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September 23, 2021

CA2508

**VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT**

Labor and Workforce Development Agency  
Online Filing

Grossmont Hospital Corporation  
Certified Mail #70211970000003065869  
Rick Lee Grossman  
8695 Spectrum Center Boulevard  
San Diego, CA 92123

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Grossmont Hospital Corporation in California and classified as non-exempt employees during the time period of September 23, 2020 until a date as determined by the Court, but excluding any claims for those individuals who worked for Grossmont Hospital Corporation in California during that time period and are alleged Aggrieved Employees in *Madden v. Grossmont Hospital Corporation*, San Diego County Superior Court, Case No. 37-2021-00019533-CU-OE-CTL. Our offices represent Plaintiff Jacquelyn Cranton (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Grossmont Hospital Corporation (“Defendant”). Plaintiff has been employed by Defendant in California as a non-exempt employee since August of 2018 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved

Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5<sup>th</sup> 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to them, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, Plaintiff and Aggrieved Employees were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the correct total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to Plaintiff and other Aggrieved Employees failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2) as when the hours were added up they did not equal the actual amount of hours worked each pay period. Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

*/s/ Nicholas J. De Blouw*

Nicholas J. De Blouw, Esq.

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF SAN DIEGO**

JACQUELYN CRANTON, an individual, on  
behalf of herself and on behalf of all persons  
similarly situated,

Plaintiff,

vs.

GROSSMONT HOSPITAL  
CORPORATION, a California Corporation;  
and DOES 1 through 50, inclusive,

Defendants.

Case No. \_\_\_\_\_

**CLASS ACTION COMPLAINT FOR:**

1. UNFAIR COMPETITION IN  
VIOLATION OF CAL. BUS. & PROF.  
CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES  
IN VIOLATION OF CAL. LAB. CODE §§  
1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES  
IN VIOLATION OF CAL. LAB. CODE §§  
510, *et seq.*;
4. FAILURE TO PROVIDE REQUIRED  
MEAL PERIODS IN VIOLATION OF CAL.  
LAB. CODE §§ 226.7 & 512 AND THE  
APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED  
REST PERIODS IN VIOLATION OF CAL.  
LAB. CODE §§ 226.7 & 512 AND THE  
APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE  
ITEMIZED STATEMENTS IN VIOLATION  
OF CAL. LAB. CODE § 226;
7. FAILURE TO REIMBURSE  
EMPLOYEES FOR REQUIRED  
EXPENSES IN VIOLATION OF CAL. LAB.  
CODE § 2802; and,
8. RETALIATION IN VIOLATION OF  
LABOR CODE § 1102.5, *et seq.*

**DEMAND FOR A JURY TRIAL**

1 Plaintiff Jacquelyn Cranton (“PLAINTIFF”), an individual, on behalf of herself and all  
2 other similarly situated current and former employees alleges on information and belief, except  
3 for her own acts and knowledge which are based on personal knowledge, the following:

4  
5 **THE PARTIES**

6 1. Defendant Grossmont Hospital Corporation (“DEFENDANT”) is a California  
7 corporation that at all relevant times mentioned herein conducted and continues to conduct  
8 substantial business in the state of California.

9 2. DEFENDANT is located in La Mesa, California, United States. It is the largest  
10 health care facility in East San Diego County with a service area covering 750 square miles. It  
11 is owned by Grossmont Healthcare District, who has leased it to Sharp HealthCare since 1991.

12 3. PLAINTIFF has been employed by DEFENDANT in California since August of  
13 2018 and has been at all times classified by DEFENDANT as a non-exempt employee, paid on  
14 an hourly basis, and entitled to the legally required meal and rest periods and payment of  
15 minimum and overtime wages due for all time worked.

16 4. PLAINTIFF brings this Class Action on behalf of herself and a California class,  
17 defined as all individuals who are or previously were employed by DEFENDANT in California  
18 and classified as non-exempt employees (the “CALIFORNIA CLASS”) at any time during the  
19 period beginning four (4) years prior to the filing of this Complaint and ending on the date as  
20 determined by the Court (the “CALIFORNIA CLASS PERIOD”) but excluding any claims for  
21 those individuals who worked for DEFENDANT in California during that time period and are  
22 proposed class members in *Madden v. Grossmont Hospital Corporation*, San Diego County  
23 Superior Court, Case No. 37-2021-00019533-CU-OE-CTL. The amount in controversy for the  
24 aggregate claim of CALIFORNIA CLASS Members is under five million dollars  
25 (\$5,000,000.00).

26 5. PLAINTIFF brings this Class Action on behalf of herself and a CALIFORNIA  
27 CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during  
28 the CALIFORNIA CLASS PERIOD caused by DEFENDANT’s policy and practice which

1 failed to lawfully compensate these employees. DEFENDANT's policy and practice alleged  
2 herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained  
3 and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA  
4 CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction  
5 enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and  
6 the other members of the CALIFORNIA CLASS who have been economically injured by  
7 DEFENDANT's past and current unlawful conduct, and all other appropriate legal and  
8 equitable relief.

9         6. The true names and capacities, whether individual, corporate, subsidiary,  
10 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently  
11 unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant  
12 to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege  
13 the true names and capacities of Does 1 through 50, inclusive, when they are ascertained.  
14 PLAINTIFF is informed and believes, and based upon that information and belief alleges, that  
15 the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are  
16 responsible in some manner for one or more of the events and happenings that proximately  
17 caused the injuries and damages hereinafter alleged.

18         7. The agents, servants and/or employees of the Defendants and each of them acting  
19 on behalf of the Defendants acted within the course and scope of his, her or its authority as the  
20 agent, servant and/or employee of the Defendants, and personally participated in the conduct  
21 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.  
22 Consequently, the acts of each Defendant are legally attributable to the other Defendants and  
23 all Defendants are jointly and severally liable to PLAINTIFF and the other members of the  
24 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the  
25 Defendants' agents, servants and/or employees.

### 26 27 **THE CONDUCT**

28         8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was

1 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,  
2 meaning the time during which an employee is subject to the control of an employer, including  
3 all the time the employee is suffered or permitted to work. DEFENDANT requires PLAINTIFF  
4 and CALIFORNIA CLASS Members to work without paying them for all the time they are  
5 under DEFENDANT's control. Among other things, DEFENDANT requires PLAINTIFF to  
6 work while clocked out during what is supposed to be PLAINTIFF's off-duty meal break.  
7 PLAINTIFF is from time to time interrupted by work assignments while clocked out for what  
8 should be PLAINTIFF's off-duty meal break. DEFENDANT, as a matter of established  
9 company policy and procedure, administers a uniform practice of rounding the actual time  
10 worked and recorded by PLAINTIFF and CALIFORNIA CLASS Members, always to the  
11 benefit of DEFENDANT, so that during the course of their employment, PLAINTIFF and  
12 CALIFORNIA CLASS Members are paid less than they would have been paid had they been  
13 paid for actual recorded time rather than "rounded" time. Additionally, DEFENDANT engages  
14 in the practice of requiring PLAINTIFF and CALIFORNIA CLASS Members to perform work  
15 off the clocking that DEFENDANT, as a condition of employment, required these employees  
16 to submit to mandatory temperature checks and symptom questionnaires for COVID-19  
17 screening prior to clocking into DEFENDANT's timekeeping system for the workday. As a  
18 result, PLAINTIFF and other CALIFORNIA CLASS Members forfeit minimum wage,  
19 overtime wage compensation, and off-duty meal breaks by working without their time being  
20 correctly recorded and without compensation at the applicable rates. DEFENDANT's policy  
21 and practice not to pay PLAINTIFF and other CALIFORNIA CLASS Members for all time  
22 worked, is evidenced by DEFENDANT's business records.

23         9. State and federal law provides that employees must be paid overtime and meal and  
24 rest break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFF and  
25 other CALIFORNIA CLASS Members are compensated at an hourly rate plus incentive pay that  
26 is tied to specific elements of an employee's performance.

27         10. The second component of PLAINTIFF's and other CALIFORNIA CLASS  
28 Members' compensation is DEFENDANT's non-discretionary incentive program that paid

1 PLAINTIFF and other CALIFORNIA CLASS Members incentive wages based on their  
2 performance for DEFENDANT. The non-discretionary incentive program provided all  
3 employees paid on an hourly basis with incentive compensation when the employees met the  
4 various performance goals set by DEFENDANT. However, when calculating the regular rate  
5 of pay in order to pay overtime and meal and rest break premiums to PLAINTIFF and other  
6 CALIFORNIA CLASS Members, DEFENDANT failed to include the incentive compensation  
7 as part of the employees' "regular rate of pay" for purposes of calculating overtime pay and  
8 meal and rest break premium pay. Management and supervisors described the incentive  
9 program to potential and new employees as part of the compensation package. As a matter of  
10 law, the incentive compensation received by PLAINTIFF and other CALIFORNIA CLASS  
11 Members must be included in the "regular rate of pay." The failure to do so has resulted in a  
12 underpayment of overtime compensation and meal and rest break premiums to PLAINTIFF and  
13 other CALIFORNIA CLASS Members by DEFENDANT.

14 11. As a result of their rigorous work schedules, PLAINTIFF and other  
15 CALIFORNIA CLASS Members are from time to time unable to take thirty (30) minute off  
16 duty meal breaks and are not fully relieved of duty for their meal periods. PLAINTIFF and  
17 other CALIFORNIA CLASS Members are required from time to time to perform work as  
18 ordered by DEFENDANT for more than five (5) hours during some shifts without receiving a  
19 meal break. Further, DEFENDANT from time to time fails to provide PLAINTIFF and  
20 CALIFORNIA CLASS Members with a second off-duty meal period for some workdays in  
21 which these employees are required by DEFENDANT to work ten (10) hours of work.  
22 PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeit meal breaks  
23 without additional compensation and in accordance with DEFENDANT's corporate policy and  
24 practice.

25 12. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other  
26 CALIFORNIA CLASS Members are also required from time to time to work in excess of four  
27 (4) hours without being provided ten (10) minute rest periods. Further, these employees are  
28 denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two

1 (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes  
2 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,  
3 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours  
4 or more from time to time. PLAINTIFF and other CALIFORNIA CLASS Members are also  
5 not provided with one hour wages in lieu thereof. In addition, because of DEFENDANT's  
6 commission pay plan that paid commissions only during sessions for massage and other  
7 therapists, DEFENDANT failed to compensate PLAINTIFF and CALIFORNIA CLASS  
8 Members for their rest periods as required by the applicable Wage Order and Labor Code.  
9 DEFENDANT did not have a policy or practice which paid for off-duty rest periods to  
10 PLAINTIFF and the other CALIFORNIA CLASS Members. As a result, DEFENDANT's  
11 failure to provide PLAINTIFF and the CALIFORNIA CLASS Members with all the legally  
12 required paid rest periods is evidenced by DEFENDANT's business records. Additionally, the  
13 applicable California Wage Order requires employers to provide employees with off-duty rest  
14 periods, which the California Supreme Court defined as time during which an employee is  
15 relieved from all work related duties and free from employer control. In so doing, the Court  
16 held that the requirement under California law that employers authorize and permit all  
17 employees to take rest period means that employers must relieve employees of all duties and  
18 relinquish control over how employees spend their time which includes control over the  
19 locations where employees may take their rest period. Employers cannot impose controls that  
20 prohibit an employee from taking a brief walk - five minutes out, five minutes back. Here,  
21 DEFENDANT's policy restricts PLAINTIFF and other CALIFORNIA CLASS Members from  
22 unconstrained walks and is unlawful based on DEFENDANT's rule which states PLAINTIFF  
23 and other CALIFORNIA CLASS Members cannot leave the work premises during their rest  
24 period.

25 13. During the CALIFORNIA CLASS PERIOD, DEFENDANT fails to accurately  
26 record and pay PLAINTIFF and other CALIFORNIA CLASS Members for the actual amount  
27 of time these employees work. Pursuant to the Industrial Welfare Commission Wage Orders,  
28 DEFENDANT is required to pay PLAINTIFF and other CALIFORNIA CLASS Members for

1 all time worked, meaning the time during which an employee was subject to the control of an  
2 employer, including all the time the employee was permitted or suffered to permit this work.  
3 DEFENDANT requires these employees to work off the clock without paying them for all the  
4 time they are under DEFENDANT's control. As such, DEFENDANT knew or should have  
5 known that PLAINTIFF and the other members of the CALIFORNIA CLASS are under  
6 compensated for all time worked. As a result, PLAINTIFF and other CALIFORNIA CLASS  
7 Members forfeit time worked by working without their time being accurately recorded and  
8 without compensation at the applicable minimum wage and overtime wage rates. To the extent  
9 that the time worked off the clock does not qualify for overtime premium payment,  
10 DEFENDANT fails to pay minimum wages for the time worked off-the-clock in violation of  
11 Cal. Lab. Code §§ 1194, 1197, and 1197.1.

12 14. From time to time, DEFENDANT also fails to provide PLAINTIFF and the other  
13 members of the CALIFORNIA CLASS with complete and accurate wage statements which  
14 failed to show, among other things, the correct gross and net wages earned. Cal. Lab. Code §  
15 226 provides that every employer shall furnish each of his or her employees with an accurate  
16 itemized wage statement in writing showing, among other things, gross wages earned and all  
17 applicable hourly rates in effect during the pay period and the corresponding amount of time  
18 worked at each hourly rate. Aside, from the violations listed above in this paragraph,  
19 DEFENDANT fails to issue to PLAINTIFF an itemized wage statement that lists all the  
20 requirements under California Labor Code 226 *et seq.* As a result, DEFENDANT from time to  
21 time provides PLAINTIFF and the other members of the CALIFORNIA CLASS with wage  
22 statements which violated Cal. Lab. Code § 226.

23 15. Cal. Lab. Code § 204(d) provides, the requirements of this section shall be  
24 deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the  
25 wages are paid not more than seven calendar days following the close of the payroll period.  
26 Cal. Lab. Code § 210 provides:

27 [I]n addition to, and entirely independent and apart from, any other penalty provided in  
28 this article, every person who fails to pay the wages of each employee as provided in  
Sections. . . .204. . .shall be subject to a civil penalty as follows: (1) For any initial

1 violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each  
2 subsequent violation, or any willful or intentional violation, two hundred dollars (\$200)  
3 for each failure to pay each employee, plus 25 percent of the amount unlawfully  
4 withheld.

5 16. DEFENDANT from time to time fails to pay PLAINTIFF and members of the  
6 CALIFORNIA LABOR SUB-CLASS Members within seven (7) days of the close of the payroll  
7 period in accordance with Cal. Lab. Code § 204(d), including but not limited to the “Retro Pay  
8 Flat” wage payment.

9 17. DEFENDANT underpaid sick pay wages to PLAINTIFF and other CALIFORNIA  
10 CLASS Members by failing to pay such wages at the regular rate of pay in violation of Cal. Lab.  
11 Code Section 246. Specifically, PLAINTIFF and other non-exempt employees earn non-  
12 discretionary remuneration. Rather than pay sick pay at the regular rate of pay, DEFENDANT  
13 underpaid sick pay to PLAINTIFF and other CALIFORNIA CLASS Members at their base  
14 rates of pay.

15 18. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt  
16 employees be calculated by dividing the employee’s total wages, not including overtime  
17 premium pay, by the employee’s total hours worked in the full pay periods of the prior 90 days  
18 of employment.

19 19. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at  
20 the regular rate of pay. PLAINTIFF and CALIFORNIA CLASS Members routinely earned non-  
21 discretionary incentive wages which increased their regular rate of pay. However, when sick pay  
22 was paid, it was paid at the base rate of pay for PLAINTIFF and members of the CALIFORNIA  
23 CLASS, as opposed to the correct, higher regular rate of pay, as required under Cal. Lab. Code  
24 Section 246.

25 20. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF and  
26 other members of the CALIFORNIA CLASS their correct wages and accordingly owe waiting  
27 time penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is informed and  
28 believes and based thereon alleges that such failure to pay sick pay at regular rate was willful,  
such that PLAINTIFF and members of the CALIFORNIA CLASS whose employment has  
separated are entitled to waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

1           21. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer  
2 to collect or receive from an employee any part of wages theretofore paid by said employer to  
3 said employee." DEFENDANT fails to pay all compensation due to PLAINTIFF and other  
4 CALIFORNIA LABOR SUB-CLASS Members, makes unlawful deductions from  
5 compensation payable to PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members,  
6 fails to disclose all aspects of the deductions from compensation payable to PLAINTIFF and  
7 CALIFORNIA LABOR SUB-CLASS Members, and thereby fails to pay these employees all  
8 wages due at each applicable pay period and upon termination. PLAINTIFF and members of  
9 the CALIFORNIA LABOR SUB-CLASS seek recovery of all illegal deductions from wages  
10 according to proof, related penalties, interest, attorney fees and costs.

11           22. DEFENDANT intentionally and knowingly fails to reimburse and indemnify  
12 PLAINTIFF and the other CALIFORNIA CLASS Members for required business expenses  
13 incurred by the PLAINTIFF and other CALIFORNIA CLASS Members in direct consequence  
14 of discharging their duties on behalf of DEFENDANT. Under California Labor Code Section  
15 2802, employers are required to indemnify employees for all expenses incurred in the course  
16 and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall  
17 indemnify his or her employee for all necessary expenditures or losses incurred by the employee  
18 in direct consequence of the discharge of his or her duties, or of his or her obedience to the  
19 directions of the employer, even though unlawful, unless the employee, at the time of obeying  
20 the directions, believed them to be unlawful."

21           23. In the course of their employment PLAINTIFF and other CALIFORNIA CLASS  
22 Members as a business expense, are required by DEFENDANT to use their own personal  
23 cellular phones as a result of and in furtherance of their job duties as employees for  
24 DEFENDANT but are not reimbursed or indemnified by DEFENDANT for the cost associated  
25 with the use of their personal cellular phones for DEFENDANT's benefit. Specifically,  
26 PLAINTIFF and other CALIFORNIA CLASS Members are required by DEFENDANT to use  
27 their personal cellular phones. As a result, in the course of their employment with  
28 DEFENDANT, PLAINTIFF and other members of the CALIFORNIA CLASS incurred

1 unreimbursed business expenses which included, but were not limited to, costs related to the use  
2 of their personal cellular phones all on behalf of and for the benefit of DEFENDANT.

3 24. Specifically as to PLAINTIFF, DEFENDANT fails to provide all the legally  
4 required off-duty meal and rest breaks to PLAINTIFF as required by the applicable Wage Order  
5 and Labor Code and failed to pay PLAINTIFF all minimum and overtime wages due to  
6 PLAINTIFF. DEFENDANT does not have a policy or practice which provided timely off-duty  
7 meal and rest breaks to PLAINTIFF and also fails to compensate PLAINTIFF for PLAINTIFF's  
8 missed meal and rest breaks. The nature of the work performed by the PLAINTIFF does not  
9 prevent PLAINTIFF from being relieved of all of his duties for the legally required off-duty  
10 meal periods. As a result, DEFENDANT's failure to provide PLAINTIFF with the legally  
11 required meal periods is evidenced by DEFENDANT's business records. The amount in  
12 controversy for PLAINTIFF individually does not exceed the sum or value of \$75,000.

13 25. Furthermore, specifically as to PLAINTIFF, PLAINTIFF made numerous  
14 complaints in March and April of 2021 to Jennifer Peters (Manager) regarding Defendants's  
15 failure to follow the California Labor Code regarding providing rest breaks, Defendant's failure  
16 to provide a safe working environment during the Covid-19 pandemic, and patient safety issues  
17 which resulted in patient deaths. Continuing through her employment until present, PLAINTIFF  
18 informed DEFENDANT about such illegal wage and workplace safety practices amongst other  
19 wage related concerns, but to no avail. In March and April of 2021, PLAINTIFF engaged in  
20 protected activity by complaining to DEFENDANT of what PLAINTIFF reasonably perceived  
21 to be illegal practices of DEFENDANT. As a direct consequence of PLAINTIFF's complaints  
22 to DEFENDANT, DEFENDANT retaliated against PLAINTIFF by demoting PLAINTIFF from  
23 her role as Resource Nurse and denying PLAINTIFF other job opportunities and placing  
24 unreasonable demands on PLAINTIFF's everyday work duties which resulted in lost wages.

### 25 **JURISDICTION AND VENUE**

26 26. This Court has jurisdiction over this Action pursuant to California Code of Civil  
27 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This  
28

1 action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees  
2 of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

3 27. Venue is proper in this Court pursuant to California Code of Civil Procedure,  
4 Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and  
5 DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities  
6 in this County and/or conducts substantial business in this County, and (ii) committed the  
7 wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

### 8 9 THE CALIFORNIA CLASS

10 28. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive  
11 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class  
12 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as  
13 all individuals who are or previously were employed by DEFENDANT in California and  
14 classified as non-exempt employees (the "CALIFORNIA CLASS") at any time during the  
15 period beginning four (4) years prior to the filing of this Complaint and ending on the date as  
16 determined by the Court (the "CALIFORNIA CLASS PERIOD") but excluding any claims for  
17 those individuals who worked for DEFENDANT in California during that time period and are  
18 proposed class members in *Madden v. Grossmont Hospital Corporation*, San Diego County  
19 Superior Court, Case No. 37-2021-00019533. The amount in controversy for the aggregate  
20 claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

21 29. To the extent equitable tolling operates to toll claims by the CALIFORNIA  
22 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted  
23 accordingly.

24 30. DEFENDANT, as a matter of company policy, practice and procedure, and in  
25 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order  
26 requirements, and the applicable provisions of California law, intentionally, knowingly, and  
27 wilfully, engaged in a practice whereby DEFENDANT failed to record all meal and rest breaks  
28 missed by PLAINTIFF and other CALIFORNIA CLASS Members, even though DEFENDANT

1 enjoyed the benefit of this work, required employees to perform this work and permits or suffers  
2 to permit this work.

3 31. DEFENDANT has the legal burden to establish that each and every  
4 CALIFORNIA CLASS Member was paid accurately for all meal and rest breaks missed as  
5 required by California laws. The DEFENDANT, however, as a matter of policy and procedure  
6 failed to have in place during the CALIFORNIA CLASS PERIOD and still fails to have in  
7 place a policy or practice to ensure that each and every CALIFORNIA CLASS Member is paid  
8 as required by law. This common business practice is applicable to each and every  
9 CALIFORNIA CLASS Member can be adjudicated on a class-wide basis as unlawful, unfair,  
10 and/or deceptive under Cal. Business & Professions Code §§ 17200, *et seq.* (the "UCL") as  
11 causation, damages, and reliance are not elements of this claim.

12 32. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA  
13 CLASS Members is impracticable.

14 33. DEFENDANT violated the rights of the CALIFORNIA CLASS under California  
15 law by:

16 (a) Committing an act of unfair competition in violation of , Cal. Bus. & Prof.  
17 Code §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or  
18 deceptively having in place company policies, practices and procedures  
19 that failed to record and pay PLAINTIFF and the other members of the  
20 CALIFORNIA CLASS for all time worked, including minimum wages  
21 owed and overtime wages owed for work performed by these employees;  
22 and,

23 (b) Committing an act of unfair competition in violation of the UCL, by  
24 failing to provide the PLAINTIFF and the other members of the  
25 CALIFORNIA CLASS with the legally required meal and rest periods.

26 34. This Class Action meets the statutory prerequisites for the maintenance of a Class  
27 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

28 (a) The persons who comprise the CALIFORNIA CLASS are so numerous

1 that the joinder of all such persons is impracticable and the disposition of  
2 their claims as a class will benefit the parties and the Court;

3 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues  
4 that are raised in this Complaint are common to the CALIFORNIA  
5 CLASS will apply to every member of the CALIFORNIA CLASS;

6 (c) The claims of the representative PLAINTIFF are typical of the claims of  
7 each member of the CALIFORNIA CLASS. PLAINTIFF, like all the  
8 other members of the CALIFORNIA CLASS, was classified as a non-  
9 exempt employee paid on an hourly basis who was subjected to the  
10 DEFENDANT's deceptive practice and policy which failed to provide the  
11 legally required meal and rest periods to the CALIFORNIA CLASS and  
12 thereby underpaid compensation to PLAINTIFF and CALIFORNIA  
13 CLASS. PLAINTIFF sustained economic injury as a result of  
14 DEFENDANT's employment practices. PLAINTIFF and the members of  
15 the CALIFORNIA CLASS were and are similarly or identically harmed  
16 by the same unlawful, deceptive and unfair misconduct engaged in by  
17 DEFENDANT; and,

18 (d) The representative PLAINTIFF will fairly and adequately represent and  
19 protect the interest of the CALIFORNIA CLASS, and has retained  
20 counsel who are competent and experienced in Class Action litigation.  
21 There are no material conflicts between the claims of the representative  
22 PLAINTIFF and the members of the CALIFORNIA CLASS that would  
23 make class certification inappropriate. Counsel for the CALIFORNIA  
24 CLASS will vigorously assert the claims of all CALIFORNIA CLASS  
25 Members.

26 35. In addition to meeting the statutory prerequisites to a Class Action, this action is  
27 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

28 (a) Without class certification and determination of declaratory, injunctive,

1 statutory and other legal questions within the class format, prosecution of  
2 separate actions by individual members of the CALIFORNIA CLASS will  
3 create the risk of:

4 1) Inconsistent or varying adjudications with respect to individual  
5 members of the CALIFORNIA CLASS which would establish  
6 incompatible standards of conduct for the parties opposing the  
7 CALIFORNIA CLASS; and/or,

8 2) Adjudication with respect to individual members of the  
9 CALIFORNIA CLASS which would as a practical matter be  
10 dispositive of interests of the other members not party to the  
11 adjudication or substantially impair or impede their ability to  
12 protect their interests.

13 (b) The parties opposing the CALIFORNIA CLASS have acted or refused to  
14 act on grounds generally applicable to the CALIFORNIA CLASS, making  
15 appropriate class-wide relief with respect to the CALIFORNIA CLASS  
16 as a whole in that DEFENDANT failed to pay all wages due to members  
17 of the CALIFORNIA CLASS as required by law;

18 1) With respect to the First Cause of Action, the final relief on behalf  
19 of the CALIFORNIA CLASS sought does not relate exclusively to  
20 restitution because through this claim PLAINTIFF seeks  
21 declaratory relief holding that the DEFENDANT's policy and  
22 practices constitute unfair competition, along with declaratory  
23 relief, injunctive relief, and incidental equitable relief as may be  
24 necessary to prevent and remedy the conduct declared to constitute  
25 unfair competition;

26 (c) Common questions of law and fact exist as to the members of the  
27 CALIFORNIA CLASS, with respect to the practices and violations of  
28 California law as listed above, and predominate over any question

1 affecting only individual CALIFORNIA CLASS Members, and a Class  
2 Action is superior to other available methods for the fair and efficient  
3 adjudication of the controversy, including consideration of:

4 1) The interests of the members of the CALIFORNIA CLASS in  
5 individually controlling the prosecution or defense of separate  
6 actions in that the substantial expense of individual actions will be  
7 avoided to recover the relatively small amount of economic losses  
8 sustained by the individual CALIFORNIA CLASS Members when  
9 compared to the substantial expense and burden of individual  
10 prosecution of this litigation;

11 2) Class certification will obviate the need for unduly duplicative  
12 litigation that would create the risk of:

13 A. Inconsistent or varying adjudications with respect to  
14 individual members of the CALIFORNIA CLASS, which  
15 would establish incompatible standards of conduct for the  
16 DEFENDANT; and/or,

17 B. Adjudications with respect to individual members of the  
18 CALIFORNIA CLASS would as a practical matter be  
19 dispositive of the interests of the other members not parties  
20 to the adjudication or substantially impair or impede their  
21 ability to protect their interests;

22 3) In the context of wage litigation because a substantial number of  
23 individual CALIFORNIA CLASS Members will avoid asserting  
24 their legal rights out of fear of retaliation by DEFENDANT, which  
25 may adversely affect an individual's job with DEFENDANT or  
26 with a subsequent employer, the Class Action is the only means to  
27 assert their claims through a representative; and,

28 4) A class action is superior to other available methods for the fair

1 and efficient adjudication of this litigation because class treatment  
2 will obviate the need for unduly and unnecessary duplicative  
3 litigation that is likely to result in the absence of certification of  
4 this action pursuant to Cal. Code of Civ. Proc. § 382.

5 36. This Court should permit this action to be maintained as a Class Action pursuant  
6 to Cal. Code of Civ. Proc. § 382 because:

- 7 (a) The questions of law and fact common to the CALIFORNIA CLASS  
8 predominate over any question affecting only individual CALIFORNIA  
9 CLASS Members because the DEFENDANT's employment practices are  
10 applied with respect to the CALIFORNIA CLASS;
- 11 (b) A Class Action is superior to any other available method for the fair and  
12 efficient adjudication of the claims of the members of the CALIFORNIA  
13 CLASS because in the context of employment litigation a substantial  
14 number of individual CALIFORNIA CLASS Members will avoid  
15 asserting their rights individually out of fear of retaliation or adverse  
16 impact on their employment;
- 17 (c) The members of the CALIFORNIA CLASS are so numerous that it is  
18 impractical to bring all members of the CALIFORNIA CLASS before the  
19 Court;
- 20 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be  
21 able to obtain effective and economic legal redress unless the action is  
22 maintained as a Class Action;
- 23 (e) There is a community of interest in obtaining appropriate legal and  
24 equitable relief for the acts of unfair competition, statutory violations and  
25 other improprieties, and in obtaining adequate compensation for the  
26 damages and injuries which DEFENDANT's actions have inflicted upon  
27 the CALIFORNIA CLASS;
- 28 (f) There is a community of interest in ensuring that the combined assets of

1 DEFENDANT are sufficient to adequately compensate the members of  
2 the CALIFORNIA CLASS for the injuries sustained;

3 (g) DEFENDANT has acted or refused to act on grounds generally applicable  
4 to the CALIFORNIA CLASS, thereby making final class-wide relief  
5 appropriate with respect to the CALIFORNIA CLASS as a whole;

6 (h) The members of the CALIFORNIA CLASS are readily ascertainable from  
7 the business records of DEFENDANT; and,

8 (i) Class treatment provides manageable judicial treatment calculated to bring  
9 a efficient and rapid conclusion to all litigation of all wage and hour  
10 related claims arising out of the conduct of DEFENDANT as to the  
11 members of the CALIFORNIA CLASS.

12 37. DEFENDANT maintains records from which the Court can ascertain and identify  
13 by job title each of DEFENDANT's employees who have been intentionally subjected to  
14 DEFENDANT's company policy, practices and procedures as herein alleged. PLAINTIFF will  
15 seek leave to amend the Complaint to include any additional job titles of similarly situated  
16 employees when they have been identified.

17  
18 **THE CALIFORNIA LABOR SUB-CLASS**

19 38. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth and Seventh  
20 causes Action on behalf of a California sub-class pursuant to Cal. Code of Civ. Proc. § 382,  
21 defined as all members of the CALIFORNIA CLASS who are or previously were employed by  
22 DEFENDANT in California and classified as non exempt employees (the "CALIFORNIA  
23 LABOR SUB-CLASS") at any time during the period three (3) years prior to the filing of the  
24 complaint and ending on the date as determined by the Court (the "CALIFORNIA LABOR  
25 SUB-CLASS PERIOD") but excluding any claims for those individuals who worked for  
26 DEFENDANT in California during that time period and are proposed class members in Madden  
27 v. Grossmont Hospital Corporation, San Diego County Superior Court, Case No. 37-2021-  
28 00019533-CU-OE-CTL. The amount in controversy for the aggregate claim of CALIFORNIA

1 LABOR SUB-CLASS Members is under five million dollars (\$5,000,000.00).

2 39. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare  
3 Commission (“IWC”) Wage Order requirements, and the applicable provisions of California  
4 law, intentionally, knowingly, and wilfully, engaged in a practice whereby DEFENDANT failed  
5 to correctly calculate compensation for the time worked by PLAINTIFF and the other members  
6 of the CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to these  
7 employees, even though DEFENDANT enjoyed the benefit of this work, required employees  
8 to perform this work and permitted or suffered to permit this work. DEFENDANT has denied  
9 these CALIFORNIA LABOR SUB-CLASS Members wages to which these employees are  
10 entitled in order to unfairly cheat the competition and unlawfully profit. To the extent equitable  
11 tolling operates to toll claims by the CALIFORNIA LABOR SUB-CLASS against  
12 DEFENDANT, the CALIFORNIA LABOR SUB-CLASS PERIOD should be adjusted  
13 accordingly.

14 40. DEFENDANT maintains records from which the Court can ascertain and identify  
15 by name and job title, each of DEFENDANT’s employees who have been intentionally  
16 subjected to DEFENDANT’s company policy, practices and procedures as herein alleged.  
17 PLAINTIFF will seek leave to amend the complaint to include any additional job titles of  
18 similarly situated employees when they have been identified.

19 41. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all  
20 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

21 42. Common questions of law and fact exist as to members of the CALIFORNIA  
22 LABOR SUB-CLASS, including, but not limited, to the following:

23 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay  
24 compensation due to members of the CALIFORNIA LABOR SUB-  
25 CLASS for missed meal and rest breaks in violation of the California  
26 Labor Code and California regulations and the applicable California Wage  
27 Order;

28 (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other

members of the CALIFORNIA LABOR SUB-CLASS with accurate itemized wage statements;

(c) Whether DEFENDANT has engaged in unfair competition by the above-listed conduct;

(d) The proper measure of damages and penalties owed to the members of the CALIFORNIA LABOR SUB-CLASS; and,

(e) Whether DEFENDANT's conduct was willful.

43. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS under California law by:

(a) Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay the PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS all wages due for overtime worked, for which DEFENDANT is liable pursuant to Cal. Lab. Code § 1194;

(b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to accurately pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS the correct minimum wage pay for which DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;

(c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS with an accurate itemized statement in writing showing the corresponding correct amount of wages earned by the employee;

(d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS with all legally required off-duty, uninterrupted thirty (30) minute meal breaks and the legally required off-duty rest breaks;

(e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when an employee is discharged or quits from employment, the employer must pay the employee all wages due without abatement, by failing to

tender full payment and/or restitution of wages owed or in the manner required by California law to the members of the CALIFORNIA LABOR SUB-CLASS who have terminated their employment; and,

- (f) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members with necessary expenses incurred in the discharge of their job duties.

44. This Class Action meets the statutory prerequisites for the maintenance of a Class Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS Members is impracticable and the disposition of their claims as a class will benefit the parties and the Court;
- (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are raised in this Complaint are common to the CALIFORNIA LABOR SUB-CLASS and will apply to every member of the CALIFORNIA LABOR SUB-CLASS;
- (c) The claims of the representative PLAINTIFF are typical of the claims of each member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all the other members of the CALIFORNIA LABOR SUB-CLASS, was a non-exempt employee paid on an hourly basis who was subjected to the DEFENDANT's practice and policy which failed to pay the correct amount of wages due to the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF sustained economic injury as a result of DEFENDANT's employment practices. PLAINTIFF and the members of the CALIFORNIA LABOR SUB-CLASS were and are similarly or identically harmed by the same unlawful, deceptive, and unfair misconduct engaged in by DEFENDANT; and,
- (d) The representative PLAINTIFF will fairly and adequately represent and

1 protect the interest of the CALIFORNIA LABOR SUB-CLASS, and has  
2 retained counsel who are competent and experienced in Class Action  
3 litigation. There are no material conflicts between the claims of the  
4 representative PLAINTIFF and the members of the CALIFORNIA  
5 LABOR SUB-CLASS that would make class certification inappropriate.  
6 Counsel for the CALIFORNIA LABOR SUB-CLASS will vigorously  
7 assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

8 45. In addition to meeting the statutory prerequisites to a Class Action, this action is  
9 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

10 (a) Without class certification and determination of declaratory, injunctive,  
11 statutory and other legal questions within the class format, prosecution of  
12 separate actions by individual members of the CALIFORNIA LABOR  
13 SUB-CLASS will create the risk of:

14 1) Inconsistent or varying adjudications with respect to individual  
15 members of the CALIFORNIA LABOR SUB-CLASS which  
16 would establish incompatible standards of conduct for the parties  
17 opposing the CALIFORNIA LABOR SUB-CLASS; or,

18 2) Adjudication with respect to individual members of the  
19 CALIFORNIA LABOR SUB-CLASS which would as a practical  
20 matter be dispositive of interests of the other members not party to  
21 the adjudication or substantially impair or impede their ability to  
22 protect their interests.

23 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted  
24 or refused to act on grounds generally applicable to the CALIFORNIA  
25 LABOR SUB-CLASS, making appropriate class-wide relief with respect  
26 to the CALIFORNIA LABOR SUB-CLASS as a whole in that  
27 DEFENDANT fails to pay all wages due. Including the correct wages for  
28 all time worked by the members of the CALIFORNIA LABOR SUB-

1 CLASS as required by law;

2 (c) Common questions of law and fact predominate as to the members of the  
3 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and  
4 violations of California Law as listed above, and predominate over any  
5 question affecting only individual CALIFORNIA LABOR SUB-CLASS  
6 Members, and a Class Action is superior to other available methods for  
7 the fair and efficient adjudication of the controversy, including  
8 consideration of:

9 1) The interests of the members of the CALIFORNIA LABOR SUB-  
10 CLASS in individually controlling the prosecution or defense of  
11 separate actions in that the substantial expense of individual  
12 actions will be avoided to recover the relatively small amount of  
13 economic losses sustained by the individual CALIFORNIA  
14 LABOR SUB-CLASS Members when compared to the substantial  
15 expense and burden of individual prosecution of this litigation;

16 2) Class certification will obviate the need for unduly duplicative  
17 litigation that would create the risk of:

18 A. Inconsistent or varying adjudications with respect to  
19 individual members of the CALIFORNIA LABOR SUB-  
20 CLASS, which would establish incompatible standards of  
21 conduct for the DEFENDANT; and/or,

22 B. Adjudications with respect to individual members of the  
23 CALIFORNIA LABOR SUB-CLASS would as a practical  
24 matter be dispositive of the interests of the other members  
25 not parties to the adjudication or substantially impair or  
26 impede their ability to protect their interests;

27 3) In the context of wage litigation because a substantial number of  
28 individual CALIFORNIA LABOR SUB-CLASS Members will

1 avoid asserting their legal rights out of fear of retaliation by  
2 DEFENDANT, which may adversely affect an individual's job  
3 with DEFENDANT or with a subsequent employer, the Class  
4 Action is the only means to assert their claims through a  
5 representative; and,

- 6 4) A class action is superior to other available methods for the fair  
7 and efficient adjudication of this litigation because class treatment  
8 will obviate the need for unduly and unnecessary duplicative  
9 litigation that is likely to result in the absence of certification of  
10 this action pursuant to Cal. Code of Civ. Proc. § 382.

11 46. This Court should permit this action to be maintained as a Class Action pursuant  
12 to Cal. Code of Civ. Proc. § 382 because:

- 13 (a) The questions of law and fact common to the CALIFORNIA LABOR  
14 SUB-CLASS predominate over any question affecting only individual  
15 CALIFORNIA LABOR SUB-CLASS Members;
- 16 (b) A Class Action is superior to any other available method for the fair and  
17 efficient adjudication of the claims of the members of the CALIFORNIA  
18 LABOR SUB-CLASS because in the context of employment litigation a  
19 substantial number of individual CALIFORNIA LABOR SUB-CLASS  
20 Members will avoid asserting their rights individually out of fear of  
21 retaliation or adverse impact on their employment;
- 22 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so  
23 numerous that it is impractical to bring all members of the CALIFORNIA  
24 LABOR SUB-CLASS before the Court;
- 25 (d) PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS  
26 Members, will not be able to obtain effective and economic legal redress  
27 unless the action is maintained as a Class Action;
- 28 (e) There is a community of interest in obtaining appropriate legal and

1 equitable relief for the acts of unfair competition, statutory violations and  
2 other improprieties, and in obtaining adequate compensation for the  
3 damages and injuries which DEFENDANT's actions have inflicted upon  
4 the CALIFORNIA LABOR SUB-CLASS;

5 (f) There is a community of interest in ensuring that the combined assets of  
6 DEFENDANT are sufficient to adequately compensate the members of  
7 the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;

8 (g) DEFENDANT has acted or refused to act on grounds generally applicable  
9 to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-  
10 wide relief appropriate with respect to the CALIFORNIA LABOR SUB-  
11 CLASS as a whole;

12 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily  
13 ascertainable from the business records of DEFENDANT. The  
14 CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA  
15 CLASS Members who worked for DEFENDANT in California at any  
16 time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,

17 (i) Class treatment provides manageable judicial treatment calculated to bring  
18 a efficient and rapid conclusion to all litigation of all wage and hour  
19 related claims arising out of the conduct of DEFENDANT as to the  
20 members of the CALIFORNIA LABOR SUB-CLASS.

21  
22 **FIRST CAUSE OF ACTION**

23 **For Unlawful Business Practices**

24 **[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]**

25 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**

26 47. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and  
27 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this  
28 Complaint.

1           48.     DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof.  
2 Code § 17021.

3           49.     California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines  
4 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section  
5 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair  
6 competition as follows:

7           Any person who engages, has engaged, or proposes to engage in unfair  
8 competition may be enjoined in any court of competent jurisdiction. The court  
9 may make such orders or judgments, including the appointment of a receiver, as  
10 may be necessary to prevent the use or employment by any person of any practice  
which constitutes unfair competition, as defined in this chapter, or as may be  
necessary to restore to any person in interest any money or property, real or  
personal, which may have been acquired by means of such unfair competition.

11 Cal. Bus. & Prof. Code § 17203.

12           50.     By the conduct alleged herein, DEFENDANT has engaged and continues to  
13 engage in a business practice which violates California law, including but not limited to, the  
14 applicable Industrial Wage Order(s), the California Code of Regulations and the California  
15 Labor Code including Sections 204, 210, 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198  
16 & 2802, for which this Court should issue declaratory and other equitable relief pursuant to Cal.  
17 Bus. & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to  
18 constitute unfair competition, including restitution of wages wrongfully withheld.

19           51.     By the conduct alleged herein, DEFENDANT’s practices were unlawful and  
20 unfair in that these practices violate public policy, were immoral, unethical, oppressive,  
21 unscrupulous or substantially injurious to employees, and were without valid justification or  
22 utility for which this Court should issue equitable and injunctive relief pursuant to Section  
23 17203 of the California Business & Professions Code, including restitution of wages wrongfully  
24 withheld.

25           52.     By the conduct alleged herein, DEFENDANT’s practices were deceptive and  
26 fraudulent in that DEFENDANT’s policy and practice failed to provide the legally mandated  
27 meal and rest periods, the required amount of compensation for missed meal and rest periods  
28 and overtime and minimum wages owed, failed to timely pay wages, and failed to reimburse

1 al necessary business expenses incurred, due to a business practice that cannot be justified,  
2 pursuant to the applicable Cal. Lab. Code, and Industrial Welfare Commission requirements in  
3 violation of Cal. Bus. Code §§ 17200, *et seq.*, and for which this Court should issue injunctive  
4 and equitable relief, pursuant to Cal. Bus. & Prof. Code § 17203, including restitution of wages  
5 wrongfully withheld.

6 53. By the conduct alleged herein, DEFENDANT's practices were also unlawful,  
7 unfair and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the  
8 other members of the CALIFORNIA CLASS to be underpaid during their employment with  
9 DEFENDANT.

10 54. By the conduct alleged herein, DEFENDANT's practices were also unlawful,  
11 unfair and deceptive in that DEFENDANT's policies, practices and procedures failed to provide  
12 all legally required meal breaks to PLAINTIFF and the other members of the CALIFORNIA  
13 CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

14 55. Therefore, PLAINTIFF demands on behalf of herself and on behalf of each  
15 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty  
16 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay  
17 for each workday in which a second off-duty meal period was not timely provided for each ten  
18 (10) hours of work.

19 56. PLAINTIFF further demands on behalf of herself and each member of the  
20 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off  
21 duty paid rest period was not timely provided as required by law.

22 57. By and through the unlawful and unfair business practices described herein,  
23 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the  
24 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and  
25 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the  
26 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT  
27 to unfairly compete against competitors who comply with the law.

28 58. All the acts described herein as violations of, among other things, the Industrial

1 Welfare Commission Wage Orders, the California Code of Regulations, and the California  
2 Labor Code, were unlawful and in violation of public policy, were immoral, unethical,  
3 oppressive and unscrupulous, were deceptive, and thereby constitute unlawful, unfair and  
4 deceptive business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

5 59. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to,  
6 and do, seek such relief as may be necessary to restore to them the money and property which  
7 DEFENDANT has acquired, or of which PLAINTIFF and the other members of the  
8 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and  
9 unfair business practices, including earned but unpaid wages for all time worked.

10 60. PLAINTIFF and the other members of the CALIFORNIA CLASS are further  
11 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair  
12 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from  
13 engaging in any unlawful and unfair business practices in the future.

14 61. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,  
15 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices  
16 of DEFENDANT. Further, the practices herein alleged presently continue to occur unabated.  
17 As a result of the unlawful and unfair business practices described herein, PLAINTIFF and the  
18 other members of the CALIFORNIA CLASS have suffered and will continue to suffer  
19 irreparable legal and economic harm unless DEFENDANT is restrained from continuing to  
20 engage in these unlawful and unfair business practices.

21  
22 **SECOND CAUSE OF ACTION**

23 **For Failure To Pay Minimum Wages**

24 **[Cal. Lab. Code §§ 1194, 1197 and 1197.1]**

25 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**

26 **and Against All Defendants)**

27 62. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
28 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior

1 paragraphs of this Complaint.

2 63. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
3 bring a claim for DEFENDANT's willful and intentional violations of the California Labor  
4 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to  
5 accurately calculate and pay minimum wages to PLAINTIFF and CALIFORNIA CLASS  
6 Members.

7 64. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and  
8 public policy, an employer must timely pay its employees for all hours worked.

9 65. Cal. Lab. Code § 1197 provides the minimum wage for employees fixed by the  
10 commission is the minimum wage to be paid to employees, and the payment of a less wage than  
11 the minimum so fixed is unlawful.

12 66. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,  
13 including minimum wage compensation and interest thereon, together with the costs of suit.

14 67. DEFENDANT maintained a wage practice of paying PLAINTIFF and the other  
15 members of the CALIFORNIA LABOR SUB-CLASS without regard to the correct amount of  
16 time they work. As set forth herein, DEFENDANT's policy and practice was to unlawfully and  
17 intentionally deny timely payment of wages due to PLAINTIFF and the other members of the  
18 CALIFORNIA LABOR SUB-CLASS.

19 68. DEFENDANT's unlawful wage and hour practices manifested, without  
20 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of  
21 implementing a policy and practice that denies accurate compensation to PLAINTIFF and the  
22 other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage pay.

23 69. In committing these violations of the California Labor Code, DEFENDANT  
24 inaccurately calculated the correct time worked and consequently underpaid the actual time  
25 worked by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS.  
26 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other  
27 benefits in violation of the California Labor Code, the Industrial Welfare Commission  
28 requirements and other applicable laws and regulations.

1           70. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,  
2 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not  
3 receive the correct minimum wage compensation for their time worked for DEFENDANT.

4           71. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT  
5 required, permitted or suffered PLAINTIFF and CALIFORNIA LABOR SUB-CLASS  
6 Members to work without paying them for all the time they were under DEFENDANT's  
7 control. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the other  
8 members of the CALIFORNIA LABOR SUB-CLASS were paid less for time worked that they  
9 were entitled to, constituting a failure to pay all earned wages.

10          72. By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
11 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
12 CLASS for the true time they worked, PLAINTIFF and the other members of the  
13 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic  
14 injury in amounts which are presently unknown to them and which will be ascertained  
15 according to proof at trial.

16          73. DEFENDANT knew or should have known that PLAINTIFF and the other  
17 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time  
18 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance,  
19 to not pay employees for their labor as a matter of company policy, practice and procedure, and  
20 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF and the other members  
21 of the CALIFORNIA LABOR SUB-CLASS the correct minimum wages for their time worked.

22          74. In performing the acts and practices herein alleged in violation of California labor  
23 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for  
24 all time worked and provide them with the requisite compensation, DEFENDANT acted and  
25 continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other  
26 members of the CALIFORNIA LABOR SUB-CLASS with a conscious and utter disregard for  
27 their legal rights, or the consequences to them, and with the despicable intent of depriving them  
28 of their property and legal rights, and otherwise causing them injury in order to increase

1 company profits at the expense of these employees.

2 75. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
3 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as  
4 well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided  
5 by the California Labor Code and/or other applicable statutes. To the extent minimum wage  
6 compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members  
7 who have terminated their employment, DEFENDANT's conduct also violates Labor Code §§  
8 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties  
9 under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these  
10 CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as alleged herein  
11 was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA  
12 LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

13  
14 **THIRD CAUSE OF ACTION**

15 **For Failure To Pay Overtime Compensation**

16 **[Cal. Lab. Code §§ 510, *et seq.*]**

17 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
18 **Defendants)**

19 76. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
20 reallege and incorporate by this reference, as though full set forth herein, the prior paragraphs  
21 of this Complaint.

22 77. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
23 bring a claim for DEFENDANT's willful and intentional violations of the California Labor  
24 Code and the Industrial Welfare Commission requirements for DEFENDANT's failure to pay  
25 these employees for all overtime worked, including, work performed in excess of eight (8)  
26 hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any  
27 workweek.

28 78. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and

1 public policy, an employer must timely pay its employees for all hours worked.

2 79. Cal. Lab. Code § 510 further provides that employees in California shall not be  
3 employed more than eight (8) hours per workday and more than forty (40) hours per workweek  
4 unless they receive additional compensation beyond their regular wages in amounts specified  
5 by law.

6 80. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,  
7 including minimum wage and overtime compensation and interest thereon, together with the  
8 costs of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for  
9 longer hours than those fixed by the Industrial Welfare Commission is unlawful.

10 81. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and  
11 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by  
12 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked,  
13 including overtime work.

14 82. DEFENDANT's unlawful wage and hour practices manifested, without  
15 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of  
16 implementing a policy and practice that failed to accurately record overtime worked by  
17 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members and denied accurate  
18 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
19 CLASS for overtime worked, including, the overtime work performed in excess of eight (8)  
20 hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any  
21 workweek.

22 83. In committing these violations of the California Labor Code, DEFENDANT  
23 inaccurately recorded overtime worked and consequently underpaid the overtime worked by  
24 PLAINTIFF and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted  
25 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation  
26 of the California Labor Code, the Industrial Welfare Commission requirements and other  
27 applicable laws and regulations.

28 84. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,

1 the PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not  
2 receive full compensation for overtime worked.

3 85. Cal. Lab. Code § 515 sets out various categories of employees who are exempt  
4 from the overtime requirements of the law. None of these exemptions are applicable to the  
5 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,  
6 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were not  
7 subject to a valid collective bargaining agreement that would preclude the causes of action  
8 contained herein this Complaint. Rather, PLAINTIFF brings this Action on behalf of herself  
9 and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations of non-  
10 negotiable, non-waiveable rights provided by the State of California.

11 86. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the  
12 other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime  
13 worked that they are entitled to, constituting a failure to pay all earned wages..

14 87. DEFENDANT failed to accurately pay the PLAINTIFF and the other members  
15 of the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which  
16 was in excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510,  
17 1194 & 1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR  
18 SUB-CLASS were required to work, and did in fact work, overtime as to which DEFENDANT  
19 failed to accurately record and pay as evidenced by DEFENDANT's business records and  
20 witnessed by employees.

21 88. By virtue of DEFENDANT's unlawful failure to accurately pay all earned  
22 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-  
23 CLASS for the true amount of time they worked, PLAINTIFF and the other members of the  
24 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic  
25 injury in amounts which are presently unknown to them and which will be ascertained  
26 according to proof at trial.

27 89. DEFENDANT knew or should have known that PLAINTIFF and the other  
28 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for all overtime

1 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance,  
2 to not pay employees for their labor as a matter of company policy, practice and procedure, and  
3 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF and the other members  
4 of the CALIFORNIA LABOR SUB-CLASS for overtime worked.

5 90. In performing the acts and practices herein alleged in violation of California labor  
6 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for  
7 all overtime worked and provide them with the requisite overtime compensation, DEFENDANT  
8 acted and continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and  
9 the other members of the CALIFORNIA LABOR SUB-CLASS with a conscious of and utter  
10 disregard for their legal rights, or the consequences to them, and with the despicable intent of  
11 depriving them of their property and legal rights, and otherwise causing them injury in order  
12 to increase company profits at the expense of these employees.

13 91. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS  
14 therefore request recovery of all overtime wages, according to proof, interest, statutory costs,  
15 as well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided  
16 by the California Labor Code and/or other applicable statutes. To the extent minimum and/or  
17 overtime compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS  
18 Members who have terminated their employment, DEFENDANT's conduct also violates Labor  
19 Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time  
20 penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these  
21 CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as alleged herein  
22 was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA  
23 LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

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1 **FOURTH CAUSE OF ACTION**

2 **For Failure to Provide Required Meal Periods**

3 **[Cal. Lab. Code §§ 226.7 & 512 ]**

4 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
5 **Defendants)**

6 92. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
7 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs  
8 of this Complaint.

9 93. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time  
10 failed to provide all the legally required off-duty meal breaks to PLAINTIFF and the other  
11 CALIFORNIA LABOR SUB-CLASS Members as required by the applicable Wage Order and  
12 Labor Code. The nature of the work performed by PLAINTIFF and CALIFORNIA LABOR  
13 SUB-CLASS MEMBERS did not prevent these employees from being relieved of all of their  
14 duties for the legally required off-duty meal periods. As a result of their rigorous work  
15 schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from  
16 time to time not fully relieved of duty by DEFENDANT for their meal periods. Additionally,  
17 DEFENDANT's failure to provide PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS  
18 Members with legally required meal breaks prior to their fifth (5th) hour of work is evidenced  
19 by DEFENDANT's business records from time to time. Further, DEFENDANT failed to  
20 provide PLAINTIFF and CALIFORNIA CLASS Members with a second off-duty meal period  
21 in some workdays in which these employees were required by DEFENDANT to work ten (10)  
22 hours of work from time to time. As a result, PLAINTIFF and other members of the  
23 CALIFORNIA LABOR SUB-CLASS therefore forfeited meal breaks without additional  
24 compensation and in accordance with DEFENDANT's strict corporate policy and practice.

25 94. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable  
26 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-  
27 CLASS Members who were not provided a meal period, in accordance with the applicable  
28 Wage Order, one additional hour of compensation at each employee's regular rate of pay for

1 each workday that a meal period was not provided.

2 95. As a proximate result of the aforementioned violations, PLAINTIFF and  
3 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according  
4 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of  
5 suit.

6  
7 **FIFTH CAUSE OF ACTION**

8 **For Failure to Provide Required Rest Periods**

9 **[Cal. Lab. Code §§ 226.7 & 512 ]**

10 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
11 **Defendants)**

12 96. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,  
13 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs  
14 of this Complaint.

15 97. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from  
16 time to time required to work in excess of four (4) hours without being provided ten (10) minute  
17 rest periods. Further, these employees from time to time were denied their first rest periods of  
18 at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and  
19 second rest period of at least ten (10) minutes for some shifts worked of between six (6) and  
20 eight (8) hours, and a first, second and third rest period of at least ten (10) minutes for some  
21 shifts worked of ten (10) hours or more from time to time. PLAINTIFF and other  
22 CALIFORNIA LABOR SUB-CLASS Members were also not provided with one hour wages  
23 in lieu thereof. As a result of their rigorous work schedules, PLAINTIFF and other  
24 CALIFORNIA LABOR SUB-CLASS Members were periodically denied their proper rest  
25 periods by DEFENDANT and DEFENDANT's managers.

26 98. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable  
27 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-  
28 CLASS Members who were not provided a rest period, in accordance with the applicable Wage

1 Order, one additional hour of compensation at each employee's regular rate of pay for each  
2 workday that rest period was not provided.

3 99. As a proximate result of the aforementioned violations, PLAINTIFF and  
4 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according  
5 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of  
6 suit.

### 7 **SIXTH CAUSE OF ACTION**

#### 8 **For Failure to Provide Accurate Itemized Statements**

9 **[Cal. Lab. Code § 226]**

10 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All**  
11 **Defendants)**

12 100. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-  
13 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior  
14 paragraphs of this Complaint.

15 101. Cal. Labor Code § 226 provides that an employer must furnish employees with  
16 an "accurate itemized" statement in writing showing:

- 17 (1) gross wages earned,
- 18 (2) total hours worked by the employee, except for any employee whose  
19 compensation is solely based on a salary and who is exempt from payment of  
20 overtime under subdivision (a) of Section 515 or any applicable order of the  
21 Industrial Welfare Commission,
- 22 (3) the number of piecerate units earned and any applicable piece rate if the employee  
23 is paid on a piece-rate basis,
- 24 (4) all deductions, provided that all deductions made on written orders of the  
25 employee may be aggregated and shown as one item,
- 26 (5) net wages earned,
- 27 (6) the inclusive dates of the period for which the employee is paid,
- 28 (7) the name of the employee and his or her social security number, except that by  
January 1, 2008, only the last four digits of his or her social security number or an  
employee identification number other than a social security number may be shown on  
the itemized statement,
- (8) the name and address of the legal entity that is the employer, and
- (9) all applicable hourly rates in effect during the pay period and the corresponding  
number of hours worked at each hourly rate by the employee.

102. From time to time, DEFENDANT also failed to provide PLAINTIFF and the  
other members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate

1 wage statements which failed to show, among other things, the correct gross and net wages  
2 earned. Cal. Lab. Code § 226 provides that every employer shall furnish each of his or her  
3 employees with an accurate itemized wage statement in writing showing, among other  
4 things, gross wages earned and all applicable hourly rates in effect during the pay period and  
5 the corresponding amount of time worked at each hourly rate. Aside, from the violations  
6 listed above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized  
7 wage statement that lists all the requirements under California Labor Code 226 *et seq.* As a  
8 result, DEFENDANT from time to time provided PLAINTIFF and the other members of the  
9 CALIFORNIA LABOR SUB-CLASS with wage statements which violated Cal. Lab. Code  
10 § 226.

11 103. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab.  
12 Code § 226, causing injury and damages to PLAINTIFF and the other members of the  
13 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs  
14 expended calculating the correct wages for all missed meal and rest breaks and the amount  
15 of employment taxes which were not properly paid to state and federal tax authorities.  
16 These damages are difficult to estimate. Therefore, PLAINTIFF and the other members of  
17 the CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages of fifty  
18 dollars (\$50.00) for the initial pay period in which the violation occurred, and one hundred  
19 dollars (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code §  
20 226, in an amount according to proof at the time of trial (but in no event more than four  
21 thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of the  
22 CALIFORNIA LABOR SUB-CLASS herein).

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1 DEFENDANT failed to indemnify and reimburse PLAINTIFF and the CALIFORNIA  
2 LABOR SUB-CLASS members for these expenses as an employer is required to do under  
3 the laws and regulations of California.

4 107. PLAINTIFF therefore demands reimbursement for expenditures or losses  
5 incurred by herself and the CALIFORNIA LABOR SUB-CLASS members in the discharge  
6 of their job duties for DEFENDANT, or their obedience to the directions of DEFENDANT,  
7 with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

8  
9 **EIGHTH CAUSE OF ACTION**

10 **Retaliation**

11 **[Violation of Cal. Lab. Code § 1102.5, *et seq.*]**

12 **(By PLAINTIFF Against All Defendants)**

13 108. PLAINTIFF realleges and incorporates by reference, as though fully set forth  
14 herein, the prior paragraphs of this Complaint.

15 109. At all relevant times, Labor Code section 1102.5 was in effect and was  
16 binding on DEFENDANT. This statute prohibits DEFENDANT from retaliating against  
17 any employee, including PLAINTIFF, for raising complaints of illegality and/or belief that  
18 the employee may disclose illegality.

19 110. PLAINTIFF made numerous complaints in March and April of 2021 to  
20 Jennifer Peters (Manager) regarding Defendants's failure to follow the California Labor  
21 Code regarding providing rest breaks, Defendant's failure to provide a safe working  
22 environment during the Covid-19 pandemic, and patient safety issues which resulted in  
23 patient deaths. Continuing through her employment until present, PLAINTIFF informed  
24 DEFENDANT about such illegal wage and workplace safety practices amongst other wage  
25 related concerns, but to no avail. In March and April of 2021, PLAINTIFF engaged in  
26 protected activity by complaining to DEFENDANT of what PLAINTIFF reasonably  
27 perceived to be illegal practices of DEFENDANT. As a direct consequence of  
28 PLAINTIFF's complaints to DEFENDANT, DEFENDANT retaliated against PLAINTIFF

1 by demoting PLAINTIFF from her role as Resource Nurse and denying PLAINTIFF other  
2 job opportunities and placing unreasonable demands on PLAINTIFF's everyday work duties  
3 which resulted in lost wages.

4 111. As a proximate result of DEFENDANT'S willful, knowing, and intentional  
5 violation(s) of Labor Code section 1102.5, PLAINTIFF has suffered and continues to suffer  
6 humiliation, emotional distress, and mental and physical pain and anguish, all to  
7 PLAINTIFF's damage in a sum according to proof.

8 112. As a result of DEFENDANT's adverse employment actions against  
9 PLAINTIFF, PLAINTIFF has suffered general and special damages in sums according to  
10 proof.

11 113. DEFENDANT'S misconduct was committed intentionally, in a malicious,  
12 oppressive manner, and fraudulent manner entitling PLAINTIFF to punitive damages  
13 against DEFENDANT.

14  
15 **PRAYER FOR RELIEF**

16 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and  
17 severally, as follows:

18 1. On behalf of the CALIFORNIA CLASS:

- 19 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA  
20 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;  
21 B) An order temporarily, preliminarily and permanently enjoining and restraining  
22 DEFENDANT from engaging in similar unlawful conduct as set forth herein;  
23 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully  
24 withheld from compensation due to PLAINTIFF and the other members of the  
25 CALIFORNIA CLASS; and,  
26 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund  
27 for restitution of the sums incidental to DEFENDANT's violations due to  
28 PLAINTIFF and to the other members of the CALIFORNIA CLASS.

- 1 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:
- 2 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh Causes of
- 3 Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action
- 4 pursuant to Cal. Code of Civ. Proc. § 382;
- 5 B) Compensatory damages, according to proof at trial, including compensatory
- 6 damages for minimum and overtime compensation due PLAINTIFF and the other
- 7 members of the CALIFORNIA LABOR SUB-CLASS, during the applicable
- 8 CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon at the
- 9 statutory rate;
- 10 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period
- 11 in which a violation occurs and one hundred dollars (\$100) per each member of
- 12 the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay
- 13 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
- 14 an award of costs for violation of Cal. Lab. Code § 226;
- 15 D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and
- 16 the applicable IWC Wage Order;
- 17 E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and
- 18 1197; and,
- 19 F) The amount of the expenses PLAINTIFF and each member of the CALIFORNIA
- 20 LABOR SUBCLASS incurred in the course of their job duties, plus interest, and
- 21 costs of suit.
- 22 3. On behalf of PLAINTIFF for the Eighth Cause of Action:
- 23 A) For all special damages which were sustained as a result of DEFENDANT's
- 24 conduct, including, but not limited to, back pay, front pay, lost compensation and
- 25 job benefits that PLAINTIFF would have received but for the retaliatory practices
- 26 of DEFENDANT; and,
- 27 B) For all exemplary damages, according to proof, which were sustained as a result
- 28 of DEFENDANT's conduct.

1 4. On all claims:

2 A) An award of interest, including prejudgment interest at the legal rate;

3 B) Such other and further relief as the Court deems just and equitable; and,

4 C) An award of penalties, attorneys' fees and cost of suit, as allowable under the  
5 law, including, but not limited to, pursuant to Labor Code §221, §226, §1194,  
6 and/or §2802.

7 Dated: September 23, 2021

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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10 By: \_\_\_\_\_  
11 Norman B. Blumenthal  
12 Attorneys for Plaintiff  
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**DEMAND FOR A JURY TRIAL**

PLAINTIFF demands a jury trial on issues triable to a jury.

Dated: September 23, 2021      BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: \_\_\_\_\_  
Norman B. Blumenthal  
Attorneys for Plaintiff