) for each underpaid employee for each pay period for which the employee was
22 underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each
23 underpaid employee for each pay period for which the employee was underpaid" Labor
24 Code section 558(c) provides "[t]he civil penalties provided for in this section are in addition
25 to any other civil or criminal penalty provided by law." Plaintiff, acting in the public interest
26 as a private attorney general, seeks assessment and collection of civil penalties under Labor
27 Code section 558 for herself, all other non-party Aggrieved Employees, and the State of
28 California against Defendants for violations of Labor Code sections 510, 512(a), 516, 551,

1 552, and 1198, and the applicable IWC Wage Order. Plaintiff, acting in the public interest as
2 a private attorney general, does not seek the recovery of unpaid wages under Labor Code
3 section 558 from Defendants for violations of Labor Code sections 510, 512(a), 516, 551, 552,
4 and 1198, and the applicable IWC Wage Order.

5 49. Defendants, at all times relevant to this complaint, were employers or persons
6 acting on behalf of an employer(s) who violated Plaintiff's and other non-party Aggrieved
7 Employees' rights by violating various sections of the California Labor Code as set forth
8 above.

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

12 51. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
13 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a
14 private attorney general, seeks assessment and collection of civil penalties for herself, all other
15 non-party Aggrieved Employees, and the State of California against Defendants for violations
16 of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 551, 552,
17 1174(d), 1182.12, 1194, 1197, 1198, and 2810.5.

18 **FIRST CAUSE OF ACTION**

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

20 **(Against all Defendants)**

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

23 53. California Labor Code §§ 2698, *et seq.* ("PAGA") permits Plaintiff to recover
24 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
25 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7,
26 510, 512(a), 551, 552, 1174(d), 1194, 1197, and 1198. Labor Code section 2699.3(c) permits
27 aggrieved employees, including Plaintiff, to recover civil penalties for violations of those
28 Labor Code sections not found in section 2699.5, including sections 516, 1182.12, and 2810.5.

1 54. Defendants' conduct, as alleged herein, violates numerous sections of the
2 California Labor Code, including, but not limited to, the following:

- 3 (a) Violation of Labor Code sections 510 and 1198, and the applicable IWC
4 Wage Order for Defendants' failure to compensate Plaintiff and other
5 non-party Aggrieved Employees with all required overtime pay, as set
6 forth below;
- 7 (b) Violation of Labor Code sections 226.7, 510, and 1198, and the
8 applicable IWC Wage Order for Defendants' failure to include all forms
9 of remuneration in the regular rate of pay as required by law for
10 purposes of paying overtime wages and/or meal and rest period
11 premiums to other non-party Aggrieved Employees, as set forth below;
- 12 (c) Violation of Labor Code sections 1182.12, 1194, 1197, and 1198, and
13 the applicable IWC Wage Order for Defendants' failure to compensate
14 Plaintiff and other non-party Aggrieved Employees with at least
15 minimum wages for all hours worked, as set forth below;
- 16 (d) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
17 applicable IWC Wage Order for Defendants' failure to provide Plaintiff
18 and other non-party Aggrieved Employees with meal periods, as set
19 forth below;
- 20 (e) Violation of Labor Code sections 226.7, 516, and 1198, and the
21 applicable IWC Wage Order for Defendants' failure to authorize and
22 permit Plaintiff and other non-party Aggrieved Employees to take rest
23 periods, as set forth below;
- 24 (f) Violation of Labor Code sections 226(a) and 1198, and the applicable
25 IWC Wage Order for failure to provide accurate and complete wage
26 statements to Plaintiff and other non-party Aggrieved Employees, as set
27 forth below;
- 28 (g) Violation of Labor Code sections 1174(d) and 1198, and the applicable

IWC Wage Order for failure to maintain payroll records, as set forth below;

- (h) Violation of Labor Code sections 204 for failure to pay all earned wages during employment, as set forth below;
- (i) Violation of Labor Code section 201 and 202 for failure to pay all earned wages upon termination, as set forth below;
- (j) Violation of Labor Code sections 551 and 552 for failure to provide one day's rest in seven to Plaintiff and other non-party Aggrieved Employees, as set forth below;
- (k) Violation of Labor Code section 1198 and the applicable IWC Wage Order for failure to provide suitable resting facilities to Plaintiff and other non-party Aggrieved Employees, as set forth below; and
- (l) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to provide written notice of information material to Plaintiff's and other non-party Aggrieved Employees' employment with Defendants, as set forth below.

FAILURE TO PAY OVERTIME

VIOLATION OF LABOR CODE SECTIONS 510 AND 1198

55. Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

56. California Labor Code section 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

57. Specifically, the applicable IWC Wage Order provides that Defendants are and

1 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
2 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
3 one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty
4 (40) hours in a workweek.

5 58. The applicable IWC Wage Order further provides that Defendants are and were
6 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve
7 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
8 An employee's regular rate of pay includes all remuneration for employment paid to, or on
9 behalf of, the employee, including nondiscretionary bonuses and incentive pay.

10 59. California Labor Code section 510 codifies the right to overtime compensation
11 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
12 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
13 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
14 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
15 in a day on the seventh (7th) day of work.

16 60. During the relevant time period, Defendants willfully failed to pay all overtime
17 wages owed to Plaintiff and other non-party Aggrieved Employees. During the relevant time
18 period, Plaintiff and other non-party Aggrieved Employees were not paid overtime premiums
19 for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12)
20 hours in a day, and/or in excess of forty (40) hours in a week, because all hours worked were
21 not recorded.

22 61. First, Defendants had a policy and/or practice of requiring Plaintiff and other
23 non-party Aggrieved Employees to perform work-related tasks while off-the-clock. For
24 example, about once every other month, Defendants' management called Plaintiff on her days
25 off for 10-15 minutes at a time to discuss work-related matters, such as the location of certain
26 ingredients and meal preparations. As another example, about once per month in 2022, Plaintiff
27 and other non-party Aggrieved Employees were required to attend team meetings on their days
28 off, for 30-40 minutes at a time. Thus, Plaintiff and other non-party Aggrieved Employees

1 performed work on their days off, time for which they were not paid.

2 62. Second, during the relevant time period, Defendants only provided Plaintiff and
3 other non-party Aggrieved Employees with one (1) access point to their timekeeping system,
4 resulting in Plaintiff and other non-party Aggrieved Employees having to wait in line off-the-
5 clock and under Defendants' control to clock in for the start of their shifts, time for which they
6 were not paid. For example, Plaintiff and other non-party Aggrieved Employees would report
7 to work at the start of their scheduled shifts, but were required to wait in line for a few minutes
8 to clock in, time for which they were not paid.

9 63. Third, during the relevant time period, Defendants had, and continue to have, a
10 company-wide policy and/or practice of understaffing while assigning heavy workloads,
11 including pressure to meet deadlines and productivity expectations. This company-wide policy
12 and/or practice resulted in a failure to provide Plaintiff and other non-party Aggrieved
13 Employees with adequate meal period coverage. As a result of the lack of meal period
14 coverage, Plaintiff and other non-party Aggrieved Employees were not always afforded
15 uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal
16 period. For example, during a typical morning shift, Plaintiff was required to prepare 60-80
17 breakfast meals (including alternative meals for patients/residents on pureed diets) for the aides
18 to deliver around 6:30 a.m. Plaintiff would then clean up her work areas and wash dishes before
19 preparing 60-80 regular and alternative lunch meals by 11:30 a.m. Plaintiff would then clean up
20 and wash dishes again before the end of her shift. Plaintiff would often have to meet these
21 deadlines with only one (1) other Cook on her shift.

22 64. Defendants also had a practice of failing to adhere to a schedule for meal periods
23 which, combined with the assignment of heavy workloads, further caused Plaintiff and other
24 non-party Aggrieved Employees to not be relieved of their duties for compliant meal periods.
25 For example, Plaintiff worked through her meal periods 3-4 times per week to keep up with the
26 demands of work and complete her assigned duties by required deadlines. As a further example,
27 Plaintiff had her meal periods interrupted once or twice per week due to aides asking her
28 questions, needing to fix the type of meal given to a patient/resident, or preparing food for a new

1 patient. Consequently, Plaintiff and other non-party Aggrieved Employees were required to
2 work through meal periods and/or had their meal periods interrupted to complete their assigned
3 workloads, and Defendants did not pay Plaintiff and other non-party Aggrieved Employees for
4 the time they continued to perform tasks during meal periods.

5 65. Furthermore, because Defendants frowned upon employees accruing meal
6 period penalties, Defendants' management pressured employees to clock out for meal periods
7 to reflect compliant meal periods, on threat of discipline, regardless of whether they had
8 received a compliant meal period or not, in order to strictly limit meal penalties that would
9 need to be paid by Defendants. For example, Defendants' management told Plaintiff to clock
10 out for her meal periods even if she had to continue working in order to meet deadlines and
11 productivity expectations, and threatened to write her up if she did not do so. Thus, Defendants
12 did not record all hours worked during meal periods, and Plaintiff and other non-party
13 Aggrieved Employees performed work during meal periods for which they were not paid.

14 66. Defendants knew or should have known that, as a result of these company-wide
15 practices and/or policies, Plaintiff and other non-party Aggrieved Employees were performing
16 their assigned duties off-the-clock before their shifts, on their days off, and during meal
17 periods, and were suffered or permitted to perform work for which they were not paid.
18 Because Plaintiff and other non-party Aggrieved Employees regularly worked shifts of eight
19 (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work
20 qualified for overtime premium pay. Therefore, Plaintiff and other non-party Aggrieved
21 Employees were not paid overtime wages for all of the overtime hours they actually worked.

22 67. Furthermore, Defendants did not pay other non-party Aggrieved Employees the
23 correct overtime rate for the recorded overtime hours that they generated. In addition to an
24 hourly wage, Defendants paid other non-party Aggrieved Employees shift differential pay,
25 incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in
26 violation of the California Labor Code, on information and belief, Defendants failed to
27 incorporate all compensation, including shift differential pay, incentive pay, nondiscretionary
28 bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for

1 purposes of calculating the overtime wage rate. Therefore, during times when other non-party
2 Aggrieved Employees worked overtime and received these other forms of pay, Defendants
3 failed to pay all overtime wages by paying a lower overtime rate than required.

4 68. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
5 the balance of overtime compensation as required by California law, violates the provisions of
6 California Labor Code sections 510 and 1198. Plaintiff and other non-party Aggrieved
7 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
8 558 and/or 2699(a), (f), and (g).

9 **FAILURE TO PAY MINIMUM WAGES**

10 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198**

11 69. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
12 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage
13 to be paid to employees, and the payment of a wage less than the minimum so fixed is
14 unlawful. Compensable work time is defined IWC Wage Order No. 5-2001 as "the time
15 during which an employee is suffered or permitted to work for the employer, whether or not
16 required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards
17 Act." Cal. Code Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

18 70. As stated, Plaintiff and other non-party Aggrieved Employees were required to
19 perform work off-the-clock before their shifts and on days off, such as responding to phone calls
20 from management regarding work-related matters, attending meetings on days off, and waiting
21 to clock in for the start of their shifts. Thus, Defendants failed to track this time Plaintiff and
22 other non-party Aggrieved Employees spent working off-the-clock, and Plaintiff and other non-
23 party Aggrieved Employees received no compensation for this time.

24 71. Moreover, as also stated above, due to Defendants' policies and/or practices of
25 understaffing while assigning heavy workloads, including pressure to meet deadlines and
26 productivity expectations, failure to adhere to a schedule for meal periods, and subsequent lack
27 of meal period coverage, Plaintiff and other non-party Aggrieved Employees were impeded
28 from taking all uninterrupted meal periods to which they were entitled and were required to

1 work off-the-clock during meal periods, have their meal periods interrupted, and/or were
2 otherwise not relieved of all duties during unpaid meal periods. Moreover, as stated, in order to
3 limit meal penalties that Defendants would otherwise owe, Defendants' management pressured
4 employees to record compliant meal periods when meal periods were missed, short, and/or
5 interrupted. Thus, Defendants systematically failed to pay Plaintiff and other non-party
6 Aggrieved Employees for actual hours worked during unpaid meal periods because these hours
7 were not always correctly recorded.

8 72. Thus, Defendants did not pay minimum wages for all hours worked by Plaintiff
9 and other non-party Aggrieved Employees. To the extent that these off-the-clock hours did
10 not qualify for overtime premium payment, Defendants did not pay at least minimum wages
11 for those hours worked off-the-clock in violation of California Labor Code sections 1182.12,
12 1194, 1197, and 1198.

13 73. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
14 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
15 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
16 penalties pursuant to Labor Code sections 2699(a), (f), and (g).

17 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**
18 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

19 74. At all relevant times herein set forth, the applicable IWC Wage Order and
20 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and
21 non-party Aggrieved Employees' employment by Defendants.

22 75. At all relevant times herein set forth, California Labor Code section 512(a)
23 provides that an employer may not require, cause, or permit an employee to work for a period
24 of more than five (5) hours per day without providing the employee with a meal period of not
25 less than thirty (30) minutes, except that if the total work period per day of the employee is
26 not more than six (6) hours, the meal period may be waived by mutual consent of both the
27 employer and the employee. Under California law, first meal periods must start after no more
28 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

1 76. Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also
2 require employers to provide a second meal period of not less than thirty (30) minutes if an
3 employee works over ten (10) hours per day or to pay an employee one (1) additional hour of
4 pay at the employee's regular rate, except that if the total hours worked is no more than twelve
5 (12) hours, the second meal period may be waived by mutual consent of the employer and the
6 employee only if the first meal period was not waived.

7 77. First, during the relevant time period, as stated, Defendants had, and continue to
8 have, a company-wide policy and/or practice of understaffing while assigning heavy workloads,
9 including pressuring employees to meet deadlines and productivity expectations, which has
10 resulted in a lack of meal period coverage and prevented Plaintiff and other non-party
11 Aggrieved Employees from taking all timely, uninterrupted meal periods to which they were
12 entitled. Further, as stated, Defendants had a practice of failing to adhere to a schedule for meal
13 periods, which further caused Plaintiff and other non-party Aggrieved Employees to not be
14 relieved of their duties for compliant meal periods. As a result, Plaintiff and other non-party
15 Aggrieved Employees had to work through all or part of their meal periods, had their meal
16 periods interrupted, and/or had to wait extended periods of time before taking meal periods. For
17 example, as stated, Plaintiff worked through her meal periods about 3-4 times per week to keep
18 up with the demands of work and complete her assigned duties by required deadlines. Further,
19 Plaintiff took her meal periods late about three (3) times per week for the same reasons, and had
20 her meal periods interrupted once or twice per week due to aides asking her questions, needing
21 to fix the type of meal given to a patient/resident, or preparing food for a new patient.

22 78. Second, as stated, because Defendants frowned upon employees accruing meal
23 period penalties, Defendants' management pressured Plaintiff and other non-party Aggrieved
24 Employees to clock out for meal periods, upon threat of discipline, regardless of whether they
25 had received a compliant meal period or not, in order to strictly limit meal penalties that
26 would need to be paid by Defendants. For example, Plaintiff was required to clock out for her
27 meal period to record that she had received compliant meal periods on shifts when she had not,
28 in fact, received these timely meal periods.

1 79. Third, Defendants did not provide Plaintiff and other non-party Aggrieved
2 Employees with second 30-minute meal periods on days that they worked in excess of ten (10)
3 hours in one day. For example, during her employment, Plaintiff worked at least nine (9) shifts
4 in excess of ten (10) hours per day, and was not provided her second meal period during these
5 shifts. Plaintiff and other non-party Aggrieved Employees did not sign valid meal period
6 waivers on days that they were entitled to meal periods and were not relieved of all duties.

7 80. Further, Defendants had a company-wide policy of requiring all newly hired
8 employees to sign blanket meal period waivers at or near their time of hire. Defendants took the
9 position that non-exempt, hourly paid employees had waived their rights to first and/or second
10 meal periods for the entirety of their employment and, on that basis, did not provide them with
11 all meal periods to which they were entitled. Furthermore, Defendants' meal period waiver
12 form requires employees to provide notice in writing should they wish to revoke the waiver.
13 Defendants' presumption that meal periods would not be provided for shifts in excess of five (5)
14 hours but less than six (6) hours and/or for shifts in excess of ten (10) hours but less than twelve
15 (12) hours, due to blanket meal period waivers signed at or near the time of hire, and imposition
16 on employees to revoke the waivers in writing, discouraged and impeded Plaintiff and other
17 non-party Aggrieved Employees from taking all meal periods to which they were entitled.

18 81. Furthermore, an employer's obligation to provide a meal period is only
19 "triggered" when the employer "employs an employee for a work period of more than five hours
20 per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to
21 work for a full five hours, its meal break obligation is triggered.").

22 [A]fter the meal break obligation is triggered . . . an employer is put to a
23 choice: it must (1) afford an off-duty meal period; (2) consent to a
24 mutually agreed-upon waiver if one hour or less will end the shift; or (3)
25 obtain written agreement to an on-duty meal period if circumstances
permit. Failure to do one of these will render the employer liable for
premium pay.

26 *Id.* (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That Defendants
27 required Plaintiff and other non-party Aggrieved Employees to sign meal period waivers
28 simultaneously at or near their time of hire (as opposed to on a specific work day) renders

1 them invalid and unenforceable, because Defendants' obligation to provide Plaintiff and other
2 non-party Aggrieved Employees with meal periods did not arise until they had employed them
3 for a full five (5) hours.

4 82. Defendants knew or should have known that as a result of their policies,
5 Plaintiff and other non-party Aggrieved Employees were not actually relieved of all duties to
6 take timely, uninterrupted meal periods. Defendants further knew or should have known that
7 they did not pay Plaintiff and other non-party Aggrieved Employees meal period premiums
8 when meal periods were missed, late, short, and/or interrupted.

9 83. In addition, Defendants engaged in a company-wide practice and/or policy of
10 not paying all meal period premiums owed when compliant meal periods are not provided.
11 Because of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees
12 have not received premium pay for missed, late, and interrupted meal periods. Alternatively,
13 to the extent that Defendants did pay other non-party Aggrieved Employees for missed, late,
14 and interrupted meal periods, Defendants did not pay other non-party Aggrieved Employees at
15 the correct rate of pay for premiums because Defendants systematically failed to include all
16 forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses,
17 and/or other forms of remuneration, in the regular rate of pay.

18 84. Defendants' conduct violates the applicable IWC Wage Order, and California
19 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved
20 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
21 558 and/or 2699(a), (f), and (g).

22 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

23 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

24 85. At all relevant times herein set forth, the applicable IWC Wage Order and
25 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and other
26 non-party Aggrieved Employees' employment by Defendants.

27 86. At all relevant times, the applicable IWC Wage Order provides that "[e]very
28 employer shall authorize and permit all employees to take rest periods, which insofar as

1 practicable shall be in the middle of each work period” and that the “rest period time shall be
2 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
3 hours or major fraction thereof” unless the total daily work time is less than three and one-half
4 (3 ½) hours.

5 87. At all relevant times, California Labor Code section 226.7 provides that no
6 employer shall require an employee to work during any rest period mandated by an applicable
7 order of the California IWC. To comply with its obligation to authorize and permit rest
8 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
9 employer must “relinquish any control over how employees spend their break time, and
10 relieve their employees of all duties—including the obligation that an employee remain on
11 call. A rest period, in short, must be a period of rest.” *Augustus v. ABM Security Services,*
12 *Inc.*, 2 Cal. 5th 257, 273 (2016).

13 88. Pursuant to the applicable IWC Wage Order and California Labor Code section
14 226.7(c), Plaintiff and other non-party Aggrieved Employees are entitled to recover from
15 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
16 required rest period was not authorized and permitted.

17 89. During the relevant time period, Defendants regularly failed to authorize and
18 permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest
19 period per each four (4) hour period worked or major fraction thereof. As with meal periods,
20 Defendants’ company-wide practices of understaffing and assigning heavy workloads,
21 including pressuring employees to meet deadlines and productivity expectations, prevented
22 Plaintiff and other non-party Aggrieved Employees from being relieved of all duty to take rest
23 periods. Defendants also failed to schedule rest periods, which, coupled with Defendants’
24 failure to provide adequate rest period coverage, further led to Plaintiff and other non-party
25 Aggrieved Employees not being authorized and permitted to take rest periods.

26 90. Moreover, Defendants maintained and implemented a company-wide on-
27 premises rest period policy, which required that Plaintiff and other non-party Aggrieved
28 Employees remain on Defendants’ premises during their rest periods. Because Plaintiff and

1 other non-party Aggrieved Employees were restricted from leaving the premises during rest
2 periods, they were denied the ability to use their rest periods freely for their own purposes,
3 such as running personal errands. Thus, Defendants effectively maintained control over
4 Plaintiff and other non-party Aggrieved Employees during rest periods.

5 91. As a result of Defendants' practices and policies, Plaintiff and other non-party
6 Aggrieved Employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in
7 excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they
8 were entitled. For example, Plaintiff missed at least one (1) rest break every shift, and missed
9 two (2) rest breaks per shift about 2-5 times per week due to the heavy workload and lack of
10 coverage.

11 92. Defendants have also engaged in a company-wide practice and/or policy of not
12 paying rest period premiums owed when compliant rest periods are not authorized and
13 permitted. Because of this practice and/or policy, Plaintiff and other non-party Aggrieved
14 Employees have not received premium pay for all missed rest periods. Alternatively, to the
15 extent that Defendants did pay other non-party Aggrieved Employees one (1) additional hour
16 of premium pay for missed rest periods, Defendants did not pay other non-party Aggrieved
17 Employees at the correct rate of pay for premiums because Defendants failed to include all
18 forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses,
19 and/or other forms of remuneration, in the regular rate of pay.

20 93. Defendants' conduct violates the applicable IWC Wage Order and California
21 Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved
22 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
23 558 and/or 2699(a), (f), and (g).

24 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**
25 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

26 94. At all relevant times herein, California Labor Code section 226(a) provides that
27 every employer shall furnish each of his or her employees an accurate and complete itemized
28 wage statement in writing, including, but not limited to, the name and address of the legal entity

1 that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable
2 rates of pay.

3 95. During the relevant time period, Defendants have knowingly and intentionally
4 provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and
5 inaccurate wage statements. For example, Defendants issued uniform wage statements to
6 Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages
7 earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the
8 pay period, including rates of pay for overtime wages and/or meal and rest period premiums,
9 and the corresponding number of hours worked at each hourly rate. Specifically, Defendants
10 violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

11 96. Because Defendants did not record the time Plaintiff and other non-party
12 Aggrieved Employees spent working off-the-clock and deducted time from their records for
13 meal periods that were interrupted and/or missed (and therefore time for which they should have
14 been paid), Defendants did not list the correct amount of gross wages and net wages earned by
15 Plaintiff and other non-party Aggrieved Employees in compliance with section 226(a)(1) and
16 section 226(a)(5), respectively. For the same reason, Defendants failed to accurately list the
17 total number of hours worked by Plaintiff and other non-party Aggrieved Employees, in
18 violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect
19 during the pay period and the corresponding accurate number of hours worked at each hourly
20 rate, in violation of section 226(a)(9).

21 97. Furthermore, because Defendants did not calculate other non-party Aggrieved
22 Employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal
23 and rest period premiums, Defendants did not list the correct amount of gross wages in
24 compliance with section 226(a)(1) and did not list the correct amount of net wages in violation
25 of section 226(a)(5). Defendants also failed to correctly list all applicable hourly rates in effect
26 during the pay period, namely, correct rates of pay for overtime wages and/or meal and rest
27 period premiums, in violation of section 226(a)(9).

28 98. The wage statement deficiencies also include, among other things, failing to list

1 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a
2 piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for
3 which aggrieved employees were paid; failing to list the name of the employee and only the last
4 four digits of his or her social security number or an employee identification number other than
5 a social security number; failing to list the name and address of the legal entity that is the
6 employer; and/or failing to state all hours worked as a result of not recording or stating hours
7 worked off-the-clock.

8 99. California Labor Code section 1174(d) provides that “[e]very person employing
9 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
10 employed and the ages of all minors” and “[k]eep, at a central location in the state or at the
11 plants or establishments at which employees are employed, payroll records showing the hours
12 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
13 applicable piece rate paid to, employees employed at the respective plants or
14 establishments” Labor Code section 1174.5 provides that employers are subject to a \$500
15 civil penalty if they fail to maintain accurate and complete records as required by section
16 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d),
17 Defendants willfully failed to maintain accurate payroll records for Plaintiff and other non-party
18 Aggrieved Employees showing the daily hours they worked and the wages paid thereto as a
19 result of failing to record the off-the-clock hours that they worked.

20 100. California Labor Code section 1198 provides that the maximum hours of work
21 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set
22 forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment
23 of any employees for longer hours than those fixed by the order or under conditions of labor
24 prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers
25 are required to keep accurate time records showing when the employee begins and ends each
26 work period and meal period. During the relevant time period, Defendants engaged in
27 company-wide practices and/or policies of failing to record actual hours worked, and thereby
28 failed to keep accurate records of work period and meal period start and end times for Plaintiff

1 and other non-party Aggrieved Employees in violation of section 1198. Furthermore, in light of
2 Defendants' failure to provide Plaintiff and other non-party Aggrieved Employees with second
3 30-minute meal periods to which they were entitled, Defendants kept no records of meal start
4 and end times for second meal periods.

5 101. Defendants' conduct violates California Labor Code 226(a), 1174(d), and 1198.
6 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
7 penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (g).

8 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

9 **VIOLATION OF LABOR CODE SECTION 204**

10 102. At all relevant times herein set forth, California Labor Code section 204
11 requires that all wages earned by any person in any employment between the 1st and the 15th
12 days, inclusive, of any calendar month, other than those wages due upon termination of an
13 employee, are due and payable between the 16th and the 26th day of the month during which
14 the labor was performed. Labor Code section 204 further provides that all wages earned by
15 any person in any employment between the 16th and the last day, inclusive, of any calendar
16 month, other than those wages due upon termination of an employee, are due and payable
17 between the 1st and the 10th day of the following month.

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

24 104. During the relevant time period, Defendants willfully failed to pay Plaintiff and
25 other non-party Aggrieved Employees all wages due to them within any time period specified
26 by California Labor Code section 204 including, but not limited to, overtime wages, minimum
27 wages, and/or meal and rest period premiums.

28 105. Plaintiff and other non-party Aggrieved Employees are therefore entitled to

1 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (g).

2 **FAILURE TO PAY WAGES UPON TERMINATION**

3 **VIOLATION OF LABOR CODE SECTIONS 201 AND 202**

4 106. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
5 that if an employer discharges an employee, the wages earned and unpaid at the time of
6 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
7 her employment, his or her wages shall become due and payable not later than seventy-two
8 (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of
9 his or her intention to quit, in which case the employee is entitled to his or her wages at the
10 time of quitting.

11 107. Defendants willfully failed to pay Plaintiff and other non-party Aggrieved
12 Employees who are no longer employed by Defendants the earned and unpaid wages set forth
13 above, including but not limited to, overtime wages, minimum wages, and/or meal and rest
14 period premiums, either at the time of discharge, or within seventy-two (72) hours of their
15 leaving Defendants' employ.

16 108. Defendants' failure to pay Plaintiff and those other non-party Aggrieved
17 Employees who are no longer employed by Defendants their wages earned and unpaid at the
18 time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ,
19 violates Labor Code sections 201 and 202. Plaintiff and other non-party Aggrieved
20 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections
21 256 and/or 2699(a), (f), and (g).

22 **FAILURE TO PROVIDE ONE DAY'S REST IN SEVEN**

23 **VIOLATION OF LABOR CODE SECTIONS 551 and 552**

24 109. At all relevant times herein, California Labor Code section 551 provides that
25 every person employed in any occupation of labor is entitled to one day's rest in seven.
26 Additionally, California Labor Code section 552 prohibits employers from requiring employees
27 to work more than six consecutive days without a day of rest.

28 110. At all relevant times herein set forth, California Labor Code section 556 exempts

an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six hours in any one day thereof.

111. During the relevant period, Defendants required other non-party Aggrieved Employees to work approximately six (6) or more hours per day and seven (7) consecutive days in a workweek. Because other non-party Aggrieved Employees worked over thirty (30) hours per week and over six (6) hours in any one day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that other non-party Aggrieved Employees signed purported waivers of their right to a day's rest in seven, such waivers are invalid.

112. Thus, during the relevant time period, and in violation of California Labor Code sections 551 and 552, Defendants caused other non-party Aggrieved Employees to work more than six days in seven. Other non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or 2699(a), (f), and (g).

FAILURE TO PROVIDE SUITABLE RESTING FACILITIES
VIOLATION OF LABOR CODE SECTION 1198 AND CALIFORNIA CODE OF
REGULATIONS, TITLE 8, SECTION 11050(13)(B)

113. At all relevant times herein, California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable wage order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11050(13)(B) provides that “[s]uitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.”

114. Defendants' hospital has space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. Defendants could have provided Plaintiff and other non-party Aggrieved Employees with a suitable resting facility within their hospital, with reasonable or no modification, but instead denied, and continue to deny, employees suitable areas to rest (e.g., a breakroom with seats). As a result, Plaintiff and

1 other non-party Aggrieved Employees were forced to adjust to areas not conducive to resting,
2 such as sitting in the cafeteria area, standing near the kitchen, or searching for areas outside of
3 the hospital which are not designated or reserved for their rest.

4 115. Defendants did not provide Plaintiff and other non-party Aggrieved Employees
5 with suitable resting facilities during their work hours, particularly during meal or rest periods.
6 In other words, during the times when Plaintiff and other non-party Aggrieved Employees were
7 legally allowed to forgo assigned tasks, as in during a meal or rest period, Defendants denied
8 them any area within their hospital to cease work and recover. Moreover, Defendants did not
9 inform Plaintiff and other non-party Aggrieved Employees of their rights to suitable resting
10 facilities under California law.

11 116. As a result of Defendants' company-wide failure to provide suitable resting
12 facilities in their hospital, Plaintiff and other non-party Aggrieved Employees were forced to
13 adjust to areas not conducive to resting or search for facilities outside their hospital to cease
14 work and recover. Defendants' failure to provide suitable resting facilities to Plaintiff and other
15 non-party Aggrieved Employees violates California Labor Code section 1198 and IWC Wage
16 Order No. 5-2001, subdivision 13(B).

17 117. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
18 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

19 **FAILURE TO PROVIDE WRITTEN NOTICE OF MATERIAL TERMS OF**
20 **EMPLOYMENT**

21 **VIOLATION OF LABOR CODE SECTION 2810.5(a)(1)(A)-(C)**

22 118. California's Wage Theft Prevention Act was enacted to ensure that employers
23 provide employees with basic information material to their employment relationship at the time
24 of hiring, and to ensure that employees are given written and timely notice of any changes to
25 basic information material to their employment. Codified at California Labor Code section
26 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must
27 provide written notice to employees containing basic and material payroll information,
28 including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour,

1 shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the
2 regular payday designated by the employer, and any allowances claims as part of the minimum
3 wage, including meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-(C).

4 119. At all relevant times, Defendants failed, on a company-wide basis, to provide
5 written notice to Plaintiff and other non-party Aggrieved Employees that lists all the requisite
6 information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Specifically, Defendants
7 failed to provide Plaintiff and other non-party Aggrieved Employees with the regular payday
8 designated by the employer, in violation of section 2810.5(a)(1)(C). Instead, the wage theft
9 form that Defendants provided to Plaintiff does not even have space for the regular payday to be
10 filled in.

11 120. Defendants' failure to provide Plaintiff and other non-party Aggrieved
12 Employees with written notice of basic information regarding their employment with
13 Defendants is in violation of California Labor Code section 2810.5. Plaintiff and other non-
14 party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor
15 Code sections 2699(a), (f), and (g).

16 **REQUEST FOR JURY TRIAL**

17 Plaintiff requests a trial by jury.

18 **PRAYER FOR RELIEF**

19 Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and
20 judgment against Defendants, jointly and severally, as follows:

21 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
22 (\$25,000). Plaintiff reserves the right to amend her prayer for relief to seek a different
23 amount.

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

25 2. That the Court declare, adjudge and decree that Defendants violated the
26 following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved
27 Employees: 510 and 1198 (by failing to pay all overtime compensation); 226.7, 510, and 1198
28 (by failing to include all forms of remuneration in the regular rate of pay for purposes of

1 paying overtime wages and/or meal and rest period premiums); 1182.12, 1194, 1197, and
2 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and
3 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and
4 permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
5 statements and maintain accurate payroll records); 204 (by failing to timely pay all earned
6 wages during employment); 201 and 202 (by failing to timely pay all earned wages upon
7 termination); 551 and 552 (by failing to provide one day's rest in seven); 1198 and the
8 applicable IWC Wage Order (by failing to provide suitable resting facilities); and 2810.5 (by
9 failing to provide written notice of information material to employment);

10 3. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 256,
11 558, 1174.5, 2699(a), (f), and (g), for violations of California Labor Code sections 201, 202,
12 204, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1198, and
13 2810.5;

14 4. For attorneys' fees and costs pursuant to California Labor Code section
15 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California
16 Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d),
17 1182.12, 1194, 1197, 1198, and 2810.5;

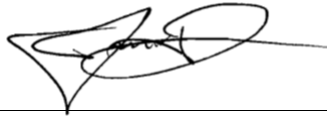
18 5. For pre-judgment and post-judgment interest as provided by law; and

19 6. For such other and further relief as the Court may deem equitable and
20 appropriate.
21

22 Dated: December 29, 2023

Respectfully submitted,

Capstone Law APC

24
25 By: 

Robert Drexler
Molly DeSario
Jonathan Lee

Attorneys for Plaintiff Lourdes Andrade

EXHIBIT “1”



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SAIRAH BUDHWANI
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October 24, 2023

VIA ONLINE SUBMISSION

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

Subject: *Lourdes Andrade v. Coalinga Medical Center LLC, et al.*

Dear PAGA Administrator:

This office represents Lourdes Andrade in connection with her claims under the California Labor Code. Ms. Andrade was an employee of COALINGA MEDICAL CENTER, LLC and/or COALINGA REGIONAL MEDICAL CENTER AUXILIARY. For the purposes of this letter, Ms. Andrade collectively refers to these entities as "CMC."

The employers may be contacted directly at the addresses below:

COALINGA MEDICAL CENTER LLC
1191 PHELPS AVENUE
COALINGA, CA 93210

COALINGA MEDICAL CENTER, LLC
PO BOX 4841
MODESTO, CA 95352

COALINGA REGIONAL MEDICAL
CENTER AUXILIARY
1145 PHELPS AVENUE, SUITE 105
COALINGA, CA 93210

COALINGA REGIONAL MEDICAL
CENTER AUXILIARY
PO BOX 1101
COALINGA, CA 93210

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

CMC employed Ms. Andrade as an hourly paid, non-exempt employee from approximately April 2021 to May 2023. Ms. Andrade worked for CMC as a Cook at its location in Coalinga, California. During her employment, Ms. Andrade worked nine (9) or more hours per day and four (4) or more days per week. At the time Ms. Andrade's employment with CMC ended, she was compensated

approximately \$16.48 per hour. Ms. Andrade's primary job duties included, without limitation, preparing ingredients for patient and resident meals, cooking meals according to hospital provided menus, cleaning work areas, and washing dishes.

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

CMC's Company-Wide and Uniform Payroll and HR Practices

CCOALINGA MEDICAL CENTER, LLC is a California limited liability company and COALINGA REGIONAL MEDICAL CENTER AUXILIARY is a California corporation. Together, they operate Coalinga Medical Regional Center, a community hospital that provides health services to western Fresno and Kings counties, with a medical laboratory, medical offices, skilled nursing facilities, and surgical facilities. Upon information and belief, CMC maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Coalinga, California, for all non-exempt, hourly paid employees working for CMC in California, including Ms. Andrade and other aggrieved employees. At all relevant times, CMC issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Andrade and other aggrieved employees, regardless of their location or position.

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

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

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

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

for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

CMC willfully failed to pay all overtime wages owed to Ms. Andrade and other aggrieved employees. During the relevant time period, Ms. Andrade and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, CMC had a policy and/or practice of requiring Ms. Andrade and other aggrieved employees to perform work-related tasks while off-the-clock. For example, about once every other month, CMC's management called Ms. Andrade on her days off for 10-15 minutes at a time to discuss work-related matters, such as the location of certain ingredients and meal preparations. As another example, about once per month in 2022, Ms. Andrade and other aggrieved employees were required to attend team meetings on their days off, for 30-40 minutes at a time. Thus, Ms. Andrade and other aggrieved employees performed work on their days off, time for which they were not paid.

Second, during the relevant time period, CMC only provided Ms. Andrade and other aggrieved employees with one (1) access point to its timekeeping system, resulting in Ms. Andrade and other aggrieved employees having to wait in line off-the-clock to clock in for the start of their shifts under CMC's control, time for which they were not paid. For example, Ms. Andrade and other aggrieved employees would report to work at the start of their scheduled shifts, but were required to wait in line for a few minutes to clock in, time for which they were not paid.

Third, during the relevant time period, CMC had, and continues to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads, including pressure to meet deadlines and productivity expectations. This company-wide policy and/or practice resulted in a failure to provide Ms. Andrade and other aggrieved employees with adequate meal period coverage. As a result of the lack of meal period coverage, Ms. Andrade and other aggrieved employees were not always afforded uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. For example, during a typical morning shift, Ms. Andrade was required to have 60-80 breakfast meals (including alternative meals for patients/residents on pureed diets) ready for the aides to deliver around 6:30 a.m. Ms. Andrade would then clean up her work areas and wash dishes before preparing 60-80 regular and alternative lunch meals by 11:30 a.m. Ms. Andrade would then clean up and wash dishes again before the end of her shift. Ms. Andrade would often have to meet these deadlines with only one (1) other Cook on her shift.

CMC also had a practice of failing to adhere to a schedule for meal periods which, combined with the assignment of heavy workloads, further caused Ms. Andrade and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Ms. Andrade worked through her meal periods 3-4 times per week to keep up with the demands of work and complete her assigned duties by required deadlines. As a further example, Ms. Andrade had her meal periods interrupted once or twice per week due to aides asking her questions, needing to fix the type of meal given to a patient/resident, or preparing food for a new patient. Consequently, Ms. Andrade and other aggrieved employees were required to work through meal periods and/or had their meal periods interrupted to complete their assigned workloads, and CMC did not pay Ms. Andrade and other aggrieved employees for the time they continued to perform tasks during meal periods.

Furthermore, because CMC frowned upon employees accruing meal period penalties, CMC's management pressured employees to clock out for meal periods, on threat of discipline, regardless of whether they had received a compliant meal period or not, in order to limit the meal penalties that CMC would otherwise owe. For example, CMC's management told Ms. Andrade to clock out for her meal periods even if she had to continue working in order to meet deadlines and productivity expectations, and threatened to write her up if she did not do so. Thus, CMC did not record all hours worked during meal periods, and Ms. Andrade and other aggrieved employees performed work during meal periods for which they were not paid.

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

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

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

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

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which an employee is suffered or permitted to work for the employer, whether or not required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards Act." Cal. Code Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

As set forth above, Ms. Andrade and other aggrieved employees were required to perform work off-the-clock before their shifts and on days off, such as responding to phone calls from management regarding work-related matters, attending meetings on days off, and waiting to clock in for the start of their shifts. Thus, CMC failed to track this time Ms. Andrade and other aggrieved employees spent working off-the-clock, and Ms. Andrade and other aggrieved employees received no compensation for this time.

Moreover, as also stated above, due to CMC's policies and/or practices of understaffing while assigning heavy workloads, including pressure to meet deadlines and productivity expectations, failure to adhere to a schedule for meal periods, and subsequent lack of meal period coverage, Ms. Andrade and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, have their meal periods interrupted, and/or were otherwise not relieved of all duties during unpaid meal periods. Moreover, as stated, in order to limit meal penalties that CMC would otherwise owe, CMC's management pressured employees to record compliant meal periods when meal periods were missed, short, and/or interrupted. Thus, CMC systematically failed to pay Ms. Andrade and other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

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

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

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

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, during the relevant time period, as stated, CMC had, and continues to have, a company-wide policy and/or practice of understaffing while assigning heavy workloads, including pressuring employees to meet deadlines and productivity expectations, which has resulted in a lack of meal period coverage and prevented Ms. Andrade and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. Further, as stated, CMC had a practice of failing to adhere to a schedule for meal periods, which further caused Ms. Andrade and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result, Ms.

Andrade and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, as stated, Ms. Andrade worked through her meal periods about 3-4 times per week to keep up with the demands of work and complete her assigned duties by required deadlines. Further, Ms. Andrade took her meal periods late about three (3) times per week for the same reasons, and had her meal periods interrupted once or twice per week due to aides asking her questions, needing to fix the type of meal given to a patient/resident, or preparing food for a new patient.

Second, as stated above, because CMC frowned upon employees accruing meal period penalties, CMC's management pressured Ms. Andrade and other aggrieved employees to clock out for meal periods, upon threat of discipline, regardless of whether they had received a compliant meal period, in order to limit meal penalties that would need to be paid by CMC. For example, Ms. Andrade was required to clock out for her meal period to record that she had received compliant meal periods on shifts when she had not, in fact, received these timely meal periods.

Third, CMC did not provide Ms. Andrade and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. For example, during her employment, Ms. Andrade worked at least nine (9) shifts in excess of ten (10) hours per day, and was not provided her second meal period during these shifts. Ms. Andrade and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

Further, CMC had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. CMC took the position that non-exempt, hourly paid employees had waived their rights to first and/or second meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were entitled. Furthermore, CMC's meal period waiver form requires employees to provide notice in writing should they wish to revoke the waiver. CMC's presumption that meal periods would not be provided for shifts in excess of five (5) hours but less than six (6) hours and/or for shifts in excess of ten (10) hours but less than twelve (12) hours, due to blanket meal period waivers signed at or near the time of hire, and imposition on employees to revoke the waivers in writing, discouraged and impeded Ms. Andrade and other aggrieved employees from taking all meal periods to which they were entitled.

Furthermore, an employer's obligation to provide a meal period is only "triggered" when the employer "employs an employee for a work period of more than five hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to work for a full five hours, its meal break obligation is triggered.").

[A]fter the meal break obligation is triggered . . . an employer is put to a choice: it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-upon waiver if one hour or less will end the shift; or (3) obtain written agreement to an on-duty meal period if circumstances permit. Failure to do one of these will render the employer liable for premium pay.

Id. (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That CMC required Ms. Andrade and other aggrieved employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because

CMC's obligation to provide Ms. Andrade and aggrieved employees with meal periods did not arise until they had employed them for a full five (5) hours.

At all times mentioned herein, CMC knew or should have known that as a result of its policies, Ms. Andrade and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. CMC further knew or should have known that it did not pay Ms. Andrade and other aggrieved employees meal period premiums when meal periods were late, missed, shortened, or interrupted.

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

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

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

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, CMC regularly failed to authorize and permit Ms. Andrade and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, CMC's company-wide practices of understaffing and assigning heavy workloads, including pressuring employees to meet deadlines and productivity expectations, prevented Ms. Andrade and other aggrieved employees from being relieved of all duty to take rest periods. CMC also failed to schedule rest periods, which, coupled with CMC's failure to

provide adequate rest period coverage, further led to Ms. Andrade and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Furthermore, CMC maintained a company-wide on-premises rest period policy, which required that Ms. Andrade and other aggrieved employees remain on CMC's premises during their rest periods. Because Ms. Andrade and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, CMC effectively maintained control over Ms. Andrade and other aggrieved employees during rest periods.

As a result of CMC's practices and policies, Ms. Andrade and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Ms. Andrade missed at least one (1) rest break every shift, and missed two (2) rest breaks per shift about 2-5 times per week due to the heavy workload and lack of coverage.

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

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

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

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

During the relevant time period, CMC has knowingly and intentionally provided Ms. Andrade and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, CMC issued uniform wage statements to Ms. Andrade and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly

rates in effect during the pay period, including rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, CMC violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

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

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

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

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

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, CMC engaged in company-wide practices and/or policies of failing

to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for Ms. Andrade and other aggrieved employees, in violation of section 1198. Furthermore, in light of CMC's failure to provide Ms. Andrade and other aggrieved employees with second 30-minute meal periods to which they were entitled, CMC kept no records of meal start and end times for second meal periods.

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

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

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

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

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

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

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

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

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

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

Violation of California Labor Code §§ 551 and 552 – Failure to Provide One Day's Rest in Seven

California Labor Code section 551 provides that every person employed in any occupation of labor is entitled to one day's rest in seven. California Labor Code section 552 prohibits employers from requiring employees to work more than six consecutive days without a day of rest. California Labor Code section 556 exempts an employer from the day-of-rest requirement when the total hours worked by an employee do not exceed 30 hours in any week or six (6) hours in any one day thereof.

During the relevant period, CMC required other aggrieved employees to work approximately six (6) or more hours per day and seven (7) consecutive days in a workweek. Because other aggrieved employees worked over thirty (30) hours per week and over six (6) hours in any one day in a workweek, they were not exempt from the day-of-rest requirement. To the extent that other aggrieved employees signed purported waivers of their right to a day's rest in seven, such waivers are invalid.

Thus, CMC caused other aggrieved employees to work more than six days in seven, in violation of Labor Code sections 551 and 552. Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 13(B) – Failure to Provide Suitable Resting Facilities

California Labor Code section 1198 makes it illegal to employ an employee under conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” California Code of Regulations, Title 8, section 11050(13)(B) provides that “[s]uitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.”

CMC's hospital has space that allows for a resting facility that employees may use to cease work and recover during meal or rest periods. CMC could have provided Ms. Andrade and other aggrieved employees with a suitable resting facility within its hospital, with reasonable or no modification, but instead denied, and continues to deny, employees suitable areas to rest (e.g., a breakroom with seats). As a result, Ms. Andrade and other aggrieved employees were forced to adjust to areas not conducive to resting, such as sitting in the cafeteria area, standing near the kitchen, or searching for areas outside of the hospital which are not designated or reserved for their rest.

CMC did not provide Ms. Andrade and other aggrieved employees with suitable resting facilities during their work hours, particularly during meal or rest periods. In other words, during the times when Ms. Andrade and other aggrieved employees were legally allowed to forgo assigned tasks, as in during a meal or rest period, CMC denied them any area within its hospital to cease work and recover. Moreover, CMC did not inform Ms. Andrade and other aggrieved employees of their rights to suitable resting facilities under California law.

As a result of CMC's company-wide failure to provide suitable resting facilities in its hospital, Ms. Andrade and other aggrieved employees were forced to adjust to areas not conducive to resting or search for facilities outside their stores to cease work and recover. CMC's failure to provide suitable resting facilities to Ms. Andrade and other aggrieved employees violates California Labor Code section 1198 and IWC Wage Order No. 5-2001, subdivision 13(B).

Ms. Andrade and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, and seek injunctive relief to bring CMC into compliance with California's resting facilities requirements, pursuant to Labor Code sections 1194.5 and/or 2699(a), (f)-(g).

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

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

CMC failed to provide Ms. Andrade and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Specifically, CMC failed to provide Ms. Andrade and other aggrieved employees with the regular payday designated by the employer, in violation of section 2810.5(a)(1)(C). Instead, the wage theft form that CMC provided to Ms. Andrade does not even have space for the regular payday to be filled in. CMC's failure to provide Mr. Andrade and other aggrieved employees with written notice of basic information regarding their employment is in violation of California Labor Code section 2810.5.

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

California Labor Code § 558(a)

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

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

Accordingly, Ms. Andrade seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 1194.5, 2699(a), 2699.3(a), 2699.3(c), 2699.5, and 558, Ms. Andrade, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties and injunctive relief for herself, all other aggrieved employees, and the State of California against CMC for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 510, 512(a), 516, 551, 552, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2810.5.

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

Pre-Litigation Demand

This notice shall further serve as Ms. Andrade’s reasonable attempt to settle her dispute with CMC prior to litigation. Pursuant to *Graham v. Daimler Chrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform CMC of Ms. Andrade’s aforementioned grievances and the proposed remedies as detailed below, while affording CMC a reasonable opportunity to satisfy Ms. Andrade’s demands.

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

1. CMC shall pay Ms. Andrade and all other aggrieved employees employed by CMC at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. CMC shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked and provided lawful meal and rest periods.
3. CMC shall conduct a survey or interview all current and former aggrieved employees in California who worked for CMC in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided and the number of rest periods which were not authorized and permitted, with the investigation to be completed within 60 days.
4. CMC shall pay Ms. Andrade and each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. CMC also shall pay Ms.

Andrade and each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.

5. CMC shall properly calculate aggrieved employees' rates of pay for overtime and/or meal and rest period premiums based on all remuneration paid, pursuant to Labor Code sections 226.7 and 510.
6. CMC shall provide all aggrieved employees who worked over thirty (30) hours per week and over six (6) hours per day in a workweek with one day's rest in seven, as required by Labor Code sections 551 and 552.
7. CMC shall implement and provide suitable resting facilities to all aggrieved employees.
8. CMC shall provide all aggrieved employees written notice of basic information regarding their employment that includes the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
9. CMC shall pay accrued legal interest to Ms. Andrade and all aggrieved employees at the rate of 10% per annum for said unpaid wages.
10. CMC shall provide Ms. Andrade and all aggrieved employees employed by CMC at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
11. CMC shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
12. CMC shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699, and IWC Wage Order No. 5-2001, section 20.

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

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

Best Regards,

A handwritten signature in cursive script, reading "Sairah Budhwani".

Sairah Budhwani

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COALINGA, CA 93210

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1875 Century Park, East, 1000
Los Angeles, CA. 90067

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SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse

COALINGA REGIONAL MEDICAL
CENTER AUXILIARY
PO BOX 1101
COALINGA, CA 93210

COMPLETE THIS SECTION ON DELIVERY

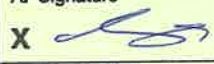
- A. Signature
X
- B. Received by (Printed Name)
- C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes ☐ No
If YES, enter delivery address below:

- 3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail[®]
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Registered Mail[®]
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation[™]
☐ Signature Confirmation Restricted Delivery

Article Number (Transfer from service label)
7022 2410 0000 2264 6826

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY		
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. COALINGA REGIONAL MEDICAL CENTER AUXILIARY PO BOX 1101 COALINGA, CA 93210  9590 9402 7690 2122 7205 01	A. Signature X  ☐ Agent ☐ Addressee B. Received by (Printed Name) _____ C. Date of Delivery _____ D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No		
2. Article Number (Transfer from service label) 7022 2410 0000 2264 6826	3. Service Type <table style="width: 100%; border: none;"> <tr> <td style="vertical-align: top;"> ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery </td> <td style="vertical-align: top;"> ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery </td> </tr> </table> ☐ Restricted Delivery	☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery	☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery
☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery	☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery		
PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt			

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY		
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. COALINGA MEDICAL CENTER, LLC PO BOX 4841 MODESTO, CA 95352  9590 9402 7690 2122 7204 71	A. Signature X  ☐ Agent ☐ Addressee B. Received by (Printed Name) _____ C. Date of Delivery _____ D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No		
2. Article Number (Transfer from service label) 7022 2410 0000 2264 6833	Service Type <table style="width: 100%; border: none;"> <tr> <td style="vertical-align: top;"> ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery </td> <td style="vertical-align: top;"> ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery </td> </tr> </table> ☐ Restricted Delivery (over \$500)	☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery	☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery
☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery	☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery		
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