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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

DANIEL MENJIVAR, EDWIN
JAVALOIS, and TRAMAIN MARQUISE
WASP, as individuals on behalf of
themselves and all other similarly situated
and/or aggrieved employees of Defendants,

Plaintiffs,

v.

DEANCO HEALTHCARE, LLC, a
California limited liability company; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 24STCV17736

CLASS AND PAGA ACTION

**SECOND AMENDED COMPLAINT FOR
DAMAGES, PENALTIES, RESTITUTION
AND INJUNCTIVE RELIEF:**

1. Failure to Provide Compliant Meal Periods and/or Pay Premium Wages (Labor Code §§ 226.7 and 512);
2. Failure to Authorize or Permit Compliant Rest Periods and/or Pay Premium Wages (Labor Code §§ 226.7 and 516);
3. Failure to Pay All Minimum and/or Regular Wages (Labor Code §§ 1194, 1194.2, 1197, 1197.1, and 1198);
4. Failure to Pay All Overtime Wages (Labor Code §§ 204, 510, 1194, and 1198);
5. Failure to Timely Pay All Wages Due and Owing Upon Separation of Employment and/or the Required Waiting Time Penalties (Labor Code §§ 201-203);

FILED
Superior Court of California
County of Los Angeles
07/23/2026

David W. Slayton, Executive Officer / Clerk of Court

By: T. Bivins Deputy

6. Failure to Furnish Accurate Itemized Wage Statements (Labor Code § 226);
7. Failure to Reimburse Necessary Business Expenses (Labor Code §§ 2802 and 2804);
8. Violation of California’s Unfair Competition Law (Business & Professions Code §§ 17200, *et seq.*); and
9. Claims for Civil Penalties Under the Private Attorneys General Act (“PAGA”) (Labor Code §§ 2698, *et seq.*)

DEMAND FOR JURY TRIAL

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1 Plaintiffs Daniel Menjivar (“Plaintiff Menjivar”), Edwin Javalois (“Plaintiff Javalois”),
2 and Tramaine Marquise Wasp (“Plaintiff Wasp”) (collectively, “Plaintiffs”) bring this class and
3 representative action on behalf of themselves and all persons similarly situated against Defendant
4 Deanco Healthcare, LLC, and DOES 1 through 50, inclusive (collectively, “Defendants” or
5 “Deanco Healthcare”), on the following grounds:

6 **INTRODUCTION**

7 1. This class action is brought by Plaintiffs on behalf of themselves and all other
8 current and former similarly situated employees.

9 2. Plaintiffs bring this representative enforcement action under the Private Attorneys
10 General Act of 2004 (codified in California Labor Code §§ 2698 *et seq.*, “PAGA”) on behalf of
11 themselves and all other current and former non-exempt employees in California who performed
12 work for Defendants and who have suffered at least one of the Labor Code violations alleged
13 herein during the relevant time period (referred to herein as “Aggrieved Employees”).

14 3. Plaintiffs assert that during the relevant time period, Defendants engaged in a
15 common pattern and practice of wage and hour violations under the California Labor Code
16 (“Labor Code”) and the applicable California Industrial Welfare Commission’s (“IWC”) Wage
17 Order to decrease their employment-related costs and increase their profits by, among other
18 things:

- 19 a. Failing to provide the opportunity to take legally compliant meal periods
20 and/or pay premium wages;
- 21 b. Failing to authorize and permit legally compliant rest periods and/or pay
22 premium wages;
- 23 c. Failing to compensate for all hours actually worked, including minimum,
24 regular, and/or overtime wages;
- 25 d. Failing to timely pay all wages due and owing upon separation of
26 employment and/or the required waiting time penalties;
- 27 e. Failing to furnish accurate itemized wage statements;
- 28 f. Failing to maintain accurate records;

g. Failing to reimburse for necessary business expenses; and

h. Engaging in unlawful, unfair and/or fraudulent business practices.

4. By and through this class and PAGA action, Plaintiffs seek to recover all available remedies, including, but not limited to, damages, statutory and civil penalties, restitution, and injunctive relief, as well as reasonable attorneys' fees and litigation costs, as provided under California law.

5. All allegations in this Second Amended Complaint are based upon information and belief except those allegations that pertain to Plaintiffs named herein, which are based upon personal knowledge. Each allegation in this Second Amended Complaint has evidentiary support or is likely to have evidentiary support after reasonable opportunity for further investigation and formal discovery.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to California Code of Civil Procedure ("Code of Civil Procedure") § 410.10. Pursuant to Code of Civil Procedure § 382 and California Business and Professions Code ("Business & Professions Code") § 17203, Plaintiffs bring this action on behalf of themselves and all other current and former similarly situated employees.

7. This Court has personal jurisdiction over Defendants because Defendants conduct business in the state of California and have caused injuries in the county of Los Angeles, as well as throughout the state of California, through their acts, omissions, and violations of the Labor Code and Business & Professions Code.

8. Venue as to Defendants is proper in this judicial district pursuant to Code of Civil Procedure § 395(a). Defendants transact business in Los Angeles County and are otherwise in this Court's jurisdiction for purposes of service of process. The unlawful acts alleged herein have a direct effect on Plaintiffs and all other similarly situated employees within the county of Los Angeles and throughout the state of California.

9. Pursuant to rule 3.400 of the California Rules of Court, this case shall be deemed a complex action because it is filed as a class action that involves specialized case management,

extensive discovery and evidence, difficult and/or novel issues, and is likely to require extensive post-judgment supervision.

THE PARTIES

I. PLAINTIFFS

10. Plaintiff Menjivar was employed by Defendants from approximately March 5, 2024 to April 22, 2024 as a non-exempt Mental Health Worker at Mission Community Hospital in Panorama City, which is owned and operated by Defendants. Plaintiff Menjivar earned an hourly wage of \$20 per hour, was paid on a bi-weekly basis, and typically worked three (3) days a week, Friday through Sunday, from 7:00 a.m. to 7:30 p.m.

11. Plaintiff Javalois is and was at all times relevant herein, an individual over the age of eighteen (18). At all relevant times herein, Plaintiff Javalois was, and currently is, a California resident. Plaintiff Javalois was employed by Defendants as a non-exempt employee.

12. Plaintiff Wasp was at all times relevant to this action, a resident of California. Plaintiff Wasp was employed by Defendants as a non-exempt employee with the title of Mental Health Worker from November 5, 2024 to February 9, 2025.

13. Plaintiffs are “aggrieved employees” as defined by Labor Code § 2699(c) and have complied with all requirements outlined in Labor Code §§ 2698 *et seq.*

14. Plaintiffs are members of the class and/or sub-classes defined herein.

II. DEFENDANT

15. Defendant Deanco Healthcare, LLC (“Deanco Healthcare”) is a California limited liability company with its principal place of business located in Beverly Hills, California. Deanco Healthcare owns and operates Mission Community Hospital, an acute care hospital located in Panorama City, California. Mission Community Hospital provides medical, surgical, psychiatric, and emergency care.

16. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate, or otherwise of defendant Does 1 through 50, inclusive, are unknown to Plaintiffs, who therefore sue these defendants by such fictitious names pursuant to Code of Civil Procedure § 474. Plaintiffs will amend this Second Amended Complaint, setting forth the true

1 names and capacities of these fictitiously named defendants when their true names are ascertained.
2 Plaintiffs are informed and believe, and on that basis allege, that each of the fictitious defendants
3 has participated in the acts and/or omissions alleged in this Second Amended Complaint.

4 17. At all times mentioned herein, the acts alleged to have been done and/or caused by
5 the named defendant are also alleged to have been done and/or caused by the fictitiously named
6 defendants, and by each of their agents and/or employees who acted within the scope of their
7 agency and/or employment.

8 18. At all times mentioned herein, each named defendant, including each fictitiously
9 named defendant, is believed to have acted individually or as an officer, agent, or employee of the
10 other defendants, including each fictitiously named defendant.

11 19. At all times mentioned herein, each named defendant, including each fictitiously
12 named defendant, acted as an agent, servant, employee, co-conspirator, alter-ego and/or joint
13 venture of the other defendants, and in doing the things alleged herein, acted within the course
14 and scope of such agency, employment, alter-ego and/or in furtherance of the joint venture.

15 20. At all times mentioned herein, the acts and/or omissions of each of the named
16 defendants, including each fictitiously named defendant, concurrently contributed to the various
17 acts and/or omissions of each and every one of the other defendants, including each fictitiously
18 named defendant, in proximately causing the wrongful conduct, harm, and/or damages alleged
19 herein. Each of the named defendants, including each fictitiously named defendant, approved of,
20 condoned, and/or otherwise ratified each and every one of the acts and/or omissions complained
21 herein. Each named defendant, including each fictitiously named defendant, was and is acting
22 with authority of each and every other defendant and/or are acting as agents of each and every
23 other defendant or Doe defendant.

24 21. At all times mentioned herein there was a unity of interest and ownership between
25 each named defendant, including each fictitiously named defendant, such that all defendants,
26 including each fictitiously named defendant, acted as a single employer of Plaintiffs and all other
27 similarly situated employees.
28

22. At all times mentioned herein, each named defendant, including each fictitiously named defendant, exercised supervision and control over the wages, hours, and/or working conditions of Plaintiffs and all other similarly situated employees, including, but not limited to, implementing standard policies and procedures.

23. At all times mentioned herein, each named defendant, including each fictitiously named defendant, caused and/or prevented Plaintiffs and other similarly situated employees from working.

24. At all times mentioned herein, each named defendant, including each fictitiously named defendant, had control over Plaintiffs and other similarly situated employees.

25. Each named defendant, including each fictitiously named defendant, is alleged to have caused each of the violations alleged herein.

26. Each named defendant, including each fictitiously named defendant, is jointly and severally liable for each of the violations alleged herein.

FACTUAL ALLEGATIONS

27. Plaintiffs reallege and incorporate by reference, as though fully set forth herein, all paragraphs of this Second Amended Complaint.

28. Plaintiff Menjivar worked as a Mental Health Worker at Defendants' Mission Community Hospital location from approximately March 5, 2024 to April 22, 2024. Plaintiff Menjivar worked with mentally ill adults and was responsible for assisting them in activities of daily living, including bathing, toileting, preparing meals, rounding, and monitoring their vitals. Plaintiff Menjivar was also responsible for transferring/transporting patients, observing and reporting their behaviors, and ensuring their safety and security. For some of his shifts, Plaintiff Menjivar worked one-on-one with his patients. For other shifts, Plaintiff Menjivar escorted patients to the visitor's room and supervised them with another staff member present.

29. Plaintiff Menjivar typically worked three (3) days a week, Friday through Sunday, from 7:00 a.m. to 7:30 p.m. Plaintiff Menjivar was compensated an hourly wage of \$20.00 per hour.

30. Plaintiff Javalois was employed by Defendants as a non-exempt employee in the position of “Mental Health Worker” from approximately 2020 until the present, though he has been on administrative leave since approximately July 1, 2024. Plaintiff Javalois was employed at Mission Community Hospital in Panorama City, where his job duties included watching patients, taking their vitals, handling new patient paperwork, and transferring patients.

31. Plaintiff Wasp was employed by Defendants as a non-exempt employee with the title of Mental Health Worker from November 5, 2024 to February 9, 2025

32. At all relevant times, Plaintiffs and other similarly situated employees were classified as non-exempt employees and earned an hourly wage. Plaintiffs and other similarly situated employees were paid on a bi-weekly basis.

33. Throughout the relevant time period, Plaintiffs and similarly situated employees regularly worked more than eight (8) hours per day and/or forty (40) hours per week.

34. Plaintiffs and all other similarly situated employees were subject to, and those currently employed continue to be subject to, the same and/or similar policies, practices, procedures, guidelines, and/or culture described herein.

35. Plaintiffs and all other similarly situated employees have suffered, and those currently employed will continue to suffer, the same and/or similar violations of law described herein.

36. During the relevant time period, Defendants had a policy, practice, procedure, guideline, and/or culture of failing to provide Plaintiffs and similarly situated employees with the opportunity to take thirty (30) minute, off-duty, uninterrupted meal periods before the end of their fifth (5th) hour of work when they worked five (5) or more hours in a day. For instance, Plaintiff Menjivar was frequently forced to take his meal period after the end of his fifth hour of work. If Plaintiff Menjivar was working one-on-one with a patient, he had to be relieved by a “floater” before he could take his meal period; however, the “floater” was often late in relieving him for his meal periods. For other shifts, Plaintiff Menjivar had to obtain permission from his preceptor to take his meal period. Due to understaffing and patient needs, Plaintiff Menjivar was instructed to take his meal break later in his shift when it was no longer busy, even if this meant taking his

1 meal break after the end of his fifth hour of work. For the same reasons, other similarly situated
2 employees were not provided with an opportunity to take timely meal periods.

3 37. Likewise, Plaintiff Javalois was never provided with meal periods that were a full
4 30 minutes of “net rest” in an area away from the work station that is appropriate for rest, which
5 employers are required by the Wage Order to maintain for their employees to use during their
6 meal and rest periods. Because of the distance between Defendants’ breakrooms and timeclocks,
7 Plaintiff Javalois and other non-exempt employees would have to shorten their meal periods
8 several minutes in order to return to their workstation prior to the end of their meal periods to
9 avoid disciplinary action.

10 38. Similarly, Defendants had a policy, practice, procedure, guideline, and/or culture of
11 failing to provide Plaintiffs and other similarly situated employees with the opportunity to take a
12 second thirty (30) minute, off-duty, uninterrupted meal period when they worked ten (10) or more
13 hours in a day. Specifically, Plaintiff Menjivar was not provided with a second meal period for
14 any of his 12-hour shifts because the hospital was short-staffed, and he was not relieved of his
15 work duties. On information and belief, other similarly situated employees were not permitted to
16 take a second meal period for these same reasons.

17 39. Defendants knew or should have known that Plaintiffs and other similarly situated
18 employees were not provided with the opportunity to take legally compliant meal periods because
19 Defendants scheduled Plaintiffs and other similarly situated employees such that they could not
20 be relieved from their work duties to take their meal periods. Defendants further understaffed their
21 facilities and required Plaintiffs and other similarly situated employees to prioritize patients’ needs
22 over taking lawful meal periods. Moreover, Plaintiffs and other similarly situated employees’
23 supervisors instructed them to take untimely meal periods or to miss their meal periods altogether.

24 40. Plaintiffs and, on information and belief, other similarly situated employees did not
25 sign a valid on-duty meal period agreement at any point during their employment, nor did they
26 properly waive any of their meal periods. Specifically, Plaintiffs did not waive their right to take
27 one of their two (2) meal periods for shifts greater than eight (8) hours because they did not sign
28 a written waiver that complies with the requirements of the applicable IWC Wage Order.

41. At all material times, Defendants did not have a policy, practice, procedure, guideline, and/or culture of paying meal period premiums to Plaintiffs and other similarly situated employees at their regular rate of pay for each workday a lawful meal period was not provided. Upon information and belief, during at least a portion of the putative class period, Defendants maintained no payroll code or other mechanism for paying meal period premiums under Labor Code § 226.7 in the event a legally compliant meal period was not provided to their non-exempt employees. For instance, Plaintiff Menjivar was not paid any meal period premiums for each shift in which he received a non-compliant meal period.

42. During the applicable time period, Defendants had a policy, practice, procedure, guideline, and/or culture of failing to authorize and permit Plaintiffs and other similarly situated employees to take uninterrupted, off-duty rest periods of at least ten (10) minutes for every four (4) hours worked or major fraction thereof. For instance, Plaintiff Menjivar was typically only permitted to take one rest period during his 12-hour shifts. If he was working one-on-one with a patient, he consistently was not relieved by a “floater” to take his second or third rest period. Likewise, if he asked his preceptor if he could take a second rest period, he was often told that he had to wait or was not permitted to take it at all because there was too much work to do. For the same reasons, other similarly situated employees were not authorized or permitted to take rest periods for every four-hour work period or major fraction thereof.

43. Likewise, Plaintiff Javalois and other non-exempt employees were not provided with a full 10 minutes of “net rest” in an area away from the workstation that is appropriate for rest, which employers are required by the Wage Order to maintain for their employees to use during their rest periods. Because of the distance between Defendants’ breakrooms and employees’ workstations, Plaintiff Javalois and other non-exempt employees would have to shorten their rest periods several minutes in order to return to their workstation prior to the end of their rest periods to avoid disciplinary action.

44. Defendants knew or should have known that Plaintiffs and other similarly situated employees were not authorized and permitted to take lawful rest periods because Defendants assigned workloads that precluded Plaintiffs and other similarly situated employees from taking

1 lawful rest periods and did not provide them with adequate relief. Moreover, Plaintiffs and other
2 similarly situated employees' supervisors knew that they were not receiving rest periods because
3 their supervisors denied their requests for rest periods.

4 45. Throughout the relevant time period, Defendants had a policy, practice, procedure,
5 guideline, and/or culture of not paying Plaintiffs and other similarly situated employees one
6 additional hour of pay at their regular rate of compensation for each workday a lawful rest period
7 was not provided. Plaintiffs assert that they were not paid a single rest period premium during
8 their employment with Defendants.

9 46. During the relevant time period, Defendants had a policy, practice, procedure,
10 guideline, and/or culture of failing to pay Plaintiffs and similarly situated employees all minimum,
11 regular, and/or overtime wages for all hours worked or spent under the control of Defendants.

12 47. Plaintiffs and, on information and belief, other similarly situated employees were
13 not paid all minimum, regular, and/or overtime wages earned for all hours worked as a result of
14 Defendants' policy and practice of rounding employees' hours worked per shift to the nearest
15 15-minute increment. As an example, if the total hours Plaintiff Menjivar worked during a shift
16 was at 11.62, it would be rounded down to the nearest 15-minute increment (11.50), and if the
17 total hours worked during a shift was at 11.48, it would be rounded up to the nearest 15-minute
18 increment (11.50). Although Defendants have, and have always had, the ability to capture and did
19 capture the exact amount of time Plaintiffs and other similarly situated employees worked during
20 a shift, Defendants still chose not to compensate Plaintiffs and other similarly situated employees
21 for their actual time worked because of the rounding system. To date, Plaintiff Menjivar has
22 identified at least three (3) separate shifts where Defendants' rounding caused him to be paid less
23 than the actual hours worked and recorded by Defendants' timekeeping system. As a result of
24 Defendants' improper rounding policy, Plaintiffs and other similarly situated employees have
25 been systematically deprived of compensation for all hours worked.

26 48. Plaintiff Wasp alleges that he and other similarly situated employees were required
27 to work off-the-clock before and after their scheduled shifts without receiving proper
28 remuneration.

49. Plaintiff Wasp further alleges that he was employed as a Psychiatric Nursing Coordinator on a purported 3/12 Alternative Workweek Schedule (“AWS”), under which he regularly worked twelve-hour shifts at Mission Community Hospital. However, the California Department of Industrial Relations’ AWS election database contains no record of any valid AWS election for Mission Community Hospital, Deanco Healthcare LLC, or the facility where Plaintiff Wasp worked. Plaintiff Wasp’s paystubs confirm that Defendants paid overtime only after approximately thirty-six (36) regular hours per week rather than after eight (8) hours in a workday, consistent with an invalid AWS scheme. For example, during the pay period ending February 22, 2025, Plaintiff Wasp was paid for forty-seven (47) total hours—thirty-six (36) regular and eleven (11) overtime—reflecting payment of overtime only after three twelve-hour shifts. As a result, Plaintiff Wasp and other similarly situated employees were deprived of full daily overtime compensation required under Labor Code sections 510 and 1194 and IWC Wage Order No. 5-2001.

50. Defendants also failed to properly calculate Plaintiffs’ and other similarly situated employees’ regular rate of pay including but not limited to by failing to include all forms of compensation/remuneration in the regular rate such as bonuses, incentives, commissions, shift differentials, and other compensation for overtime calculation purposes.

51. During Plaintiffs’ employment with Defendants, Defendants further failed to properly calculate the regular rate of pay when calculating their employees’ sick time pay, thus providing Plaintiffs and other non-exempt employees with sick time pay at below the regular rate of pay, in violation of California law.

52. Defendants had, and continue to have, a policy, practice, procedure, guideline, and/or culture of failing to pay Plaintiff Menjivar and other similarly situated employees all wages due and owing upon separation of employment and/or the required waiting time penalties. For instance, Plaintiff Menjivar’s final paycheck did not include all earned wages, including all minimum, regular, and/or overtime wages, or meal and rest period premiums; nor did the final paycheck provide the required waiting time penalties. To date, Plaintiff Menjivar has not received all wages due and owing or the required waiting time penalties. Plaintiff Menjivar further alleges

1 that other similarly situated former employees were not timely paid all wages due and owing upon
2 separation of employment and/or the required waiting time penalties.

3 53. During the relevant time period, Defendants had a policy, practice, procedure,
4 guideline, and/or culture of furnishing wage statements to Plaintiffs and other similarly situated
5 employees that do not reflect the items required by Labor Code § 226(a), including but not limited
6 to, all applicable hourly rates in effect during the pay period, the corresponding number of hours
7 worked at each hourly rate by the employee, the actual gross wages earned, the actual net wages
8 earned, and the proper pay period information. For example, the wage statements furnished to
9 Plaintiffs did not properly reflect the total hours of compensable time they worked as a result of
10 the rounding policy described herein, nor did the wage statements reflect premium wages earned
11 by Plaintiffs.

12 54. Due to the incorrect and/or lack of information included on the wage statements
13 furnished by Defendants, Plaintiffs and other similarly situated employees were unable to
14 promptly and easily determine, for instance, the total number of hours they actually worked,
15 whether they were properly paid all earned wages, the appropriate rate of pay during the pay
16 period, and/or the corresponding number of hours worked at each hourly rate, among other things.

17 55. Plaintiffs contend that at all relevant times, Defendants had a policy, practice,
18 procedure, guideline, and/or culture of failing to maintain accurate employment records for
19 Plaintiffs and other Aggrieved Employees. For instance, Defendants' rounding policy prevented
20 the actual hours worked by the Aggrieved Employees to be recorded in their time and payroll
21 records.

22 56. Plaintiffs Javalois and Wasp allege that Defendants failed to adequately reimburse
23 them and other non-exempt employees for all reasonable and necessary work expenditures,
24 including, but not limited to, use of personal cellular phones to communicate with co-workers.
25 Despite requiring Plaintiffs and other non-exempt employees to use their personal cell phones
26 during work hours and outside of work hours, Defendants did not adequately reimburse Plaintiffs
27 and other non-exempt employees for these expenses.
28

57. As a result of Defendants’ policies, practices, procedures, guidelines and/or culture described herein including, but not limited to, their failure to provide meal and rest periods and pay all earned wages, Defendants engaged in unlawful, unfair, and fraudulent business practices.

58. On July 15, 2024, Plaintiff Menjivar submitted written notice to the California Labor and Workforce Development Agency (“LWDA”) and Defendant Deanco Healthcare, LLC, as required by the Private Attorneys General Act of 2004 (“PAGA”) informing them of Deanco Healthcare LLC’s alleged violations of the Labor Code. Attached as **Exhibit 1** is a true and correct copy of Plaintiff Menjivar’s LWDA notice dated July 15, 2024.

59. On July 31, 2024, Plaintiff Javalois submitted written notice to the LWDA via its website and certified mail to Defendants, as required by the PAGA, informing them of Defendants’ alleged violations of the Labor Code. Attached as **Exhibit 2** is a true and correct copy of Plaintiff Javalois’s LWDA notice dated July 31, 2024.

60. On October 8, 2025, Plaintiff Wasp submitted written notice to the LWDA via its website and certified mail to Defendants, as required by the PAGA, informing them of Defendants’ alleged violations of the Labor Code. Attached as **Exhibit 3** is a true and correct copy of Plaintiff Wasp’s LWDA notice dated October 8, 2025.

61. According to Labor Code § 2699.3, the LWDA had sixty-five (65) days from the date of submission to notify the parties of whether it intends to investigate the alleged violations. To date, the LWDA has not informed Plaintiffs that it intends to investigate Plaintiffs’ allegations. Moreover, pursuant to Labor Code § 2699.3(c), Defendants had 33 calendar days of the postmark date of the LWDA notice sent by Plaintiffs to cure the alleged violations not listed in listed in Labor Code § 2699.5. To date, Defendants have not provided any written notice to Plaintiffs that the alleged violations have been cured. Thus, pursuant to the PAGA, Plaintiffs have the right to pursue, and do so pursue, the asserted claims in a law enforcement action in their representative capacity on behalf of themselves, all other aggrieved employees, the general public, and the state of California, as permitted by Labor Code § 2699.3.

62. Plaintiffs believe that additional violations may be discovered and therefore reserve their right to allege additional violations of law as investigation and discovery warrants. In the

event Plaintiffs discover additional violations, Plaintiffs will seek to amend the operative complaint as necessary.

CLASS DEFINITIONS

63. Plaintiffs seek to represent the following class, defined as follows:

Non-Exempt Class:

All current and former non-exempt employees of Defendants in California during the period of November 2, 2022 through and including the last date of trial.

64. Plaintiff Menjivar seeks to represent the following sub-class, defined as follows:

Waiting Time Penalties Sub-Class:

All members of the Non-Exempt Class who separated employment at least once at any time during the period of November 2, 2022 through and including the last date of trial.

65. Members of the Non-Exempt Class and Waiting Time Penalties Sub-Class are all “employees” as the term is used in the Labor Code and the relevant IWC Wage Order regulating wages, hours, and working conditions in the state of California.

66. A more precise definition of the Non-Exempt Class and Waiting Time Penalties Sub-Class may be determined after further investigation and discovery. Plaintiffs reserve their right to redefine the class and/or sub-class and/or create additional classes and/or sub-classes at any time prior to the court’s order on Plaintiffs’ class certification motion as provided by law.

CLASS ACTION DESIGNATION

67. Plaintiffs reallege and incorporate by reference, as though fully set forth herein, all paragraphs of this Second Amended Complaint.

68. Plaintiffs bring this action on behalf of themselves and on behalf of all persons within the Non-Exempt Class and Waiting Time Penalties Sub-Class defined herein.

69. This action is appropriately suited for a class action pursuant to Code of Civil Procedure § 382 and California Civil Code (“Civil Code”) § 1781, because the following statutory requirements are met:

///

///

1 **A. Numerosity**

2 70. The members of the Non-Exempt Class and the Waiting Time Penalties Sub-Class
3 are sufficiently numerous to render the joinder of all their members impracticable. While Plaintiffs
4 have not yet determined the precise number of members of the Non-Exempt Class and the Waiting
5 Time Penalties Sub-Class, Plaintiffs are informed and believe that the Class and Sub-Class likely
6 consist of more than 1,000 individuals.

7 71. Although the exact number is currently unknown to Plaintiffs, this information is
8 easily ascertainable from Defendants' time and payroll records and other records of Defendants.

9 **B. Commonality**

10 72. Common questions of law and fact exist as to all putative class members and
11 predominate over any questions affecting only individual members of the Non-Exempt Class or
12 the Waiting Time Penalties Sub-Class. The common questions of law and fact that predominate
13 include, but are not limited to:

- 14 a. Whether Defendants failed to provide members of the Non-Exempt Class
15 with off-duty, thirty-minute meal periods before the commencement of the
16 sixth hour of work;
- 17 b. Whether Defendants failed to provide members of the Non-Exempt Class
18 with a second off-duty, thirty-minute meal period before the commencement
19 of the eleventh hour of work;
- 20 c. Whether Defendants had a policy properly informing Non-Exempt Class
21 members of their right to take compliant meal periods;
- 22 d. Whether Non-Exempt Class members properly waived their right to take
23 their meal periods;
- 24 e. Whether Defendants failed to permit Non-Exempt Class members to take
25 off-duty rest periods of at least ten minutes for every four (4) hours worked,
26 or major fraction thereof;
- 27 f. Whether Defendants had a policy properly informing Non-Exempt Class
28 members of their right to take compliant rest periods;

- g. Whether Defendants failed to pay one additional hour of pay at the regular rate of compensation to Non-Exempt Class Members when they were not provided with compliant meal periods and/or rest periods;
- h. Whether Defendants failed to pay Non-Exempt Class members at least minimum wages and/or all regular wages owed for all hours or fractions of an hour worked and under the control of Defendants;
- i. Whether Defendants failed to pay Non-Exempt Class members all overtime wages for all hours, or fraction of hours, worked and under the control of Defendants;
- j. Whether Defendants' rounding policy unlawfully deprived Non-Exempt Class members of minimum, regular, and/or overtime wages earned;
- k. Whether Defendants failed to provide Non-Exempt Class members with accurate itemized wage statements showing, among other things, the number of hours worked and the correct amount of gross and net wages earned;
- l. Whether Defendants failed to reimburse Non-Exempt Class members for expenses necessarily incurred in the discharge of their job duties; and
- m. Whether Defendants failed to pay Waiting Time Penalties Sub-Class members all of their wages owed within the required time frames upon separation of employment.

C. Typicality

73. Plaintiffs' claims are typical of the claims of all putative class members because Plaintiffs' and all putative class members' claims arise from the same events, practices and/or courses of conduct of Defendants. Plaintiffs and all putative class members sustained injuries and damages as a result of Defendants' illegal policies, practices and/or common courses of conduct in violation of California wage and hour laws and/or illegal, unfair, or fraudulent business practices.

74. Furthermore, Plaintiffs' claims under the Labor Code and the applicable IWC Wage Order are typical of the Non-Exempt Class and the Waiting Time Penalties Sub-Class because

Defendants' failure to comply with the provisions of California's wage and hour laws entitles Plaintiffs and each putative class member to similar pay, benefits, and other relief. Accordingly, the legal theories underlying each cause of action are the same and the remedies sought by Plaintiffs and all putative class members are the same.

D. Adequacy of Representation

75. Plaintiffs are members of the Non-Exempt Class and/or the Waiting Time Penalties Sub-Class and they have no fundamental conflict of interest with the putative class members they seek to represent.

76. Plaintiffs will vigorously protect the interests of all putative class members because it is in Plaintiffs' best interest to prosecute the claims alleged herein to obtain full compensation and penalties due to them and the putative class members.

77. Plaintiffs retained attorneys who are experienced employment law litigators with significant wage and hour and class action experience.

E. Superiority of Class Action

78. Plaintiffs believe a class action is a superior method of litigation for the fair and efficient adjudication of this controversy. Individual joinder of all putative class members is not practicable. Class action treatment will allow similarly situated employees to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system.

79. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are raised in this Second Amended Complaint are common to the class and/or sub-class and will apply uniformly to every member of the Non-Exempt Class and Waiting Time Penalties Sub-Class, and as a practical matter, be dispositive of the interests of the other members not party to the adjudication.

80. Plaintiffs know of no difficulty that might be encountered in the management of this suit, which would preclude maintenance as a class action, in that:

- a. The persons who comprise the Non-Exempt Class and Waiting Time Penalties Sub-Class are so numerous that the joinder of all such persons is impracticable and the disposition of their claims as a class will benefit the parties and the Court;

- b. The parties opposing the Non-Exempt Class and Waiting Time Penalties Sub-Class have acted or have refused to act on grounds generally applicable to the class and/or sub-class, thereby making final injunctive relief or declaratory relief appropriate with respect to the class and/or sub-class as a whole; and
- c. Common questions of law and fact exist as to the members of the Non-Exempt Class and/or Waiting Time Penalties Sub-Class and predominate over any question affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:
- i. The interests of class members and/or sub-class members in individually controlling the prosecution or defense of separate actions;
 - ii. The extent and nature of any litigation concerning the controversy already commenced by or against members of the Non-Exempt Class and/or Waiting Time Penalties Sub-Class;
 - iii. The desirability or undesirability of concentrating the litigation of the claims in this particular forum; and
 - iv. The likely difficulties in the managing of a class action.

81. In sum, the Court should permit this action to be maintained as a class action pursuant to Code of Civil Procedure § 382 and Civil Code § 1781.

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CAUSES OF ACTION

FIRST CAUSE OF ACTION

FAILURE TO PROVIDE COMPLIANT MEAL PERIODS

AND/OR PAY PREMIUM WAGES

**(Labor Code §§ 226.7, 512, and the “Meal Periods” section of the
Applicable IWC Wage Order)**

**(Alleged By Plaintiffs, Individually and On Behalf of the Non-Exempt Class, Against All
Defendants)**

82. Plaintiffs reallege and incorporate by reference, as though fully set forth herein, all paragraphs of this Second Amended Complaint.

83. Plaintiffs and the Non-Exempt Class members are non-exempt employees who typically worked shifts over six (6) hours a day.

84. Labor Code § 512(a) mandates:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

85. The “Meal Periods” section of the applicable IWC Wage Order provides, in pertinent part:

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. ...

(B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer

shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

86. The "Meal Periods" section of the IWC Wage Order also states:

Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

87. The "Meal Periods" section of the IWC Wage Order further states:

Notwithstanding any other provision of this order, employees in the health care industry who work shifts in excess of eight (8) total hours in a workday may voluntarily waive their right to one of their two meal periods. In order to be valid, any such waiver must be documented in a written agreement that is voluntarily signed by both the employee and the employer. The employee may revoke the waiver at any time by providing the employer at least one day's written notice. The employee shall be fully compensated for all working time, including any on-the-job meal period, while such a waiver is in effect.

88. A meal period generally complies with the requirements of California law if the employee has at least 30-minutes uninterrupted, is relieved of any and all work duties, and is free to leave the premises during such time. (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1036.) California law further prohibits employers from "...undermining [its] formal policy of providing meal breaks by pressuring employees to perform their duties in ways that omit breaks." (*Id.* at 1040 [internal citations omitted].)

89. Labor Code § 226.7(b) states, "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission..." Labor Code § 226.7(c) further provides:

If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law... the employer shall pay the employee one additional hour of pay at the employee's regular rate of

1 compensation for each workday that the meal or rest or recovery
2 period is not provided.

3 90. At all relevant times, Defendants had a policy, practice, procedure, guideline, and/or
4 culture of failing to provide Plaintiffs and the Non-Exempt Class with the opportunity to take a
5 thirty minute, uninterrupted, off-duty meal period before the end of their fifth hour of work when
6 they worked five (5) or more hours in a day. Defendants also had a policy, practice, procedure,
7 guideline, and/or culture of failing to provide Non-Exempt Class Members, including Plaintiffs,
8 with the opportunity to take a second thirty minute, off-duty, uninterrupted meal period when they
9 worked ten (10) or more hours in a day.

10 91. Plaintiffs and the Non-Exempt Class members did not receive lawful meal periods
11 due to Defendants' policy, practice, procedure, guideline, and/or culture of failing to provide
12 adequate relief to Non-Exempt Class members so that they could take their meal periods;
13 assigning workloads that could not be reasonably completed within their scheduled hours while
14 also taking meal periods; understaffing their facilities; and requiring Non-Exempt Class Members
15 to prioritize patient needs and work duties over taking lawful meal periods. As a result, Plaintiffs
16 and the Non-Exempt Class members were regularly required to take late and/or interrupted meal
17 periods, and/or were not provided with any meal periods at all.

18 92. Defendants knew or should have known that Plaintiffs and the Non-Exempt Class
19 members were not provided with the opportunity to take legally compliant meal periods, as
20 Defendants assigned workloads that precluded Plaintiffs and other Non-Exempt Class members
21 from taking lawful meal periods, required them to prioritize work duties over taking their meal
22 periods, and scheduled employees such that they could not be relieved from their work duties to
23 take their meal periods.

24 93. Plaintiffs and, on information and belief, other Non-Exempt Class members did not
25 sign an on-duty meal period agreement at any point during their employment, nor did they
26 properly waive any of their meal periods. Plaintiffs and other Non-Exempt Class members did not
27 waive their right to take one of their two (2) meal periods for shifts greater than eight (8) hours
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1 because they did not sign a written waiver that complies with the requirements of the applicable
2 IWC Wage Order.

3 94. At all relevant times, Defendants had a policy, practice, procedure, guideline, and/or
4 culture of not paying the required meal period premiums at the Non-Exempt Class members'
5 regular rate of pay for each workday a lawful meal period was not provided.

6 95. Defendants' unlawful conduct caused Plaintiffs and the Non-Exempt Class
7 members to suffer, and current Non-Exempt Class members will continue to suffer, damages in
8 an amount which is presently unknown, but which exceeds the jurisdictional limits of this Court
9 and which will be ascertained according to proof at trial.

10 96. Pursuant to Labor Code § 226.7(c) and the applicable IWC Order, Plaintiffs and the
11 Non-Exempt Class members are entitled to, and seek to recover the full amount of unpaid
12 premium wages for unlawful meal periods.

13 97. Pursuant to Labor Code § 218.6, Plaintiffs and the Non-Exempt Class members are
14 entitled to, and now seek to recover, prejudgment interest on the amount of premium wages owed.

15 98. Plaintiffs, on behalf of themselves and the Non-Exempt Class members, are entitled
16 to and seek recovery of reasonable attorneys' fees and costs as permitted by Labor Code § 218.5
17 and Code of Civil Procedure § 1021.5.

18 99. Plaintiffs, on behalf of themselves and the Non-Exempt Class, request further relief
19 as described in the below prayer.

20 **SECOND CAUSE OF ACTION**

21 **FAILURE TO AUTHORIZE OR PERMIT COMPLIANT REST PERIODS**

22 **AND/OR PAY PREMIUM WAGES**

23 **[Labor Code §§ 226.7, 516, and the "Rest Periods" Section of the**

24 **Applicable IWC Wage Order]**

25 **(Alleged By Plaintiffs, Individually and On Behalf of the Non-Exempt Class, Against All**
26 **Defendants)**

27 100. Plaintiffs reallege and incorporate by reference, as though fully set forth herein, all
28 paragraphs of this Second Amended Complaint.

101. The “Rest Periods” section of the applicable IWC Wage Order provides:

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes of net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.

102. During rest periods, California law requires employers to relinquish all control over their employees and relieve their employees of all duties. (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 267, 269.)

103. In pertinent part, Labor Code § 226.7 states:

(b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and health.

(c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for workday that the meal or rest or recovery period is not provided.

104. Defendants had a policy, practice, procedure, guideline, and/or culture of failing to authorize and permit Plaintiffs and other Non-Exempt Class members to take a ten (10) minute, uninterrupted, off-duty rest period for every four (4) hours worked or major fraction thereof. Plaintiffs and members of the Non-Exempt Class were not relieved of their work duties to take their rest periods. Specifically, Plaintiffs and members of the Non-Exempt Class were consistently not authorized or permitted to take their second and/or third rest periods for their 12-hour shifts.

1 105. Plaintiffs contend that Defendants knew or should have known that they and other
2 Non-Exempt Class members were not authorized and permitted to take legally compliant rest
3 periods because Defendants did not provide Non-Exempt Class members with adequate relief to
4 take rest periods, required Non-Exempt Class members to prioritize patient needs over taking rest
5 periods, and further assigned workloads that precluded them from taking lawful rest periods.

6 106. At all relevant times, Defendants had a policy, practice, procedure, guideline, and/or
7 culture of not paying the required rest period premiums for each workday a lawful rest period was
8 not provided. Plaintiffs assert that despite not being provided with legally compliant rest periods,
9 they and other Non-Exempt Class members did not receive rest period premium wages at their
10 regular rate of pay.

11 107. Due to Defendants' unlawful conduct, Plaintiffs and the Non-Exempt Class
12 members have suffered, and will continue to suffer, damages in an amount which is presently
13 unknown, but which exceeds the jurisdictional limits of this Court and which will be ascertained
14 according to proof at trial.

15 108. According to Labor Code § 226.7(c) and the applicable IWC Wage Order, Plaintiffs
16 and the Non-Exempt Class members are entitled to, and now seek to recover, the full amount of
17 unpaid premium wages for unlawful rest periods.

18 109. Pursuant to Labor Code § 218.6, Plaintiffs and the Non-Exempt Class members are
19 entitled to, and now seek to recover, prejudgment interest on the amount of premium wages owed.

20 110. Plaintiffs, on behalf of themselves and the Non-Exempt Class, are entitled to and
21 seek recovery of reasonable attorneys' fees and costs as permitted by Labor Code § 218.5 and
22 Code of Civil Procedure § 1021.5.

23 111. Plaintiffs, on behalf of themselves and the Non-Exempt Class, request further relief
24 as described in the below prayer.

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1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PAY ALL MINIMUM AND/OR REGULAR WAGES**

3 **[Labor Code §§ 1194, 1194.2, 1197, 1197.1, 1198, and the “Minimum Wages” section of the**
4 **Applicable IWC Wage Order]**

5 **(Alleged by Plaintiffs, Individually and On Behalf of the Non-Exempt Class, Against All**
6 **Defendants)**

7 112. Plaintiffs reallege and incorporate by reference, as though fully set forth herein, all
8 paragraphs of this Second Amended Complaint.

9 113. Labor Code § 1197 states, “[t]he minimum wage for employees fixed by the
10 commission is the minimum wage to be paid to employees, and the payment of a lower wage than
11 the minimum so fixed is unlawful.” (See *Gonzalez v. Downtown LA Motors, LP* (2013) 215 Cal.
12 App. 4th 36, 44 [providing that an employer may not pay “less than the applicable minimum wage
13 for all hours worked in the payroll period, whether the remunerations is measured by time, piece,
14 commission, or otherwise”].)

15 114. The “Minimum Wages” section of the applicable IWC Wage Order further provides
16 that every employer shall pay to each employee not less than the applicable minimum wage for
17 all hours worked.

18 115. The applicable IWC Wage Order defines the term “hours worked” as “the time
19 during which an employee is subject to the control of an employer, and includes all the time the
20 employee is suffered or permitted to work, whether or not required to do so.... Within the health
21 care industry, the term “hours worked” means the time during which an employee is suffered or
22 permitted to work for the employer, whether or not required to do so, as interpreted in accordance
23 with the provisions of the Fair Labor Standards Act.”

24 116. Labor Code § 1197.1 provides that,

25 Any employer or other person acting either individually or as an
26 officer, agent, or employee of another person, who pays or causes to
27 be paid to any employee a wage less than the minimum fixed by an
28 applicable state or local law or by an order of the commission shall be
subject to a civil penalty, restitution of wages, liquidated damages
payable to the employee, and any applicable penalties imposed
pursuant to § 203...

1 117. Labor Code § 1194(a) mandates:

2 Notwithstanding any agreement to work for a lesser wage, any
3 employee receiving less than the legal minimum wage or the legal
4 overtime compensation applicable to the employee is entitled to
5 recover in a civil action the unpaid balance of the full amount of this
6 minimum wage or overtime compensation, including interest thereon,
7 reasonable attorney's fees, and costs of suit.

8 118. For actions brought under Labor Code §§ 1194 or 1197.1, Labor Code § 1194.2
9 allows for the recovery of liquidated damages in an amount equal to the minimum wages
10 unlawfully unpaid and interest thereon.

11 119. Labor Code § 1198 further states:

12 The maximum hours of work and the standard conditions of labor
13 fixed by the commission shall be the maximum hours of work and the
14 standard conditions of labor for employees. The employment of any
15 employee for longer hours than those fixed by the order or under
16 conditions of labor prohibited by the order is unlawful.

17 120. Under *See's Candy Shops, Inc. v. Superior Ct.* (2012) 210 Cal. App. 4th 889
18 (“*See's Candy*”), a rounding policy will be considered unlawful “if it systematically
19 undercompensates employees, such as where the defendant’s rounding policy encompasses only
20 rounding down.” However, several recent cases have challenged the holding in *See's Candy* in
21 situations when an employer maintains an electronic time system that is capable of precise time
22 keeping. In *Woodworth v. Loma Linda University Medical Center* (2023) 93 Cal. App. 5th 1038,
23 1059, the court held the following: “if an employer ‘can capture and has captured the exact amount
24 of time an employee has worked during a shift, the employer must pay the employee for ‘all the
25 time’ worked.’”].) Moreover, in *Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal. App. 5th 638,
26 660, the court held that “the application of *See's Candy* should be reexamined in circumstances
27 where employee work time in minutes can be captured and has been captured by the employer
28 and, as a result of a quarter-hour rounding system, the employee is not compensated for all actual
work time.” The Court of Appeals determined that “if an employer, as in this case, can capture

1 and has captured the exact amount of time an employee has worked during a shift, the employer
2 must pay the employee for ‘all the time’ worked.” (*Ibid.*)

3 121. At all material times, Plaintiffs contend that Defendants had a policy, practice,
4 procedure, guideline, and/or culture of not paying Non-Exempt Class members all minimum
5 and/or regular wages for all time actually worked or spent under the control of Defendants.
6 Defendants’ improper rounding practice, which rounded Non-Exempt Class members’ total hours
7 worked per shift to the nearest 15-minute increment, deprived employees of all minimum and/or
8 regular wages for all hours worked. Defendants maintained an electronic timekeeping system that
9 could and did capture Non-Exempt Class members’ time punches precisely, yet unnecessarily
10 rounded their hours worked and therefore failed to provide employees with compensation
11 according to their actual time punches.

12 122. Defendants also failed to provide remuneration for off-the-clock work performed
13 by Plaintiffs and the Non-Exempt Class.

14 123. As a direct result of Defendants’ unlawful failure to compensate Plaintiffs and the
15 Non-Exempt Class members minimum and/or regular wages for all of their time worked and/or
16 spent under the control of Defendants, Non-Exempt Class members have suffered, and will
17 continue to suffer, damages in amounts which are presently unknown, but which exceed the
18 jurisdictional limits of this Court and will be ascertained according to proof at trial.

19 124. Having received less than the legal minimum wage, Plaintiffs and the Non-Exempt
20 Class members are entitled to, and now seek to recover, all wages and penalties owed, including
21 penalties and liquidated damages available under Labor Code §§ 1194.2 and 1197.1, as well as
22 interest and reasonable attorneys’ fees and costs available under Labor Code §§ 218.5 and 1194,
23 and Code of Civil Procedure § 1021.5.

24 125. Plaintiffs, on behalf of themselves and the Non-Exempt Class, request further relief
25 as described in the below prayer.

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FOURTH CAUSE OF ACTION

FAILURE TO PAY ALL OVERTIME WAGES

**[Labor Code §§ 204, 510, 1194, 1198, and the “Hours and Days of Work” section of the
Applicable IWC Wage Order]**

**(Alleged by Plaintiffs, Individually and On Behalf of the Non-Exempt Class, Against All
Defendants)**

126. Plaintiffs reallege and incorporate by reference, as though fully set forth herein, all paragraphs of this Second Amended Complaint.

127. Labor Code § 510(a), which codifies an employee’s right to overtime compensation, provides:

Eight hours of labor constitutes a day’s work. Any 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. 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. In addition, 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.

128. The “Hours and Days of Work” section in the applicable IWC Wage order mandate the same requirements as Labor Code § 510.

129. The applicable IWC Wage Order defines the term “hours worked” as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.... Within the health care industry, the term “hours worked” means the time during which an employee is suffered or permitted to work for the employer, whether or not required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards Act.”

130. Under California law, an employee may not waive his or her right to overtime compensation and any agreement by the employee to accept less than the statutorily required rate is unenforceable as a matter of law. (*Early v. Superior Court* (2000) 79 Cal. App. 4th 1420, 1430.)

131. Labor Code § 1194(a) mandates:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

132. Labor Code § 1198 further states:

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

133. Under *See's Candy, supra*, 210 Cal. App. 4th 889, a rounding policy will be considered unlawful "if it systematically undercompensates employees, such as where the defendant's rounding policy encompasses only rounding down." However, several recent cases have challenged the holding in *See's Candy* in situations when an employer maintains an electronic time system that is capable of precise time keeping. In *Woodworth, supra*, 93 Cal. App. 5th at p. 1059, the court held the following: "if an employer 'can capture and has captured the exact amount of time an employee has worked during a shift, the employer must pay the employee for 'all the time' worked.'"[.] Moreover, in *Camp, supra*, 84 Cal. App. 5th at p. 660, the court held that "the application of *See's Candy* should be reexamined in circumstances where employee work time in minutes can be captured and has been captured by the employer and, as a result of a quarter-hour rounding system, the employee is not compensated for all actual work time." The Court of Appeals determined that "if an employer, as in this case, can capture and has captured the exact amount of time an employee has worked during a shift, the employer must pay the employee for 'all the time' worked." (*Ibid.*)

134. Plaintiffs and Non-Exempt Class members regularly worked more than eight (8) hours per day and/or forty (40) hours per week during the relevant time period, and were to be paid on a bi-weekly basis.

1 135. During the relevant time period, Defendants had a policy, practice, procedure,
2 guideline, and/or culture of not paying Non-Exempt Class members all overtime wages for all
3 hours worked in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek.
4 Specifically, Plaintiffs and other Non-Exempt Class members were deprived of overtime wages
5 as a result of Defendants' rounding policy, whereby the total hours worked by Plaintiffs and other
6 Non-Exempt Class members were rounded to the nearest 15-minute increment, even though
7 Defendants have, and always had, the ability to capture and did capture the exact amount of time
8 Non-Exempt Class members worked during a shift. Defendants also failed to account for all off-
9 the-clock work performed by Plaintiffs and Non-Exempt Class members when paying overtime
10 wages.

11 136. Defendants further failed to properly calculate the regular rate of pay by failing to
12 incorporate all non-discretionary compensation when calculating and paying overtime wages.

13 137. As a direct result of Defendants' unlawful failure to compensate Plaintiffs and the
14 Non-Exempt Class members overtime wages for all of their time worked and/or spent under the
15 control of Defendants, Non-Exempt Class members have suffered, and will continue to suffer,
16 damages in amounts which are presently unknown, but which exceed the jurisdictional limits of
17 this Court and will be ascertained according to proof at trial.

18 138. Having received less than the applicable rate of overtime compensation, Plaintiffs
19 and the Non-Exempt Class members are entitled to, and now seek to recover, all wages and
20 penalties owed pursuant to Labor Code § 1194, as well as interest and reasonable attorneys' fees
21 and costs available under Labor Code §§ 218.5 and 1194, and Code of Civil Procedure § 1021.5.

22 139. Plaintiffs, on behalf of themselves and the Non-Exempt Class, request further relief
23 as described in the below prayer.

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FIFTH CAUSE OF ACTION

**FAILURE TO TIMELY PAY ALL WAGES DUE AND OWING UPON SEPARATION
OF EMPLOYMENT AND/OR THE REQUIRED WAITING TIME PENALTIES**

[Labor Code §§ 201, 202, and 203]

**(Alleged By Plaintiff Menjivar, Individually and On Behalf of the Waiting Time Penalties
Sub-Class, Against All Defendants)**

140. Plaintiffs reallege and incorporate by reference, as though fully set forth herein, all paragraphs of this Second Amended Complaint.

141. Pursuant to Labor Code § 201(a), when an employer discharges an employee, all earned wages that remain unpaid at the time of discharge are due and payable immediately.

142. Labor Code § 202(a) provides, in pertinent part:

If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

143. Labor Code § 203(a) further states:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, ... 202 ..., any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action thereof is commenced; but the wages shall not continue for more than 30 days.

144. At all relevant times, Defendants had a policy, practice, procedure, guideline, and/or culture of failing to timely pay Waiting Time Penalties Sub-Class members, including Plaintiff Menjivar himself, all wages due and owing upon separation of employment. For instance, Plaintiff Menjivar's final paycheck did not include all of his earned wages, including all minimum, regular, and/or overtime wages for all hours worked, as well as meal and rest period premiums. To date, Defendants have not paid Plaintiff Menjivar these owed wages. Plaintiff Menjivar alleges, based on information and belief, that other Waiting Time Penalties Sub-Class members were also not

1 timely paid all wages due and owing upon their separation of employment within the time frames
2 prescribed by California law.

3 145. Plaintiff Menjivar also alleges that, at all relevant times, Defendants had a policy,
4 practice, procedure, guideline, and/or culture of failing to pay the appropriate waiting time
5 penalties to Waiting Time Penalties Sub-Class members. For instance, Plaintiff Menjivar has not
6 yet received the required waiting time penalties for Defendants' late payment of his final wages.

7 146. Defendants knowingly failed to timely and appropriately compensate Waiting Time
8 Penalties Sub-Class members, including Plaintiff Menjivar, for all minimum, regular, overtime,
9 and/or premium wages, as described herein. Defendants knew or should have known that Waiting
10 Time Penalties Sub-Class members were not paid for all wages owed and recorded on Defendants'
11 timekeeping system, and/or knew or should have known that the meal periods provided were late,
12 short, or interrupted. Defendants took no steps to remedy the illegal rounding policy or the illegal
13 practice of not paying for a meal premium for a meal period that was late, short, or interrupted.

14 147. As a consequence of Defendants' willful and deliberate refusal to render such
15 wages, Plaintiff Menjivar and the Waiting Time Penalties Sub-Class members are entitled to, and
16 thus seek a maximum of thirty (30) days' wages at their daily rate of pay as a waiting time penalty,
17 pursuant to Labor Code § 203.

18 148. As a direct result of Defendants' violations alleged herein, Plaintiff Menjivar and
19 the Waiting Time Penalties Sub-Class members suffered and continue to suffer losses related to
20 the use and enjoyment of wages due and owing to them, all to their respective detriment in an
21 amount to be shown according to proof at trial and within the jurisdictional limitations of this
22 Court.

23 149. Plaintiff Menjivar, on behalf of himself and the Waiting Time Penalties Sub-Class
24 members, is also entitled to and seeks recovery of reasonable attorneys' fees and costs as permitted
25 by Labor Code § 218.5 and Code of Civil Procedure § 1021.5.

26 150. Plaintiff Menjivar, on behalf of himself and the Waiting Time Penalties Sub-Class,
27 requests further relief as described in the below prayer.

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SIXTH CAUSE OF ACTION
FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

**[Labor Code § 226 and the “Records” Section of the
Applicable IWC Wage Order]**
**(Alleged By Plaintiffs, Individually and On Behalf of the Non-Exempt Class, Against All
Defendants)**

151. Plaintiffs reallege and incorporate by reference, as though fully set forth herein, all paragraphs of this Second Amended Complaint.

152. Labor Code § 226(a) states, in pertinent part:

An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as detachable part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number, (8) the name and address of the legal entity that is the employer, ... and (9) all applicable hourly rates in effect during each period and the corresponding number of hours worked at each hourly rate by the employee...

153. The “Records” section of the applicable IWC Wage Order further provides, in pertinent part:

Every employer shall semimonthly or at the time of each payment of wages furnish to each employee an itemized wage statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee and the employee’s social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregate and shown as one item.

154. Labor Code § 226(e)(1) further mandates:

An employee suffering injury as a result of knowing and intentional failure by an employer to comply with subdivision (a) is entitled to

1 recover the greater of all actual damages or fifty dollars (\$50) for the
2 initial pay period in which a violation occurs and one hundred dollars
3 (\$100) per employee for each violation in a subsequent pay period,
4 not to exceed an aggregate penalty of four thousand (\$4,000), and is
entitled to an award of costs and reasonable attorneys' fees.

5 155. An employee suffers injury where the employer fails to provide accurate
6 information and the employee cannot "promptly and easily determine" the total number of hours
7 worked or the "applicable hourly rates in effect during the pay period and the corresponding
8 number of hours worked at each hourly rate." (Labor Code § 226(a)(9)-(e)(2)(B)(i).)

9 156. Labor Code § 226(e)(2)(c) explains that the phrase "promptly and easily determine"
10 means that "a reasonable person would be able to readily ascertain the information without
11 reference to documents or information."

12 157. According to Labor Code § 226(h), "an employee may also bring an action for
13 injunctive relief to ensure compliance with this section and is entitled to an award of costs and
14 reasonable attorneys' fees."

15 158. Plaintiffs assert that, during the applicable time period, Defendants had a policy,
16 practice, procedure, guideline, and/or culture of furnishing the Non-Exempt Class, including
17 Plaintiffs, with wage statements that do not comply with California law. Plaintiffs contend that
18 the wage statements furnished to them and the Non-Exempt Class members did not include, for
19 instance, the total hours actually worked by the employee, all applicable hourly rates in effect
20 during the pay period, the corresponding number of hours worked at each hourly rate by the
21 employee, and the actual gross and net wages earned. These wage statement inaccuracies were
22 due to Defendants' failure to pay meal and rest period premiums, as well as their improper
23 rounding policy.

24 159. Due to the incorrect information on the furnished wage statements, Plaintiffs and
25 Non-Exempt Class members were unable to promptly and easily determine, from their wage
26 statements alone, the total number of hours worked, the applicable hourly rates in effect during
27 the pay period, and/or the corresponding number of hours worked at each hourly rate, among other
28 things.

1 160. Plaintiffs and Non-Exempt Class members are entitled to, and seek to recover, civil
2 penalties pursuant to Labor Code § 226.3 for violations of Labor Code § 226(a).

3 161. Plaintiffs and the Non-Exempt Class are also entitled to and seek recovery of
4 liquidated damages as provided by Labor Code § 226(e).

5 162. Furthermore, pursuant to Labor Code § 226(h), Plaintiffs and members of the
6 Non-Exempt Class are entitled to, and therefore seek injunctive relief in order to ensure that
7 Defendants comply with Labor Code § 226.

8 163. Plaintiffs and the Non-Exempt Class are further entitled to, and seek to recover
9 reasonable attorneys' fees and costs as provided under Labor Code §§ 226(e)(1) and (h) and Code
10 of Civil Procedure § 1021.5.

11 164. Plaintiffs, on behalf of themselves and the Non-Exempt Class, request further relief
12 as described in the below prayer.

13 **SEVENTH CAUSE OF ACTION**

14 **FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES**

15 **[Labor Code § 2802]**

16 **(Alleged By Plaintiffs Javalois and Wasp, Individually and On Behalf of the Non-Exempt**
17 **Class, Against All Defendants)**

18 165. Plaintiffs reallege and incorporate by reference, as though fully set forth herein, all
19 paragraphs of this Second Amended Complaint.

20 166. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
21 states that "[a]n employer shall indemnify his or her employee for all necessary expenditures or
22 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
23 his or her obedience to the directions of the employer.

24 167. At all relevant times herein, Defendants were subject to Labor Code § 2804, which
25 states that, "[a]ny contract or agreement, express or implied, made by any employee to waive the
26 benefits of this article or any part thereof, is null and void, and this article shall not deprive any
27 employee or his personal representative of any right or remedy to which he is entitled under the
28 laws of this State."

1 168. Defendants required Plaintiffs Javalois and Wasp and members of the Non-Exempt
2 Class to use their personal cellular phones but failed to provide adequate reimbursement.

3 169. As a proximate result of Defendants' policies and/or practices in violation of Labor
4 Code §§ 2802 and 2804, and Wage Order 5, § 9, Plaintiffs Javalois and Wasp and members of the
5 Non-Exempt Class were damaged in sums, which will be shown according to proof.

6 170. Plaintiffs Javalois and Wasp and members of the Non-Exempt Class are entitled to
7 attorneys' fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

8 171. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of
9 necessary expenditures carries interest at the same rate as judgments in civil actions. Thus,
10 Plaintiffs Javalois and Wasp and members of the Non-Exempt Class are entitled to interest, which
11 shall accrue from the date on which they incurred the necessary expenditure.

12 **EIGHTH CAUSE OF ACTION**

13 **VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW**

14 **[Business & Professions Code §§ 17200, *et seq.*]**

15 **(Alleged By Plaintiff, Individually and On Behalf of the Non-Exempt Class, Against All**
16 **Defendants)**

17 172. Plaintiffs reallege and incorporate by reference, as though fully set forth herein, all
18 paragraphs of this Second Amended Complaint.

19 173. As codified in Business & Professions Code §§ 17200, *et seq.*, California's Unfair
20 Competition Law ("UCL") broadly prohibits "any unlawful, unfair or fraudulent business act or
21 practice."

22 174. A cause of action may be brought under the UCL if a practice violates some other
23 law. The "unlawful" prong of the UCL effectively deems a violation of the underlying law a per
24 se violation of Business & Professions Code §§ 17200, *et seq.* (*Cel-Tech Commc'ns, Inc. v.*
25 *Los Angeles Cellular Tel. Co.* (1999) 20 Cal. 4th 163, 180.) Virtually any law or regulation –
26 federal or state, statutory, or common law – can serve as a predicate for a section 17200 "unlawful"
27 violation. (*Farmers Ins. Exch. v. Superior Court* (1992) 2 Cal. 4th 377, 383.)
28

175. The “unfair” prong of the UCL does not require a practice to be specifically proscribed by any law. (*Korea Supply Co. v. Lockheed Martin Corp.* (2003) 20 Cal. 4th 1134, 1143 [internal citations omitted].) Pursuant to the California Supreme Court, the “unfair standard” is intentionally broad to give maximum discretion to courts in prohibiting new schemes to defraud. (*Cel-Tech Commc ’ns, Inc.*, *supra*, 20 Cal. 4th at 180-81.)

176. Under the UCL, a “fraudulent” business act or practice is one where “members of the public are likely to be deceived.” (*Blakemore v. Superior Court* (2005) 129 Cal. App. 4th 36, 49.) A showing of actual deception, reasonable reliance, or damages is not required. (*Ibid.*) The fraudulent prong may be used to attack the deceptive manner in which otherwise lawful contract terms are presented to an individual. (*Boschma v. Home Loan Ctr., Inc.* (2011) 198 Cal. App. 4th 230, 253.) As such, even a true statement may be unlawful under section 17200 if it is “couched in such a manner that is likely to mislead or deceive..., such as by failing to disclose other relevant information.” (*Ibid.*)

177. As discussed herein, Defendants’ business practices violate all three prongs of California’s UCL.

Unlawful

178. As described herein, Defendants violated the Labor Code by, among other things, refusing to properly compensate Plaintiffs and the Non-Exempt Class members for all time worked because of their rounding policy. Failing to compensate employees for all time worked is a clear violation of California law, and thus a per se violation of the UCL. (*Cel-Tech Commc ’ns, Inc.*, *supra*, 20 Cal. 4th at p. 180.) Defendants further violated California law by failing to provide legally compliant meal and/or rest periods and/or pay premium wages in lieu thereof; failing to timely pay all wages due and owing upon separation of employment and/or the required waiting time penalties; and failing to furnish accurate itemized wage statements. Therefore, Defendants have clearly engaged in unlawful business practices pursuant to Business & Professions Code §§ 17200 *et seq.*

///

///

Unfair

179. Defendants' policy, practice, procedure, guideline, and/or culture of instituting a rounding practice that rounds Non-Exempt Class members' hours worked to the nearest 15-minute increment, despite tracking their time entries to the exact minute, is inherently unfair because Defendants knowingly prevent the Non-Exempt Class members from receiving compensation for all time actually worked, in violation of California's policy of prompt payment of wages.

180. Defendants' policy, practice, procedure, guideline, and/or culture of failing to provide Non-Exempt Class members, including Plaintiffs, with legally compliant meal and rest periods constitutes an unfair practice because Defendants knowingly strip the Non-Exempt Class members of their rights under the Labor Code.

181. Defendants also violate the unfair prong of the UCL by failing to pay premium wages to Non-Exempt Class members for unlawful meal and rest periods because Defendants knowingly denied Non-Exempt Class members, including Plaintiffs, their legal right to one additional hour of pay at their regular rate of pay for each workday a meal and/or rest period was not provided.

182. Defendants' policy, practice, procedure, guideline, and/or culture of failing to provide Plaintiffs and the Non-Exempt Class members with accurate itemized wage statements is a violation of the unfair prong of the UCL because Defendants knowingly denied Non-Exempt Class members their legal right and protected interest in readily ascertaining their total number of hours worked and the applicable hourly rates in effect during the pay period.

183. Additionally, Defendants' failure to timely pay Plaintiffs and the Non-Exempt Class members all minimum, regular, overtime, and/or premium wages upon separation of employment violates the unfair prong of the UCL because Defendants knowingly deprived Non-Exempt Class members of timely compensation of their earned wages, in violation of California law.

Fraudulent

184. Defendants' policy, practice, procedure, guideline, and/or culture of rounding Non-Exempt Class members' hours worked, despite having the ability to capture and in fact capturing the exact amount of time Plaintiffs and other Non-Exempt Class members worked

1 during a shift is a fraudulent business practice because it knowingly and intentionally caused
2 Non-Exempt Class members to be deprived of earned wages and deceived Non-Exempt Class
3 members, such as Plaintiffs, as to their time worked and wages earned.

4 185. Defendants' policy, practice, procedure, guideline, and/or culture of furnishing
5 Plaintiffs and the Non-Exempt Class members with inaccurate itemized wage statements
6 constitutes a fraudulent business practice because Plaintiffs and the Non-Exempt Class members
7 are likely to be, and were actually deceived, as to whether they were paid for all time worked.

8 186. As a direct and proximate result of Defendants' unlawful, unfair and fraudulent
9 business practices described herein, Plaintiffs and the Non-Exempt Class have suffered
10 injury-in-fact and have lost wages rightfully owed to them.

11 187. Defendants acquired money and property owed to Plaintiffs and the Non-Exempt
12 Class by means of an unlawful practice that constitutes unfair competition as defined by Business
13 and Professions Code §§ 17200, *et seq.*

14 188. Plaintiffs and the Non-Exempt Class are persons in interest under Business and
15 Professions Code § 17203 to whom money and property should be restored. Business and
16 Professions Code § 17203 states, in relevant part, that "any person may pursue representative
17 claims or relief on behalf of others only if the claimant meets the standing requirements of
18 § 17204."

19 189. Plaintiffs are persons who suffered injury in fact and lost money, wages,
20 compensation, and benefits, as a result of Defendants' unfair competition. Thus, pursuant to
21 Business and Professions Code §§ 17203 and 17204, Plaintiffs may pursue representative claims
22 and relief on behalf of themselves and the putative classes.

23 190. Pursuant to Business and Professions Code § 17203, "[t]he court may make such
24 orders or judgments, as may be necessary to restore to any person in interest any money or
25 property, real or personal, which may have been acquired by means of such unfair competition."

26 191. Defendants reaped unfair benefits and illegal profits at the expense of Plaintiffs and
27 the Non-Exempt Class by committing the unlawful acts alleged herein. Thus, Defendants must
28

1 make restitution and/or be subject to other equitable relief pursuant to Business & Professions
2 Code § 17203, and restore all unpaid wages to Plaintiffs and the Non-Exempt Class.

3 192. Through their unlawful, unfair and fraudulent conduct, Defendants have been
4 unjustly enriched by receiving and continuing to receive benefits and profits at the expense of
5 Plaintiffs and the Non-Exempt Class. Therefore, pursuant to Business & Professions Code
6 §§ 17200, *et seq.*, Defendants should be enjoined from this activity and made to disgorge all
7 ill-gotten gains and restore Plaintiffs and other Non-Exempt Class Members the wages wrongfully
8 withheld from them.

9 193. Moreover, the unlawful, unfair and fraudulent conduct alleged herein has continued,
10 and there is no indication that Defendants will refrain from such activity in the future. Plaintiffs
11 believe and allege that if Defendants are not enjoined from the conduct described herein,
12 Defendants will continue to violate California law at the expense of Non-Exempt Class Members.
13 Accordingly, Plaintiffs request that the Court issue a preliminary and permanent injunction against
14 Defendants.

15 194. Plaintiffs and the Non-Exempt Class suffered and continue to suffer loss of wages
16 and monies, all in an amount to be shown according to proof at trial and within the jurisdiction of
17 this Court.

18 195. Plaintiffs seek all available remedies on behalf of themselves and on behalf of the
19 Non-Exempt Class members including, but not limited to, restitution of all wages and all monies
20 owed, all in an amount to be shown according to proof at trial. All such remedies are cumulative
21 of relief available under other laws, pursuant to Business & Professions Code § 17205.

22 196. Plaintiffs, on behalf of themselves and the Non-Exempt Class, request further relief
23 as described in the below prayer.

24 ///

25 ///

26 ///

27 ///

28 ///

NINTH CAUSE OF ACTION

CLAIMS FOR CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS

GENERAL ACT OF 2004

[Labor Code §§ 2698, *et seq.*]

(Alleged by Plaintiffs on Behalf of All Aggrieved Employees Against All Defendants)

197. Plaintiffs reallege and incorporate by reference, as though fully set forth herein, all paragraphs of this Second Amended Complaint.

198. By and through this representative action, Plaintiffs intend to represent the following Aggrieved Employees:

All current and former non-exempt employees who performed work for Defendants in California during the period commencing one year and sixty-five days prior to the filing of the First Amended Complaint through and including the last date of trial (hereinafter the “PAGA Period”) and who have suffered at least one of the violations alleged herein.

199. Plaintiffs and all Aggrieved Employees are all “employees” as the term is used in the Labor Code and the IWC Wage Orders regulating wages, hours, and working conditions in the state of California.

200. A more precise definition of the aggrieved employees may be determined after further investigation and discovery. Plaintiffs reserve their right to redefine the group of Aggrieved Employees as permitted by California law.

201. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees against whom a violation of the same provision was committed pursuant to the procedures specified in Labor Code § 2699.3. Such civil penalties are in addition to any other relief provided for under the Labor Code and must be allocated sixty-five

1 percent (65%) to the LWDA and thirty-five percent (35%) to the aggrieved employees, pursuant
2 to Labor Code § 2699(m).

3 202. This cause of action involves allegations of violations of Labor Code sections 201,
4 202, 203, 1174 and 1198. As such, Labor Code § 2699.5 provides for a civil penalty to be assessed
5 and collected by the LWDA or recovered through a civil action brought by an aggrieved employee
6 on behalf of himself or herself and other current or former employees pursuant to the procedures
7 specified in Labor Code § 2699.3.

8 203. This cause of action involves allegations of violations of Labor Code sections 226,
9 226.7, 510, 512, 1194, and 1197. Pursuant to Labor Code § 2699.3(c), Defendants had 33 calendar
10 days of the postmark date of the LWDA notice sent by Plaintiffs to cure the alleged violations. To
11 date, Defendants have not provided any written notice to Plaintiffs that the alleged violations have
12 been cured. Thus, Plaintiffs may commence with this representative action to recover civil
13 penalties for the alleged violations of Labor Code sections 226, 226.7, 510, 512, 1194, and 1197
14 pursuant to Labor Code § 2699 because the alleged violations have not been cured within the 33-
15 day period.

16 204. Plaintiffs are “aggrieved employees” under the PAGA because they were employed
17 by the alleged violator, Deanco Healthcare, LLC, and personally suffered each of the alleged
18 violations. (Labor Code § 2699 (c)(1).) Thus, Plaintiffs are properly suited to represent the
19 interests of the other aggrieved employees who suffered a violation of the same Labor Code
20 provisions alleged herein in a PAGA representative action.

21 205. Plaintiffs allege that all other non-exempt employees are also “aggrieved
22 employees” under the PAGA because Deanco Healthcare, LLC employed them and they
23 experienced one or more of the alleged violations outlined herein.

24 206. Plaintiffs exhausted their obligation to provide administrative notice pursuant to
25 Labor Code § 2699.3 and now seek the recovery of all available civil penalties under Labor Code
26 § 2699(a), as well as attorneys’ fees and costs pursuant to Labor Code § 2699(k)(1).

27 207. Plaintiffs, in their representative capacity, on behalf of themselves and all other
28 Aggrieved Employees, are entitled to and thus seek to recover civil penalties through a

1 representative enforcement action based on Defendants' violations of the following Labor Code
2 and/or IWC Wage Order provisions:

- 3 a. Failure to provide compliant meal periods and/or pay premium wages in violation
4 of Labor Code §§ 226.7, 512, 558 and the "Meal Periods" section of the applicable
5 IWC Wage Order;
- 6 b. Failure to authorize or permit compliant rest periods and/or pay premium wages in
7 violation of Labor Code §§ 226.7, 516, and the "Rest Periods" section of the
8 applicable IWC Wage Order;
- 9 c. Failure to pay all minimum, regular, and/or overtime wages in violation of Labor
10 Code §§ 510, 511, 558, 1194, 1194.2, 1197, 1197.1, 1198, and the "Minimum
11 Wages" and "Hours and Days of Work" sections of the applicable IWC Wage
12 Order;
- 13 d. Failure to timely pay all earned wages at least twice during each calendar month in
14 violation of Labor Code § 204;
- 15 e. Failure to pay all wages due and owing upon separation of employment in violation
16 of Labor Code §§ 201-203;
- 17 f. Failure to furnish accurate itemized wage statements in violation of Labor Code
18 §§ 226, 226.3, and the "Records" section of the applicable IWC Wage Order;
- 19 g. Failure to maintain accurate records in violation of Labor Code §§ 1174, 1174.5,
20 1175, and the "Records" section of the applicable IWC Wage Order; and
- 21 h. Failure to reimburse for necessary business expenses in violation of Labor Code §§
22 2802 and 2804.

23 208. Labor Code § 210 imposes a civil penalty of \$100 for any initial violation and \$200
24 for each subsequent violation, or any willful or intentional violation, for each failure to pay each
25 employee, plus 25 percent of the amount unlawfully withheld. Plaintiffs, in their representative
26 capacity, seek the civil penalty imposed by Labor Code § 210 on behalf of themselves and all
27 other Aggrieved Employees.
28

209. Labor Code § 226.3 imposes a civil penalty of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in section 226(a), in addition to any other penalty provided by law. Plaintiffs, in their representative capacity, seek the civil penalty imposed by Labor Code § 226.3 on behalf of themselves and all other Aggrieved Employees.

210. For violations of paragraphs (1) to (7), inclusive, or paragraph (9) of Labor Code § 226(a), Labor Code § 2699(f)(2)(A)(i) imposes a civil penalty of \$25 for each aggrieved employee per pay period if the employee cannot promptly and easily determine from the wage statement alone the accurate information specified by section 226(a). For violations of paragraph (8) of Labor Code § 226(a), Labor Code § 2699(f)(2)(A)(i) imposes a civil penalty of \$25 per each aggrieved employee per pay period “if the employee would not be confused or misled about the correct identity of their employer or, if their employer is a farm labor contractor, the legal entity that secured the services of that employer.” Plaintiffs, in their representative capacity, seek the civil penalty imposed by Labor Code § 2699(f)(2)(A)(i) for violations of Labor Code § 226(a) on behalf of themselves and all other Aggrieved Employees.

211. Pursuant to Labor Code § 2699(i), Plaintiffs are entitled to collect civil penalties for Defendants’ violations of Labor Code § 226 because, as described herein, Defendants knowingly and/or intentionally failed to provide Plaintiffs and other Aggrieved Employees with accurate itemized wage statements that comply with the requirements of the Labor Code.

212. For violations of Labor Code §§ 510 and 512, in addition to any other recovery provided by law, Labor Code § 558 imposes a civil penalty of \$50 per pay period for each underpaid employee for the initial violation and \$100 per pay period for each underpaid employee for each subsequent violation of any section of Labor Code Division 2, Part 2, Chapter 1, or any provision regulating hours and days of work in any order of the IWC. Plaintiffs, in their representative capacity, seek the civil penalty imposed by Labor Code § 558 on behalf of themselves and all other Aggrieved Employees.

213. Labor Code § 1174.5 imposes a civil penalty of \$500 for an employer's failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per employee that would be imposed pursuant to Labor Code § 2699(f) for a violation of Labor Code § 1174(d). Plaintiffs, in their representative capacity, seek the civil penalty imposed by Labor Code § 1174.5 on behalf of themselves and all other Aggrieved Employees.

214. Pursuant to Labor Code § 1197.1, any employer or person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the applicable minimum wage, is subject to a civil penalty of \$100 for each underpaid employee for each pay period for which the employee is underpaid and a subsequent civil penalty of \$250 for each underpaid employee for each pay period for which the employee is underpaid. Plaintiffs, in their representative capacity, seek the civil penalty imposed by Labor Code § 1197.1 on behalf of themselves and all other Aggrieved Employees.

215. For violations of certain Labor Code provisions for which a civil penalty is not specifically provided, including but not limited to, Labor Code §§ 201-203, 226.7, 1174(c)-(d), 1198, and 2802 and relevant IWC Wage Orders, Labor Code § 2699(f)(2)(A) imposes upon Defendants a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation. If the alleged violation results from an isolated, nonrecurring event that did not extend beyond the lesser of 30 consecutive days or four consecutive pay periods, the civil penalty is \$50 for each aggrieved employee per pay period. (Labor Code § 2699(f)(2)(A)(ii).) Plaintiffs, in their representative capacity, seek the civil penalty imposed by Labor Code § 2699(f)(2)(A) on behalf of themselves and all other Aggrieved Employees for Defendants' violations of Labor Code 201-203, 226.7, 1174(c)-(d), and 1198, and relevant IWC Wage Orders.

216. Moreover, Labor Code § 2699(f)(2)(B) imposes a civil penalty of \$200 per pay period, per aggrieved employee if either of the following are met: (1) within the five (5) years preceding the alleged violation, the agency or any court issued a finding or determination to the employer that its policy or practice giving rise to the violation was unlawful; or (2) the court determines that the employer's conduct giving rise to the violation was malicious, fraudulent, or

1 oppressive. Plaintiffs, in their representative capacity, seek the civil penalty imposed by Labor
2 Code § 2699(f)(2)(B) on behalf of themselves and all other Aggrieved Employees for Defendants'
3 violations of Labor Code 201-203, 226(a), 226.7, 1174(c)-(d), and 1198, and relevant IWC Wage
4 Orders.

5 217. Pursuant to Labor Code § 2699(i), Plaintiffs are entitled to collect civil penalties for
6 Defendants' violations of Labor Code §§ 201-203 because, as described herein, Defendants
7 willfully and/or intentionally failed to pay Plaintiffs and other Aggrieved Employees all
8 minimum, regular, and/or overtime wages and/or meal and rest period premium wages owed
9 within the required time upon separation of their employment.

10 218. Labor Code § 2699(k)(1) provides that an employee who prevails in a civil action
11 brought pursuant to PAGA shall be entitled to an award of reasonable attorneys' fees and costs.
12 As such, Plaintiffs, in their representative capacity on behalf of themselves and all other
13 Aggrieved Employees, are entitled to and seek attorney's fees and costs.

14 219. Plaintiffs in their representative capacity on behalf of themselves and all other
15 Aggrieved Employees, are entitled to and seek recovery of reasonable attorneys' fees as provided
16 by Labor Code § 218.5 and Code of Civil Procedure § 1021.5.

17 220. Plaintiffs, in their representative capacity on behalf of themselves and all other
18 Aggrieved Employees, request further relief as described in the below prayer for relief.

19 **PRAYER FOR RELIEF**

20 Plaintiffs pray for judgment against Defendants in favor of the class and representative
21 action as follows:

- 22 a. For an order determining that this action may be maintained as a class action
23 with the named Plaintiffs as the class representatives;
- 24 b. For the attorneys appearing on the above caption to be named class counsel;
- 25 c. For all wages, benefits, and damages due to Plaintiffs and the Non-Exempt
26 Class members pursuant to California law;
- 27 d. For all minimum, regular, and/or overtime wages owed pursuant to Labor
28 Code §§ 510, 1194, 1197.1, and/or other applicable law;

- e. For premium wages pursuant to Labor Code § 226.7 and/or other applicable law;
- f. For waiting time penalties pursuant to Labor Code § 203 and/or other applicable law;
- g. For damages, pursuant to Labor Code § 226(e)(1), Civil Code § 3281, and/or other applicable law;
- h. For all liquidated damages, pursuant to Labor Code §§ 1194.2, 1197.1, and/or other applicable law;
- i. For any and all penalties available for the violations alleged herein, including penalties under Labor Code §§ 203, 226(e)(1), 1197.1, and/or other applicable law;
- j. For any and all civil penalties available for the Labor Code violations alleged herein including, but not limited to, civil penalties under Labor Code §§ 226.3, 558, 1174.5, 1197.1, 2699(f), and/or other applicable law;
- k. For injunctive relief, pursuant to Labor Code § 226(h) and Business & Professions Code § 17203, and/or other applicable law;
- l. For restitution for Defendants' unfair, unlawful, and fraudulent business practices as provided by Labor Code § 1197.1, Business & Professions Code § 17203 and/or other applicable law;
- m. For reasonable attorneys' fees and costs of suit pursuant to Labor Code §§ 218.5, 226(e)(1), 226(h), 1194(a), and 2699(k)(1), Code of Civil Procedure § 1021.5, the "common fund" theory, the "substantial benefit" theory, and/or other applicable law, theory or doctrine;
- n. For a declaratory judgment that Defendants violated Labor Code §§ 201-203, 226, 226.3, 226.7, 510, 512, 1194, 1194.2, 1197, 1197.1, and 1198; the "Meal Periods," "Rest Periods," "Hours and Days of Work," "Minimum Wages," and "Records," sections of the applicable IWC Wage Order; and Business & Professions Code §§ 17200 *et seq.*;

- 1 o. For pre- and post- judgment interest as provided by California law;
2 p. For appropriate equitable relief pursuant to California law; and
3 q. For any other relief the Court may deem as just and proper.

4 **JURY TRIAL DEMAND**

5 Plaintiffs demand a trial by jury on all issues triable to a jury.

6
7 Dated: July 23, 2026

ARCH LEGAL, P.C.

8
9 By: 

Vilmarie Cordero

Allison E. Schubert

Attorneys for Plaintiff Daniel Menjivar

10
11
12 Dated: July 23, 2026

HAINES LAW GROUP, APC

13
14 By: */s/ Sean M. Blakely* (with permission)

Paul K. Haines

Sean M. Blakely

Attorneys for Plaintiff Edwin Javalois

15
16
17 Dated: July 23, 2026

JAMES HAWKINS APLC

18
19 By: */s/ Gregory Mauro* (with permission)

James R. Hawkins

Gregory Mauro

20
21 *Attorneys for Plaintiff Tramaine Marquise*
22 *Wasp*

EXHIBIT 1

July 15, 2024

Attorneys at Law

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VIA ONLINE ELECTRONIC FILING

California Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)

Deanco Healthcare, LLC
8447 Wilshire Blvd., Suite 202
Beverly Hills, CA 90211

Deanco Healthcare, LLC
14850 Roscoe Blvd.
Panama City, CA 91402

Craig Garner
Agent for Service of Process
475 Washington Blvd.
Marina Del Rey, CA 90292

Re: Daniel Menjivar's Wage and Hour Claims Against Deanco Healthcare, LLC

Dear California Labor and Workforce Development Agency, and
Deanco Healthcare, LLC:

Please be advised that Daniel Menjivar ("Claimant") has retained our firm to represent him for various claims against his former employer, Deanco Healthcare, LLC (the "Company").

This letter shall serve as Claimant's written notice to the California Labor and Workforce Development Agency ("LWDA") and the Company of the alleged California Labor Code ("Labor Code") violations Claimant claims that the Company committed against him and all other aggrieved employees in California. Claimant provides this notice, which includes the facts and theories to support the Labor Code violations alleged herein, in accordance with the Private Attorneys General Act of 2004 ("PAGA"), Labor Code § 2699.3. Claimant intends to file a civil action to enforce his rights under the Labor Code and seeks compensation accordingly.

Graham S.P. Hollis

Vilmarie Cordero

Hali Anderson

Nathan Reese

Alyssa Smith

Allison Schubert

Alex Kuner

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Samara Bahu

Ommar Chavez

*Provisionally Licensed Lawyer

Pursuant to Labor Code § 2699(a), and by way of this letter, Claimant intends to represent himself and all other current or former non-exempt employees in California who performed work for the Company and who have suffered at least one of the Labor Code violations described herein during the relevant time period (“Aggrieved Employees”).

FACTUAL BACKGROUND

Deanco Healthcare, LLC is a California limited liability company that owns and operates Mission Community Hospital, an acute care hospital located in Panorama City, California. Mission Community Hospital provides medical, surgical, psychiatric, and emergency care. The Company is headquartered and has its principal place of business in Beverly Hills, California.

The Company employed Claimant as a Mental Health Worker in the Behavioral Health Department at Mission Community Hospital from approximately March 5, 2024 to April 22, 2024. As a Mental Health Worker, Claimant’s job duties consisted of working with mentally ill adults at the Mission Community Hospital and assisting them in activities of daily living. Some activities include bathing, toileting, rounding, and monitoring their vitals. Claimant was also responsible for transferring/transporting patients, observing and reporting their behaviors, and ensuring their safety and security, among other things. For some of his shifts, Claimant worked one-on-one with his patients. For other shifts, Claimant would escort patients to the visitor’s room and supervise them with another staff member present.

At all relevant times, Claimant was classified as a non-exempt employee and was paid an hourly wage of \$20 per hour on a bi-weekly basis. During his employment with the Company, Claimant worked Friday through Sunday from 7:00 a.m. to 7:30 p.m.

The Company denied, and continues to deny, Claimant and other Aggrieved Employees specific rights afforded to them under the Labor Code and the applicable Industrial Welfare Commission (“IWC”) Wage Order. Specifically, the Company (1) failed to provide compliant meal periods and/or pay premium wages; (2) failed to authorize or permit compliant rest periods and/or pay premium wages; (3) failed to pay all minimum, regular, and/or overtime wages; (4) failed to timely pay all wages due and owing upon separation of employment; (5) failed to furnish accurate itemized wage statements; and (6) failed to maintain accurate records.

The Company required Claimant and, on information and belief, other Aggrieved Employees to work through their meal periods, receive less than thirty (30) minute meal periods, take interrupted meal periods, or did not allow them to take meal periods before the end of their fifth hour of work. For instance, on several occasions, Claimant was forced to take his meal period after the end of his fifth hour of work. If Claimant was working a one-to-one shift, he had to be relieved by a “floater” before he could take his meal break. However, the “floater” was often late in relieving him for his meal break. For shifts where Claimant did not work one-to-one with a patient, Claimant had to ask his preceptor if he was permitted to take his meal break. Due to understaffing, the amount of patients and patients’ needs, Claimant was instructed to take his meal break after his fifth hour of work, or when it was no longer busy,

or to shorten his meal break. Claimant is informed and believes that, based on the Company's uniform policies and practices, other Aggrieved Employees were similarly mandated to take non-compliant meal breaks after their fifth hour of work and/or shorten their meal periods.

Furthermore, Claimant alleges that he was not given the opportunity to take a second meal period when he worked more than ten hours in a workday. Usually, he was not able to take a second meal break because the Company was short-staffed and he was not allowed to take off and was not relieved of all of his work duties. Claimant and, on information and belief, other Aggrieved Employees did not sign a valid meal period waiver (including a waiver of the right to take one of their two meal periods for shifts longer than eight hours) or an on-duty meal agreement at any point during their employment.

Additionally, the Company failed to provide Claimant and other Aggrieved Employees with ten minute rest periods per every four-hour work period, or major fraction thereof. Claimant was only provided with one rest period for the majority of his shifts and thus forced to work through his second and third rest periods. On multiple occasions, Claimant asked his preceptor if he was able to take a second rest period but was told he had to wait to take it because it was too busy; ultimately, Claimant could not take the rest period at all because they were understaffed. Similarly, Claimant was not relieved from his work duties to take his second rest period on his one-to-one shifts. Claimant further alleges that he was never permitted to take a third rest period, despite working 12-hour shifts. Claimant is informed and believes that, based on the Company's uniform policies and practices, other Aggrieved Employees were similarly not authorized or permitted to take a second or third rest period.

Although Claimant and, on information and belief, other Aggrieved Employees did not receive legally compliant meal and/or rest periods, the Company did not pay Claimant and other Aggrieved Employees the additional one hour of pay at the employee's regular rate of pay as required under Labor Code 226.7 and the applicable IWC Wage Order. For instance, Claimant never received a meal or rest period premium during his employment with the Company. Accordingly, the Company owes Claimant and other Aggrieved Employees meal and/or rest period premiums at their regular rate of compensation for each workday they were not provided with a meal and/or rest period.

Claimant and, on information and belief, other Aggrieved Employees were not paid all minimum, regular, and/or overtime wages owed for all time actually worked on behalf of the Company. The Company maintained an electronic timekeeping system whereby the total hours worked by Claimant and other Aggrieved Employees were rounded to the nearest fifteen minute increment, even though the Company has, and always had, the ability to capture and did capture the exact amount of time Aggrieved Employees worked during a shift. For instance, if the total hours Claimant worked during a shift was at 11.62, the Company would round the total hours he worked down to 11.50. The rounding scheme caused Claimant to lose significant hours worked. Claimant has identified to date at least three separate shifts where the rounding has caused him to be paid less than the actual hours worked *and* recorded by the Company's timekeeping system. As a result of its improper rounding policy, the Company failed to compensate Claimant, and on information and belief, other Aggrieved Employees for their actual time worked, depriving them of minimum, regular, and/or overtime wages.

The Company did not pay Claimant and, on information and belief, other Aggrieved Employees all wages due and owing upon separation of employment, including minimum, regular, and/or overtime wages for

all hours worked, and meal and rest period premiums. As stated above, the Company failed to pay Claimant for all hours worked due to its rounding policy, and further failed to pay Claimant meal and/or rest period premiums owed upon separation of employment. Claimant alleges, on information and belief, that the Company knew or should have known that the employees were not paid for all wages owed and recorded on the Company's timekeeping system and/or knew or should have known that the meal breaks provided were late, short or interrupted. The Company took no steps to remedy the illegal rounding policy or the illegal practice of never paying for a meal premium that was short, late or interrupted. Therefore, the Company's failure to timely pay final wages was willful and/or intentional. Claimant and other former Aggrieved Employees are therefore entitled to civil penalties for the Company's violation of Labor Code § 203.

Furthermore, the Company knowingly and/or intentionally failed to provide Claimant and other Aggrieved Employees with accurate itemized wage statements. The Company issued wage statements that failed to accurately show employees' actual regular and overtime hours worked during the pay period, the applicable hourly rates and the corresponding number of hours worked at each hourly rate, and the correct amount of gross and net wages earned. Due to the missing and/or incorrect information, Claimant and other Aggrieved Employees were unable to promptly and easily determine the total number of hours worked or the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

As a direct result of the Company's illegal policies, procedures, guidelines, and practices, like those described herein, the Company failed to maintain accurate records reflecting all of Claimant's and other Aggrieved Employees' actual time worked and actual wages earned and paid, among other things, in violation of California law. For instance, the Company's rounding policy prevented the actual hours worked by the employees to be recorded in their time and payroll records.

Due to the foregoing Labor Code violations, the Company denied Claimant and other Aggrieved Employees certain rights afforded to them under the California Labor Code and IWC Wage Orders. Claimant makes these claims against the Company on behalf of himself and all other Aggrieved Employees.

All facts, claims, and/or legal theories contained within this written notice are alleged and/or asserted on behalf of Claimant and all other Aggrieved Employees. The facts, claims, and/or legal theories contained in this written notice are based on the information available at the time of this writing. Since Claimant's investigation is ongoing, Claimant reserves his right to assert any and all related facts, claims, and/or theories of liability discovered after the sending of this letter on behalf of himself and all other current or former Aggrieved Employees against the Company and/or other persons that may be discovered after the sending of this letter. Such other persons may include, but are not limited to, those persons who have acted as an agent, subsidiary, servant, employee, co-conspirator, alter-ego, and/or joint venture of the Company, as well as those persons who caused and/or concurrently contributed to the various acts and/or admissions of each and every one of the others, including the Company, in proximately causing the wrongful conduct, harm, and/or damages alleged herein or otherwise participated in or ratified any or all of the acts and/or omissions complained herein, and those who were acting within the authority and/or scope of the Company.

Claimant reserves the right to revise these facts and/or add any new claims or legal theories by amending this written notice and/or by adding facts, claims, and/or legal theories to his civil complaint.

FAILURE TO PROVIDE COMPLIANT MEAL PERIODS AND/OR PAY PREMIUM WAGES
(Labor Code §§ 226.7, 512, 558 and the “Meal Periods” section of the Applicable IWC Wage Order)

Labor Code § 226.7(b) states, “[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission...” Labor Code § 226.7(c) states, “[i]f an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law...the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”

Labor Code § 512(a) states, “[a]n employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes...[and] shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.” A meal period generally comports with the requirements of California law if the employee has at least 30 minutes of uninterrupted time and the employee is relieved of any and all duty and is free to leave the premises during such time. (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1036.) California law further prohibits employers from “...undermining [its] formal policy of providing meal breaks by pressuring employees to perform their duties in ways that omit breaks.” (*Id.* at p. 1040 [internal citations omitted].)

The “Meal Periods” section of the applicable IWC Wage Order states, “[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee.” Moreover, “[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided.”

The “Meal Periods” section of the applicable IWC Wage Order also states, “[u]nless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked. An ‘on duty’ meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.”

Additionally, the “Meal Periods” section of the applicable IWC Wage Order provides that, “employees in the health care industry who work shifts in excess of eight (8) total hours in a workday may voluntarily waive their right to one of their two meal periods.” To be valid, “any such waiver must be documented in a written agreement that is voluntarily signed by both the employee and the employer. The employee may revoke the waiver at any time by providing the employer at least one day’s written notice. The employee

shall be fully compensated for all working time, including any on-the-job meal period, while such a waiver is in effect.”

Labor Code § 558 provides that “any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty” of \$50 for each underpaid employee for each pay period for which the employee was underpaid for any initial violation, and \$100 for each underpaid employee for each pay period for which the employee was underpaid for each subsequent violation.

As set forth above, the Company failed to provide Claimant and, on information and belief, other Aggrieved Employees with the opportunity to take uninterrupted, off-duty meal periods of at least 30-minutes before the end of their fifth hour of work. Furthermore, the Company failed to permit Claimant and, on information and belief, other Aggrieved Employees with the opportunity to take a second meal period during their 12-hour shifts. Claimant and other Aggrieved Employees did not sign a valid meal period waiver at any point. Consequently, Claimant and other Aggrieved Employees are entitled to receive one-hour of premium wages for each day a compliant meal period was not provided. Claimant will pursue all available remedies for the Company’s violations on behalf of himself and other current or former Aggrieved Employees to the extent allowed by law.

**FAILURE TO AUTHORIZE OR PERMIT COMPLIANT REST PERIODS AND/OR PAY
PREMIUM WAGES**

(Labor Code § 226.7, and the “Rest Periods” section of the applicable IWC Wage Order)

The “Rest Periods” section of the applicable IWC Wage Order provides:

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes of net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided. (Emphasis added.)

An employer has not authorized or permitted lawful off-duty rest periods unless the employer relieves its employees of any and all work-related duties and relinquishes all control over how its employees spend their time during rest periods. (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal. 5th 267, 269.)

In pertinent part, Labor Code § 226.7 provides:

(b) An employer shall not require an employee to work during a ... rest ... period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, ...

(c) If an employer fails to provide an employee a ... rest ... period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for workday that the ... rest ... period is not provided.

As discussed herein, the Company failed to authorize and permit Aggrieved Employees, including Claimant, to take an off-duty, uninterrupted 10-minute rest period for every four hours worked or major fraction thereof. Claimant alleges that his heavy workload and lack of relief precluded him from taking a second rest period during most of his twelve hour shifts and he was never able to take a third rest break. Claimant and other Aggrieved Employees are entitled to receive one-hour of premium wages for each day a legally compliant rest period was not provided. Claimant will pursue all available remedies against the Company for its violations of the Labor Code on behalf of himself and all Aggrieved Employees to the extent permitted by law.

FAILURE TO PAY ALL MINIMUM, REGULAR, AND/OR OVERTIME WAGES

(Labor Code §§ 510, 558, 1194, 1194.2, 1197, 1197.1, 1198 and the
“Minimum Wages” and “Hours and Days of Work” sections of the Applicable IWC Wage Order)

Labor Code § 1197 states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” The “Minimum Wages” section of the applicable IWC Wage Order further provides 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.”

Labor Code § 1197.1 provides that, “[a]ny employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to § 203...”

Labor Code § 1198 states, “[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Labor Code § 510 provides, “[e]ight hours of labor constitutes a day’s work. Any 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. 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. In addition, 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.” The “Hours and Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Order mandate the same requirements.

Labor Code § 1194(a) mandates that “...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” Liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon are provided for under Labor Code § 1194.2.

Labor Code § 558 provides that “any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty” of \$50 for each underpaid employee for each pay period for which the employee was underpaid for any initial violation, and \$100 for each underpaid employee for each pay period for which the employee was underpaid for each subsequent violation.

Under *See’s Candy Shops, Inc. v. Superior Ct.* (2012) 210 Cal. App. 4th 889 (“See’s Candy”), a rounding policy will be considered unlawful “if it systematically undercompensates employees, such as where the defendant’s rounding policy encompasses only rounding down.” However, several recent cases have challenged the holding in *See’s Candy* in situations when an employer maintains an electronic time system that is capable of precise time keeping. (See, e.g., *Woodworth v. Loma Linda University Medical Center* (2023) 93 Cal. App. 5th 1038, 1059 [holding “if an employer ‘can capture and has captured the exact amount of time an employee has worked during a shift, the employer must pay the employee for ‘all the time’ worked.”]). There is also a case currently before the California Supreme Court entitled *Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal. App. 5th 638, 660, which held that “the application of *See’s Candy* should be reexamined in circumstances where employee work time in minutes can be captured and has been captured by the employer and, as a result of a quarter-hour rounding system, the employee is not compensated for all actual work time.” The Court of Appeals determined that “if an employer, as in this case, can capture and has captured the exact amount of time an employee has worked during a shift, the employer must pay the employee for ‘all the time’ worked.” (*Ibid.*)

As set forth above, the Company failed to pay Claimant and, on information and belief, other Aggrieved Employees all minimum, regular, and/or overtime wages for all time engaged in work on behalf of the Company. Specifically, the Company maintained a practice of rounding employee’s hours worked by 15-minute increments. The Company maintained an electronic timekeeping system that could and did capture employees’ time punches precisely, yet unnecessarily rounded their hours worked and therefore failed to provide employees with compensation according to their actual time punches. This rounding policy systemically deprived Aggrieved Employees of compensation for all hours worked. Claimant will pursue

all available remedies for the Company's violations on behalf of himself and all other Aggrieved Employees to the extent allowed by law.

FAILURE TO PAY ALL WAGES OWED UPON SEPARATION OF EMPLOYMENT
(Labor Code §§ 201, 202, and 203)

Labor Code § 201 states, in pertinent part, "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

Labor Code § 202 states, in pertinent part: "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting."

Labor Code § 203(a) further states, "[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days."

As set forth above, the Company violated these Labor Code sections by willfully and/or intentionally failing to pay Claimant and other Aggrieved Employees all minimum, regular, and/or overtime wages and/or meal and rest period premium wages owed within the required time upon separation of their employment. As a result of the Company's failure to comply with the aforementioned Labor Code provisions, the Company owes waiting time penalties to Claimant and other Aggrieved Employees, which it has not yet paid. Claimant will pursue all available remedies for the Company's violations on behalf of himself and other current or former Aggrieved Employees to the extent allowed by law.

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS
(Labor Code §§ 226 and 226.3, and the "Records" section of the Applicable IWC Wage Order)

Labor Code § 226(a) states in pertinent part: "An employer, semimonthly or at the time of each payment of wages, shall furnish each of his or her employee, either as detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee... (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number... (8) the name and address of the legal entity that is the employer, and... (9) all applicable hourly rates in effect during each period and the corresponding number of hours worked at each hourly rate by the employee..."

The "Records" section of the applicable IWC Wage Order further provides, in pertinent part: "Every employer shall semimonthly or at the time of each payment of wages furnish to each employee...an itemized wage statement in writing showing (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and

(4) the name of the employer, provided all deductions made on written orders of the employee may be aggregate and shown as one item.”

Labor Code § 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and entitles an employee to an award of costs and reasonable attorney’s fees. Labor Code § 226(h) states, “an employee may also bring an action for injunctive relief to ensure compliance with this section and is entitled to an award of costs and reasonable attorneys’ fees.”

Labor Code § 226.3 imposes an additional civil penalty on the employer of \$250.00 per employee per violation of Labor Code § 226(a) in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

As a result of the rounding policy, the Company knowingly and/or intentionally failed to provide Claimant and other Aggrieved Employees with accurate itemized wage statements that comply with the requirements of the Labor Code because the wage statements did not, among other things, include the correct total regular and/or overtime hours worked, the correct amount of gross and/or net wages earned, and/or all applicable hourly rates and the corresponding number of hours worked at each hourly rate. The wage statements issued by the Company further failed to reflect meal and rest period premiums owed to Claimant and other Aggrieved Employees. Claimant will pursue all available remedies for the Company’s violations on behalf of himself and other current or former Aggrieved Employees to the extent allowed by law.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code §§ 1174, 1174.5, and the “Records” section of the Applicable IWC Wage Order)

Labor Code § 1174 states, “[e]very person employing labor in this state shall... [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, ..., employees employed at the respective plants or establishments.”

The “Records” section of the Applicable Wage Order states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period, meal periods, total daily hours worked, total wages paid each payroll period, and total hours worked in the payroll period and applicable rates of pay.

Labor Code § 1174.5 imposes a civil penalty of \$500 for an employer’s failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per Aggrieved Employee that would be imposed pursuant to Labor Code § 2699 for a violation of Labor Code § 1174(d).

As set forth above, the Company violated its recordkeeping requirements by failing to accurately record employee hours actually worked including, but not limited to, the Company’s failure to record the proper beginning and end of each work period, the meal periods, the total hours worked during the pay period,

the applicable rates of pay, and the wages earned and paid, among other things. Claimant will pursue all available remedies for the Company's violations on behalf of himself and other current or former Aggrieved Employees to the extent allowed by law.

**CIVIL PENALTIES FOR VIOLATIONS OF THE LABOR CODE AND APPLICABLE IWC
WAGE ORDER**

(Labor Code §§ 226.3, 558, 558.1, 1174.5, 1197.1, and 2699(f))

Labor Code § 558 subjects any employer or any person acting on behalf of an employer who violates Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558.1) or any provision regulating the hours and days of work in any IWC Wage Order to a civil penalty as follows: “[f]or any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.”

Labor Code § 558.1(a) further states that “[a]ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wage or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.” This includes the owners, officers, directors, or managing agents of the employer. (Labor Code § 558.1(b).)

For violations of Labor Code § 1174 subdivisions (b), (c), and (d), Labor Code § 1174.5 imposes a civil penalty of \$500.

Similarly, Labor Code § 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows: “(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.”

Labor Code § 2699(f) imposes a civil penalty of \$100 per pay period, per aggrieved employee for violations of certain Labor Code provisions for which a civil penalty is not specifically provided, including, but not limited to, Labor Code §§ 201, 202, 203, 226.7, 1198, 2802, and relevant IWC Wage

Orders. If the alleged violation results from an isolated, nonrecurring event that did not extend beyond the lesser of 30 consecutive days or four consecutive pay periods, the civil penalty is \$50 for each aggrieved employee per pay period.

Moreover, Labor Code § 2699(f) imposes a civil penalty of \$200 per pay period, per aggrieved employee if either of the following are met: (1) within the five years preceding the alleged violation, the agency or any court issued a finding or determination to the employer that its policy or practice giving rise to the violation was unlawful; or (2) the court determines that the employer's conduct giving rise to the violation was malicious, fraudulent, or oppressive.

For violations of paragraphs (1) to (7), inclusive, or paragraph (9) of Labor Code § 226(a), Labor Code § 2699(f) imposes a civil penalty of \$25 for each aggrieved employee per pay period if the employee can promptly and easily determine from the wage statement alone the accurate information specified by section 226(a). For violations of paragraph (8) of Labor Code § 226(a), Labor Code § 2699(f) imposes a civil penalty of \$25 per each aggrieved employee per pay period "if the employee would not be confused or misled about the correct identity of their employer or, if their employer is a farm labor contractor, the legal entity that secured the services of that employer."

For violations of Labor Code § 226(a) resulting from an employer's failure to provide employees with a wage deduction statement or failure to keep records required by this section, Labor Code § 226.3 imposes a civil penalty of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

As set forth above, the Company violated the Labor Code and the applicable IWC Wage Order by failing to provide compliant meal periods and/or pay premium wages; failing to authorize or permit compliant rest periods and/or pay premium wages; failing to pay all minimum, regular, and/or overtime wages; failing to timely pay all wages due and owing upon separation of employment; failing to furnish accurate itemized wage statements; and failing to maintain accurate records. As a result, the Company is liable for civil penalties under the Labor Code and Claimant will pursue all available remedies, including but not limited to those stated herein, for the Company's violations on behalf of himself and other current or former Aggrieved Employees to the extent allowed by law.

ATTORNEY'S FEES, COSTS, INTEREST, LIQUIDATED DAMAGES AND PENALTIES

(Labor Code §§ 218.5, 218.6, 226(e), 558, 1194, 1194.2, 1197.1, and 2698, *et seq.*)

Labor Code §§ 218.5, 218.6, 226(e), 558, 1194, 1194.2, 1197.1, and 2698, *et seq.*, among others, give employees the right to recover in a civil action the full amount of damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorney's fees and costs.

Pursuant to Labor Code § 2699(m), an aggrieved employee is entitled to collect 35% of the penalty assessment. Under Labor Code § 2699(k)(1), an aggrieved employee, such as Claimant, is entitled to an award of reasonable attorney's fees and costs. Accordingly, the Company is liable for these items. Claimant has already incurred actual damages, costs and attorney's fees and he will continue to incur such as a result of the Company's unlawful actions. Claimant will pursue all available remedies, including but

not limited to those provided by the PAGA, on behalf of himself and other Aggrieved Employees to the extent permitted by law for the violations of law described herein and those later discovered.

CONCLUSION

Based on the foregoing, the Company has violated the Labor Code and relevant IWC Wage Order and thereby deprived Claimant and other Aggrieved Employees of the rights and protections afforded to them. Claimant has satisfied the prerequisites of the PAGA to serve as a representative of all current or former non-exempt employees of the Company in California, the general public, and the state of California in order to enforce California labor laws and to seek civil penalties for the provisions set forth herein, as well as those which may be later discovered.

Accordingly, if the LWDA declines to intervene or act within time prescribed by the Labor Code, Claimant may elect to initiate and/or amend a civil action, on behalf of himself and all other Aggrieved Employees, as permitted by the PAGA.

Very truly yours,



Allison E. Schubert

EXHIBIT 2

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

July 31, 2024

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Edwin Javalois v. Deanco Healthcare, LLC*

To Whom It May Concern:

Please be advised that this law firm represents Edwin Javalois (“Mr. Javalois”) in claims arising from his employment with Deanco Healthcare, LLC; and Does 1 through 100 (collectively “Deanco”). Mr. Javalois is an “aggrieved employee” as defined by Labor Code Section 2698 *et seq.*, due to Deanco’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code Section 2699.3, which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, “aggrieved employees” include all of Deanco’s non-exempt employees who worked for Deanco in California during the one year immediately preceding the date of this letter through the present.

Mr. Javalois was employed by Deanco as a non-exempt employee in the position of “Mental Health Worker” from approximately 2020 until the present, though he has been on administrative leave since approximately July 1, 2024. Mr. Javalois was employed at Mission Community Hospital in Panorama City, where his job duties included watching patients, taking their vitals, handling new patient paperwork, and transferring patients.

During Mr. Javalois’ employment with Deanco, Deanco utilized a timekeeping system which resulted in Mr. Javalois and other aggrieved employees not being compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise. Upon information and belief, this timekeeping system used by Deanco recorded hours worked to the minute; however, Deanco rounded Mr. Javalois’ and other aggrieved employees’ hours to the nearest quarter of an hour, so that over a period of time they were deprived of all minimum and overtime wages. Deanco’s timekeeping policies/practices were not even-handed and have resulted in Mr. Javalois and other aggrieved employees not being compensated for all hours worked.

Deanco also failed to provide Mr. Javalois and other aggrieved employees with all legally compliant meal periods due to Deanco’s meal period policies/practices. Specifically, Mr. Javalois was never provided with meal periods that were a full 30

minutes of “net rest” in an area away from the work station that is appropriate for rest, which employers are required by the Wage Order to maintain for their employees to use during their meal and rest periods. Because of the distance between Deanco’s breakrooms and timeclocks, Mr. Javalois and other aggrieved employees would have to shorten their meal periods several minutes in order to return to their workstation prior to the end of their meal periods to avoid disciplinary action. On those occasions when Mr. Javalois and other aggrieved employees were not provided with all legally-required meal periods to which they were entitled, Deanco failed to compensate Mr. Javalois and other aggrieved employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7. Upon information and belief, during at least a portion of the relevant time period, Deanco maintained no payroll code or other mechanism for paying meal period premiums under Labor Code § 226.7 in the event a legally compliant meal period was not provided to their non-exempt employees.

Deanco has also failed to authorize and permit all required rest periods for Mr. Javalois and other aggrieved employees. Specifically, Mr. Javalois and other aggrieved employees were not provided with a full 10 minutes of “net rest” in an area away from the workstation that is appropriate for rest, which employers are required by the Wage Order to maintain for their employees to use during their rest periods. Because of the distance between Deanco’s breakrooms and employees’ workstations, Mr. Javalois and other aggrieved employees would have to shorten their rest periods several minutes in order to return to their workstation prior to the end of their rest periods to avoid disciplinary action. Despite failing to authorize and permit Mr. Javalois and other aggrieved employees to take all rest periods to which they are entitled, upon information and belief, during at least a portion of the relevant time period, Deanco maintained no mechanism for the payment of rest period premium payments as required by Labor Code § 226.7 and did not pay Mr. Javalois or other aggrieved employees any rest period premiums.

During Mr. Javalois’ employment with Deanco, Deanco also failed to properly calculate the regular rate of pay when calculating its employees’ sick time pay, thus providing Mr. Javalois and other aggrieved employees with sick time pay at below the regular rate of pay, in violation of California law.

Deanco also failed to adequately reimburse Mr. Javalois and other aggrieved employees for all reasonable and necessary work expenditures, including, but not limited to, use of personal cellular phones to communicate with co-workers. Despite requiring Mr. Javalois and other aggrieved employees to use their personal cell phones, Deanco did not adequately reimburse Mr. Javalois and other aggrieved employees for these expenses.

As a result of Deanco’s failure to compensate Mr. Javalois and other aggrieved employees for all meal and rest period premium wages, and sick time pay at the correct regular rate of pay, Deanco maintained inaccurate payroll records and failed to issue accurate, compliant, itemized wage statements.

As described above, Deanco committed the following violations of the Labor Code, and Industrial Welfare Commission Wage Order 4 (“Wage Order 4”):

Minimum Wage Violations

Deanco was required to pay Mr. Javalois and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1182.12, 1194, 1194.2, 1197; Wage Order 4, § 4. As alleged above, Deanco failed to conform its pay practices to the requirements of the law by failing to pay Mr. Javalois and other aggrieved employees for all hours worked including, but not limited to, all hours they were subject to the control of Deanco and/or suffered or permitted to work under the California Labor Code and Wage Order 4. As a result of these policies/practices, which fail to compensate for all hours worked, Mr. Javalois and other aggrieved employees were deprived of all required minimum wages.

Overtime Wage Violations

Deanco was required to pay Mr. Javalois and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; Wage Order 4, § 3. According to Labor Code § 510(a), “Any 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.” This Section further provides, “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. In addition, 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.” As alleged above, Deanco caused Mr. Javalois and other aggrieved employees to work overtime hours but did not compensate Mr. Javalois and other aggrieved employees at one and one-half times their regular rate of pay for such hours. As a result of these policies/practices, Mr. Javalois and other aggrieved employees were not compensated for all overtime and double-time wages.

Meal Period Violations

As alleged above, Deanco failed to provide Mr. Javalois and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 4, § 11. As a result, Mr. Javalois and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”).

Rest Period Violations

As alleged above, Deanco also failed to authorize and permit Mr. Javalois and other aggrieved employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 4, § 12. As a result, Mr. Javalois and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.”)

Failure to Reimburse Employees for All Necessary Business Expenditures

As alleged above, Deanco failed to reimburse Mr. Javalois and other aggrieved employees for necessary work expenses, including the use of their personal cellular phones for business purposes. Deanco’s policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 4, § 9, and Labor Code §§ 2802 and 2804 (“An employer shall indemnify his or her employees 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 obedience to the directions of the employer.”) Mr. Javalois and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

Wage Statement Violations

Deanco was required to furnish Mr. Javalois and other aggrieved employees with complete and accurate itemized wage statements that showed, among other things, their rates of pay, corresponding number of hours worked at each rate of pay, total gross wages earned, total net wages earned, and the name of the legal entity that is the employer. *See* Labor Code §§ 226(a) and 1174(d); Wage Order 4, § 7. As a result of Deanco’s failure to pay all overtime, minimum, and double-time wages; failure to pay all required meal and rest period premium wages; and failure to pay sick time pay at the correct regular rate of pay, Deanco maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Javalois and other aggrieved employees in violation of Labor Code § 226. Deanco’s failure to comply with its wage statement obligations was knowing and intentional, and Mr. Javalois and other aggrieved employees have suffered injury as a result.

As an “aggrieved employee,” Mr. Javalois will initiate a civil action on behalf of himself and other aggrieved employees to recover civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Javalois’s own investigation, and on information and belief, Deanco committed and continues to commit the following Labor Code violations:

- a. Deanco violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Javalois and other aggrieved employees the statutory minimum wage for all hours worked;
- b. Deanco violated Labor Code §§ 204, 510, 1194, and 1198 by failing to pay Mr. Javalois and other aggrieved employees all overtime compensation earned;
- c. Deanco violated Labor Code §§ 226.7, 512, and 1198 by failing to provide meal periods as required by law and failing to pay meal period premiums to Mr. Javalois and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations;
- d. Deanco violated Labor Code §§ 226.7, 516, and 1198 by failing to authorize and permit Mr. Javalois and other aggrieved employees all required rest periods and failing to pay rest period premiums to Mr. Javalois and other aggrieved employees at these employees' respective regular rates of compensation for rest period violations;
- e. Deanco violated Labor Code §§ 2802 and 2804 by failing to reimburse Mr. Javalois and other aggrieved employees for all necessary expenditures incurred;
- f. Deanco violated Labor Code § 226 by failing to furnish Mr. Javalois and other aggrieved employees with accurate and compliant itemized wage statements;
- g. Deanco violated Labor Code § 204 by failing to pay Mr. Javalois and other aggrieved employees all wages earned at least twice during each calendar month; and
- h. Deanco violated Labor Code §§ 1174 and 1198 by failing to maintain accurate records on behalf of Mr. Javalois and other aggrieved employees.

Pursuant to Labor Code Section § 2699.3(a)(2)(A), please notify us and Deanco if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC



Paul K. Haines

cc: Deanco Healthcare, LLC (via certified mail)

EXHIBIT 3

JAMES JH HAWKINS

A PROFESSIONAL LAW CORPORATION

9880 RESEARCH DRIVE, SUITE 200, IRVINE, CALIFORNIA 92618
TELEPHONE (949) 387-7200; FACSIMILE (949) 387-6676

October 8, 2025

Via LWDA Website

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612
<http://www.dir.ca.gov/Private-Attorneys-General-Act>

Via Certified Mail

DEANCO HEALTHCARE, LLC dba MISSION COMMUNITY HOSPITAL, a
California Limited Liability Company
Agent for Service:
CRAIG GARNER
14850 ROSCOE BLVD.
PANORAMA CITY, CA 91402-4618
Receipt No.: 9589 0710 5270 0078 0202 04

MISSION COMMUNITY HOSPITAL FOUNDATION, a California Nonprofit
Corporation
Agent for Service:
CRAIG GARNER
14850 ROSCOE BLVD
PANORAMA CITY, CA 91402
Receipt No.: 9589 0710 5270 0078 0202 11

Re: NOTICE PURSUANT TO LABOR CODE SECTIONS 2698, *et seq.*

To Whom It May Concern:

PLEASE TAKE NOTICE that plaintiff TRAMaine MARQUISE WASP, individually and on behalf of all similarly situated representative aggrieved employees, gives NOTICE to commence and/or amend a civil action pursuant to California Labor Code Sections 2698, *et seq.* Plaintiff hereby gives written notice by certified mail to the Labor and Workforce Development Agency, DEANCO HEALTHCARE, LLC dba MISSION COMMUNITY HOSPITAL, a California Limited Liability Company; MISSION COMMUNITY HOSPITAL FOUNDATION, a California Nonprofit Corporation, through their Agents for Service of Process.

Plaintiff hereby attaches a copy of the Proposed PAGA Representative Action Complaint to be filed in the Los Angeles County Superior Court, as though fully set forth herewith setting out the specific provisions of the Labor Code Plaintiff alleges have been violated, including the facts and theories. All labor provisions in the Proposed PAGA Representative Action Complaint alleged to have been violated pertain to all entities and

individuals named in the Complaints, even if not expressly specified.

Please advise within sixty (60) days of the post mark on this letter if the LWDA intends to investigate these claims.

Thank you, and if you have any questions, please do not hesitate to contact me.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Gregory Mauro', with a stylized, cursive script.

Gregory Mauro

Enclosure: Proposed PAGA Representative Action Complaint

JAMES HAWKINS APLC
James R. Hawkins(#192925)
Gregory Mauro(#222239)
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Lauren Falk(#316893)
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9880 Research Drive, Suite 200
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Email: Michael@jameshawkinsaplc.com
Email: Lauren@jameshawkinsaplc.com
Email: Ava@jameshawkinsaplc.com

Attorneys for Plaintiff TRAMAINÉ MARQUISE WASP,
on behalf of the general public as private attorney general

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

TRAMAINÉ MARQUISE WASP, on behalf of
the general public as private attorney general,

Plaintiff,

v.

DEANCO HEALTHCARE, LLC dba
MISSION COMMUNITY HOSPITAL, a
California Limited Liability Company;
MISSION COMMUNITY HOSPITAL
FOUNDATION, a California Nonprofit
Corporation and DOES 1-50, inclusive,

Defendants.

Case No.

ASSIGNED FOR ALL PURPOSES TO:

JUDGE:

DEPT:

**PROPOSED PAGA REPRESENTATIVE
ACTION COMPLAINT PURSUANT TO
THE PRIVATE ATTORNEYS GENERAL
ACT (Labor Code §§ 2698 *et seq.*)**

COMES NOW Plaintiff TRAMAINÉ MARQUISE WASP (“Plaintiff”), on behalf the general public and all non-exempt aggrieved employees, acting on behalf of the California Attorney General as private attorney general, asserts claims against Defendants DEANCO HEALTHCARE, LLC dba MISSION COMMUNITY HOSPITAL, a California Limited Liability Company; MISSION COMMUNITY HOSPITAL FOUNDATION, a California Nonprofit Corporation and DOES 1-50, inclusive (collectively “Defendants”) and alleges on information and belief as follows:

I. INTRODUCTION

1. This is a representative action for recovery of penalties under the Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code sections 2698 *et seq.* PAGA permits “aggrieved employees” to bring a lawsuit as a representative action on behalf of the general public as private attorney general and all other current and former aggrieved employees, to recover civil penalties and address an employer’s violations of the California Labor Code.

2. In this case, Defendants violated various provisions of the California Labor Code. As set forth below, Defendants implemented policies and practices which led to unpaid wages resulting from Defendants’: (a) failure to pay minimum and overtime wages, (b) failure to provide meal periods, (c) failure to provide rest periods, (d) failure to pay wages timely during employment; (e) failure to provide accurate itemized wage statements, and (f) failure to reimburse necessary business expenses. As a result Plaintiff seeks penalties under Labor Code 2698, *et. seq.* on behalf of the general public as private attorney general and all other aggrieved employees.

II. JURISDICTION AND VENUE

3. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, Section 10, which grants the Superior Court “original jurisdiction in all cases except those given by statute to other trial courts.” The statutes under which this action is brought do not give jurisdiction to any other court.

4. This Court has jurisdiction over Defendants because, upon information and belief, Defendants either has sufficient minimum contacts in California, or otherwise intentionally avails

1 itself of the California market so as to render the exercise of jurisdiction over it by the California
2 Courts consistent with traditional notions of fair play and substantial justice.

3 5. Venue as to each Defendants is proper in this judicial district pursuant to Code of
4 Civil Procedure section 395. Defendants is doing business throughout California, including but
5 not limited to Los Angeles County, and each Defendants is within the jurisdiction of this Court for
6 service of process purposes. The unlawful acts alleged herein have a direct effect on Plaintiff and
7 all other aggrieved employees within the State of California. Defendants employs numerous
8 aggrieved employees in in the State of California.

9 6. On information and belief, Defendants have conducted business within the State of
10 California during the purported liability period and continue to conduct business throughout the
11 State of California. The unlawful acts alleged herein have had a direct effect on Plaintiff, and the
12 similarly situated aggrieved employees within California.

13 7. The California Superior Court also has jurisdiction in this matter because on
14 information and belief there are no federal questions at issue, as the issues herein are based solely
15 on California statutes and law, including the California Labor Code, the IWC Wage Orders, the
16 California Code of Civil Procedure, the California Civil Code, and the California Business and
17 Professions Code.

18 8. On information and belief, during the statutory liability period and continuing to
19 the present ("liability period"), Defendants consistently maintained and enforced against
20 Defendants' aggrieved Employees, among others, the following unlawful practices and policies,
21 in violation of California state wage and hour laws: (a) failure to pay minimum and overtime
22 wages, (b) failure to provide meal periods, (c) failure to provide rest periods, (d) failure to pay
23 wages timely during employment; (e) failure to provide accurate itemized wage statements, and
24 (f) failure to reimburse necessary business expenses.

25 9. On information and belief, during the statutory liability period and continuing to
26 the present, Defendants have had a consistent policy of failing to pay wages including overtime
27 wages for hours worked while subject to the control of Defendant.
28

10. On information and belief, during the statutory liability period and continuing to the present, Defendants have failed to provide meal periods to Plaintiff and aggrieved employees. Defendants have also failed to provide meal premiums for missed meal periods.

11. On information and belief, during the statutory liability period and continuing to the present, Defendants have failed to provide rest periods to Plaintiff and aggrieved employees. Defendants have also failed to provide rest premiums for missed rest periods.

12. On information and belief, during the statutory liability period and continuing to the present, Defendants have had a consistent policy of failing to timely pay wages during Plaintiff and Aggrieved Employees' employment.

13. On information and belief, during the statutory liability period and continuing to the present, Defendants have failed to provide Plaintiff and aggrieved employees accurate itemized wage statements.

14. On information and belief, during the statutory liability period and continuing to the present, Defendants have failed to reimburse necessary business expenses to Plaintiff and aggrieved employees.

15. Plaintiff on behalf of the general public as private attorney general and all other aggrieved employees bring this action pursuant to Labor Code 2698, et. seq. for violations enumerated under 2699.5 as follows: sections 201-204, 226, 510, 511, 558, 226.3, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, 2802 and seeking penalties, interest, attorneys' fees and costs.

III. PARTIES

A. Plaintiff

16. Plaintiff, TRAMAINÉ MARQUISE WASP, was at all times relevant to this action, a resident of California. Plaintiff was employed by Defendants during November 5, 2024 as a Non-Exempt Employee with the title of Mental Health Worker and worked during the liability period for Defendants until Plaintiff's separation from Defendants' employ in approximately February 9, 2025.

17. As Defendants' employee, Plaintiff, and all other aggrieved employees were

regularly required to and subsequently suffered:

- a) to perform work subject to the control of the employer without being compensated all wages including overtime, all in violation of California labor laws, regulations, and the Industrial Welfare Commission Wage Order (“IWC”);
- b) not provided meal periods nor paid premium wages;
- c) not provided rest periods nor paid premium wages;
- d) not paid timely during their employment;
- e) not provided accurate itemized wage statements; and
- f) not reimbursed or necessary business expenses.

18. On information and belief, Defendants willfully failed to pay all earned wages in the form regular wages and overtime wages, to its Non-Exempt Employees and members of the Representative Group; nor have Defendants returned to Plaintiff or members of the Representative Group, upon or after separation from employment with Defendant, all wages earned and owing. Plaintiff seeks penalties under Labor Code 2698, *et. seq.* on behalf of the general public as private attorney general and all other aggrieved employees.

B. Defendants

19. Defendant, DEANCO HEALTHCARE, LLC, is a California Limited Liability Company dba MISSION COMMUNITY HOSPITAL. Plaintiff estimates there are in excess of one hundred (100) Non-Exempt Employees who work or have worked for Defendant over the last year.

20. Defendant, MISSION COMMUNITY HOSPITAL FOUNDATION, is a California Nonprofit Corporation. Plaintiff estimates there are in excess of one hundred (100) Non-Exempt Employees who work or have worked for Defendant over the last year.

21. Other than identified herein, Plaintiff is unaware of the true names, capacities, relationships and extent of participation in the conduct alleged herein, of the Defendants sued as DOES 1 through 50, but is informed and believes and thereon alleges that said Defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these Defendants

1 by such fictitious names. Plaintiff will amend this complaint when their true names and capabilities
2 are ascertained.

3 22. Plaintiff is informed and believes and thereon alleges that each Defendant, directly
4 or indirectly, or through agents or other persons, employed Plaintiff and other members of the
5 Representative Group, and exercised control over their wages, hours, and working conditions.
6 Plaintiff is informed and believes and thereon alleges that each Defendants acted in all respects
7 pertinent to this action as the agent of the other Defendant, carried out a joint scheme, business
8 plan or policy in all respects pertinent hereto, and the acts of each Defendants are legally
9 attributable to the other Defendant.

10 IV. GENERAL ALLEGATIONS

11 23. At all times set forth herein, Defendants employed Plaintiff and other persons in
12 the capacity of non-exempt positions, however titled, throughout the state of California.

13 24. Plaintiff is informed and believes Aggrieved Employees have at all times pertinent
14 hereto been Non-Exempt within the meaning of the California Labor Code and the implementing
15 rules and regulations of the IWC California Wage Orders.

16 25. Defendants continue to employ Non-Exempt Employees, however titled, in
17 California and implement a uniform set of policies and practices to all non-exempt employees, as
18 they were all engaged in the generic job duties related to Defendants' hospital business.

19 26. Plaintiff is informed and believes, and thereon alleges, that Defendants are and were
20 advised by skilled lawyers and other professionals, employees, and advisors with knowledge of
21 the requirements of California's wage and employment laws.

22 27. On information and belief, during the relevant time frame, Plaintiff and Aggrieved
23 Employees frequently worked well over eight (8) hours in a day and forty (40) hours in a work
24 week.

25 28. During the relevant time frame, Defendants compensated Plaintiff and Aggrieved
26 Employees based upon an hourly rate.

27 29. On information and belief, during the relevant time frame, Plaintiff and Aggrieved
28

1 Employees typically worked five (5) days a week.

2 30. Plaintiff is informed and believes that the Aggrieved Employees were required to
3 keep similar schedules.

4 31. In addition, the Aggrieved Employees frequently worked in excess of eight (8)
5 hours a day and/or over forty (40) hours in a workweek, but were not properly paid for minimum
6 and overtime wages.

7 32. Defendants also failed to properly calculate Plaintiff's and Aggrieved Employees'
8 regular rate of pay including but not limited to by failing to include all forms of
9 compensation/remuneration in the regular rate including but not limited to bonuses, incentives,
10 commissions, shift differentials, and other compensation for overtime calculation purposes.

11 33. During the relevant time, Plaintiff and Aggrieved Employees were required to work
12 off-the-clock before and after their scheduled shifts without receiving any overtime wages as
13 compensation such as bag checks occurring while off the clock and personal cell phone use for
14 work-related purposes.

15 34. During the relevant time, as a consequence of Defendants' staffing and scheduling
16 practices, work demands, and Defendants' policies and practices, Defendants frequently failed to
17 provide Plaintiff and Aggrieved Employees timely, legally complaint uninterrupted 30-minute
18 meal periods on shifts over five hours as required by law.

19 35. On information and belief, Plaintiff and Aggrieved Employees did not waive their
20 rights to meal periods under the law.

21 36. Plaintiff and Aggrieved Employees were not provided with valid lawful on-duty
22 meal periods.

23 37. Despite the above-mentioned meal period violations, Defendants failed to
24 compensate Plaintiff, and on information and belief, failed to compensate Aggrieved Employees,
25 one additional hour of pay at their regular rate as required by California law when meal periods
26 were not timely or lawfully provided in a compliant manner.

27 38. Time clock records show that all meal breaks are exactly 30 minutes, which was an
28

1 auto reduction rather than a reflection of actual meal breaks.

2 39. Plaintiff are informed and believe, and thereon alleges, that Defendants know,
3 should know, knew, and/or should have known that Plaintiff and Aggrieved Employees were
4 entitled to receive premium wages based on their regular rate of pay under California Labor Code
5 § 226.7 but were not receiving such compensation.

6 40. Plaintiff was required to work during meal periods every work day throughout the
7 liability period. Defendants had knowledge that Plaintiff was working through his meal periods,
8 yet still failed to compensate with meal premium pay

9 41. In addition, during the relevant time frame, Plaintiff and the Non-Exempt
10 Employees were systematically not authorized and permitted to take one net ten-minute paid, rest
11 period for every four hours worked or major fraction thereof, which is a violation of the California
12 Labor Code and IWC wage order.

13 42. Defendants maintained and enforced scheduling practices, policies, and imposed
14 work demands that frequently required Plaintiff and Aggrieved Employees to forego their lawful,
15 paid rest periods of a net ten minutes for every four hours worked or major fraction thereof. Such
16 requisite rest periods were not timely authorized and permitted as a result of Defendants' failure
17 to provide relief for Plaintiff and Aggrieved Employees to take their lawfully required breaks.
18 Plaintiff was not given a third rest break on the aforementioned ten (10) hour and above work days.

19 43. Despite the above-mentioned rest period violations, Defendants did not compensate
20 Plaintiff, and on information and belief, did not pay Aggrieved Employees one additional hour
21 of pay at their regular rate as required by California law, including California Labor Code § 226.7
22 and the applicable IWC wage order, for each day on which lawful rest periods were not authorized
23 and permitted.

24 44. Defendants failed to reimburse Plaintiff and Aggrieved Employees for business
25 expenses incurred pursuant to California Labor Code § 2802. Plaintiff was not reimbursed for his
26 personal cell phone use. Such cell phone use was required for work related purposes during work
27 hours and outside of work hours.
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1 45. Defendants employed Plaintiff as a Psychiatric Nursing Coordinator on a purported
2 3/12 Alternative Workweek Schedule (“AWS”), under which he regularly worked twelve-hour
3 shifts at Mission Community Hospital. However, the California Department of Industrial
4 Relations’ AWS election database contains no record of any valid AWS election for Mission
5 Community Hospital, Deanco Healthcare LLC, or the facility where Plaintiff worked. Plaintiff’s
6 paystubs confirm that Defendants paid overtime only after approximately thirty-six (36) regular
7 hours per week rather than after eight (8) hours in a workday, consistent with an invalid AWS
8 scheme. For example, during the pay period ending February 22, 2025, Plaintiff was paid for forty-
9 seven (47) total hours—thirty-six (36) regular and eleven (11) overtime—reflecting payment of
10 overtime only after three twelve-hour shifts. As a result, Plaintiff was deprived of full daily
11 overtime compensation required under Labor Code sections 510 and 1194 and IWC Wage Order
12 No. 5-2001.

13 46. Defendants participated in quarterly rounding practices.

14 47. Plaintiff and Aggrieved Employees were not paid for double time compensation
15 owed to them.

16 48. Upon information and belief, Defendants knew and or should have known that it is
17 improper to implement policies and commit unlawful acts such as:

18 (a) requiring employees to work four (4) hours or a major fraction thereof without
19 being provided a minimum ten (10) minute rest period and without compensating the employees
20 with one (1) hour of pay at the employees’ regular rate of compensation for each workday that a
21 rest period was not provided;

22 (b) requiring employees to work in excess of five (5) hours or ten (10) hours per day
23 without being provided an uninterrupted thirty minute meal period and/or a second meal period,
24 and without compensating employees with one (1) hour of pay at the regular rate of compensation
25 for each workday that such a meal period was not provided;

26 (c) failing to pay overtime and minimum wages;

27 (d) failing to reimburse necessary business expenses; and
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1 (e) failing to maintain accurately itemized wage statements;

2 49. In addition to the violations above, and on information and belief, Defendants knew
3 they had a duty to compensate Plaintiff and Aggrieved Employees for the allegations asserted
4 herein, and that Defendants had the financial ability to pay such compensation, but willfully,
5 knowingly, recklessly, and/or intentionally failed to do so.

6 50. Plaintiff and Aggrieved Employees they seek to represent are covered by, and
7 Defendants are required to comply with, applicable California Labor Codes, Industrial Welfare
8 Commission Occupational Wage Orders (hereinafter “IWC Wage Orders”) and corresponding
9 applicable provisions of California Code of Regulations, Title 8, § 11000 *et seq.*

10 **V. REPRESENTATIVE CLAIMS**

11 **THE PRIVATE ATTORNEYS GENERAL ACT- LABOR CODE §§ 2698 *et seq.***

12 51. Plaintiff incorporates by reference and re-alleges each and every allegation
13 contained above, as though fully set forth herein.

14 52. PAGA is a mechanism by which the State of California can enforce state labor laws
15 through the employee suing under the PAGA who do so as the proxy or agent of the state’s labor
16 law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a
17 law enforcement action designed to protect the public and not to benefit private parties. The
18 purpose of the PAGA is not to recover damages or restitution, but to create a means of “deputizing”
19 citizens as private attorneys general to enforce the Labor Code. In enacting PAGA, the California
20 Legislature specified that “it was...in the public interest to allow aggrieved employees, acting as
21 private attorneys general to recover civil penalties for Labor Code violations...” Stats. 2003, Ch.
22 906, section 1. Accordingly, PAGA claims cannot be subject to arbitration.

23 53. Plaintiff brings this Representative Action on behalf of the State of California with
24 respect to himself and all other individuals who are or previously were employed by Defendants
25 as non-exempt California employees during the applicable statutory period (the “aggrieved
26 employees”).

27 54. On October 8, 2025, Plaintiff complied with notice requirements pursuant to Labor
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1 Code section 2699.3. A copy of the letter sent to the LWDA is attached hereto as **Exhibit A**,
2 indicating that the LWDA and Defendants were put on notice of the claims alleged here and that
3 the notice requirement has been satisfied. Sixty five days have passed and the LWDA has not
4 indicated intent to investigate the claims. Therefore, Plaintiff may proceed with this action in a
5 representative capacity. The substance and violations set forth in this Complaint of which the
6 LWDA was provided timely notice, Plaintiff has also sent a copy of this PAGA Representative
7 Action Complaint to the LWDA.

8 55. Plaintiff is an aggrieved employee as defined in Labor Code Section 2699(a).
9 Plaintiff brings this cause of action on behalf of all current and former California non-exempt
10 Employees of Defendant.

11 56. Pursuant to Labor Code section 2699(a) Plaintiff seek to recover civil penalties for
12 which Defendants are liable due to numerous Labor Code violations as set forth in this Complaint,
13 including without limitation Labor Code section 201-204, 226, 226.3, 510, 511, 558, 1174, 1174.5,
14 1175, 1194, 1197, 1197.1, 1198, 2802, and, 2698 *et seq.*, applicable IWC Wage Orders and
15 California Code of Regulations, Title 8, section 11000 *et. seq.*

16 57. Defendants violated Labor Code section 510, and 1194 by failing to accurately pay
17 overtime wages owed. Therefore, Defendants violated section 510, and 1194 by not compensating
18 its Non-Exempt Employees for work performed in excess of eight hours (8) in a day or forty hours
19 in a work week (40). Section 510 of the Labor Code codifies the right to overtime compensation
20 at the rate of one and one-half times the regular rate of pay for all hours worked in excess of eight
21 (8) hours in a day or forty (40) hours in a work week and to overtime compensation twice the
22 regular rate of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight
23 (8) hours in a day on the seventh day of work in a particular work week

24 58. On information and belief, Defendant engaged in time shaving practices.

25 59. Labor Code section 201.3 states in relevant part: “(b) (1) (A) Except as provided in
26 paragraphs (2) to (5), inclusive, if an employee of a temporary services employer is assigned to
27 work for a client, that employee’s wages are due and payable no less frequently than weekly,
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1 regardless of when the assignment ends, and wages for work performed during any calendar week
2 shall be due and payable not later than the regular payday of the following calendar week. A
3 temporary services employer shall be deemed to have timely paid wages upon completion of an
4 assignment if wages are paid in compliance with this subdivision.” Here, Plaintiff was paid on a
5 bi-weekly basis.

6 60. Plaintiff and all other aggrieved employees who were separated from employment
7 are entitled to compensation for all forms of wages earned, including but not limited to
8 compensation minimum and overtime wages, but to date have not received such compensation,
9 therefore entitling them to penalties under PAGA for violations of Labor Code sections 201-204.

10 61. On information and belief, Defendants willfully failed to pay all wages due and
11 owing upon separation from employment. These wages include minimum and overtime wages.

12 62. On information and belief, Defendants willfully failed to pay all wages due and
13 owing during employment. These wages include minimum and overtime wages.

14 63. On information and belief, Defendants willfully failed to pay all shift differentials
15 owed to Plaintiff and aggrieved employees.

16 64. On information and belief, Defendants failed to provide accurate itemized wage
17 statements which failed to include all hours worked, including overtime, due and owing to Plaintiff
18 and the aggrieved employees pursuant to Labor Code section 226(a). Defendants further failed to
19 include or itemize the gift card payments made to Plaintiffs and Aggrieved Employees.

20 65. Pursuant to Labor Code section 226.3, any employer who violates subdivision (a)
21 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
22 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
23 for each violation in a subsequent citation, for which the employer fails to provide the employee a
24 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.

25 66. Additionally, Defendants have no accurate records relating to aggrieved
26 employees’ work periods, total daily hours worked, total hours worked per payroll period and
27 applicable pay rates, in violation of applicable Wage Orders. Similarly, Defendants failed to
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1 maintain accurate records relating to hours worked daily in violation of Labor Code sections
2 1174(d), 1174.5.

3 67. On information and belief, Defendants failed to reimburse Plaintiff and aggrieved
4 Employees for business expenses incurred as described above. Labor Code § 2802 requires
5 Defendants to indemnify Plaintiff and aggrieved Employees for necessary expenditures incurred
6 in direct consequences of the discharge of his or her duties. Despite these realities of the job,
7 Defendants failed to provide reimbursements.

8 68. Labor Code §2804 states in pertinent part: “Any contract or agreement, express or
9 implied, made by any employee to waive the benefits of this article or any part thereof is null and
10 void, and this article shall not deprive any employee or his or her personal representative of any
11 right or remedy to which he is entitled under the laws of this State

12 69. As a result of Defendants’ unlawful conduct, Plaintiff and aggrieved employees
13 are entitled to penalties to the extent they were not paid at the prevailing wage rate for all hours
14 worked.

15 70. Plaintiff and the Representative aggrieved Employees are entitled to recover
16 Penalties and attorneys’ fees and costs sunder Labor Code section 2698, et. seq.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff prays for judgment against Defendant, as follows:

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- 20 1. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq.;
 - 21 2. For reasonable attorneys’ fees and costs; and
 - 22 3. For such other and further relief as the Court deems proper.
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Dated: October 8, 2025

JAMES HAWKINS APLC

By: _____

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GREGORY MAURO
MICHAEL CALVO
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