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County of San Diego

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Clerk of the Superior Court
By J. Ortler ,Deputy Clerk

Attorneys for Plaintiffs Chelsea Galkoski and Karla Martinez

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

CHELSEA GALKOSKI and KARLA
MARTINEZ, on behalf of others similarly
situated and the State of California under the
Private Attorneys General Act,

Plaintiffs,

vs.

ONEWELL OF CALIFORNIA LLC and DOES
1 through 50, inclusive,

Defendants.

Case No. 37-2024-00027256-CU-OE-CTL

CLASS ACTION

**SECOND AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

1. Minimum Wage Violations
2. Failure to Pay All Overtime Wages
3. Meal Period Violations
4. Rest Period Violations
5. Unpaid Vacation Wages
6. Paid Sick Leave Violations
7. Untimely Payment of Wages
8. Wage Statement Violations
9. Waiting Time Penalties
10. Failure to Reimburse Business Expenses
11. Unpaid Reporting Time Wages
12. Civil Penalties under the Private Attorneys
General Act (Labor Code §§ 2698 *et seq.*)

1 Plaintiffs CHELSEA GALKOSKI and KARLA MARTINEZ, on behalf of all others similarly
2 situated and the State of California under the Private Attorneys General Act (“Plaintiffs”) brings this
3 SECOND AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT against
4 Defendants ONEWELL OF CALIFORNIA LLC and DOES 1 through 50, inclusive (collectively
5 “Defendants”), alleging as follows:

6 **INTRODUCTION**

7 1. This is a class action brought under the California Code of Civil Procedure section 382
8 for Defendants’ violations of the California Labor Code and Business Professions Code.

9 2. Defendants failed to pay Plaintiffs and the class members all minimum and overtime
10 wages due to unlawful policies and practices of unauthorized time editing and off-the-clock work.

11 3. Defendants failed to provide, authorize, and/or permit Plaintiffs and the class members
12 to take all meal and rest periods to which they were entitled.

13 4. Defendants failed to pay Plaintiffs and the class members all accrued and unused
14 vacation wages.

15 5. Defendants failed to pay all reporting time wages to Plaintiffs and the class members.

16 6. Defendants failed to properly reimburse Plaintiffs and the class members for using their
17 personal cell phones and devices to complete work-related duties.

18 7. Defendants’ employment policies, practices, and payroll administration systems
19 enabled and facilitated these violations on a company-wide basis with respect to class members.

20 **JURISDICTION & VENUE**

21 8. Jurisdiction of this action is proper in this Court under Article VI, Section 10 of the
22 California Constitution as the causes of action are premised upon violations of California law.

23 9. The monetary damages and restitution sought exceed the minimal jurisdiction limits of
24 the Superior Court.

25 10. This Court has jurisdiction over Defendants because, upon information and belief,
26 Defendants have sufficient minimum contacts in California, or otherwise intentionally avail
27 themselves to the California economy so as to render the exercise of jurisdiction over them by the
28 California courts consistent with traditional notions of fair play and substantial justice.

11. Venue is proper in this Court under Code of Civil Procedure sections 393(a), 395, and/or 395.5 because, upon information and belief, Defendants conducted business and committed some of the alleged violations in this County.

PARTIES

A. Plaintiffs

12. Plaintiff Galkoski is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about January 2023 to May 2024. Plaintiff worked as a Direct Support Aid.

13. Plaintiff Martinez is an individual over 18 years of age who worked for Defendants in California as a non-exempt employee from about March 2023 to Present. Plaintiff worked as a Direct Support Professional.

14. The State of California, via the Labor and Workforce Development Agency (“LWDA”), is the real party in interest in this action. (*Kim v. Reins Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff files suit is always the real party in interest.”]) To the extent permitted by law, including pursuant *Balderas v. Fresh Start Harvesting, Inc.*, Court of Appeals Case No. B326759 (2nd App. Dist.) ____ Cal. App. 5th ____ (Mar. 20, 2024, *as modified* Apr. 18, 2024), the PAGA claim is brought exclusively as a representative action and does not include arbitrable claims.

B. Defendants

15. Defendant Onewell of California LLC is a California limited liability company that maintains operations and conducts business throughout the State of California, including in this county.

16. The true names and capacities, whether individual, corporate, or otherwise, of the parties sued as DOES 1 through 50, are presently unknown, unascertainable, or uncertain, and are sued by such fictitious names under Code of Civil Procedure section 474. Upon information and belief, each of DOES 1 through 50 constitutes a legal employer or is otherwise legally responsible in some manner for the acts and omissions alleged herein. This Complaint may be amended to reflect their true names and capacities once ascertained.

1 25. Defendants engaged in an unlawful policy and practice of making unauthorized edits
2 to Plaintiffs' and the class members' time records.

3 26. For example, when Plaintiffs would clock in for work a few minutes before their
4 scheduled shift, their time records were edited to reflect their scheduled shift, resulting in unpaid hours
5 worked. On multiple occasions, Plaintiff Martinez notified Defendants of this issue of the Onewell
6 app not working, and instead, Defendants adjusted her time to reflect fewer hours worked.

7 27. To the extent Defendants edited, shaved, or rounded the class members time records to
8 reflect less than all hours worked, this resulted in unpaid minimum wages.

9 28. Defendants further had a policy and practice of unlawfully requiring off-the-clock
10 work.

11 29. For example, as a common policy and practice Plaintiffs and the class members were
12 regularly required to clock out at the end of their scheduled shift, but continue working in order to
13 complete their service notes in accordance with their respective deadlines. Plaintiffs and other class
14 members were directed to complete their service notes off-the-clock when management required them
15 to re-do the service notes.

16 30. Plaintiffs and the class members worked off-the-clock each time Plaintiffs and the class
17 members were unable to complete their service notes or other job duties during their scheduled shift
18 due to the high demands of the job.

19 31. Additionally, Defendants failed to compensate Plaintiffs and the class members for
20 hours worked when completing their onboarding paperwork and training upon hiring.

21 32. Plaintiffs and the class members were hired over the phone, then sent the onboarding
22 paperwork, policies, and training modules via email before their first day of work and without the
23 ability to clock in.

24 33. Plaintiffs and the class members were not paid for the time it took them to complete
25 their onboarding paperwork and training, resulting unpaid minimum wages. Plaintiffs and other class
26 members were required to complete training videos without pay. Plaintiffs and the class members were
27 not fully compensated for the time spent completing the training process.
28

1 34. Defendants failed to pay Plaintiffs and the class members overtime wages at the lawful
2 rate of pay for overtime hours worked, resulting in unpaid overtime wages. To the extent Defendants'
3 unlawful time editing and off-the-clock work policies and practices resulted in unpaid work over 8
4 hours in a day and 40 hours in a week, this resulted in unpaid overtime.

5 35. Defendants failed to comply with California's paid sick leave laws with respect to the
6 class members. The failure to calculate and pay sick leave at one of the lawful rates set forth in Labor
7 Code § 246(l)(1)-(3) and 247 *et seq.* was applied as a matter of common policy and practice to class
8 members.

9 36. Due to Defendants' unlawful time-shaving policy, Defendants failed to properly credit
10 Plaintiffs and the class members with their full accrued sick leave.

11 37. Additionally, in November 2024 and December 2024, Plaintiff Martinez called out
12 sick. However, Plaintiff Martinez's corresponding wages statements and time records indicate that she
13 was not paid for that time. An illustrative example of this violation is shown in Martinez's sick time
14 report from 10/22/2023 to 10/21/2024.

15 38. Moreover, due to Defendants' unlawful policy of requiring Plaintiffs and the class
16 members to work off-the-clock, Defendants failed to provide Plaintiffs and the class members with all
17 sick leave accrued. Consequently, Plaintiffs and the class members were systematically denied all
18 owed paid sick leave hours.

19 39. Furthermore, Defendants improperly combined traditional PTO and sick leave into one
20 flexible, paid time-off policy without abiding by the proper accrual rates for California and SDMC
21 Section 39.0105(b) or affording that time off the same protected status as paid sick leave. Due to this
22 policy, Defendants improperly accrued sick leave at an unlawful rate of 1 hour for every 40 hours
23 worked. Lastly, Defendants failed to pay out unused and accrued paid sick leave hour to Plaintiffs and
24 the class members, nor does it allow those hours to roll over to the next year. Moreover, the paystubs
25 do not comply with the notice requirements for sick pay because the accrual and use is incorrect and
26 combined with PTO.

1 40. Defendants maintained an unlawful policy and practice of failing to pay all accrued and
2 unused vacation wages upon separation of employment at the lawful rate of pay, resulting in forfeiture
3 of vested vacation time and wages.

4 41. As described above, Defendants failed to record all of the time that Plaintiffs and other
5 class members worked for Defendants and undercounted their hours worked. Consequently,
6 Defendants failed to credit the class members with all vacation time they had actually accrued.
7 Moreover, Defendants' policy and practice of failing to pay out Plaintiffs and the class members'
8 accrued and unused vacation wages is evident from the employee handbook. An illustrative example
9 of this violation is shown in Defendants' employee handbook.

10 42. Defendants' employee handbook specifically states, in relevant part, "Employees are
11 not eligible for payment of unused paid time off or paid sick time off during employment and upon
12 separation of employment." Therefore, Plaintiffs and the class members were not compensated for
13 their accrued vacation wages.

14 43. Plaintiffs and the class members experienced missed, late, short, and interrupted meal
15 periods in order to keep up with the high demands of the job and constant patient monitoring.

16 44. Plaintiffs and the class members were not properly relieved of all duties during their
17 meal periods due to the responsibility of constantly monitoring their patients at all times, even during
18 their unpaid meal periods. For example, Plaintiff Martiez alleges she was not provided meal breaks or
19 any breaks at all.

20 45. Defendants in effect maintained an invalid on-duty meal period policy, however, the
21 nature of the work did not prevent the class members from the ability to take duty-free meal periods
22 because at all times there was adequate coverage to stagger employees to temporarily relieve class
23 members for their mandated meal periods.

24 46. Specifically, even though Plaintiff Galkoski worked the graveyard shift, Defendant's
25 policy is to always have a two staff to one patient ratio, meaning Plaintiffs and other class members
26 were not scheduled alone.

27 47. Additionally, Defendants did not maintain a valid, written On-Duty Meal Period
28 Agreement. Plaintiff Martinez did not sign meal period waivers or an on-duty meal period agreement.

1 For example, when Plaintiff Martinez was hired, Defendants did not offer an on-duty meal period
2 agreement, so she never signed one. Plaintiff Martinez alleges that Defendants began to implement
3 on-duty meal period agreements recently, and she refused to sign them because she thought she was
4 getting meal period premiums. In response, Defendants unilaterally forged Plaintiff Martinez's
5 signature and signed the on-duty meal period agreement for her around May 2025 and put the signature
6 date as October 2023. However, Plaintiff never signed the agreement, and Defendants falsified her
7 signature.

8 48. When Plaintiffs and the class members experienced these non-compliant meal periods
9 Defendants failed to pay all owed meal period premiums as a matter of common policy and practice.

10 49. Similarly, Plaintiffs and the class members were not authorized or permitted to take all
11 rest periods.

12 50. Defendants actively discouraged Plaintiffs and the class members from taking
13 compliant rest periods each day, instead encouraging them to go from task to task without a break each
14 day. For example, when Plaintiff Martinez complained about not getting rest breaks, she was told that
15 she was not entitled to any breaks.

16 51. Defendants required Plaintiffs and class members to effectively waive or forego their
17 rest periods contrary to California law.

18 52. Defendants failed to pay Plaintiffs and the class members all owed reporting time
19 wages.

20 53. For example, when Plaintiff Galkoski reported to her shift to find her patient was
21 admitted to the hospital or otherwise did not require care, she was only paid for approximately 30-
22 minutes of work instead of "the greater of two hours or half the scheduled shift length" as required by
23 California law. Plaintiff Martinez would often show up to work and be informed that the patient was
24 gone, and therefore, Defendants directed her to go home. Plaintiff Martinez would not be paid for
25 those days each time this occurred.

26 54. Defendants failed to reimburse Plaintiffs and the class members for all work-related
27 expenses.

1 55. Specifically, Defendants required Plaintiffs and the class members to use their cell
2 phones, home internet, and gas mileage for work-related purposes, including completing patient
3 charting, daily service notes, and online onboarding and training. Additionally, Plaintiffs and the class
4 members were required to use their personal cell phones and home internet for work-related tasks such
5 as completing daily service notes, communicating with patient family members, maintaining contact
6 with colleagues, utilizing the GPS feature to clock in, and completing onboarding and training at home.
7 Moreover, Plaintiff Martinez was never reimbursed for mileage. For example, Plaintiff Martinez was
8 required to drive to the hospital where her patient was located, complete a sleep analysis overnight,
9 stay with the patient, and then take the patient from the hospital back to his/her home. Defendants
10 failed to properly reimburse Plaintiffs and the class members for these costs. In direct consequence of
11 their job duties, Plaintiffs and the class members unavoidably and necessarily incurred these losses,
12 expenditures, costs, and as a matter of policy and practice.

13 56. Because of these violations, Defendants failed to provide accurate, itemized wage
14 statements to class members that included the accurate gross and net wages earned, as the employees
15 earned regular, overtime, and premiums that were not paid and not recorded or accounted for.

16 57. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on
17 employee wage statements each pay period the applicable hourly rates in effect and the number of
18 hours worked at that rate, as Defendant failed to pay all wages and premiums owed to employees. The
19 amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay
20 stub.

21 58. Defendants violated Labor Code section 226(a)(2) by failing to accurately list
22 employees' "total hours worked," as the wage statements did not accurately include the
23 uncompensated time Plaintiffs and other class members worked due to Defendants' policy and practice
24 of editing time records to reflect meal periods that were not taken.

25 59. These violations create derivative liability for failing to pay all wages owed each
26 payday or upon separation of employment. For example, Defendants failed to pay out Plaintiff
27 Martinez and the class members for minimum, OT, and premium wages as set forth above, sick pay,
28 and vacation wages upon termination of employment. Defendants did not pay waiting time penalties

1 for the late payments. Moreover, Defendants often failed to complete payroll on time, and Plaintiff
2 Martinez would receive her paycheck two to three weeks late. For example, on multiple occasions,
3 Defendants had trouble with the payroll system and Plaintiff Martinez would not get her paycheck
4 every pay period. As a result, Defendants violated Labor Code sections 201, 202, and 203.

5 **FIRST CAUSE OF ACTION**

6 **MINIMUM WAGE VIOLATIONS**

7 **Violation of Labor Code §§ 1194, 1194.2 and 1197**

8 **(All Claims Alleged by Plaintiffs and Class Members Against All Defendants)**

9 60. All outside paragraphs of this Complaint are incorporated into this section.

10 61. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code
11 §§ 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours and Days
12 of Work” and “Minimum Wages” sections of the applicable orders), which require non-exempt
13 employees be timely paid at least the state or local minimum wage (if higher) for each hour of work,
14 and further provide a private right of action for an employer’s failure to pay all minimum wages (plus
15 liquidated damages).

16 62. Defendants willfully failed in their affirmative obligation to pay Plaintiffs and class
17 members at least the lawful minimum wage for each hour worked in violation of Labor Code sections
18 1182.12, 1194, 1194.2, 1197, 1197.1 and 1198 and the IWC Wage Orders (the “Hours and Days of
19 Work” and “Minimum Wages” sections of the applicable orders), including payment at the lawful
20 local and county minimum wage ordinances in effect. As a result, Defendants are liable for all
21 associated damages, including liquidated damages for the minimum wage violations pursuant to Labor
22 Code § 1194.2.

23 63. Defendants’ unlawful acts and omissions deprived Plaintiffs and class members of
24 minimum, regular and overtime wages in amounts to be determined at trial. Plaintiffs and class
25 members are entitled to recover the full amount of the unpaid wages, plus liquidated damages in an
26 amount equal to the wages unlawfully unpaid (and interest thereon), in addition to interest, attorneys’
27 fees, and costs to the extent permitted by law, including under Labor Code sections 1194 and 1194.2.

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70. Defendants willfully failed in their affirmative obligation to consistently provide Plaintiffs and class members compliant, duty-free meal periods of not less than 30 minutes beginning before the fifth hour of hour for each work period of more than five hours per day and a second duty-free meal period of not less than 30 minutes beginning before the tenth hour of hour of work in violation of Labor Code sections 226.7, 512, 558, 1198 and the IWC Wage Orders (the “Meal Periods” sections of the applicable orders).

71. Further, Defendants willfully failed in their affirmative obligation to consistently pay Plaintiffs and class members one additional hour of pay at the respective regular rate of compensation for each workday that a fully compliant meal period was not provided, in violation of Labor Code sections 226.7, 512, 558, and 1198 and the IWC Wage Orders (the “Meal Periods” sections of the applicable orders).

72. Plaintiffs and class members are entitled to recover the full amount of the meal period premiums owed, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

FOURTH CAUSE OF ACTION

REST PERIOD VIOLATIONS

Violation of Labor Code §§ 226.7 and 516

73. All outside paragraphs of this Complaint are incorporated into this section.

74. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code §§ 226.7 and 516, which require non-exempt employees be authorized to take complaint rest periods (or rest period premiums in lieu thereof), and which further provide a private right of action for an employer's failure to lawfully provide all rest periods and/or pay rest period premiums at the lawful regular rate of compensation.

75. Defendants willfully failed in their affirmative obligation to consistently authorize and permit Plaintiffs and class members to receive compliant, duty-free rest periods of not less than ten (10) minutes for every four hours worked (or major fraction thereof) in violation of Labor Code sections 226.7, 516, 558, and 1198 and the IWC Wage Orders (the “Rest Periods” sections of the applicable orders).

76. Further, Defendants willfully failed in their affirmative obligation to consistently pay Plaintiffs and class members one additional hour of pay at the respective regular rate of compensation for each workday that a fully compliant rest period was not provided, in violation of Labor Code sections 226.7, 516, 558, and 1198 and the IWC Wage Orders.

FIFTH CAUSE OF ACTION

UNPAID VACATION WAGES

Violation of Labor Code §§ 201, 202, 203, and 227.3 and 1194, and 1198

77. All outside paragraphs of this Complaint are incorporated into this section.

78. This cause of action is brought by an unpaid vacation wages subclass pursuant to Labor Code §§ 200, 201, 202, 203, and 227.3 and 1194, and 1198, which require non-exempt employees be timely paid all vested vacation wages at their final rate of pay upon separation of employment, and which further provide a private right of action for an employer's timely failure to pay all vacation compensation upon termination.

79. Defendant offered Plaintiffs and class members an employment contract or policy providing for the accrual of vacation and/or paid time off. Plaintiffs and class members accrued vacation and/or PTO pursuant to the contract or policy.

80. Upon separation of Plaintiffs and class members, Defendants willfully failed in their affirmative obligation to timely pay Plaintiffs and class members all accrued but unused vacation at their final rate during their employment with Defendants, in violation of Labor Code sections 201(a), 202(a), and 227.3.

81. Plaintiffs and class members are entitled to recover the full amount of the accrued vacation wages owed, in addition to interest, statutory and civil penalties, and attorneys' fees, and costs to the extent permitted by law.

SIXTH CAUSE OF ACTION

FAILURE TO PAY ALL PAID SICK LEAVE WAGES

Violation of Labor Code §§ 200, 218, 246 *et seq.*

82. All outside paragraphs of this Complaint are incorporated into this section.

1 83. Defendants knowingly and intentionally failed in their affirmative obligation to pay
2 sick leave wages to Plaintiffs and a paid sick leave subclass in violation of Labor Code section 246
3 *et seq.* Paid sick leave earnings constitute wages for purposes of California wage and hour law.
4 (*Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1103 [“Courts have recognized
5 that ‘wages’ also include those benefits to which an employee is entitled as a part of his or her
6 compensation, including money, room, board, clothing, vacation pay, and sick pay”].)

7 84. Labor Code section 246(l), in conjunction with Labor Code section 248 *et seq.*, 248.1,
8 248.2, and 248.6, in addition to the applicable County sick pay ordinances in locales worked by class
9 members, govern how Defendants were required to calculate paid sick leave.

10 85. Defendants failed to pay Plaintiffs and class members their paid sick leave wages at
11 one of the lawful rates set forth in the statute or ordinance because Defendants failed to include in their
12 sick leave calculation the additional remuneration received by Plaintiffs and class members (i.e., at the
13 regular rate of pay and/or calculated based on total wages earned).

14 86. Furthermore, to the extent the paid sick leave paid constitutes Covid-related paid sick
15 leave, Defendants knowingly and intentionally failed in their affirmative obligation to pay Covid-19
16 Supplemental Sick Leave wages to class members at the correct accrual rate or hourly pay rate in
17 violation of Labor Code sections 246, 248.1, 248.2, and 248 *et seq.*

18 87. As a result, Defendants violated the Labor Code and are liable to Plaintiffs and class
19 members for underpaid sick leave wages, in addition to interest, attorneys’ fees, and costs.

20 **SEVENTH CAUSE OF ACTION**

21 **UNTIMELY PAYMENT OF WAGES**

22 **Violation of Labor Code §§ 204, 210, 218**

23 88. All outside paragraphs of this Complaint are incorporated into this section.

24 89. This cause of action is brought pursuant to the IWC Wage Orders and Labor Code
25 §§ 204, 204b, and 210 which require non-exempt employees be timely paid all wages owed each pay
26 period, and which further provide a private right of action for an employer’s failure to comply with
27 this obligation. Labor Code § 218 authorizes individuals to sue directly for wages and penalties due
28 under these sections, including Labor Code § 210(c)’s statutory late payment penalties.

90. Defendants willfully failed in their affirmative obligation to timely pay all wages, including paid sick leave and meal and rest premiums, earned by Plaintiffs and class members twice during each calendar month on days designated in advance by the employer as regular paydays (for employees paid on a non-weekly basis) and on the regularly-scheduled weekly payday for weekly employees, if any, in violation of Labor Code sections 204 and 204b and the IWC Wage Orders (the “Minimum Wages” sections of the applicable orders).

91. Plaintiffs and class members are entitled to recover the full amount of the unpaid wages, in addition to a statutory penalty in the amount of \$100 for the initial violation for each failure to pay each employee and \$200 for all subsequent violations and for all willful or intentional violations for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld under provided in Labor Code § 210, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

EIGHTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

Violation of Labor Code § 226

92. All outside paragraphs of this Complaint are incorporated into this section.

93. This cause of action is brought by a wage statement subclass pursuant to Labor Code § 226(a) which requires non-exempt employees be provided accurate itemized wage statements each pay period, and which further provide a private right of action for an employer's failure to comply with this obligation.

94. Defendants knowingly and intentionally failed in their affirmative obligation to provide accurate itemized wage statements to Plaintiffs and class members resulting in injury to Plaintiffs and class members. Specifically, the wage statements issued to Plaintiffs and class members did not accurately state each pay period all of the information required by Labor Code § 226(a)(1)-(9).

95. Defendants' unlawful acts and omissions deprived Plaintiffs and class members of accurate itemized wage statements, causing confusion and concealing wage and premium underpayments.

96. As a result, Plaintiffs and class members are entitled to recover the statutory penalty of \$50 per employee for the initial pay period in which a violation occurred and \$100 per employee for

1 each violation in a subsequent pay period, up to an aggregate penalty of \$4,000 per employee, in
2 addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor
3 Code section 226(e).

4 **NINTH CAUSE OF ACTION**

5 **WAITING TIME PENALTIES**

6 **Violation of Labor Code §§ 201 *et seq.***

7 97. All outside paragraphs of this Complaint are incorporated into this section.

8 98. This cause of action is brought by a waiting time subclass pursuant to Labor Code
9 §§ 201 through 203, which require an employer to timely pay all wages earned upon termination of
10 employment, and which further provide a private right of action to recover statutory waiting time
11 penalties each day an employer fails to comply with this obligation, up to a maximum of 30 days
12 wages.

13 99. Defendants willfully failed and continue to fail in their affirmative obligation to pay all
14 wages earned and unpaid to Plaintiffs and class members immediately upon termination of
15 employment or within 72 hours thereafter for employees who did not provide at least 72 hours prior
16 notice of his or her intention to quit, and further failed to pay those sums for 30 days thereafter in
17 violation of Labor Code sections 201 through 203 and the IWC Wage Orders.

18 100. Plaintiffs and class members are entitled to recover a waiting time penalty for a period
19 of up to 30 days, in addition to interest, attorneys' fees, and costs to the extent permitted by law.

20 **TENTH CAUSE OF ACTION**

21 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

22 **Violation of Labor Code § 2802**

23 101. All outside paragraphs of this Complaint are incorporated into this section.

24 102. Defendants willfully failed in their affirmative obligation to reimburse Plaintiffs and a
25 reimbursement subclass for all necessary expenditures, losses, expenses, and costs incurred by them
26 in direct discharge of the duties of their employment, in violation of Labor Code section 2802.

27 103. Defendants' unlawful acts and omissions deprived Plaintiffs and class members of
28 lawful reimbursements for business expenses in amounts to be determined at trial. Plaintiffs and class

1 members are entitled to recover the amount unreimbursed expenses of Plaintiffs and class members in
2 addition to interest, attorneys' fees, and costs to the extent permitted by law, including under Labor
3 Code section 2802.

4 **ELEVENTH CAUSE OF ACTION**

5 **UNPAID REPORTING TIME WAGES**

6 **Violation of Labor Code § 1198**

7 104. All outside paragraphs of this Complaint are incorporated into this section.

8 105. Defendants violated Labor Code sections 1198 and Section 5 (Reporting Time Pay) of
9 the applicable IWC Wage Orders concerning reporting time wages with respect to the class.

10 106. Section 5 of the applicable IWC Wage Orders requires an employer to pay reporting
11 time pay if an employee shows up for a scheduled shift and is not put to work or is furnished with less
12 than half of the scheduled shift. In this situation, the employer owes the employee reporting time pay
13 in the amount of the greater of two hours or half the scheduled shift length.

14 107. Section 5 further requires an employer to pay reporting time pay if an employee is
15 required to report to work for a second time and is furnished with less than two hours of work on the
16 second reporting. In this situation, the employer owes the employee reporting time pay in the amount
17 of the greater of two hours or half the scheduled shift length.

18 108. Labor Code section 1198 authorizes enforcement of the reporting time pay provisions
19 of the IWC Wage Orders.

20 109. As described above, Defendants maintained an unlawful policy and practice of failing
21 to pay reporting time wages to class members when they were sent home after completing less than
22 half of their scheduled shifts. Thus, Defendants are liable to the class for all unpaid reporting time
23 wages, and associated penalties, interests, fees, and costs.

24 **TWELFTH CAUSE OF ACTION**

25 **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT**

26 **Violation of Labor Code §§ 2698 *et seq.***

27 **(By Plaintiffs on Behalf of the State and the Aggrieved Employees Against All Defendants)**

28 110. All outside paragraphs of this Complaint are incorporated into this section.

1 111. Plaintiffs bring this cause of action as a proxy for the State of California on behalf of
2 the following “aggrieved employees” pursuant to the Private Attorneys General Act (“PAGA”),
3 codified as Labor Code section 2698 *et seq.*:

4 a. All current and former non-exempt employees who worked for Defendants in
5 California at any time from one year prior to the postmark date of the initial
6 PAGA notice through date of trial.

7 112. Plaintiffs reserve the right to amend, supplement, or add to this description of the
8 aggrieved employees, according to proof.

9 113. The State of California, via the Labor and Workforce Development Agency
10 (“LWDA”), is the real party in interest in this action with respect to this cause of action. (*Kim v. Reins*
11 *Int’l California, Inc.* (2020) 9 Cal. 5th 73, 81 [The “government entity on whose behalf the plaintiff
12 files suit is always the real party in interest.”])

13 114. Labor Code section 2699(a) provides: “Notwithstanding any other provision of law,,
14 any provision of this code that provides for a civil penalty to be assessed and collected by the Labor
15 and Workforce Development Agency or any of its departments, divisions, commissions, boards,
16 agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil
17 action brought by an aggrieved employee on behalf of himself or herself and other current or former
18 employees pursuant to the procedures specified in Section 2699.3. “

19 115. Labor Code section 2699(f) provides: “For all provisions of this code except those for
20 which a civil penalty is specifically provided, there is established a civil penalty for a violation of these
21 provisions, as follows: ... (2) If, at the time of the alleged violation, the person employs one or more
22 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period
23 for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for
24 each subsequent violation.”

25 116. Any allegations regarding violations of the IWC Wage Orders are enforceable as
26 violations of Labor Code section 1198, which states: “[t]he employment of any employee for longer
27 hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”
28

1 117. Labor Code section 2699.3 sets forth the procedure for commencing an action for civil
2 penalties under the PAGA.

3 118. On or about **June 4, 2024**, Plaintiff Galkoski paid the requisite PAGA filing fee and
4 provided written notice (by online electronic filing with the LWDA and by certified mail to
5 Defendants) of Defendants' alleged Labor Code violations, including the facts and theories to support
6 the alleged violations.

7 119. On or about **June 24, 2024**, Plaintiff Martinez paid the requisite PAGA filing fee and
8 provided written notice (by online electronic filing with the LWDA and by certified mail to
9 Defendants) of Defendants' alleged Labor Code violations, including the facts and theories to support
10 the alleged violations.

11 120. True and correct copies of Plaintiffs' written PAGA notice, entitled "Notice of Labor
12 Code Violations" is attached hereto as Exhibit 1 and Exhibit 2 and incorporated by reference as though
13 fully set forth herein (the "PAGA notice").

14 121. To date, neither Plaintiffs nor Plaintiffs' counsel has received a response to Plaintiffs'
15 written PAGA notice from the LWDA.

16 122. Within 33 calendar days of the postmark date of the notice sent by Plaintiffs, neither
17 Plaintiffs nor Plaintiffs' counsel has received written notice by certified mail from any defendant
18 providing a description of any actions taken to cure the alleged violations.

19 123. Now that at least 65 days have passed from Plaintiffs notifying Defendants of these
20 violations, without notice of cure from Defendants or notice from the LWDA of its intent to investigate
21 the alleged allegations and issue the appropriate citations to Defendants, Plaintiffs exhausted all
22 prerequisites and commenced this civil action under Labor Code section 2699 *et seq.*

23 124. As set forth in the PAGA notices attached as Exhibit 1 and Exhibit 2 and incorporated
24 into this Complaint, Defendants committed the following violations and are liable for all
25 corresponding civil penalties:

26 a. ***Unpaid Hours Worked/Minimum Wage.*** Violation of Labor Code §§ 1194, 1197,
27 1198; IWC Wage Orders.

28 b. ***Unpaid Overtime.*** Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders.

- c. ***Unpaid Paid Sick Leave.*** Violation of Labor Code §§ 246 through 248.7.
- d. ***Unpaid Vacation Wages.*** Violation of Labor Code § 227.3.
- e. ***Unpaid Reporting Time Wages.*** Violation of Labor Code § 1198; IWC Wage Orders.
- f. ***Unpaid Meal Period Premium Wages.*** Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders.
- g. ***Unpaid Rest Period Premium Wages.*** Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders.
- h. ***Untimely Payment of Wages During Employment.*** Violation of Labor Code §§ 204, 204b, 210.
- i. ***Non-Compliant Wage Statements.*** Violation of Labor Code §§ 226, 226.3.
- j. ***Unreimbursed Employee Expenses.*** Violation of Labor Code §§ 2802, 2804.
- k. ***Failure to Maintain Accurate Records.*** Violation of Labor Code § 1174; IWC Wage Orders.

125. Plaintiffs seek to collect all recoverable civil penalties for the Labor Code violations alleged in this Complaint and the PAGA notice (including amendments thereto) against Defendants pursuant to Labor Code section 2699(a) and (f), in addition to attorneys' fees, costs, and interest to the extent permitted by law, including under Labor Code section 2699(g).

PRAYER

Plaintiffs pray for judgment as follows:

- a. For certification of this action as a class action;
- b. For appointment of Plaintiffs as the class representatives;
- c. For appointment of above-captioned counsel for Plaintiffs as Class Counsel;
- d. For division of class members into appropriate classes and/or subclasses according to proof;
- e. For recovery of all statutory penalties and liquidated damages;
- f. For disgorgement of all amounts wrongfully obtained to the extent permitted by law;
- g. For restitution and injunctive relief;

- 1 h. For attorneys' fees and costs of suit, including expert fees, to the extent permitted by
2 law, including (without limitation) under Labor Code §§ 218.5, 226, 1194, 2699, 2802
3 and Code of Civil Procedure § 1021.5.
- 4 i. For recovery of damages in amount according to proof;
- 5 j. For all recoverable pre- and post-judgment interest;
- 6 k. For this action to be maintained as a representative action under the PAGA;
- 7 l. For Plaintiff and counsel of record to be provided with all enforcement capability as if
8 the action were brought by the State of California or the California Division of Labor
9 Enforcement;
- 10 m. For recovery of all civil penalties and other recoverable amounts under the PAGA;
- 11 n. For such other relief the Court deems just and proper.

12
13 Dated: September 25, 2025

Ferraro Vega Employment Lawyers, Inc.

14 

15 _____
Xavier L. Woodford

Nicholas J. Ferraro

Attorneys for Plaintiffs

Chelsea Galkoski and Karla Martinez

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EXHIBIT 1

Plaintiff Galkoski's Notice of Labor Code Violations

FERRARO VEGA

SAN DIEGO EMPLOYMENT LAWYERS

Nicholas J. Ferraro
nick@ferrarovega.com
Lauren N. Vega
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3333 Camino del Rio South, Suite 300
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June 4, 2024

NOTICE OF LABOR CODE VIOLATIONS CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Onewell of California LLC
8745 Aero Drive Ste. 300
San Diego, CA 92123,

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Dear LWDA Officer and Company Representatives:

This letter serves as written notice under Labor Code section 2699.3 on behalf of **CHELSEA GALKOSKI** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

ONEWELL OF CALIFORNIA LLC

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79. Plaintiff maintains standing to pursue these claims against Defendants, as Plaintiff experienced one or more of the alleged violations during the relevant statutory period, which continue through the present date. *Cf. Johnson v. Maxim Healthcare Servs., Inc.*, 281 Cal. Rptr. 3d 478, 481 (Cal. Ct. App. 2021).

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff's counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Direct Support Aid from about January 2023 to May 2024. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Hours Worked/Minimum Wage Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders

Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the “Hours and Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates

that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages.

First, Defendants had a policy and practice of editing employees’ time records to reflect less hours worked on their timesheets (*i.e. timeshaving*). Specifically, Plaintiff often clocked in a few minutes earlier than her scheduled shift to ensure she began work on time, but was routinely only paid for her scheduled hours. Due to this time shaving practice, all hours worked were not directly compensated, resulting in minimum wage violations. The revisions were made without employees’ knowledge or consent. Plaintiff and the aggrieved employees were deprived of regular wages each time Defendant altered their time sheets.

Second, Defendants required Plaintiff and the aggrieved employees to complete off-the clock work. For example, Plaintiff and the aggrieved employees were routinely required to stay past their scheduled hours to complete service notes according to their deadlines. Plaintiff and the aggrieved employees were directed to clock-out, but stay and continue to work each time they were unable to complete these notes during their scheduled shift. This resulted in unpaid off-the-clock work.

Finally, Defendants failed to compensate Plaintiff and the aggrieved employees for the time it took them to complete their onboarding paperwork. Plaintiff and the aggrieved employees were hired over the phone, and then sent onboarding policies and training via email before their first day of work without the ability to clock-in. Plaintiff and the aggrieved employees were never paid for the time it took them to complete their onboarding documentation process electronically, including reviewing Defendants’ policies and procedures and completing required training modules.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders

(\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Overtime
Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders

Defendants violated Labor Code sections 510, 1194, and 1198, along with the “Hours and Days of Work” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;” and “any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;” and “any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the “Hours and Days of Work” sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages.

As stated in the “Unpaid Hours Worked” section above, Defendants engaged in an unlawful policy and practice of requiring off-the-clock work and editing employees’ time records. To the extent that these unlawful practices resulted in unpaid hours worked, over 8 hours in a day or 40 hours in a week, this resulted in unpaid overtime.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1199 / “Penalties” section of the IWC Wage Orders) (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Paid Sick Leave
Violation of Labor Code §§ 246 through 248.7

Defendants violated Labor Code sections 246 through 248.7 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.” Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Defendants failed to comply with California’s paid sick leave laws with respect to the aggrieved employees. The failure to calculate and pay sick leave at one of the lawful rates set forth in Labor Code § 246(l)(1)-(3) and 247 *et seq.* was applied as a matter of common policy and practice to aggrieved employees.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Meal Period Premium Wages
Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). "[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage." *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is "exceedingly narrow" and applies only when (1) "the nature of the work prevents the employee from being relieved of all duty" and (2) *both* "the employer and employee have agreed, in writing, to the on-duty meal period." *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

First, Plaintiff and the aggrieved employees routinely experienced missed, late, short, and interrupted meal periods due to the pressure to keep up with the high demands of the job, understaffing, and constant patient monitoring.

Additionally, Plaintiff and the aggrieved employees regularly experienced non-compliant meal periods due to the responsibility to constantly monitor patients, even during their unpaid meal period. Plaintiff and the aggrieved employees were not properly relieved of all duties during this time, and Defendant in effect maintained an invalid on-duty meal period policy. However, the nature of the work did not prevent the aggrieved employees to take duty-free meal periods because at all times there was adequate coverage to temporarily relieve staff. Specifically, even though Plaintiff worked the graveyard shift, it was company policy to always have a two

caregiver to one patient ratio, meaning Plaintiff was never scheduled alone. Additionally, Defendants did not maintain a valid On-Duty Meal Period Agreement.

Each time Plaintiff and the aggrieved employees experienced a non-compliant meal period, they were owed a meal period premium. As a matter of policy and practice, Defendants failed to pay all owed meal period premiums.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages
Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

Due to the reasons explained in the "Unpaid Meal Period" section above, such as patient care the pressure to keep up with the high demand of the job Plaintiff and the aggrieved employees were not authorized or permitted to take their rest periods. Defendants discouraged Plaintiff and the aggrieved employees from taking compliant rest periods by encouraging them to go from task to task without a break each day. Defendants required Plaintiff and the aggrieved employees to effectively waive or otherwise forego their rest periods contrary to the law.

As a matter of common policy and practice, each time Plaintiff and the aggrieved employees experienced a non-compliant rest period Defendants failed to pay all owed rest period premiums.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Reporting Time Wages
Violation of Labor Code § 1198; IWC Wage Orders

Defendants violated Labor Code sections 1198 and Section 5 (Reporting Time Pay) of the applicable IWC Wage Orders concerning reporting time wages with respect to the aggrieved employees.

Section 5 of the applicable IWC Wage Orders requires an employer to pay reporting time pay if an employee shows up for a scheduled shift and is not put to work or is furnished with less than half of the scheduled shift. In this situation, the employer owes the employee reporting time pay in the amount of the greater of two hours or half the scheduled shift length. Section 5 further requires an employer to pay reporting time pay if an employee is required to report to work for a second time and is furnished with less than two hours of work on the second reporting. In this situation, the employer owes the employee reporting time pay in the amount of the greater of two hours or half the scheduled shift length. Labor Code section 1198 authorizes enforcement of the reporting time pay provisions of the IWC Wage Orders.

Defendants maintained an unlawful policy and practice of failing to pay reporting time wages to the aggrieved employees. Specifically, Plaintiff and, on information and belief, the aggrieved employees were not paid for reporting to shifts when their patient was admitted to the hospital that day or otherwise did not require care. In these instances, Plaintiff was only paid for 30-minutes of work instead of “the greater of two hours or half the scheduled shift length” as required by California law.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code sections 558 (\$50/\$100), 1199 / “Penalties” section of the IWC Wage Orders, and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment
Violation of Labor Code §§ 204, 204b, 210

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of “all wages” for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid “not more than seven calendar days following the close of the payroll period.” Labor Code section

204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides “every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice. Indeed, Defendants failed to pay all regular overtime, premiums, sick leave, and other earning on time each pay period.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

Non-Compliant Wage Statements **Violation of Labor Code §§ 226, 226.3**

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, “an accurate itemized statement in writing showing:” (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct “gross wages earned” or “net wages earned,” as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of “gross wages earned” on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums

owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay stub.

Defendant violated Labor Code section 226(a)(2) by failing to accurately list employees' "total hours worked," as the wage statements did not accurately include the uncompensated time Plaintiff and other aggrieved employees worked due to Defendant's policy and practice of editing time records and requiring off-the-clock work.

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000) and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unreimbursed Employee Expenses **Violation of Labor Code §§ 2802, 2804**

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to "indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful." *See, e.g., Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that "[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State."

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. Specifically, Plaintiff was required to use her personal cell phone, for work related tasks such as completing service notes, communicating with patient family members, maintaining contact with colleagues, and completing onboarding and

training. Defendants failed to properly reimburse Plaintiff and the aggrieved employees for these costs. In direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records
Violation of Labor Code § 1174; IWC Wage Orders

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “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.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 (\$500) and 2699 (\$100/\$200), along with all other civil penalties permitted by law.

Attorneys’ Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys’ fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved

employees specified in this notice. Evidence includes, but is not limited to, Defendants' written employment and payroll policies and handbooks; the aggrieved employees' personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope of your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,

A handwritten signature in black ink that reads "Elyssa Martinez". The script is cursive and fluid.

Elyssa Martinez

Cc Plaintiff Chelsea Galkoski
Tiffany Judge – hrsupport@onewell.org

EXHIBIT 2

Plaintiff Martinez's Notice of Labor Code Violations

FERRARO VEGA
SAN DIEGO EMPLOYMENT LAWYERS

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June 24, 2024

NOTICE OF LABOR CODE VIOLATIONS
CALIFORNIA LABOR CODE SECTIONS 2698 *et seq.*

VIA CERTIFIED U.S. MAIL
- Electronic Return Receipt -

Onewell of California LLC
8745 Aero Drive Ste. 300
San Diego, CA 92123

- PAGA Notice & Filing Fee -
Submitted electronically to the Labor and
Workforce Development Agency

Aytekkin Oldac
8745 Aero Drive Ste. 300
San Diego, CA 92123

Dear LWDA Officer and Company Representatives:

This letter serves as a written notice under Labor Code section 2699.3 on behalf of **KARLA MARTINEZ** (“Plaintiff(s)”) and all other “aggrieved employees” of the following “Defendant(s)”:

ONEWELL OF CALIFORNIA LLC; AYTEKIN OLDAC

Defendant(s) shall mean and include the foregoing in addition to any other related employer entities, individuals under Labor Code sections 558 and 558.1, and all others who may be later added upon further investigation and discovery as liable employers.

This office serves as legal counsel for Plaintiff. If the California Labor and Workforce Development Agency (“LWDA”) does not investigate the facts, allegations, and violations set forth in this notice within the statutorily prescribed 65-day period under Labor Code section 2699.3, Plaintiff intends to commence a civil action against Defendants as a proxy and agent of the State of California under the Private Attorneys General Act (“PAGA”). “PAGA allows an ‘aggrieved employee’—a person affected by at least one Labor Code violation committed by an employer—to pursue penalties for all the Labor Code violations committed by that employer.” *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal. App. 5th 745, 751; *Kim v. Reins International California, Inc.* (2020) 9 Cal. 73, 79. Plaintiff maintains standing to pursue

these claims against Defendants, as Plaintiff experienced one or more of the alleged violations during the relevant statutory period, which continue through the present date. *Cf. Johnson v. Maxim Healthcare Servs., Inc.*, 281 Cal. Rptr. 3d 478, 481 (Cal. Ct. App. 2021).

Through this notice, Plaintiff requests that Defendants complete an internal investigation and audit of the wage and hour and employment practices at issue and make a good faith effort to correct any violations. Plaintiff attempts to identify the non-compliant policies and practices affecting the aggrieved employees so that the parties may resolve the underlying damages and penalties in judgment or settlement approved by the Superior Court of California under Labor Code section 2699(k). Defendants are notified that any attempt to resolve this case should be conducted in coordination with Plaintiff's counsel to protect the interests of Plaintiff, the aggrieved employees, and the State of California via the LWDA. Plaintiff advises Defendants this letter should be also considered a reasonable attempt at settlement of this matter, subject to an exchange of additional documents and information. *Graham v. Daimler Chrysler Corp.* (2004) 24 Cal. 4th 553, 561.

- BACKGROUND -

Defendants employed Plaintiff during the PAGA Period in the position of Direct Support Professional from about March 2023 to Present. During their employment Plaintiff and the other aggrieved employees were subject to the wage and hour and employment protections set forth in the California Labor Code and IWC Wage Orders.

Through this notice, Plaintiff informs the LWDA of the Labor Code violations set forth herein. The “aggrieved employees” include Plaintiff and the following individuals:

All current and former non-exempt employees who worked for Defendants in the State of California during one-year period preceding the date of this notice through the current date and the date of trial in any pending action (the “aggrieved employees” and the “PAGA Period”).

Plaintiff reserves the right to expand or narrow the definition of the “aggrieved employees” in the forthcoming civil action. Furthermore, Plaintiff seeks all recoverable civil penalties for Defendants’ violations and reserves the right to supplement this notice as further investigation is completed and further facts, witnesses, and violations are uncovered.

- PAGA CLAIMS -

Unpaid Hours Worked/Minimum Wage Violation of Labor Code §§ 1194, 1197, 1198; IWC Wage Orders

Defendants violated Labor Code sections 1194, 1197, and 1198, along with the California Minimum Wage Order, the applicable local minimum wage ordinances, and the “Hours and

Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 1194 renders it unlawful for an employee to receive less than the legal minimum wage for hours worked in California. Labor Code section 1197 further mandates that “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The California Minimum Wage Order and the applicable sections of the IWC Wage Orders further require payment of minimum wages for all hours worked. The “Minimum Wages” sections of the applicable IWC Wage Order provide that “[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.” The foregoing California wage laws require payment of “not less than the applicable minimum wage *for all hours worked* in the payroll period” and California law does not allow averaging of pay over the hours worked in the pay period, even if the total pay results in an average above the minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 3d 314, 324.

Defendants failed to pay Plaintiff and the aggrieved employees at the lawful minimum wage rate for all hours worked, resulting in unpaid minimum wages.

First, Defendants had a policy and practice of editing employees’ time records to reflect less hours worked on their timesheets (*i.e. timeshaving*). Specifically, Defendants required Plaintiff and the aggrieved employees to use an application called Onewell to clock in and out. However, Defendants would skim minutes off to match the scheduled hours, showing fewer hours worked. On multiple occasions, Plaintiff notified Defendants of this issue of the app not working and instead Defendants adjusted her time to reflect fewer hours worked. Due to this time-shaving practice, all hours worked were not directly compensated, resulting in minimum wage violations. The revisions were made without employees’ knowledge or consent. Plaintiff and the aggrieved employees were deprived of regular wages each time Defendant altered their time sheets.

Second, Defendants required Plaintiff and the aggrieved employees to complete off-the clock work. For example, Plaintiff and the aggrieved employees were routinely required to stay past their scheduled hours to complete service notes according to their deadlines. Plaintiff and the aggrieved employees were directed to complete their service notes off-the-clock because their manager would make them re-do the service notes. This resulted in unpaid off-the-clock work.

Finally, Defendants failed to compensate Plaintiff and the aggrieved employees for the time it took them to complete their training. Plaintiff and the aggrieved employees were required to

complete training videos, without pay. Plaintiff and the aggrieved employees were never paid for the time it took them to complete the training process.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1197.1 (\$100/\$250), 1199 / “Penalties” section of the IWC Wage Orders (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Overtime **Violation of Labor Code §§ 510, 1194, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 510, 1194, and 1198, along with the “Hours and Days of Work” sections of the applicable IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 510 requires “[a]ny work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee;” and “any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee;” and “any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” Labor Code section 1194 renders it unlawful for an employee to receive less than the legal overtime rate for overtime hours worked in California. Labor Code section 1198 renders “employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]” unlawful. The IWC Wage Orders further require payment of overtime wages for all overtime hours worked, including the “Hours and Days of Work” sections.

Defendants failed to pay Plaintiff and the aggrieved employees overtime wages and the lawful rate of pay for overtime hours worked, resulting in unpaid overtime wages.

As stated in the “Unpaid Hours Worked” section above, Defendants engaged in an unlawful policy and practice of requiring off-the-clock work and editing employees’ time records. To the extent that these unlawful practices resulted in unpaid hours worked, over 8 hours in a day or 40 hours in a week, this resulted in unpaid overtime.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 558 (\$50/\$100), 1199 / “Penalties” section of the IWC Wage Orders) (\$50/\$100), and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Paid Sick Leave
Violation of Labor Code §§ 246 through 248.7

Defendants violated Labor Code sections 246 through 248.7 with respect to the aggrieved employees.

Labor Code section 246 requires employers to provide paid sick leave to its workforce on the terms set forth in the statute. Employers must comply with the accrual, use, and notice provisions of Labor Code sections 246, 246.5, 247, and must further ensure that they maintain the paid sick leave records required by Labor Code section 247.5. Employers have the option of providing 24 hours of paid sick leave to employees or to allow employees to accrue paid sick leave each pay period. If an employer chooses the accrual method, employees must accrue sick leave at a rate of one hour for every thirty hours worked in a given pay period as set forth in Labor Code section 246(b)(1). Under the accrual method, employees must begin accruing paid sick leave at the commencement of employment.

Employers must pay sick leave in accordance with one of the three permissible methods provided in Labor Code section 246(l): (1) “the same manner as the regular rate of pay for the workweek;” (2) “by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days;” or (3) “for exempt employee ... in the same manner as the employer calculates wages for other forms of paid leave time.” Labor Code sections 248.6 and 248.7 similarly require paid sick leave to be paid at a regular rate-based calculation in excess of the base hourly rate and at the lawful accrual rate.

Under Labor Code section 246(i), employers must provide employees “with written notice of the amount of paid sick leave available ... for use on either the employee’s itemized wage statement ... or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

Effective January 1, 2024, Senate Bill (SB) 616 expanded the existing paid sick leave entitlements required under the California Healthy Workplaces, Healthy Families Act (HWHFA). The City of San Diego Sick Leave and Minimum Wage Ordinance (ESLMWO) requires employers to provide paid sick leave to employees who work within the geographic boundaries of the City of San Diego. San Diego Municipal Code (SDMC) Section 39.0105(b) states, “Employers must provide an Employee with one hour of Earned Sick Leave for every 30 hours worked by the Employee within the geographic boundaries of the City...”

Defendants failed to comply with California’s paid sick leave laws with respect to the aggrieved employees. Due to Defendants’ unlawful time-shaving policy, Defendants failed to properly credit Plaintiff and the aggrieved employees with their full accrued sick leave.

Additionally, in November 2024 and December 2024, Plaintiff called out sick. However, Plaintiff's corresponding wages statements and time records indicate that she was not paid for that time. An illustrative example of this violation is below:

CA - Hourly earnings contract (non-exempt)	
Period Start and End 10/22/2023 - 10/21/2024	
Expired	
Vacation Time	Sick Time
Vacation Time Accrued: 19.25	Sick Time Accrued: 25.00
Paid Vacation Time Available: 19.25	Paid Sick Time Available: 25
Vacation Time Used: 0	Sick Time Used: 0

Extract of Plaintiff's sick time report from 10/22/2023 to 10/21/2024.

Moreover, due to Defendants' unlawful policy of requiring Plaintiff and the aggrieved employees to work off-the-clock, Defendants failed to provide Plaintiff and the aggrieved employees with all sick leave accrued. Consequently, Plaintiff and the aggrieved employees were systematically denied all owed paid sick leave hours. Furthermore, Defendants improperly combined traditional PTO and sick leave into one flexible, paid time-off policy without abiding by the proper accrual rates for California and SDMC Section 39.0105(b) or affording that time off the same protected status as paid sick leave. Due to this policy, Defendants improperly accrued sick leave at an unlawful rate of 1 hour for every 40 hours worked. Lastly, Defendants failed to pay out unused and accrued paid sick leave hour to Plaintiff and the aggrieved employees, nor does it allow those hours to roll over to the next year. Moreover, the paystubs do not comply with the notice requirements for sick pay because the accrual and use is incorrect and combined with PTO.

Defendants failed to comply with California's paid sick leave laws with respect to the aggrieved employees. The failure to calculate and pay sick leave at one of the lawful rates set forth in Labor Code § 246(l)(1)-(3) and 247 *et seq.* was applied as a matter of common policy and practice to aggrieved employee

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Vacation Wages Violation of Labor Code § 227.3

Defendants violated Labor Code section 227.3 with respect to the aggrieved employees.

Labor Code section 227.3 requires “whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served; provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination.”

Defendants maintained an unlawful policy and practice of failing to pay all accrued and unused vacation wages upon separation of employment at the lawful rate of pay, resulting in forfeiture of vested vacation time and wages.

As described above, Defendants failed to record all of the time that Plaintiff and other aggrieved employees worked for Defendants and undercounted their hours worked. Consequently, Defendants failed to credit the aggrieved employees with all vacation time they had actually accrued. Moreover, Defendants’ policy and practice of failing to pay out Plaintiff and the aggrieved employees accrued and unused vacation wages is evident from the employee handbook. An illustrative example of this violation is shown below:

4-2. PTO POLICY

4-2A. PAID TIME OFF (PTO) POLICY

Paid Time Off (PTO) is an all-purpose time-off policy that eligible employees can use for vacation, illness, injury, and personal business. It combines traditional PTO and sick leave into one flexible, paid time-off policy. Employees who are scheduled for a shift and need to request off due to an emergency or valid reason, PTO or unpaid time off request must be submitted and approved by supervisor prior to taking off.

4-2D. CALIFORNIA PAID SICK LEAVE

An employee begins to accrue sick leave from the initial start date of employment.

- ♦ Employee receives the maximum of 24 hours or three days of paid sick leave per year.
- ♦ Employee must complete 90 days of service before they can use the accrued sick time off.
- ♦ Unused paid sick leave days/hours DO NOT roll over to next year.

Employees are not eligible for payment of unused paid time off or paid sick time off during employment and upon separation of employment. This includes resignations, terminations, and retirement.

Here, Defendant's employee handbook specifically states, in relevant part, "Employees are not eligible for payment of unused paid time off or paid sick time off during employment and upon separation of employment." Therefore, Plaintiff and the aggrieved employees were not compensated for their accrued vacation wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Unpaid Meal Period Premium Wages
Violation of Labor Code §§ 226.7, 512, 1198; IWC Wage Orders

Defendants violated Labor Code sections 226.7, 512, and 1198, along with the related sections of the IWC Wage Orders with respect to the aggrieved employees.

Labor Code section 512 and the IWC Wage Orders require that employers provide an uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work. *See Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1049. Labor Code section 226.7 requires that if a meal period is late, missed, short, or interrupted, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). "[T]ime records showing noncompliant meal periods raise a rebuttable presumption of meal period violations, including at the summary judgment stage." *Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 61. Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 11 (Meal Periods), further require one uninterrupted 30-minute meal period after no more than five hours of work and a second meal period after no more than 10 hours of work and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant meal period is not provided. Pursuant to Section 11(A) of the IWC Wage Orders, the California Supreme Court has held that the on-duty meal period exception is "exceedingly narrow" and applies only when (1) "the nature of the work prevents the employee from being relieved of all duty" and (2) *both* "the employer and employee have agreed, in writing, to the on-duty meal period." *Augustus v. AMB Security Services, Inc.* (2016) 2 Cal. 5th 257, 266-276 (emphasis added). If these two requirements are not met, then the employer owes the employee one hour of premium pay for each non-compliant meal period taken under the purported on-duty meal arrangement. *Naranjo v. Spectrum Security Services, Inc.* (2019) 40 Cal. 5th 444, 459.

First, Plaintiff and the aggrieved employees routinely experienced missed, late, short, and interrupted meal periods due to the pressure to keep up with the high demands of the job,

understaffing, and constant patient monitoring. For example, Plaintiff alleges she was not provided meal breaks or any breaks at all. Additionally, Plaintiff and the aggrieved employees regularly experienced non-compliant meal periods due to the responsibility to constantly monitor patients, even during their unpaid meal period.

Plaintiff and, on information and belief, other aggrieved employees did not sign on-duty meal period waivers. For example, when Plaintiff got hired, Defendants did not offer an on-duty meal period agreement, so she never signed one. Plaintiff alleges that Defendants began to implement on-duty meal period agreements recently, and she refused to sign them because she thought she was getting meal period premiums. In response, Defendants unilaterally forged Plaintiff's signature and signed the on-duty meal period agreement for her around May 2025 and put the signature date as October 2023. However, Plaintiff never signed such an agreement, and Defendants falsified her signature.

Each time Plaintiff and the aggrieved employees experienced a non-compliant meal period, they were owed a meal period premium. As a matter of policy and practice, Defendants failed to pay all owed meal period premiums.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Rest Period Premium Wages **Violation of Labor Code §§ 226.7, 516, 1198; IWC Wage Orders**

Defendants violated Labor Code sections 226.7, 516, and 1198, and the related sections of the IWC Wage Orders with respect to Plaintiff and the aggrieved employees.

Labor Code sections 226.7 and 516 and the IWC Wage Orders require that employers authorize and permit an uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) that an employee works. Labor Code section 226.7 requires that if a rest period is non-compliant, the employer must pay one additional hour of pay at the employee's "regular rate" of compensation. *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 862 ("We hold that the terms are synonymous: "regular rate of compensation" under section 226.7(c), like "regular rate of pay" under section 510(a), encompasses all nondiscretionary payments, not just hourly wages"). Labor Code section 1198 renders "employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the [IWC Wage Orders]" unlawful. The IWC Wage Orders, including Section 12 (Rest Periods), further require one uninterrupted 10-minute rest period for each four-hour period (or major fraction thereof) worked and an additional hour of pay at the employee's regular rate of compensation for each workday that a compliant rest period is not authorized or permitted.

Due to the reasons explained in the “Unpaid Meal Period” section above, such as patient care the pressure to keep up with the high demand of the job Plaintiff and the aggrieved employees were not authorized or permitted to take their rest periods. Defendants discouraged Plaintiff and the aggrieved employees from taking compliant and told Plaintiff that she is not entitled to breaks when she complained about not getting them. Defendants required Plaintiff and the aggrieved employees to effectively waive or otherwise forego their rest periods contrary to the law. As a matter of common policy and practice, each time Plaintiff and the aggrieved employees experienced a non-compliant rest period, Defendants failed to pay all owed rest period premiums.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unpaid Reporting Time Wages **Violation of Labor Code § 1198; IWC Wage Orders**

Defendants violated Labor Code sections 1198 and Section 5 (Reporting Time Pay) of the applicable IWC Wage Orders concerning reporting time wages with respect to the aggrieved employees.

Section 5 of the applicable IWC Wage Orders requires an employer to pay reporting time pay if an employee shows up for a scheduled shift and is not put to work or is furnished with less than half of the scheduled shift. In this situation, the employer owes the employee reporting time pay in the amount of the greater of two hours or half the scheduled shift length. Section 5 further requires an employer to pay reporting time pay if an employee is required to report to work for a second time and is furnished with less than two hours of work on the second reporting. In this situation, the employer owes the employee reporting time pay in the amount of the greater of two hours or half the scheduled shift length. Labor Code section 1198 authorizes enforcement of the reporting time pay provisions of the IWC Wage Orders.

Defendants maintained an unlawful policy and practice of failing to pay reporting time wages to the aggrieved employees. Specifically, Plaintiff would often show up to work and be informed that the patient was gone, and therefore, Defendants directed her to go home. Plaintiff would not be paid for those days. Each time this occurred Plaintiff would not get paid for all hours worked. In these instances, Plaintiff was not paid at all, instead of “the greater of two hours or half the scheduled shift length” as required by California law.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code sections 558 (\$50/\$100), 1199 / “Penalties” section of the IWC Wage Orders, and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Untimely Payment of Wages During Employment
Violation of Labor Code §§ 204, 204b, 210

Defendants violated Labor Code sections 204 and/or 204b and 210, as applicable, with respect to Plaintiff and the aggrieved employees.

Labor Code section 204(a) requires payment of “all wages” for non-exempt employees at least twice each calendar month. Labor Code section 204(d) states all wages due must be paid “not more than seven calendar days following the close of the payroll period.” Labor Code section 204b applies to employees paid on a weekly basis and also requires the payment for all labor within the required pay periods. Labor Code section 210 provides “every person who fails to pay the wages of an employee as provided in Section ... 204 ... shall be subject to a civil penalty” of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

Because Defendants failed to pay all wages and premiums in each pay period in which such wages were earned at the lawful rate, Defendants violated Labor Code section 204 and/or 204b (for weekly employees, as applicable). Defendants violated Labor Code sections 204 and 204b by failing to pay all wages and premiums owed on the regular pay days scheduled each pay period within seven calendar days of the close of the payroll period, as a result of the policies and practices set forth in this notice. Indeed, Defendants failed to pay all regular overtime, premiums, sick leave, and other earnings on time each pay period.

Specifically, Defendants often failed to complete payroll on time, and Plaintiff would receive her paycheck two to three weeks late. For example, on multiple occasions, Defendants had trouble with the payroll system and Plaintiff would not get her paycheck every pay period.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, and Labor Code section 210 (\$100/\$200) per violation per pay period, along with all other civil penalties permitted by law.

Untimely Payment of Wages Upon Separation of Employment
Violation of Labor Code §§ 201, 202, 203, 256

Defendants violated Labor Code sections 201, 202, and 203 with respect to the aggrieved employees by failing to pay all wages and premiums owed upon termination of employment.

Labor Code section 201 requires that if an employer fires an employee, the wages must be paid immediately. Labor Code section 202 requires that if an employee quits without providing 72 hours’ notice, his or her wages must be paid no later than 72 hours thereafter. Labor Code section 202 states that if an employee provides 72 hours’ notice, the final wages are payable upon his or her final day of employment. Labor Code section 203 requires an

employer who fails to comply with Labor Code sections 201 or 202 to pay a waiting time penalty for each employee, up to a period of 30 days additional compensation.

Defendants failed to pay all wages and premiums owed to aggrieved employees during their employment as set forth in this notice, and also failed to timely pay those amounts to departing employees upon separation of employment. For example, Defendants failed to pay out Plaintiff and the aggrieved employees for minimum, OT, and premium wages as set forth above, sick pay, and vacation wages upon termination of employment. Defendants did not pay waiting time penalties for the late payments. As a result, Defendants violated Labor Code sections 201, 202, and 203.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, up to the maximum amount allowed as set forth under the Labor Code.

Non-Compliant Wage Statements **Violation of Labor Code §§ 226, 226.3**

Defendants violated Labor Code sections 226(a) and 226.3 with respect to the aggrieved employees by failing to furnish itemized wage statements each pay period that accurately list all information required by Labor Code section 226(a)(1) through (9).

Labor Code section 226(a) requires an employer to furnish wage statements to employees semimonthly or at the time of each payment of wages, “an accurate itemized statement in writing showing:” (1) gross wages earned, (2) total hours worked, (3) the number of piece rate units earned and applicable piece-rate in effect, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the pay period, (7) the name of the employee and last four digits of SSN or an EIN, (8) the name and address of the legal name of the employer, and (9) all applicable hourly rates in effect during the pay period and the number of hours worked at each hourly rate by the employee.

Defendants failed to provide accurate itemized wage statements to the aggrieved employees each pay period as a result of the policies and practices set forth in this notice. Defendants violated Labor Code section 226(a)(1) and (5) by not listing the correct “gross wages earned” or “net wages earned,” as the employees earned wages and premiums that were not paid, resulting in an inaccurate reflection, and recording of “gross wages earned” on those wage statements. Likewise, in violation of Labor Code section 226(a)(9), Defendants failed to state on employee wage statements each pay period the applicable hourly rates in effect and the number of hours worked at that rate, as Defendants failed to pay all wages and premiums owed to employees. The amounts stated are instead depreciated and underpaid, resulting in an inaccurate reflection on the pay stub.

Defendant violated Labor Code section 226(a)(2) by failing to accurately list employees’ “total hours worked,” as the wage statements did not accurately include the uncompensated time

Plaintiff and other aggrieved employees worked due to Defendant's policy and practice of editing time records and requiring off-the-clock work.

Plaintiff and other aggrieved employees cannot promptly and easily determine from the wage statement alone the wages paid or earned without reference to other documents or information. Indeed, these wage statement violations are significant because they sow confusion among Plaintiff and other aggrieved employees with respect to what amounts were owed and paid, at what rates, the number of hours worked, and how those amounts were or should be calculated. The wage statements reflect a false statement of earnings and concealed the underlying problems and underpayments of employee wages.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code sections 226.3 (\$250/\$1,000) and 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Unreimbursed Employee Expenses **Violation of Labor Code §§ 2802, 2804**

Defendants violated Labor Code section 2802 with respect to the aggrieved employees by failing to reimburse the aggrieved employees for all necessary expenditures or losses incurred as part of their job duties.

Labor Code section 2802 requires an employer to "indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful." *See, e.g., Espinoza v. West Coast Tomato Growers, LLC*, 2016 WL 4468175 at *4, n.2 (S.D. Cal. Aug. 24, 2016, No. 14-CV-2984 W (KSC)).

Labor Code section 2804 affirms that "[a]ny contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State."

Defendants required Plaintiff and the aggrieved employees to incur costs for work-related purposes without full reimbursement. Specifically, Plaintiff and the aggrieved employees were required to use their personal cell phones and home internet for work-related tasks such as completing daily service notes, communicating with patient family members, maintaining contact with colleagues, utilizing the GPS feature to clock in, and completing onboarding and training at home. Moreover, Plaintiff was never reimbursed for mileage. For example, Plaintiff was required to drive to the hospital where her patient was located, complete a sleep analysis overnight, stay with the patient, and then take the patient from the hospital back to his/her home. Defendants failed to properly reimburse Plaintiff and the aggrieved employees for these

costs. In direct consequence of their job duties, Plaintiff and the aggrieved employees unavoidably and necessarily incurred these losses, expenditures, costs, and as a matter of policy and practice.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 2699 (\$100/\$200) per violation per pay period per employee, along with all other civil penalties permitted by law.

Failure to Maintain Accurate Records
Violation of Labor Code § 1174; IWC Wage Orders

Defendants violated Labor Code sections 1174 and the IWC Wage Orders by failing to maintain accurate employee payroll records with respect to Plaintiff and other aggrieved employees.

Labor Code section 1174 requires that employers maintain accurate “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.” Section 7(A) of the IWC Wage Orders, which may be enforced through Labor Code section 1198, mandates similar recordkeeping obligations.

Because of the policies and practices set forth in this notice, including the failure to accurately account for wages earned or hours worked, Defendants failed to accurately maintain records in accordance with Labor Code section 1174 and the IWC Wage Orders.

As a result, Plaintiff may recover civil penalties as an individual and on behalf of the State of California and the aggrieved employees, as provided under Labor Code section 1174.5 (\$500) and 2699 (\$100/\$200), along with all other civil penalties permitted by law.

Attorneys’ Fees and Costs
Labor Code § 2699(g)

Plaintiff has been compelled to retain the services of counsel to protect the interests of other aggrieved employees and the State of California. Plaintiff continues to incur attorneys’ fees and costs, which are recoverable under California law, including Labor Code section 2699(g).

- LITIGATION HOLD NOTICE -

This letter imposes a duty upon all defendants and their respective employees, officers, directors, executives, attorneys, human resource and payroll personnel, accountants, and other agents to preserve all physical and electronic evidence, including electronically stored information and emails, which relate to the employment of Plaintiff and the aggrieved employees specified in this notice. Evidence includes, but is not limited to, Defendants’

written employment and payroll policies and handbooks; the aggrieved employees' personnel files and payroll records, such as paystubs, time records, wage statements, compensation reports, as well as the underlying electronically data in Excel or similar format. Memoranda and internal and external correspondence relating to the subject matter of this notice shall also be maintained. Failure to preserve and retain relevant evidence may constitute spoliation of evidence and result in an adverse inference or sanctions.

If you have any questions regarding the scope of your obligations to preserve evidence, please consult your legal counsel and always err on the side of caution. Periodic or regularly scheduled purges or deletions of information covered by this hold must be suspended immediately.

- CONCLUSION -

If the LWDA does not pursue enforcement, Plaintiff intends to bring representative claims on behalf of the State of California and the aggrieved employees seeking civil penalties for violations of the Labor Code and the IWC Wage Orders, along with attorneys' fees, costs, interest, and other appropriate relief.

Please advise if the LWDA intends to investigate any of the factual or legal allegations set forth in this notice. Defendants may contact Plaintiff's counsel with any questions regarding this letter or the forthcoming lawsuit.

Sincerely,



Xavier L. Woodford

Cc Plaintiff Karla Martinez

Counsel for Defendants:
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