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Attorneys for Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY**

CHRISTIE MINES, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

SOUTHERN MONTEREY COUNTY
MEMORIAL HOSPITAL, a California
nonprofit corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 24CV005289

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

- (1) VIOLATION OF LABOR CODE §§ 510,
1194, 1197, AND 1197.1;**
- (2) VIOLATION OF LABOR CODE § 226;
AND**
- (3) VIOLATION OF BUSINESS AND
PROFESSIONS CODE §17200, *ET SEQ.***
- (4) VIOLATION OF LABOR CODE § 2698,
ET SEQ., THE PRIVATE ATTORNEYS
GENERAL ACT**

DEMAND OVER \$25,000

1 Plaintiff Christie Mines (“Plaintiff”) hereby submits this First Amended Class and
2 Representative Action Complaint (“Complaint”) against Defendants Southern California County
3 Memorial Hospital (“Defendant”) and Does 1-50 (hereinafter collectively referred to as
4 “Defendants”), individually and on behalf of a class of all other similarly situated current and
5 former employees of Defendants for penalties and/or damages for failure to pay overtime, failure
6 to provide accurate itemized wage statements, penalties under California Labor Code statutes,
7 and restitution for unfair business practices in violation of Business and Professions Code §
8 17200, *et seq.*, as follows:

9 **INTRODUCTION**

10 1. This action is within the Court’s jurisdiction under California Labor Code §§ 201-
11 204, 226, 510, 1194, 1197, 1197.1, and 2698, *et seq.*, the California Industrial Welfare
12 Commission’s (“IWC”) Wage Orders, and the California Unfair Competition Law (the “UCL”),
13 codified at California Business and Professions Code § 17200, *et seq.*

14 2. This Complaint challenges systemic illegal employment practices resulting in
15 violations of the California Labor Code and Business and Professions Code against employees of
16 Defendants.

17 3. Plaintiff is informed and believes and based thereon alleges that Defendants
18 jointly and severally have acted intentionally and with deliberate indifference and conscious
19 disregard to the rights of all employees by failing to pay overtime at the correct, regular rate of
20 pay and failing to provide accurate itemized wage statements as to Plaintiff and the Class.

21 4. Plaintiff is informed and believes and based thereon alleges that Defendants have
22 engaged in, among other things a system of willful violations of the California Labor Code,
23 Business and Professions Code and applicable IWC Wage Orders by creating and maintaining
24 policies, practices, and customs that knowingly deny employees the above stated rights and
25 benefits.

26 5. The policies, practices, and customs of defendants described above and below
27 have resulted in unjust enrichment of Defendants and an unfair business advantage over
28 businesses that routinely adhere to the strictures of the California Labor Code and the California

Business and Professions Code.

JURISDICTION AND VENUE

6. The Court has jurisdiction over the violations of the California Labor Code §§ 201-204, 226, 510, 1194, 1197, 1197.1, and 2698, *et seq.*, and the UCL.

7. Venue is proper in Monterey County because Plaintiff worked for Defendants in this County.

PARTIES

8. Plaintiff was employed by Defendants as a Clinical Laboratory Scientist from on or about February 20, 2024, until about November 19, 2024. Throughout her employment, Plaintiff worked as a non-exempt, hourly paid employee.

9. Plaintiff was and is a victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived Plaintiff of the rights guaranteed by California Labor Code §§ 201-204, 226, 510, 1194, 1197, 1197.1, and 2698, *et seq.*, the applicable IWC Wage Orders, and the UCL.

10. Plaintiff is informed and believes and based thereon alleges that Defendant Southern Monterey County Memorial Hospital was and is a California nonprofit corporation providing healthcare services in the State of California and County of Monterey.

11. Plaintiff is informed and believes and based thereon alleges that at all times herein mentioned Defendant and Does 1 through 50 are and were business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California.

12. As such, and based upon all the facts and circumstances incident to Defendants' business in California, Defendants are subject to California Labor Code §§ 201-204, 226, 510, 1194, 1197, 1197.1, and 2698, *et seq.*, IWC Wage Orders and the UCL.

13. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the Defendants sued herein as Does 1 through 50, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint when the true names and capacities are known. Plaintiff is informed and believes and based thereon alleges that each of said fictitious Defendants was responsible in some way for the

1 matters alleged herein and proximately caused Plaintiff and members of the general public and
2 class to be subject to the illegal employment practices, wrongs, and injuries complained of
3 herein.

4 14. At all times herein mentioned, each of said Defendants participated in the doing
5 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
6 Defendants, and each of them, were the agents, servants, and employees of each of the other
7 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were
8 acting within the course and scope of said agency and employment.

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

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

19 17. At all times herein mentioned, the acts and omissions of various Defendants, and
20 each of them, concurred and contributed to the various acts and omissions of each and all of the
21 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
22 herein mentioned, Defendants, and each of them, ratified each and every act or omission
23 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided
24 and abetted the acts and omissions of each and all of the other Defendants in proximately causing
25 the damages as herein alleged.

26 **CLASS ACTION ALLEGATIONS**

27 18. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
28 California Code of Civil Procedure § 382, of the following class: all current and former

employees of Defendants in the State of California who received non-discretionary remuneration, including, but not limited to, shift differential pay, and overtime and/or doubletime wages during the same pay period, at any time from December 12, 2020, through the present (the “Class”).

19. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendants’ records, including payroll records. Plaintiff is informed and believes and based thereon alleges that Defendants: (a) failed to pay overtime wages at the correct regular rate of pay, in violation of Labor Code §§ 201-204, 510, 1194, 1197, and 1197.1; (b) failed to provide accurate itemized wage statements, in violation of Labor Code § 226; and (c) engaged in Unfair Business Practices, in violation of the UCL, the California Labor Code, and the applicable IWC Wage Orders.

20. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the Class and individual Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have a number of wage-and-hour class actions pending in California courts.

21. Defendants uniformly administered a corporate policy, practice of: (a) failing to pay overtime wages at the correct regular rate of pay, in violation of Labor Code §§ 201-204, 510, 1194, 1197, and 1197.1; (b) failing to provide accurate itemized wage statements, in violation of Labor Code § 226; and (c) engaging in Unfair Business Practices, in violation of the UCL, the California Labor Code, and the applicable IWC Wage Orders.

22. Plaintiff is informed and believes, and based thereon alleges, that this corporate conduct is accomplished with the advance knowledge and designed intent to willfully and intentionally fail to accurately record proper hourly rates of pay, gross wages earned, and net wages earned.

23. **Common Question of Law and Fact:** There are predominant common questions

1 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
2 concerning Defendants: (a) failing to pay overtime wages at the correct regular rate of pay, in
3 violation of Labor Code §§ 201-204, 510, 1194, 1197, and 1197.1; (b) failing to provide accurate
4 itemized wage statements, in violation of Labor Code § 226; and (c) engaging in Unfair Business
5 Practices, in violation of the UCL, the California Labor Code, and the applicable IWC Wage
6 Orders.

7 24. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
8 Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar and typical
9 manner as Class members. As with other non-exempt employees of Defendants, Plaintiff
10 regularly earned non-discretionary remuneration, including without limitation, shift differential
11 pay. However, whenever Defendants paid overtime and/or doubletime wages to Plaintiff during
12 periods when Plaintiff also earned such non-discretionary remuneration, the overtime wages
13 were not paid at 1.5 times the regular rate of pay. In this regard, Defendants failed to include any
14 non-discretionary remuneration earned in the calculation of the regular rate, and paid Plaintiff
15 overtime wages at 1.5 times the base rate of pay. Thus, Plaintiff is owed additional overtime pay
16 based on the correct, higher regular rate of pay. To date, Plaintiff has yet to receive the underpaid
17 overtime wages owed to her. Thus, Defendants are liable for waiting time penalties under Labor
18 Code § 203. Moreover, due to Defendants' miscalculation of the regular rate of pay for purposes
19 of paying overtime, the wage statements issued to Plaintiff did not reflect the accurate rates of
20 pay and gross and net wages earned, in violation of Labor Code § 226. As such, Plaintiff is a
21 member of the Class and has suffered the alleged violations of California Labor Code §§ 201-
22 204, 226, 510, 1194, 1197, and 1197.1, and the applicable IWC Wage Orders.

23 25. The California Labor Code and upon which Plaintiff bases these claims is broadly
24 remedial in nature. These laws and labor standards serve an important public interest in
25 establishing minimum working conditions and standards in California. These laws and labor
26 standards protect the average working employee from exploitation by employers who may seek
27 to take advantage of superior economic and bargaining power in setting onerous terms and
28 conditions of employment.

1 26. The nature of this action and the format of laws available to Plaintiff and
2 members of the Class identified herein make the class action format a particularly efficient and
3 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
4 file an individual lawsuit, the corporate Defendants would necessarily gain an unconscionable
5 advantage since it would be able to exploit and overwhelm the limited resources of each
6 individual plaintiff with their vastly superior financial and legal resources. Requiring each Class
7 member to pursue an individual remedy would also discourage the assertion of lawful claims by
8 employees who would be disinclined to file an action against their former and/or current
9 employer for real and justifiable fear of retaliation and permanent damage to their careers at
10 subsequent employment.

11 27. The prosecution of separate actions by the individual Class members, even if
12 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
13 to individual Class members against the Defendants and which would establish potentially
14 incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to
15 individual Class members which would, as a practical matter, be dispositive of the interest of the
16 other Class members not parties to the adjudications or which would substantially impair or
17 impede the ability of the Class members to protect their interests. Further, the claims of the
18 individual members of the Class are not sufficiently large to warrant vigorous individual
19 prosecution considering all of the concomitant costs and expenses.

20 28. Such a pattern, practice, and uniform administration of corporate policy regarding
21 illegal employee compensation described herein is unlawful and creates an entitlement to
22 recovery by the Plaintiff and the Class identified herein, in a civil action, for all applicable
23 penalties and/or damages, reasonable attorneys' fees, and costs of suit according to the mandate
24 of California Labor Code §§ 203, 218.5, 226, 1194, and 1197.1, and Code of Civil Procedure
25 § 1021.5.

26 29. Proof of a common business practice or factual pattern, which the named Plaintiff
27 experienced and is a representative of, will establish the right of each of the members of the
28 Class to recovery on the causes of action alleged herein.

1 30. The Class is commonly entitled to a specific fund with respect to the
2 compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to
3 restitution of those funds being improperly withheld by Defendants. This action is brought for
4 the benefit of the entire class and will result in the creation of a common fund.

5 **FIRST CAUSE OF ACTION**

6 **VIOLATION OF LABOR CODE §§ 510, 1194, 1197, AND 1197.1**

7 **(BY PLAINTIFF AND THE CLASS AGAINST DEFENDANTS)**

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

10 32. This cause of action is brought pursuant to Labor Code § 510, which requires an
11 employer to pay employees overtime at a rate of one and one-half the employee's regular rate of
12 pay for any work in excess of eight hours in a workday or 40 hours in a workweek.

13 33. As a pattern and practice, Defendants suffered and permitted employees to work
14 in excess of eight hours in a workday and/or over 40 hours in a workweek without proper
15 overtime pay. During periods/workweeks where Plaintiff and Class Members were paid overtime
16 and earned non-discretionary remuneration, including without limitation, shift differential pay,
17 Defendants failed to properly calculate the regular rate of pay for purposes of paying overtime.
18 More specifically, Defendants failed to factor any non-discretionary remuneration earned in the
19 calculation of the regular rate of pay for the purposes of paying overtime wages, and only paid
20 Plaintiff and Class Members overtime calculated based on the base rate of pay. As a result of
21 such policy and practice, Defendants underpaid overtime wages to Plaintiff and the Class and
22 thus owe additional overtime wages.

23 34. Such a pattern, practice, and uniform administration of corporate policy regarding
24 illegal employee compensation as described herein is unlawful and creates an entitlement to
25 recovery by Plaintiff and the Class in a civil action, for the unpaid balance of the full amount of
26 damages owed, including interest thereon, penalties, attorneys' fees, and costs of suit according
27 to the mandate of California Labor Code §§ 218.5, 1194, and 1197.1.

28 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants'

1 willful failure to provide all overtime wages due and owing to Plaintiff and Class Members upon
2 separation from employment results in a continued payment of wages up to thirty (30) days from
3 the time the wages were due. Therefore, Plaintiff and other members of the Class who have
4 separated from employment from Defendants are entitled to compensation pursuant to Labor
5 Code § 203.

6 **SECOND CAUSE OF ACTION**

7 **VIOLATION OF LABOR CODE § 226**

8 **(BY PLAINTIFF AND THE CLASS AGAINST DEFENDANTS)**

9 36. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
10 though fully set forth herein.

11 37. Labor Code § 226 requires employers to provide itemized wage statements to
12 employees that identify accurate information, including without limitation, all applicable hourly
13 rates of pay, gross wages earned, and net wages earned. Defendants, as a matter of policy and
14 practice, failed in its affirmative obligation to provide accurate itemized wage statements to
15 Plaintiff and Class Members, in violation of Labor Code § 226.

16 38. As a result of Defendants' overtime regular rate violations as identified above, the
17 wage statements issued to Plaintiff and Class Members did not accurately identify the correct
18 applicable hourly rates for overtime wages, gross wages earned, and net wages earned, in
19 violation of Labor Code § 226(a)(1), (a)(5), and (a)(9). On information and belief, Defendants
20 were advised by attorneys and other skilled individuals such that the violation alleged was
21 knowing and intentional and not the product of a good faith dispute and/or mistake.

22 39. The issuance of inaccurate wage statements caused injury to Plaintiff and Class
23 Members as they cannot accurately verify and/or calculate their wages.

24 40. Such a pattern, practice, and uniform administration of corporate policy as
25 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and Class
26 Members identified herein, in a civil action, for all damages or penalties pursuant to Labor Code
27 § 226, including interest thereon, attorneys' fees, and costs of suit according to the mandate of
28 California Labor Code § 226.

1 **THIRD CAUSE OF ACTION**

2 **VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200, *ET SEQ.***

3 **(BY PLAINTIFF AND THE CLASS AGAINST DEFENDANTS)**

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

6 42. Defendants, and each of them, have engaged and continue to engage in unfair and
7 unlawful business practices in California by practicing, employing, and utilizing the employment
8 practices outlined above, including by failing to pay employees overtime wages at the correct
9 regular rate of pay.

10 43. Defendants' utilization of such unfair and unlawful business practices constitutes
11 unfair and unlawful competition and provides an unfair advantage over Defendants' competitors.

12 44. Plaintiff seeks, individually and on behalf of other members of the Class similarly
13 situated, full restitution of monies, as necessary and according to proof, to restore any and all
14 monies withheld, acquired and/or converted by the Defendants by means of the unfair practices
15 complained of herein.

16 45. Plaintiff is informed and believes, and based thereon alleges, that at all times
17 herein mentioned Defendants have engaged in unlawful, deceptive, and unfair business practices,
18 as proscribed by California Business & Professions Code § 17200, *et seq.*, including those set
19 forth herein above thereby depriving Plaintiff and other members of the Class the minimum
20 working condition standards and conditions due to them under the California laws as specifically
21 described therein.

22 **FOURTH CAUSE OF ACTION**

23 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

24 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

25 46. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as
26 though fully set forth herein.

47. Plaintiff brings this cause of action as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees in the State of California from December 2, 2023, through the present, for Defendants' violations of Labor Code §§ 201-204, 226, 510, 1194, 1197, 1197.1, and 2698, *et seq.*, arising from Defendants' policy and practice of: (a) failing to pay overtime wages at the correct regular rate of pay, in violation of Labor Code §§ 201-204, 510, 1194, 1197, and 1197.1; (b) failing to provide accurate itemized wage statements, in violation of Labor Code § 226

48. On or about December 2, 2024, Plaintiff sent written notice to the California Labor & Workforce Development Agency (“LWDA”) of Defendants’ violations of Labor Code §§ 201-204, 226, 510, 1194, 1197, 1197.1, and 2698, *et seq.*, pursuant to the PAGA. In addition to the LWDA, Plaintiff also sent her notice to Defendants via certified mail pursuant to Labor Code § 2699.3.

49. As of the date of the filing of this Complaint, the LWDA has not responded to Plaintiff's written notice nor indicated that it intends to investigate the Labor Code violations provided for in the written notice.

50. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all applicable civil penalties for Defendants' violations of Labor Code §§ 201-204, 226, 510, 1194, 1197, 1197.1, and 2698, *et seq.*, for the time period described above, on behalf of herself and other Aggrieved Employees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment individually and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as the representative of the Class as described herein;
3. For an order appointing counsel for Plaintiff as Class counsel;
4. Upon the First Cause of Action, for damages and/or penalties pursuant to statute as set forth in California Labor Code §§ 203, 218.5, 510, 1194, and 1197.1, and for costs and

attorneys' fees;

5. Upon the Second Cause of Action, for damages and/or penalties pursuant to California Labor Code § 226, and for costs and attorneys' fees;

6. Upon the Third Cause of Action, for restitution to Plaintiff and other similarly affected members of the general public of all funds unlawfully acquired by Defendants by any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200, *et seq.*, for the time periods described above;

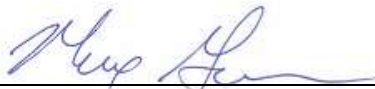
7. Upon the Fourth Cause of Action, for the full amount of penalties pursuant to California Labor Code §§ 201-204, 226, 226.3, 510, 1194, 1197, 1197.1, and 2698, *et seq.*, and for costs and attorneys' fees;

8. On all causes of action, for attorneys' fees and costs as provided by California Labor Code §§ 218.5, 226, and 1194, and Code of Civil Procedure § 1021.5; and

9. For such other and further relief as the Court may deem just and proper.

DATED: February 5, 2025

DIVERSITY LAW GROUP, P.C.

By: 

Larry W. Lee

Max W. Gavron

Kwanporn "Mai" Tulyathan

Attorneys for Plaintiff and the Class

1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5]ss.
6 COUNTY OF LOS ANGELES]

7 I am employed in the County of Los Angeles, State of California. I am over the age of 18
8 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250,
9 Los Angeles, California 90071.

10 On February 5, 2025, I served the following document(s) described as: **FIRST**
11 **AMENDED CLASS AN DREPRESENTATIVE ACTION COMPLAINT FOR DAMAGES**
12 on the interested parties in this action as follows:

13 Southern Monterey County Memorial Hospital
14 c/o Linda Somers Smith
15 6633 Bay Laurel Place
16 Avila Beach, CA 93424

17 X BY MAIL: by placing _____ the original or X a true and correct copy
18 thereof enclosed, in (a) sealed envelope(s) addressed to the party(ies) listed above or on the
19 attached mailing list. I am readily familiar with the firm's practice for collection and processing
20 of correspondence and other materials for mailing with the United States Postal Service. On this
21 date, I sealed the envelope(s) containing the above materials and placed the envelope(s) for
22 collection and mailing on this date at the address above following our office's ordinary business
23 practices. The envelope(s) will be deposited with the United States Postal Service on this date,
24 in the ordinary course of business.

25 I declare under penalty of perjury under the laws of the State of California that the above
26 is true and correct. Executed on February 5, 2025, at Los Angeles, California.

27
28

Erika Mejia