

August 7, 2024

VIA ON-LINE SUBMISSION ONLY TO:

<https://dir.tfaforms.net/128>

Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

VIA CERTIFIED MAIL TO:

(by certified mail to Magnolia Surgery Center Limited Partnership; Newhope Imaging Center, Inc.; United Surgical Partners; Prime HealthCare)

Magnolia Surgery Center Limited Partnership
20 Burton Hills Blvd., Ste.100,
Nashville, TN 37215
Certified Mail Tracking Number: 9414 8112 0620 4029 7136 75

CT Corporation System
Agent for Service of Process for Magnolia Surgery Center Limited Partnership
330 N. Brand Blvd, Ste. 700
Glendale, CA 91203
Certified Mail Tracking Number: 9414 8112 0620 4029 7135 38

Newhope Imaging Center, Inc.
14201 Dallas Pkwy,
Dallas, Texas 75254
Certified Mail Tracking Number: 9414 8112 0620 4029 7159 07

CT Corporation System
Agent for Service of Process for Newhope Imaging, Center, Inc.
330 N. Brand Blvd, Ste. 700
Glendale, CA 91203
Certified Mail Tracking Number: 9414 8112 0620 4029 7154 33

United Surgical Partners International, Inc.
1209 Orange St.
Wilmington, Delaware 19801
Certified Mail Tracking Number: 9414 8112 0620 4029 7127 22

The Corporation Trust Company
1209 Orange St.
Wilmington, Delaware 19801
Certified Mail Tracking Number: 9414 8112 0620 4029 7120 81

Prime HealthCare
3115 Ocean Front Walk, #301
Marina Del Rey, CA 90292
Certified Mail Tracking Number: 9414 8112 0620 4029 7102 92



Michael Fate
Agent for Service of Process for Prime Healthcare
11100 Washington Blvd.
Culver City, CA 90232
Certified Mail Tracking Number: 9414 8112 0620 4029 7113 98

Re: Labor Code § 2698, et seq. Penalties
Amended PAGA Notice Letter to LWDA (Original Date: March 19, 2024)
LWDA Case No. LWDA-CM-1017453-24
Latoya Matthews v. Magnolia Surgery Center Limited Partnership, et al.
Superior Court for the County of Orange

Gentlepersons:

This office represents Plaintiffs Latoya Matthews and Gabriel G. Gil (“Plaintiffs”) and other similarly aggrieved employees employed as non-exempt, hourly workers and in related positions at Defendants’ centers and medical facility locations in California during the relevant period (collectively “Aggrieved Employees”) for, *inter alia*, violations of California Labor Code §§ 201, 202, 203, 204, 210, 221, 226, 226.7, 246, 248.1, 248.2, 248.5, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2810.5, 2698, and 2699, *et seq.*; provisions of the Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.* (“the Act”), and to supplement and amend Plaintiff’s original PAGA Notice Letter to the LWDA submitted on March 19, 2024 (LWDA-CM-1017453-24). Plaintiff would like to bring an additional representative and name additional defendants in connection with the representative action against Defendants Magnolia Surgery Center Limited Partnership, Newhope Imaging Center, Inc., United Surgical Partners, Prime HealthCare, and Does 1 through 50 inclusive (all defendants being referred to herein collectively as “Defendants”). This letter will also serve to provide notice that Plaintiff has requested to dismiss Defendant Magnolia Surgery Center LLC Pursuant to CRC 3.770, and Plaintiff will not name Magnolia Surgery in the amended complaint.

We also set forth herein the facts and theories and the California Labor Code violations which Defendants engaged in with respect to Plaintiffs and all of their Aggrieved Employees in California. The Second Amended Class Action Complaint provides the details of Plaintiff’s class-wide claims and claims under the Act, and the applicable California law governing them. It, along with this Notice Letter, addresses in detail numerous violations that subject Defendants to civil and statutory penalties under the Act.

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Relevant Facts

Plaintiffs and the Aggrieved Employees worked as hourly, non-exempt Employees for Defendants in positions generally pertaining to providing medical and surgical services to Defendants' patients. Defendants Magnolia Surgery Center Limited Partnership, Newhope Imaging Center, Inc., United Surgical Partners International, Inc., Prime Healthcare jointly employ Employees at their centers and medical facilities. Plaintiffs and the other similarly situated Employees of Defendants worked in Defendants' facilities at Defendants' behest and without being paid all wages due and without being provided all their required meal periods and rest breaks.

Upon information and belief, Plaintiffs were employed by Defendants and shared similar job duties and responsibilities, were subjected to the same policies and practices, and endured similar violations at the hands of Defendants as the other Aggrieved Employees who served in similar and related positions at their surgical centers and medical facilities.

Defendants required Plaintiffs and the Aggrieved Employees to work off the clock and failed to accurately record the hours they were on the clock, failed to pay them at the appropriate rates for all hours worked, failed to pay all wages due and owing at termination or resignation, and failed to provide Plaintiffs and Aggrieved Employees with accurate itemized wage statements that prevented them from learning of these unlawful pay practices. Defendants also failed to provide Plaintiffs and the Aggrieved Employees with lawful meal and rest periods, as Employees were required to remain under Defendants' control and were not provided with the opportunity to take full uninterrupted and duty-free rest periods and meal breaks, as required by the Labor Code and the applicable paragraphs of the IWC Wage Orders.

Defendant MAGNOLIA SURGERY CENTER LIMITED PARTNERSHIP is a Delaware limited partnership which lists its principal address in Nashville, Tennessee and does not list a California office with the California Secretary of State. It lists several registered corporate agents who list addresses in Glendale, California and in Los Angeles County. The wage statements issued to Plaintiff Matthews list "Magnolia Surg Ctr LTD Partnership" and "Magnolia Surgery Center" as her employer with an address in Westminster, California.

Defendant NEWHOPE IMAGING CENTER, INC. ("Newhope") is a California stock corporation which lists its principal address in Dallas, Texas and does not list a California office with the California Secretary of State. It lists several registered corporate agents who list addresses in Glendale, California and in Los Angeles County. The wage statements issued to Plaintiff Gil list "Newhope Imaging Center" with an address in Fountain Valley, California, which differs from the principal Texas address listed with the California Secretary of State.

Upon information and belief, UNITED SURGICAL PARTNERS INTERNATIONAL, INC. ("United"), is either a joint employer or parent company of Magnolia and Newhope that owns and operates various California surgical centers and medical facilities throughout California, including in Ventura, Modesto, Roseville, Fresno, Los Angeles, Stockton, Santa Clarita, and



Westminster, where Plaintiff Matthews worked. Defendant United Surgical Partners International is a Delaware corporation, which lists a principal address in Wilmington, Delaware with the State of Delaware, Division of Corporations. United Surgical Partners International website explains that: “Today we are the largest ambulatory surgery platform in the country, with more than 480 surgical facilities.” Upon information and belief, one such facility is Newhope Imaging Center, Inc., where Plaintiff Gil was employed as the United Surgical Partners International logo is listed throughout Plaintiff’s personnel file. The United Surgical Partners International logo can also be found throughout Plaintiff Matthew’s personnel file.

Upon information and belief, United was acquired or subsumed by PRIME HEALTHCARE (“Prime”), a California stock corporation, which lists a principal address in Marina Del Rey, California with the California Secretary of State. It lists several registered corporate agents who list addresses in Marina Del Rey, California and in Los Angeles County. Prime’s website states: “Prime Healthcare is the fifth largest for-profit health system in the United States operating 44 hospitals in 14 states, more than 300 outpatient locations, and nearly 45,000 employees and affiliated physicians dedicated to providing the highest quality, value-based healthcare.”

Plaintiffs and the Aggrieved Employees were either not paid by Defendants for all hours worked or were not paid at the appropriate minimum, regular, and overtime rates. Plaintiffs also contend that Defendants failed to pay Plaintiffs and the Aggrieved Employees all wages due and owing, including compensation for off-the-clock work, uncompliant meal and rest breaks, and Defendants’ failure to furnish accurate wage statements, all in violation of various provisions of the California Labor Code and applicable paragraphs of the IWC Wage Orders.

During the course of Plaintiffs and the Aggrieved Employees’ employment with Defendants, they were not paid all wages they were owed, including for all work performed (resulting in “off the clock” work) and for all their overtime hours worked, and they were not paid at the required rates for overtime. This has resulted in systematic and ongoing violations of the California Labor Code and relevant IWC Wage Orders. Upon information and belief, Defendants employ other non-exempt, hourly employees as nurses, gastroenterology technicians, surgeon technicians, and in similar and related positions providing medical treatment and services to Defendants’ customers based out of their surgical centers and medical facilities in California.

Plaintiff Matthews was generally scheduled to work five days per week for six to nine hours per shift, with shift times generally spanning from 6:00 a.m. through 11:30 a.m. or 6:00 a.m. through 3:00 p.m. Plaintiff Gil was generally scheduled to work six days a week, either from 7:45 a.m. to 5:00 p.m. or 8:30 a.m. to 5:00 p.m. On many occasions, Plaintiffs were also required to work longer shifts with an additional hour or two of time approved by Defendants to be paid at overtime premium rates. However, Plaintiffs were required by Defendants to endure substantial off-the-clock work before and after their scheduled shift hours.

Defendants’ policy and practice of requiring systematic off-the-clock work flowed in part from their unlawful timekeeping procedures. Defendants required timekeeping entries to be inputted into the company time clocks by Employees. While Defendants required time punch records for



shift start and end times and meal period beginning and end times, they were not recorded contemporaneously.

Particularly, at the Magnolia Center, Defendants could have relied on Plaintiff Matthews' and the Aggrieved Employees' actual clock-in and clock-out times but instead utilized a grace period, which upon information and belief resulted in a consistent underpayment of Plaintiff's and the Aggrieved Employees' wages. More specifically, Defendants' managers instructed Plaintiff Matthews and the Aggrieved Employees to clock in *after* their scheduled shift time and during the grace period regardless of the time Plaintiff Matthews actually began working or came under Defendants' control. However, in order for Plaintiff Matthews to do so, Plaintiff Matthews was compelled to arrive at the surgical center well before the scheduled shift start time. Plaintiff's work shifts were generally scheduled to start at 6:00 a.m., and to be prepared to start working within the seven-minute grace period she had to arrive at the surgical center by at least five minutes prior to her scheduled shift start time so she could make her way to the locker room and change out her clothes and into her work scrubs.

Plaintiff Matthews was also expected to clock in after her scheduled shift time when Defendants held shift start-up meetings that typically commenced at Plaintiff's scheduled shift time. On such occasions, Plaintiffs and Aggrieved Employees were expected to arrive prior to their scheduled shift time but clock in only after the meeting ended and after Plaintiff and Aggrieved Employees were dressed in their work scrubs. Thus, given that Defendants' timekeeping policies failed to account for work done prior to Plaintiff's scheduled shift time, Defendants' rounding and grace period policies resulted in a consistent underpayment of the wages earned by and owing to Plaintiff Matthews and the Aggrieved Employees and only provided benefit to Defendants.

At the Newhope center, Defendants also required time punch records for shift start and end times and meal period beginning and end times, and also failed to record such hours contemporaneously. Defendants required Plaintiff Gil and Aggrieved Employees to clock in using a fingerprint scanner on a wall, which recorded hours to the minute. In spite of having the capability to record all hours worked and by extension pay for all hours worked, Plaintiff's manual time/out log sheet records show quarter rounding of shift and meal period breaks. It was almost as if Defendants paid Plaintiff Gil and the Aggrieved Employees were only compensated for their scheduled hours rather than their total hours worked. In fact, Plaintiff Gil frequently noticed that she was not compensated for her total hours worked, and brought it up to Defendants on multiple occasions. When this occurred, Defendants would issue the difference in payment on a pay card. The pay card, however, required a \$2-\$4 fee for every transaction and upon information and belief, did not account for her total hours worked and overtime pay. Defendants also paid Plaintiff Gil and Aggrieved Employees via pay card whenever they utilized their PTO. Hence, Defendants also owe Plaintiff Gil and other Aggrieved Employees wages given the pay card fees as well as for the off-the-clock work deriving from their practice or rounding and/or compensating Plaintiff and Aggrieved Employees for their scheduled hours rather than their total hours worked.



In addition to not capturing and compensating Plaintiff Gil's total hours worked, Defendants also failed to adequately pay for all overtime. This is evidenced in one of Plaintiff Gil's available biweekly paystubs, which shows she was paid at her regular rate for 108.25 total hours.

Additionally, Defendants instructed Plaintiffs and the Aggrieved Employees to clock out for thirty minutes for a meal period and do so before the fifth hour of work as required under the Labor Code and Wage Orders. Defendants instructed Plaintiffs and the Aggrieved Employees to thus record compliant meal breaks without regard to whether they were actually taken on time or for the full duration or were interrupted by doctor or patient demands and other work requirements. Additionally, by deducting 30 minutes for a meal period that was oftentimes not lawfully provided if at all, Defendants effectively and unlawfully deducted at least 30 minutes of hours worked from each Employee's work shifts. Defendants also failed to pay meal period premium penalty wages for non-compliant meal periods that were untimely or shortened.

Defendants' managers, staff, and director of nurses also contacted Plaintiff Matthews by calling her personal cell phone regarding work-related matters and scheduling, and would do so both throughout the work day and during breaks and also after work hours. Plaintiff Gil also received messages to her personal cellphone by Defendants. Additionally, Plaintiff Matthews's paystubs reveal that Defendants paid Plaintiff bonuses. To whatever extent Defendants paid this and any other form of remuneration to Aggrieved Employees, such as shift differentials and the like, Defendants failed to include it in the regular rate used to calculate and pay the overtime that Defendants did pay.

Plaintiffs were therefore not paid for all her hours worked at the required minimum, overtime, and double time wage rates due to Defendants' uniformly applied and unlawful policy and practice of requiring her to work off the clock and without pay. Defendants systematically underpaid Plaintiffs and the Aggrieved Employees by failing to pay them at the required overtime rates for all hours over eight in a work shift or over forty in a work week, and all hours over twelve in a day at the required double time rate. Upon information and belief, the Aggrieved Employees were bound by similar scheduling and timekeeping policies and endured similar violations at Defendants' hands as Plaintiffs.

Defendants have either failed to maintain timekeeping records for Plaintiffs that would permit Plaintiffs to discover the nature and extent of the off-the-clock work Defendants required and the actual hours Plaintiffs worked or the breaks they received or have otherwise declined to produce them to Plaintiffs in response to a timely and lawful records request. By failing to pay for all hours worked, and by under-recording regular hours to the detriment of the Aggrieved Employees, Defendants have committed knowing and intentional ongoing violations of the record-keeping requirements under the Labor Code, including section 1174, by either failing to maintain records or retaining inaccurate ones.

The failure to pay for all hours worked and underpayment of wages to Plaintiffs and the Aggrieved Employees is and has been a direct consequence of Defendants' unlawful compensation policies and practices, which upon information and belief applied uniformly to the



Aggrieved Employees working based out of Defendants' surgical centers and medical facilities throughout California. As a result of the above-described unlawful requirements to work off the clock, the failure to accurately record all hours worked and pay wages at the correct rates, and the other wage violations they endured at Defendants' hands, Plaintiffs and the Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants, including when working more than eight hours in any given day and/or more than forty hours in any given week.

Therefore, Defendants had a consistent policy or practice of failing to pay Employees for all hours worked and failing to pay minimum wages for all time worked, as required by California law. Also, from at least four years prior to the filing of this lawsuit and continuing to the present, Defendants had a consistent policy or practice of failing to pay Employees overtime compensation at premium overtime rates for all hours worked in excess of eight hours a day and/or forty hours a week and double-time rates for all hours worked in excess of twelve hours a day, in violation of Labor Code § 510 and the corresponding sections of IWC Wage Orders.

Defendants also failed to provide Plaintiffs and the Aggrieved Employees with their required meal periods and the at least two ten-minute rest breaks as required at a minimum for Plaintiffs' scheduled shift durations. The above-described off-the-clock work contributed to Defendants' common policy of failing to provide lawful meal periods to Plaintiffs and the Aggrieved Employees, as required under the Labor Code and Paragraph 11 of the IWC Wage Order(s). Defendants similarly failed to authorize and permit Plaintiffs and the employee Aggrieved Employees to take all required 10-minute rest breaks, as required under the Labor Code and Paragraph 12 of the IWC Wage Order(s).

More specifically, Plaintiffs worked shifts that entitled them to at least one meal period. To whatever extent Defendants authorized Plaintiffs and Aggrieved Employees to take a thirty-minute meal periods before the fifth hour of any given shift, it went by the wayside quickly. Particularly, Plaintiff Matthews was required to schedule her meal period around the needs of the surgeons and the surgical facility. This led to systematically late meal periods, if they were provided at all, and on-duty meal periods that were oftentimes interrupted by required job duties and tasks to be performed. In fact, Plaintiff Matthews recall several instances where her meal periods were cut short before the thirty-minute mark so that she could help doctors on-site prepare for a procedure or surgery. Plaintiff Gil also recalls having to work during meal periods on a few occasions, and never taking a second meal period despite regularly working shifts of 10-12 hours.

Additionally, Defendants instructed Plaintiffs and the Aggrieved Employees to input into the timekeeping system that they took a thirty-minute meal period and did so before the fifth hour of work as required under the Labor Code and Wage Orders. Defendants instructed Plaintiffs and the Aggrieved Employees to thus record compliant meal breaks without regard to whether they were actually taken for the full duration or were interrupted by demands from surgeons and management and other work requirements.



Therefore, meal period violations systematically occurred ongoing throughout all of Plaintiffs' work shifts where Defendants both failed to provide a lawful meal period or penalty payment. To the extent Defendants ever did pay Plaintiffs a meal period premium, they failed to include all forms of remuneration beyond hourly wages in the regular hourly rate used to pay the one-hour premium payment. Upon information and belief, the other Aggrieved Employees were subjected to similar unlawful policies and practices and endured similar violations as Plaintiffs.

Defendants thus failed to provide all the legally required unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods to Plaintiffs and the other Aggrieved Employees, as required by the applicable Wage Order and Labor Code. Plaintiffs and other Aggrieved Employees were required to perform work as ordered by Defendants for more than five hours during a shift without receiving compliant meal periods. Additionally, Defendants followed a practice of requiring off-the-clock work in a manner that would impact when Employees were to receive meal periods and rest breaks and required them to respond to work calls and inquiries and other demands during rest breaks, thus leading to further violations.

Defendants' systems did not automatically generate a meal period premium under Labor Code § 226.7 for meal periods that commenced after five hours into a work shift or in the event the time punch records reflected a meal period of less than thirty minutes. However, upon information and belief, in the event Defendants did pay any meal period premiums, they did so at the employee's customary regular rate of hourly compensation without including all forms of remuneration in that hourly rate calculation, for example by omitting performance-based bonuses and the like from the rate at which meal premiums were paid.

Defendants thus followed uniformly applied policies of not providing all required meal periods to their Employees. Meal periods were often not properly provided, as work demands impermissibly shortened their breaks. Even when Plaintiffs and the Aggrieved Employees were able to take a meal period, it was generally interrupted by work duties or was taken after the fifth hour of work. Additionally, as addressed above, Defendants followed a practice of requiring off-the-clock work in a manner that would impact when Employees were to receive meal periods and rest breaks, thus leading to further violations.

As a result, Defendants' failure to provide Plaintiffs and the Aggrieved Employees with all legally required off-duty, unpaid meal periods and all the legally required off-duty, paid rest periods is and will be evidenced by Defendants' business records, or lack thereof. As further detailed above, Defendants also failed to pay Employees "premium pay," i.e. one hour of wages at each Employee's effective regular hourly rate of compensation for each meal period or rest break that Defendants failed to provide or deficiently provided.

Therefore, Plaintiffs and the Aggrieved Employees were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required breaks as required under the Labor Code and Wage Orders due to Defendants' policies and practices. On the occasions when Plaintiffs and the Aggrieved Employees were provided with a meal period, it was often untimely



or interrupted, or was impermissibly shortened, and Employees were not provided with one hour's wages in lieu thereof.

Similar violations resulted from Defendants' failure to authorize and permit Plaintiffs and the Aggrieved Employees to take duty-free, net ten-minute rest breaks for every four hours of shift work, or major fraction thereof. Plaintiff Gil cannot recall a single instance throughout her entire employment with Defendants where she took a rest break. Plaintiff Matthews and other similarly situated Aggrieved Employees were permitted the opportunity to take their first rest break, but were required to remain under Defendants' control and respond to job demands and instructions from management if and when they even attempted to take one. Upon information and belief, Defendants thus also failed to authorize and permit employees to leave the premises during rest breaks, evidencing Defendants' policy and practice of requiring Plaintiffs and the Aggrieved Employees to remain under their control during required off-duty rest break times.

Additionally, when Plaintiffs and Aggrieved Employees were not able to take their first rest break due to work demands, Defendants combined meal periods with rest breaks and deducted the time for all from hours worked. This practice again unlawfully failed to pay Employees for rest break time, which must be compensated at the regular rate.

Second and third rest breaks were neither scheduled nor contemplated by Defendants. During Plaintiffs' entire employment duration with Defendants, they cannot recall a time when they took a second or third break, despite being entitled to receive at least two paid, timely, uninterrupted, and duty-free ten minute rest breaks during each of their work shifts.

Defendants' uniformly applied policies and practices thus resulted in untimely and shortened or on-duty rest breaks when they were authorized and permitted. Plaintiffs and the Aggrieved Employees worked shifts of at least eight hours, which required at least two rest breaks, and often worked shifts over ten hours, which required at least three rest breaks. Even on the occasions when Defendants authorized and permitted Plaintiffs to take a first rest break, they were not permitted to take a second or a third break, and those that were provided were often late and generally interrupted by job duties and requirements.

During rest periods, employers must relieve employees of all duties and relinquish control over how employees spend their time. Plaintiffs and the Aggrieved Employees were and are under Defendants' control when they are working through rest breaks and remaining under Defendants' control. Defendants have also provided either impermissibly shortened or untimely meal and rest breaks to Plaintiffs and the Aggrieved Employees. Plaintiffs and the Aggrieved Employees were thus not authorized and permitted to take lawful rest periods, were systematically required by Defendants to work through or during breaks, and were not provided with one hour's wages in lieu thereof. They were required to remain on-duty during breaks or portions of their breaks, thus making them either untimely or shortened and on-duty, and they were also prevented from leaving the premises and otherwise remain under Defendants' control during rest breaks under Defendants' uniformly applied policies and practices.



Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages, including by the above-described off-the-clock work and on-duty work while on unpaid meal breaks. In addition to failing to authorize and permit rest breaks, Defendants unlawfully deducted up to 30 minutes for meal periods that were rarely provided or otherwise received without violation. Thus, by deducting 30 minutes for a meal that was generally not lawfully provided if at all, Defendants effectively and unlawfully deducted at least 30 minutes of hours worked from each Employee's daily work shifts. By not compensating Employees for all hours worked, Defendants unlawfully deducted wages earned in violation of Labor Code § 221.

Defendants also violated California Labor Code § 246 by not providing all required paid sick days to Plaintiffs and the Aggrieved Employees. Labor Code § 246 provides that an Employee who "works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." Defendants failed to provide Plaintiffs and the other similarly Aggrieved Employees with all their required and earned sick days, in violation of Labor Code § 246. Additionally and upon information and belief, Defendants have failed to provide COVID-19 supplemental sick leave to the Aggrieved Employees during the relevant time period, including by failing to provide two work weeks of COVID-19 supplemental paid sick leave as required under Labor Code §§ 248.1 and 248.2 and including damages and penalties as these sections are enforced through Labor Code § 248.5, which requires that: "If paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty."

Defendants also failed to provide Employees such as Plaintiffs at the time of their employment and thereafter with written notice complying with all the requirements of Labor Code § 2810.5, which provides that: "At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing" specific required information. Upon information and belief, Defendants failed to provide this information to the Aggrieved Employees as required under Labor Code § 2810.5. Defendants were required to provide Plaintiffs and the aggrieved employee Aggrieved Employees certain specific information upon hiring pursuant to California Labor Code § 2810.5. Defendants failed to provide Plaintiffs with any such information when they was hired, or have failed to produce them, and upon information and belief, Defendants committed similar violations in connection with similarly situated and Aggrieved Employees.

Defendants have also consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages, including by the above-described off-the-clock work and on-duty work while on unpaid meal breaks. In addition to failing to authorize and permit rest breaks, Defendants unlawfully deducted up to 30 minutes for meal periods that were rarely provided or otherwise received without violation. Thus, by deducting 30 minutes for a meal that was generally not lawfully provided if at all, Defendants effectively and unlawfully deducted at least 30 minutes of hours worked from each Employee's daily work shifts. By not compensating



Employees for all hours worked, Defendants unlawfully deducted wages earned in violation of Labor Code § 221.

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Defendants have also consistently failed to provide Aggrieved Employees with timely, accurate, and itemized wage statements, in writing, as required by California wage-and-hour laws, including by the above-described requirement of off-the-clock work, failure to pay all overtime and double time wages owed and failure to pay them at the appropriate premium rates, and failure to pay premium wages for unprovided or otherwise unlawful meal and rest breaks, or by miscalculating any overtime or meal period or rest break premium wages and by the systematic and unlawful deductions Defendants took from Employee wages. Defendants have also made it difficult to account with precision for the unlawfully withheld wages and meal and rest period compensation owed to Plaintiffs and Aggrieved Employees, during the liability period, including because they did not calculate the regular rate of pay correctly when paying overtime or meal period premiums and because they did not implement and preserve a record-keeping method as required for non-exempt employees by California Labor Code §§ 226, 1174(d), and paragraph 7 of the applicable California Wage Orders. Upon information and belief, time clock punches were



not maintained or were not accurately maintained for work shifts and meal periods, which were automatically presumed by Defendants to have been lawfully provided when they were not. Defendants also failed to accurately record and pay for all regular and overtime hours worked and submitted by Plaintiffs and the Aggrieved Employees, including by failing to pay all overtime hours at the correctly calculated overtime premium rate.

Defendants have thus also failed to comply with Labor Code § 226(a) by inaccurately reporting total hours worked and total wages earned by Plaintiffs and the Aggrieved Employees, along with the appropriate applicable rates, among other requirements. Plaintiffs and Aggrieved Employees are therefore entitled to penalties not to exceed \$4,000.00 for each employee pursuant to Labor Code § 226(b). Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, and wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked.

Defendants also required Plaintiffs and the Aggrieved Employees to work hours off the clock for which they were not compensated. They were required to endure off-the-clock work addressed above during interrupted or otherwise on-duty meal and rest periods and were not provided with sick pay and supplemental sick leave and were subjected to systematic off-the-clock work. Defendants also failed to pay all overtime premium wages owed for work conducted on a work shift and a workday or failed to pay it at the correct rate, as addressed above. Therefore, Defendants have also followed a uniform and consistent policy of failing to pay all wages owed to Plaintiffs and other similarly situated Employees at the time of their termination or within seventy-two hours of their resignation, as required by California wage-and-hour laws, including Labor Code § 203.

Additionally, Defendants have regularly required Plaintiffs and the Aggrieved Employees to incur necessary business expenses in the course of performing their required job duties without reimbursement. These included the cell phone-related expenses Plaintiff Matthews incurred in responding to calls from Defendant's staff, including the director of nursing and her supervisors. Plaintiff Gil also received messages from Defendants during work hours and after hours worked. Plaintiff Matthews was also often required to drive from one surgical center to another to help when the other surgical center was short on staff but Defendants neglected to reimburse her for mileage or related automobile expenses and usage. Plaintiff and the Aggrieved Employees must be reimbursed for these necessary business expenses under Labor Code § 2802 and Defendants systematically failed to do so.

PAGA Claim Details, Legal Bases for Violations and Penalties:

As addressed above and in further detail in the attached Class Action Complaint, Plaintiffs and the Aggrieved Employees complain of the following violations committed by Defendants:



Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled “Pay of Less Than Minimum Wage” states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

Defendants failed to pay Employees the minimum wages they were owed, including by their consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off-the-clock work, including all the time required to remain on duty and under Defendants’ control during breaks and due to the work demands placed upon them by Defendants’ management and due to unlawful rounding. Defendants, and each of them, have also intentionally and improperly rounded, changed, adjusted and/or modified Employee hours, or required Employees to do so, and imposed difficult to attain job and shift scheduling requirements on Plaintiffs and the Aggrieved Employees, which resulted in off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Aggrieved Employees, including by requiring systematic off-the-clock work. Defendants’ uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiffs and the other Aggrieved Employees as to minimum wage pay.

In light of the foregoing, the Aggrieved Employees seek to recover wages and penalties. Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney’s fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiffs and the other Aggrieved employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants’ conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants’ failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants’ conduct as alleged herein was willful, intentional and not in good faith. Further, Plaintiffs and other Aggrieved Employees are entitled to seek and recover statutory costs.

Under the PAGA, and following exhaustion of the notice period, Plaintiffs are seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1,



1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime. Specifically, Defendants had a consistent policy of not paying Employees wages for all hours worked, including hours at their required regular, overtime, and double-time rates. Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted and/or modified certain employees' hours, including Plaintiffs', or required Aggrieved Employees to do so, or otherwise caused them to work off the clock to avoid paying Aggrieved Employees all earned and owed straight time and overtime wages and other benefits, in violation of the California Labor Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants have also violated these provisions by requiring Plaintiffs and other similarly situated non-exempt employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties or to attend and participate in company required activities or remain under Defendant's control. When considered in combination with the unlawful rounding to their detriment, Aggrieved Employees were not properly compensated, nor were they paid overtime rates or the correct overtime rate (addressed above) for hours worked in excess of eight hours in a given day, and/or forty hours in a given week. Based on information and belief, Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring Plaintiffs and other similarly situated Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the foregoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions. Under the PAGA, and following exhaustion of the notice period, Plaintiffs are seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Meal-Period Liability Under Labor Code § 226.7 and Penalties

Defendants have regularly required Aggrieved Employees to work shifts in excess of five hours without providing them with uninterrupted meal periods of not less than thirty minutes as required under Labor Code §§ 226.7, 512, and paragraph 11 of the applicable Wage Orders. Specifically, Aggrieved Employees were forced to incur shortened meal periods due to the work



demands placed upon them by Defendants' management, were provided with breaks late and well after the fifth hour of work, could not be relieved to take breaks, or were required to remain on-duty at all times and were unable to take off-duty breaks or were otherwise not provided with the opportunity to take required breaks due to Defendants' policies and practices.

On the occasions when Aggrieved Employees were provided with a meal period, it was often untimely or interrupted by having to respond to work demands or remain under Defendant's control, in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees "premium pay," i.e., one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided. Therefore, pursuant to Labor Code § 226.7 and paragraphs 11 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one (1) hour of wages at their effective hourly rates of pay for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Under the PAGA, and following exhaustion of the notice period, Plaintiffs are seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2) and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Rest-Break Liability and Penalties

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten minutes for every work period of four or more consecutive hours, as required under Labor Code § 226.7. Specifically, Defendants provided rest periods untimely or for shortened durations due to the work demands placed upon them by Defendants' management, and Defendants' policy discouraged and effectively prevented Aggrieved Employees from leaving Defendants' premises. Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided. Therefore, pursuant to Labor Code § 226.7 and paragraphs 12 and 20 of the applicable IWC Wage Order, Aggrieved Employees are entitled to damages in an amount equal to one hour of wages at their effective hourly rates of pay for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions. Under the PAGA, and following exhaustion of the notice period, Plaintiffs are seeking all civil and statutory penalties and wages as available and applicable under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Accurate Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each employee with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part



of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Aggrieved Employees failed to accurately account for unpaid wages, overtime, premium pay for deficiently provided meal periods and rest breaks, and unlawfully received or collected wages, as discussed above, and failed to list accurate rates of pay due to miscalculations of overtime and premium pay. In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e) and paragraphs 4(b), 7, and 20 of the applicable IWC Wage Orders, Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

Under the PAGA, and following exhaustion of the notice period, Plaintiffs assert PAGA claims for failure to provide Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiffs and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ..."

Unlawfully Collecting or Receiving Wages in Violation of Labor Code § 221

Labor Code § 221 provides, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." As discussed above, Defendants have consistently violated Labor Code § 221 by unlawfully collecting or deducting the Employees' earned wages, including by the above described off the clock work and unlawful rounding and overtime miscalculation. By not compensating Employees for all hours worked, Defendant unlawfully deducted wages earned by and owed to Aggrieved Employees, in violation of Labor Code § 221. In light of the foregoing, Plaintiffs and Aggrieved Employees seek to recover penalties pursuant to Labor Code § 558. Under the PAGA, and



following exhaustion of the notice period, Plaintiffs seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders. In light of the foregoing, Plaintiffs and Aggrieved Employees seek to recover wages and penalties, interest, fees and costs pursuant to Labor Code §§ 210, 218.5, 558, and 1194. In failing to pay Aggrieved Employees minimum wages and overtime, by unlawful rounding and off the clock work, by not providing proper meal and rest periods, failing to provide accurate itemized wage statements, and failing to pay Employees wages upon termination or timely upon resignation, all discussed above, Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants also failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as required by Labor Code § 1174 and paragraph 7 of the applicable IWC Wage Orders, entitling Aggrieved Employees to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiffs asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 203, 204, 2926, 2927, and 2699.5 seeking all civil penalties available and applicable under Labor Code §§ 204, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the foregoing, Defendants have had a consistent policy of failing to pay all wages earned by and owed to Aggrieved Employees at the time of their termination of within seventy-two hours of their resignation, as required by California under Labor Code § 203. In light of the foregoing, Plaintiffs and Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due. Under the PAGA, and following exhaustion of the notice period, Plaintiffs asserts PAGA claims for failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199, 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).



Failure to Keep Records In Accordance With Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the hours worked daily by and the wages paid to employees. By failing to pay Aggrieved Employees proper wages, overtime, premium pay, etc., all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the foregoing, Plaintiffs and Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.* Defendants have also failed to comply with paragraph 7 of the applicable California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, wages earned pursuant to Labor Code § 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked by the Aggrieved Employees, and they are entitled to recover penalties pursuant to paragraph 20 of the applicable IWC Wage Orders.

Under the PAGA, and following exhaustion of the notice period, Plaintiffs asserts PAGA claims for failure to provide Plaintiffs and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiffs and Aggrieved Employees under Labor Code §§ 226, 1174, 1198, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 558, 1174.5, 1199, and 2699(f)(2), 2699.5, and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave

Defendants violated California Labor Code § 246 by not providing all required paid sick days to Plaintiffs and the Aggrieved Employees. Labor Code § 246 provides that an Employee who “works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.” Defendants failed to provide Plaintiffs and the other similarly Aggrieved Employees with all their required and earned sick days, in violation of Labor Code § 246. Defendants have also failed to provide COVID-19 supplemental sick leave to the Aggrieved Employees during the relevant time period, including by failing to provide two work weeks of COVID-19 supplemental paid sick leave as required under Labor Code §§ 248.1 and 248.2 and including damages and penalties as these sections are enforced through Labor Code § 248.5, which requires that: “If paid sick days were unlawfully withheld, the dollar amount of paid sick days withheld from the employee multiplied by three, or two hundred fifty dollars (\$250), whichever amount is greater, but not to exceed an aggregate penalty of four thousand dollars (\$4,000), shall be included in the administrative penalty.”

Plaintiffs accordingly seek this relief available for Defendants' failure to provide Aggrieved Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).



Failure to Provide Information Upon Hiring Pursuant to Labor Code § 2810.5:

Labor Code § 2810.5 provides that: “At the time of hiring, an employer shall provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing” specific required information. Upon information and belief, Defendants failed to provide this information to the Aggrieved Employees as required under Labor Code § 2810.5. Under the PAGA, and following exhaustion of the notice period, Plaintiffs seek all civil and statutory penalties available and applicable under Labor Code §§ 2810.5, 1198, and 2699(f)(2), and also for attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802

Defendants required Plaintiff and the Aggrieved Employees to pay for necessary work-related expenses they incurred. These included the cell phone-related expenses Plaintiff incurred in responding to calls, texts and emails from managers, doctors, and other staff employed by Defendants. Plaintiff Matthews was also required to drive to from one surgical center to another when the other was short on staff but Defendants neglected to reimburse Plaintiff Matthews for mileage or related automobile expenses and usage. Defendants thus uniformly failed to reimburse those lawful and necessary work-related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9. Defendants are liable for PAGA penalties resulting from their failure to reimburse necessary business expenses incurred by the Aggrieved Employees.

Accordingly, Aggrieved Employees are entitled to recover, and hereby seek through this Representative Action, all civil and statutory penalties authorized for violations of California Labor Code §§ 1198 and 2802, and Section 9(B) of the applicable IWC Wage Orders, and Plaintiffs seeks all civil and statutory penalties available and applicable under Labor Code §§ 2802 and 2699(f)(2), and also attorneys’ fees and costs pursuant to Labor Code § 2699(g)(1).

Unfair Competition Under Business and Professions Code § 17200, et seq.

Consequently, Defendants’ conduct has been and continues to be unfair, unlawful, and harmful to Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 *et seq.*

Plaintiffs’ PAGA Claim under Labor Code § 2698 et seq. and Recovery Bases:

After complying with the notice procedures of Labor Code § 2699.3 and the running of the notice period after the filing of the attached Class Action Complaint, Plaintiffs will file an amended Complaint asserting, as a representative action on behalf of the California Attorney General and the other similarly Aggrieved Employees, a PAGA claim for violations of the above addressed underlying claims and seeking penalties as specified by the applicable corresponding provisions.

Plaintiffs and the Aggrieved Employees seek penalties under Labor Code §§ 2698 and 2699 for Defendants’ violation of Labor Code provisions included under Labor Code § 2699.5, including



the penalty provisions, without limitation, based, *inter alia*, on the following California Labor Code sections: 201, 202, 203, 204, 226, 226.7, 246, 248.1, 248.2, 248.5, 510, 512, 558, 1174, 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, and 2698 *et seq.*, including as follows:

(a) Wage Claims: For failure to provide Plaintiffs and the Aggrieved Employees all earned regular pay and minimum wages for regular hours worked and for failure to pay overtime premium wages for overtime hours worked under Labor Code §§ 510, 1194(a), 1197, and 1198, and paragraphs 2(K), 3(A), 4(A), 4(B) and 20 of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable under Labor Code §§ 510, 558, 1194.2, 1197.1, 1198, 1199, 2699(f)(2), and 2699.5, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(b) Meal and Rest Period Claims: For failure to provide Plaintiffs and the Aggrieved Employees off-duty, timely, and unpaid meal periods and failure to authorize and permit them to take off-duty, timely, and paid rest periods, or pay one hour of regular pay in lieu thereof, under Labor Code §§ 512, 1198, and 226.7, and Sections 11, 12(A), and 12(B) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties available and applicable, including under paragraph 20 of the applicable IWC Wage Orders, and wages under Labor Code §§ 226.7, 512, 558, including sections 558(a)(1)-(3), 1199 and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(c) Inaccurate Wage Statements and Failure to Maintain Records: For failure to provide Plaintiffs and the Aggrieved Employees with accurate, itemized wage statements and failure to maintain employment records for Plaintiffs and Aggrieved Employees under Labor Code §§ 226, 1174, and 1198.5, and Sections 7(A), 7(B), and 7(C) of the applicable IWC Wage Order(s) seeking all civil and statutory penalties and wages available and applicable under Labor Code §§ 226(e), 226.3, 558, 1174.5, 1199, and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Order, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1). More specifically, by providing inaccurate wage statements and failing to maintain records as required under Labor Code § 226(a), Defendants committed ongoing violations giving rise to civil penalties under Labor Code § 226.3, which in addition to other penalties provided by law, subjects Defendants to "a penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, ...";

(d) Failure to Timely Pay Wages: For failure to timely pay all wages owed, including at least semi-monthly and upon separation or termination, under Labor Code §§ 201, 201, 203, 204, 1197.5, 2926, and 2927 seeking all civil penalties available and applicable under Labor Code §§ 201, 202, 203, 210, 558, 1197, 1198, 1199 and 2699(f)(2), and paragraph 20 of the applicable IWC Wage Orders, and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);



(e) Unlawful Deductions and Failure to Reimburse Business Expenses: For Defendants' unlawful deductions from wages and for Defendants' failure to reimburse the necessary work related expenses incurred under Labor Code §§ 221, 1197, 1197.1, 1198, and 2802, and Sections 2(K), 4, 9, and 20 of the applicable IWC Wage Order(s), seeking civil penalties available and applicable under Labor Code §§ 221, 1197, 1197.1, 1198, 2802, 2699.5, and 2699(f)(2) and paragraph 9 and 20 of the IWC Wage Orders, and also attorneys' fees and costs pursuant to Labor Code § 2699(g)(1);

(f) Failure to Provide Paid Sick Days and COVID-19 Supplemental Sick Leave: For Defendants' failure to provide Employees with all their required and earned sick days and all their COVID-19 supplemental sick leave in violation of Labor Code §§ 246, 248.1, 248.2, and the civil and statutory penalties available and applicable under Labor Code §§ 246, 248.1, 248.2, 248.5, 558, 1194.2, 1197.1, 1198, 1199, and 2699(f)(2), and also for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1); and

(g) All Other Alleged Violations of the Labor Code and IWC Wage Orders: For Labor Code §§ 212, 2810.5, and any above-addressed violation of the applicable provisions of the Labor Code and IWC Wage Orders constituting violations of Labor Code § 1198 and Labor Code § 2699.5, and seeking penalties available and applicable under Labor Code § 2699(f)(2) and paragraph 20 of the applicable IWC Wage Orders, and for attorneys' fees and costs pursuant to Labor Code § 2699(g)(1).

We have been constrained to initially move forward with the filing of a Second Amended Complaint, alleging all the PAGA claim bases discussed herein, without asserting an amended PAGA claim. Thus, any action by the LWDA would be unnecessary given that the LWDA declined to investigate after the original PAGA Notice Letter and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.



This letter, along with the original PAGA Notice Letter, the Complaint, and the Second Amended Complaint pending in Orange County, therefore provide the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiffs allege have been violated, including the facts and relevant theories alleged against Magnolia Surgery Center Limited Partnership, Newhope Imaging Center, Inc., United Surgical Partners, Prime HealthCare, and any other named Defendants and joint employers. To prevent the violations described in the Complaint and herein from occurring, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act and as addressed herein.

Wherefore we request that you advise us, by certified mail within sixty days of the postmark on this letter, whether you intend to proceed with these claims or whether Plaintiffs and the Aggrieved Employees should include them in an amended Labor Code § 2698 *et seq.* claim under the Act in an amended Complaint.

Regards,

D.LAW, INC.

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Cc: Magnolia Surgery Center Limited Partnership; Newhope Imaging Center, Inc.; United Surgical Partners; Prime HealthCare by Certified Mail