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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF EL DORADO**
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15 ROXANA RODRIGUEZ MELENDEZ, an
individual and on behalf of all others similarly
16 situated;

17 Plaintiff,

18 vs.

19 BARTON HEALTHCARE SYSTEM, a
20 California non-profit corporation; and DOES 1
through 50,

21 Defendants.
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Case No.: 24CV2038

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

- (1) **MINIMUM WAGE VIOLATIONS**
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);
- (2) **OVERTIME WAGE VIOLATIONS**
(LABOR CODE §§ 204, 510, 1194,
1198);
- (3) **MEAL PERIOD VIOLATIONS**
(LABOR CODE §§ 226.7, 512, 558);
- (4) **REST PERIOD VIOLATIONS**
(LABOR CODE §§ 226.7, 516, 558);
- (5) **WAGE STATEMENT PENALTIES**
(LABOR CODE § 226);
- (6) **WAITING TIME PENALTIES**
(LABOR CODE §§ 201-203);
- (7) **REPORTING TIME PREMIUMS**
(IWC Wage Order 4, Section 5);

(8) UNFAIR COMPETITION (BUS & PROF CODE §§ 17200, *et seq.*); and
(9) CIVIL PENALTIES UNDER THE CALIFORNIA PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE §§ 2698, *et seq.*)

DEMAND FOR JURY TRIAL

Plaintiff ROXANA RODRIGUEZ MELENDEZ (“Plaintiff”), on behalf of herself and all others similarly situated, hereby brings this First Amended Class and Representative Action Complaint (“Complaint”) against Defendants BARTON HEALTHCARE SYSTEM, a California non-profit corporation, and DOES 1 to 50 (collectively “Defendants”), and on information and belief alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this Complaint for recovery of unpaid wages and penalties under California Business and Professions Code § 17200, *et seq.*, Labor Code §§ 201-204, 226, 226.7, 246, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2698, *et seq.*, and Industrial Welfare Commission (“IWC”) Wage Order 5-2001 (“Wage Order 5”), in addition to seeking injunctive relief, declaratory relief, and restitution. This Complaint is brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’ violations of the Labor Code because the amount in controversy exceeds \$25,000.

2. Venue is proper in this judicial district because Defendants maintain offices, have agents, and/or transact business in the State of California, including El Dorado County, and some of the acts and omissions complained of herein occurred in El Dorado County. Furthermore, Plaintiff was employed by Defendants within El Dorado County.

PARTIES

3. Plaintiff is, and at all times relevant herein was, an individual over the age of eighteen (18) and is a California resident. Within the statute of limitations periods applicable to each cause of action pled herein, Plaintiff was employed by Defendants as a non-exempt employee.

1 Plaintiff was, and is, a victim of Defendants' policies, practices, and/or customs complained of
2 herein and has been deprived of the rights guaranteed by Business and Professions Code § 17200, *et*
3 *seq.*, Labor Code §§ 201-204, 226, 226.7, 246, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197,
4 1198, 2698, *et seq.*, and Wage Order 5.

5 4. Plaintiff is informed and believes, and based thereon alleges, that during the
6 applicable statute of limitations for each cause of action pled herein and continuing to the present,
7 Defendants engaged in, and continue to engage in, business, and employed Plaintiff and other,
8 similarly-situated non-exempt employees within El Dorado County, and the State of California and,
9 therefore, were (and are) doing business in El Dorado County and the State of California.

10 5. Plaintiff does not know the true names or capacities, whether individual, partner, or
11 corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said
12 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
13 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed and
14 believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
15 partners, or corporate, was responsible in some manner for the acts and omissions alleged herein,
16 and proximately caused Plaintiff and the Classes (as defined below) to be subject to the unlawful
17 employment practices, wrongs, injuries, and damages complained of herein.

18 6. At all times herein mentioned, each of said Defendants participated in the doing of
19 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,
20 Defendants, and each of them, were the agents, servants, and employees of each of the other
21 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
22 within the course and scope of said agency and employment.

23 7. Plaintiff is informed and believes, and based thereon alleges, that at all times
24 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
25 joint venturer of, or working in concert with each of the other co-Defendants and was acting within
26 the course and scope of such agency, employment, joint venture, or concerted activity. To the extent
27 said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining
28 Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

1 8. At all times herein mentioned, Defendants, and each of them, were members of, and
2 engaged in, a joint venture, partnership, and common enterprise, and acting within the course and
3 scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

4 9. At all times herein mentioned, the acts and omissions of various Defendants, and
5 each of them, concurred and contributed to the various acts and omissions of each and all of the
6 other Defendants in proximately causing the injuries and damages as herein alleged.

7 **FACTUAL ALLEGATIONS**

8 10. Defendants own and operate a hospital in South Lake Tahoe, California. Defendants
9 employed Plaintiff as an hourly-paid, non-exempt employee from approximately June 2021 to
10 approximately July 19, 2024 as a CNA.

11 11. Throughout Plaintiff's employment with Defendants, Defendants' timekeeping
12 and/or payroll policies and practices resulted in Plaintiff and other non-exempt employees not being
13 compensated for all hours actually worked. Plaintiff and other non-exempt employees regularly
14 worked more than eight hours in a workday or 40 hours in a workweek. Upon information and
15 belief, Defendants required Plaintiff and other non-exempt employees to be on controlled standby
16 without proper compensation. Upon information and belief, Defendants also failed to incorporate
17 multiple rates of pay and/or all non-discretionary remuneration, including on-call premiums, into
18 the regular rate of pay. As a result, Plaintiff and other non-exempt employees were not compensated
19 for all earned minimum and overtime wages.

20 12. Defendants failed to provide Plaintiff and other non-exempt employees with all
21 legally compliant meal periods due to Defendants' meal period policies/practices, which have
22 frequently resulted in late (commencing after the fifth hour of work), short (less than 30 minutes),
23 and/or missed meal periods. Upon information and belief, Plaintiff and other non-exempt
24 employees were not able to take their legally compliant meal breaks due to work demands imposed
25 by Defendants. On those occasions when Plaintiff and other non-exempt employees were not
26 provided with all legally compliant meal periods to which they were entitled, Defendants failed to
27 failed to incorporate multiple rates of pay and/or all non-discretionary remuneration, including on-
28 call premiums, into the regular rate of compensation for meal period premiums.

1 13. Plaintiff and other non-exempt employees were not authorized and permitted to take
2 all required rest periods due to Defendants' unlawful rest period policies/practices, which failed to
3 authorize and permit a net 10-minute rest period for every four hours worked, or major fraction
4 thereof. Plaintiff and other non-exempt employees were not able to take their legally compliant rest
5 breaks due to work demands imposed by Defendants. On those occasions when Plaintiff and other
6 non-exempt employees were not provided with all legally compliant rest periods to which they were
7 entitled, Defendants failed to failed to incorporate multiple rates of pay and/or all non-discretionary
8 remuneration, including on-call premiums, into the regular rate of compensation for rest period
9 premiums..

10 14. Additionally, upon information and belief, Defendants violated Labor Code § 246 by
11 failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including on-
12 call premiums, into the paid sick leave pay rate.

13 15. As a result of Defendants' failure to pay all minimum and overtime wages, failure to
14 pay all meal and rest period premium wages, and unlawful timekeeping and payroll practices as
15 alleged above, Defendants maintained inaccurate payroll records and issued inaccurate wage
16 statements to Plaintiff and other non-exempt employees. As a further result of Defendants' failure to
17 pay all minimum and overtime wages, sick leave wages, and meal and rest period premium wages,
18 Defendants failed to timely pay all final wages to Plaintiff and other former non-exempt employees
19 upon their separation of employment from Defendants.

20 16. Labor Code § 1198 provides: "The employment of any employee ... under conditions
21 of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage
22 Orders, including Wage Order 4-2001, require that for each workday an employee is required to
23 report for work and does report, but is not put to work or is furnished less than half said employee's
24 usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's
25 work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's
26 regular rate of pay. During the relevant time period, Defendants failed to pay Plaintiff and other
27 aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours
28 nor more than four (4) hours at the employee's regular rate of pay for workdays in which Plaintiff

1 and other aggrieved employees reported to work because they were on call and were furnished less
2 than half the usual or scheduled day's work.

3 **CLASS ACTION ALLEGATIONS**

4 17. **Class Definitions:** Plaintiff brings this action on behalf of herself and the following
5 Classes pursuant to § 382 of the California Code of Civil Procedure:

- 6 a. Minimum Wage Class: All current and former non-exempt employees of Defendants
7 in the State of California who were subject to Defendants' timekeeping and payroll
8 policies and/or practices, during the four years immediately preceding the filing of
9 this action through the present.
- 10 b. Overtime Class: All current and former non-exempt employees of Defendants in the
11 State of California who worked more than eight hours per day and/or 40 hours per
12 week and were subject to Defendants' timekeeping policies and/or practices, during
13 the four years immediately preceding the filing of this action through the present.
- 14 c. Meal Period Class: All current and former non-exempt employees of Defendants in
15 the State of California who: (i) worked at least one shift in excess of 5.0 hours;
16 and/or (ii) worked at least one shift in excess of 10.0 hours, during the four years
17 immediately preceding the filing of this action through the present.
- 18 d. Rest Period Class: All current and former non-exempt employees of Defendants in
19 the State of California who worked at least one shift of 3.5 or more hours, during the
20 four years immediately preceding the filing of this action through the present.
- 21 e. Wage Statement Class: All current and former non-exempt employees of Defendants
22 in the State of California who received a wage statement, during the one year
23 immediately preceding the filing of this action through the present.
- 24 f. Waiting Time Penalty Class: All of Defendants' formerly employed members of the
25 Minimum Wage Class, Overtime Class, Rest Period Class, and/or Meal Period Class
26 during the three years immediately preceding the filing of this action through the
27 present.

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1 g. Reporting Time Class: All current and former non-exempt employees of Defendants
2 in the State of California who were subject to Defendants' on-call scheduling
3 policies and/or practices, during the four years immediately preceding the filing of
4 this action through the present.

5 18. **Numerosity/Ascertainability**: The members of the Classes are so numerous that
6 joinder of all members would be impractical, if not impossible. The membership of the Classes is
7 unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number
8 greater than 50 individuals. The identity of such membership is readily ascertainable via inspection
9 of Defendants' employment records, including payroll records.

10 19. **Common Questions of Law and Fact Predominate/Well-Defined Community of**
11 **Interest**: There are predominant common questions of law and fact as to Plaintiff and members of
12 the Classes, which predominate over questions affecting only individual members including,
13 without limitation to:

- 14 a. Whether Defendants properly paid all overtime wages to members of the Overtime
15 Class;
- 16 b. Whether Defendants paid at least the minimum wage for all hours worked to
17 members of the Minimum Wage Class;
- 18 c. Whether Defendants provided all legally compliant meal periods or paid meal period
19 premium wages due to members of the Meal Period Class pursuant to Labor Code §§
20 226.7 and 512;
- 21 d. Whether Defendants authorized and permitted all legally compliant rest periods or
22 paid all rest period premium wages due to members of the Rest Period Class
23 pursuant to Labor Code §§ 226.7 and 516;
- 24 e. Whether Defendants paid reporting time pay to members of the Reporting Time
25 Class for being on-call pursuant to Wage Order 5;
- 26 f. Whether Defendants furnished legally compliant wage statements to members of the
27 Wage Statement Class pursuant to Labor Code § 226; and

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1 g. Whether Defendants timely paid all final wages to members of the Waiting Time
2 Class at the time of their separation of employment pursuant to Labor Code §§ 201
3 and 202.

4 These common questions of law and fact set forth above are numerous and substantial and
5 stem from Defendants' policies and/or practices applicable to each individual class member. As
6 such, the common questions predominate over individual questions concerning each individual
7 class member's showing as to their eligibility for recovery or as to the amount of their damages.

8 20. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
9 Plaintiff was employed by Defendants as a non-exempt employee in California during the statute(s)
10 of limitations period applicable to each cause of action pled in the Complaint. As alleged herein,
11 Plaintiff, like the members of the Classes, was not paid all minimum and overtime wages owed due
12 to Defendants' timekeeping and payroll policies/practices, not provided all required meal periods,
13 not authorized and permitted all rest periods, did not receive premium pay for non-compliant meal
14 and rest periods, not paid reporting time pay, not paid all final wages upon separation of
15 employment, and not provided with accurate, compliant, itemized wage statements.

16 21. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
17 to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's
18 attorneys are ready, willing and able to fully and adequately represent the members of the Classes
19 and Plaintiff. Plaintiff's attorneys have litigated numerous wage-and-hour class actions in state and
20 federal courts in the past and are committed to vigorously prosecuting this action on behalf of the
21 members of the Classes.

22 22. **Superiority:** The Labor Code is broadly remedial in nature and serves an important
23 public interest in establishing minimum working conditions and standards in California. These laws
24 and labor standards protect the average working employee from exploitation by employers who
25 have the responsibility to follow the laws and who may seek to take advantage of superior economic
26 and bargaining power in setting onerous terms and conditions of employment. The nature of this
27 action and the format of laws available to Plaintiff and members of the Classes make the class
28 action format a particularly efficient and appropriate procedure to redress the violations alleged

1 herein. If each employee were required to file an individual lawsuit, Defendants would necessarily
2 gain an unconscionable advantage since they would be able to exploit and overwhelm the limited
3 resources of each individual plaintiff with their vastly superior financial and legal resources.

4 23. Moreover, requiring each member of the Class(es) to pursue an individual remedy
5 would also discourage the assertion of lawful claims by employees who would be disinclined to file
6 an action against their former and/or current employer for real and justifiable fear of retaliation and
7 permanent damages to their careers at subsequent employment. The claims of the individual
8 members of the Class are not sufficiently large to warrant vigorous individual prosecution
9 considering all of the concomitant costs and expenses attending hereto.

10 24. Furthermore, the prosecution of separate actions by the individual class members,
11 even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
12 with respect to the individual class members against Defendants herein; and which would establish
13 potentially incompatible standards of conduct for Defendants; and/or legal determinations with
14 respect to individual class members which would, as a practical matter, be dispositive of the interest
15 of the other class members not parties to adjudications or which would substantially impair or
16 impede the ability of the class members to protect their interests. As such, the Classes identified
17 hereinabove are maintainable as classes under § 382 of the Code of Civil Procedure.

18 **FIRST CAUSE OF ACTION**

19 **MINIMUM WAGE VIOLATIONS**

20 **(Against All Defendants)**

21 25. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
22 fully set forth herein.

23 26. Labor Code §§ 1182.12, 1197, and Wage Order 5, § 4 establish the right of
24 employees to be paid minimum wages for all hours worked, in amounts set by state or local law.
25 Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal
26 minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with
27 attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid
28 wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform its

1 pay practices to the requirements of the law by failing to pay Plaintiff and members of the
2 Minimum Wage Class for all hours worked, including, but not limited to, all hours they were
3 subject to the control of Defendants and/or suffered or permitted to work under the Labor Code and
4 Wage Order 5.

5 27. Labor Code § 1198 makes unlawful the employment of an employee under
6 conditions that the IWC prohibits. California Labor Code § 1194(a) and 1194.2(a) provide that an
7 employer who has failed to pay its employees the legal minimum wage is liable to pay those
8 employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount
9 equal to the wages due and interest thereon.

10 28. As a consequence of Defendants' non-payment of minimum wages, Plaintiff and
11 members of the Minimum Wage Class seek recovery of the balance of unpaid wages, including
12 interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§
13 218.6, 558, 1194, 1194.2, and 1199, Code of Civil Procedure § 1021.5; and Civil Code §§ 3287 and
14 3289.

15 **SECOND CAUSE OF ACTION**
16 **OVERTIME WAGE VIOLATIONS**
17 **(Against All Defendants)**

18 29. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
19 fully set forth herein.

20 30. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, 1198, and
21 Wage Order 5, § 3, which provide that non-exempt employees are entitled to all overtime wages
22 and compensation for all overtime hours worked and provide a private right of action for the failure
23 to pay all overtime compensation for overtime work performed.

24 31. At all times relevant herein, Defendants were required to properly compensate non-
25 exempt employees, including Plaintiff and members of the Overtime Class, for all overtime hours
26 worked pursuant to Labor Code § 1194 and Wage Order 5. Wage Order 5, § 3 requires an employer
27 to pay an employee one and one-half (1½) times and two times the employee's regular rate of pay
28 for overtime and double time hours work. Defendants caused Plaintiff and members of the Overtime

1 Class to work overtime hours but failed to compensate these employees for all overtime hours
2 actually worked.

3 32. As a consequence of Defendants' non-payment of overtime wages, Plaintiff and
4 members of the Overtime Class seek recovery of the balance of unpaid overtime wages, including
5 interest thereon, statutory penalties, attorneys' fees, and costs of suit according to Labor Code §§
6 204, 210, 216, 218.6, 510, 1194, and 1198; Code of Civil Procedure § 1021.5; and Civil Code §§
7 3287 and 3289.

8 **THIRD CAUSE OF ACTION**

9 **MEAL PERIOD VIOLATIONS**

10 **(Against All Defendants)**

11 33. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
12 fully set forth herein.

13 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed
14 in their affirmative obligation to provide all of their non-exempt employees in California, including
15 Plaintiff and members of the Meal Period Class, with all legally compliant meal periods in
16 accordance with the mandates of the Labor Code and Wage Order 5, § 11.

17 35. Despite Defendants' violations, Defendants did not pay an additional hour of pay to
18 Plaintiff and members of the Meal Period Class at their respective regular rates of compensation, in
19 accordance with California Labor Code §§ 204, 210, 226.7, and 512.

20 36. As a consequence of Defendants' unlawful meal period practices, Plaintiff and
21 members of the Meal Period Class seek recovery of unpaid premium wages for meal period
22 violations including interest thereon, statutory penalties, and costs of suit, pursuant to Labor Code
23 §§ 226.7, 512, 558, Wage Order 5, and Civil Code §§ 3287 and 3289.

24 **FOURTH CAUSE OF ACTION**

25 **REST PERIOD VIOLATIONS**

26 **(Against All Defendants)**

27 37. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
28 fully set forth herein.

1 38. Labor Code §§ 226.7, 516, 558, and Wage Order 5, § 12 and establish the right of
2 employees to be provided with a rest period of at least 10 minutes for each four-hour period
3 worked, or major fraction thereof. Plaintiff is informed and believes, and based thereon alleges, that
4 despite Defendants' failure to authorize and permit Plaintiff and members of the Rest Period Class
5 to take all legally compliant rest periods as alleged herein, Defendants did not pay these individuals
6 an additional hour of pay at their respective regular rate for the rest periods that they failed to
7 authorize and permit them to take, as required by Labor Code § 226.7.

8 39. As a consequence of Defendants' unlawful rest period practices, Plaintiff and
9 members of the Rest Period Class seek recovery of unpaid premium wages for rest period violations
10 including interest thereon, statutory penalties, and costs of suit, statutory penalties, attorneys' fees,
11 and costs of suit according to Labor Code §§ 226.7, 516, 558, Wage Order 5, and Civil Code §§
12 3287 and 3289.

13 **FIFTH CAUSE OF ACTION**

14 **WAGE STATEMENT PENALTIES**

15 **(Against All Defendants)**

16 40. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
17 fully set forth herein.

18 41. Plaintiff is informed and believes, and based thereon alleges, that Defendants
19 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
20 and members of the Wage Statement Class with accurate and complete, itemized wage statements
21 that included, among other requirements, all hours worked, total gross wages earned, all rates of pay
22 and corresponding number of hours worked, total net wages earned, the inclusive dates of the pay
23 period, and/or the correct name and address of the legal entity that is the employer in violation of
24 Labor Code § 226.

25 42. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
26 with accurate and complete, itemized wage statements resulted in actual injury, as said failures led
27 to, among other things, the non-payment of minimum and overtime wages and meal and rest period
28 premium wages owed and deprived them of the information necessary to identify the discrepancies

1 in Defendants' reported payroll data.

2 43. As a consequence of Defendants' unlawful wage statement practices, Plaintiff and
3 members of the Wage Statement Class seek damages and/or statutory penalties, reasonable
4 attorneys' fees, and costs of suit according to California Labor Code § 226.

5 **SIXTH CAUSE OF ACTION**

6 **WAITING TIME PENALTIES**

7 **(Against All Defendants)**

8 44. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
9 fully set forth herein.

10 45. This cause of action is brought pursuant to Labor Code §§ 201-203, which require an
11 employer to pay all wages immediately at the time of separation of employment in the event the
12 employer discharges the employee or the employee provides at least 72 hours of notice of their
13 intent to quit. In the event the employee provides less than 72 hours of notice of their intent to quit,
14 said employee's wages become due and payable not later than 72 hours upon said employee's last
15 date of employment.

16 46. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed
17 to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at their
18 separation from employment, including unpaid minimum and overtime wages as well as unpaid
19 meal and rest period premium wages.

20 47. Furthermore, Plaintiff is informed and believes, and based thereon alleges, that as a
21 matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members of
22 the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to
23 the requirements of Labor Code §§ 201-202.

24 48. Defendants' failure to pay all final wages was willful within the meaning of Labor
25 Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting
26 Time Class their earned wages upon separation from employment results in continued payment of
27 daily wages up to thirty days from the time the wages were due.

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1 49. As a consequence of Defendants’ unlawful practices, Plaintiff and members of the
2 Waiting Time Class seek statutory penalties, and costs of suit according to California Labor Code §
3 203.

4 **SEVENTH CAUSE OF ACTION**

5 **FAILURE TO PAY REPORTING TIME PREMIUMS**

6 **(Against All Defendants)**

7 50. Plaintiffs re-alleges and incorporates by reference all preceding paragraphs as though
8 fully set forth herein.

9 51. At all relevant times herein, Defendants were subject to Wage Order 4, which
10 provides in Section 5: “(A) Each workday an employee is required to report for work and does
11 report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s
12 work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less
13 than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall
14 not be less than the minimum wage.” *See also Ward v. Tilly’s Inc.* (2019) 31 Cal.App.5th 1167,
15 1170.

16 52. Defendants employed a similar on-call scheduling scheme and failed to pay Plaintiffs
17 reporting time pay. Defendants therefore violated Labor Code § 1198 and Wage Order 4, § 5.

18 53. As a consequence of Defendants’ unlawful practices, Plaintiff and members of the
19 Reporting Time Class seek recovery of reporting time premiums, including interest thereon,
20 reasonable attorneys’ fees, and costs of suit.

21 **EIGHTH CAUSE OF ACTION**

22 **UNFAIR COMPETITION**

23 **(Against All Defendants)**

24 54. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
25 fully set forth herein.

26 55. Defendants have engaged and continue to engage in unfair and/or unlawful business
27 practices in California in violation of Business and Professions Code § 17200, *et seq.*, by:

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- 1 a. failing to pay Plaintiff and members of the Minimum Wage Class all minimum
2 wages due;
- 3 b. failing to pay Plaintiff and members of the Overtime Class all overtime wages due;
- 4 c. failing to provide Plaintiff and members of the Meal Period Class with all meal
5 periods to which they are entitled, and failing to pay them all meal period premium
6 wages due;
- 7 d. failing to authorize and permit Plaintiff and members of the Rest Period Class all rest
8 periods to which they are entitled, and failing to pay them all rest period premium
9 wages due;
- 10 e. failing to pay reporting time pay to Plaintiff and members of the Reporting Time
11 Class;
- 12 f. failing to issue accurate and itemized wage statements to Plaintiff and members of
13 the Wage Statement Class; and
- 14 g. failing to timely pay all final wages to Plaintiff and members of the Waiting Time
15 Penalty Class.

16 56. Defendants' utilization of these unfair and/or unlawful business practices deprived
17 Plaintiff and continues to deprive members of the Classes of compensation to which they are legally
18 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over
19 Defendants' competitors who have been and/or are currently employing workers and attempting to
20 do so in honest compliance with applicable wage and hour laws.

21 57. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
22 herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of
23 monies, as necessary and according to proof, to restore any and all monies withheld, acquired
24 and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

25 58. The acts complained of herein occurred within the last four years immediately
26 preceding the filing of the Complaint in this action.

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1 **NINTH CAUSE OF ACTION**

2 **PRIVATE ATTORNEYS GENERAL ACT**

3 **(Against All Defendants)**

4 59. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as though
5 fully set forth herein.

6 60. Plaintiff, an “aggrieved employee” within the meaning of Labor Code §§ 2698, *et*
7 *seq.*, acting on behalf of herself and other aggrieved employees (collectively, “Aggrieved
8 Employees”), brings this representative action against Defendants to recover the civil penalties due
9 to Plaintiff and other Aggrieved Employees, and the State of California according to proof pursuant
10 to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial
11 violation for each failure to pay each employee and \$200 for each subsequent violation or willful or
12 intentional violation pursuant to Labor Code §§ 210 and/or 225.5 for each failure to pay each
13 employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and
14 \$100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3)
15 \$100 for each initial violation and \$250 for each subsequent violation pursuant to Labor Code §
16 1197.1 per employee per pay period; (4) \$250 for each initial violation and \$1,000 for each
17 subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to
18 Labor Code § 256, a civil penalty in an amount not exceeding 30 days per former employee as
19 waiting time under the terms of Labor Code § 203; and/or (6) \$100 for each initial violation and
20 \$200 for each subsequent violation per employee per pay period for those violations of the Labor
21 Code for which no civil penalty is specifically provided, based on the following Labor Code
22 violations:

- 23 a. Failing to pay minimum wages for all hours worked to Aggrieved Employees in
24 violation of Labor Code § 558, 1182.12, 1194, 1194.2, 1197, and 1198;
25 b. Failing to pay Aggrieved Employees all earned overtime compensation in violation
26 of Labor Code §§ 204, 510, 558, 1194, and 1198;
27 c. Failing to provide all legally required meal periods, and failure to pay meal period
28 premium wages, to Aggrieved Employees at the regular rate of compensation in

violation of Labor Code §§ 226.7, 512, 558, and 1198;

- d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Aggrieved Employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- e. Failing to furnish Aggrieved Employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- f. Failing to timely pay all final wages and compensation earned by Aggrieved Employees at the time of separation in violation of Labor Code §§ 201-202;
- g. Failure to pay Aggrieved Employees reporting time pay in violation of Labor Code § 1198 ;
- h. Failing to pay Aggrieved Employees all paid sick leave wages in violation of Labor Code § 246;
- i. Failing to pay Aggrieved Employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and
- j. Failing to maintain accurate records on behalf of Aggrieved Employees in violation of Labor Code §§ 1174 and 1198.

61. On or about September 17, 2024, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the Labor Code and Plaintiff’s intent to bring a claim for civil penalties under Labor Code §§ 2698, *et seq.* with respect to the violations of the Labor Code identified in the preceding paragraph. Now that 33 days and 65 days have passed from Plaintiff notifying Defendants and the LWDA of these violations, Defendants have not cured any curable violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

62. Plaintiff has incurred attorneys’ fees and costs, which Plaintiff is entitled to receive under California Labor Code § 2699(g).

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment for herself and for all others on whose behalf
3 this suit is brought against Defendants, as follows:

- 4 1. For an order certifying the proposed Classes;
- 5 2. For an order appointing Plaintiff as representative of the Classes;
- 6 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 7 4. Upon the First Cause of Action, for payment of minimum wages, liquidated
8 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and
9 1197;
- 10 5. Upon the Second Cause of Action, for payment of overtime wages and penalties
11 according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 12 6. Upon the Third Cause of Action, for meal period premium wages according to proof
13 pursuant to Labor Code §§ 226.7, 512, and 558;
- 14 7. Upon the Fourth Cause of Action, for rest period premium wages according to proof
15 pursuant to Labor Code §§ 226.7, 516, and 558;
- 16 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §
17 226;
- 18 9. Upon the Sixth Cause of Action, for statutory penalties pursuant to Labor Code §
19 203;
- 20 10. Upon the Seventh Cause of Action, for unpaid reporting time premiums pursuant to
21 Wage Order 5;
- 22 11. Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the
23 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
24 practices declared by this Court to be in violation of Business and Professions Code §§ 17200, *et*
25 *seq.*;
- 26 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other Aggrieved
27 Employees, and the State of California according to proof pursuant to Labor Code §§ 558 and
28 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to

1 pay each employee and \$200 for each subsequent violation or willful or intentional violation
2 pursuant to Labor Code §§ 210 and/or 225.5 for each failure to pay each employee, plus 25% of the
3 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent
4 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
5 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee
6 per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation
7 pursuant to Labor Code § 226.3 per employee per pay period; (5) pursuant to Labor Code § 256, a
8 civil penalty in an amount not exceeding 30 days per former employee as waiting time under the
9 terms of Labor Code § 203; and/or (6) \$100.00 for each initial violation and \$200 for each
10 subsequent violation per employee per pay period for those violations of the Labor Code for which
11 no civil penalty is specifically provided;

12 13. Prejudgment interest on all due and unpaid wages pursuant to Labor Code § 218.6
13 and Civil Code §§ 3287 and 3289;

14 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
15 218.5, 226, 1194, 2699(g), and Code of Civil Procedure § 1021.5; and

16 15. For such other and further relief, the Court may deem just and proper.

17 **DEMAND FOR JURY TRIAL**

18 Plaintiff hereby demands a trial by jury on all claims.

19
20 DATED: November 22, 2024

JUSTICE FOR WORKERS, P.C.

21
22 By: 

23 William C. Sung
24 Tiffany L. Luu
25 Attorneys for Plaintiff
26 ROXANA RODRIGUEZ MELENDEZ
27
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