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9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF FRESNO
12

13 SHAIRA GUEVARA, as an
14 aggrieved employee pursuant to the
Private Attorneys General Act
15 (“PAGA”), on behalf of the State of
California and other non-party
16 Aggrieved Employees,

17 Plaintiff,

18 vs.

19 COMMUNITY HOSPITALS OF
CENTRAL CALIFORNIA, a
20 California corporation; FRESNO
COMMUNITY HOSPITAL AND
21 MEDICAL CENTER, a California
corporation; and DOES 1 through 10,
22 inclusive,

23
24 Defendants.
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28

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Superior Court of California
County of Fresno
By: Joshua Corley, Deputy

Case No.: 24CECG03215

**COMPLAINT – PAGA ENFORCEMENT
ACTION**

(1) Claim for Civil Penalties for Violations of
California Labor Code, Pursuant to PAGA,
§§ 2698, *et seq.*

Jury Trial Demanded

1 Plaintiff Shaira Guevara, as an aggrieved employee and on behalf of the State of
2 California and all other non-party Aggrieved Employees, alleges as follows:

3 JURISDICTION AND VENUE

4 1. This is an enforcement action under the Labor Code Private Attorneys General
5 Act of 2004, California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil penalties
6 and any other available relief on behalf of Plaintiff, the State of California, and other current
7 and former employees who worked for Defendants in California as a non-exempt, hourly paid
8 employee and received at least one wage statement and against whom one or more violations of
9 any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any provision regulating
10 hours and days of work in the applicable Industrial Welfare Commission (“IWC”) Wage Order
11 were committed, as set forth in this complaint, at any time between one year prior to the filing
12 of the pre-filing written notice to the Labor and Workforce Development Agency (“LWDA”) in this case on May 22, 2024, until judgment (“non-party Aggrieved Employees”). Plaintiff’s
13 share of civil penalties sought in this action does not exceed \$75,000.
14

15 2. This Court has jurisdiction over this action pursuant to the California
16 Constitution, Article VI, section 10. The statute under which this action is brought does not
17 specify any other basis for jurisdiction.

18 3. This Court has jurisdiction over all Defendants because, on information and
19 belief, Defendants are either citizens of California, have sufficient minimum contacts in
20 California, or otherwise intentionally avail themselves of the California market so as to render
21 the exercise of jurisdiction over them by the California courts consistent with traditional notions
22 of fair play and substantial justice. There is no basis for federal diversity jurisdiction in this
23 action given that the State of California, as the real party in interest in this action, is not a
24 “citizen” for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*, 726
25 F.3d 1118, 1123 (9th Cir. Cal. 2013). *Urbino* also holds that civil penalties cannot be aggregated
26 to satisfy the amount in controversy requirement for federal diversity jurisdiction in this action,
27 and that diversity jurisdiction cannot be established when Plaintiff’s share of the civil penalties
28 attributable to violations personally suffered are less than \$75,000. *Id.* at 1122.

4. Venue is proper in this Court, because Defendants filed Statement of Information forms with the California Secretary of State designating a principal place of business in Clovis, County of Fresno, in accordance with California Corporations Code section 2105(a)(3). Cal. Code Civ. P. § 395.5. Venue is also proper in this Court because Defendants employ persons in this county, and employed Plaintiff in this county, and thus a substantial portion of the transactions and occurrences related to this action occurred in this county.

5. California Labor Code sections 2698, *et seq.*, the “Labor Code Private Attorneys General Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private attorneys general their current or former employers for various civil penalties for violations of various provisions in the California Labor Code.

THE PARTIES

6. Plaintiff Shaira Guevara is a resident of Fresno, in Fresno County, California. Defendants employed Plaintiff as an hourly paid, non-exempt employee from approximately January 2021 to September 2023. Plaintiff worked for Defendants as a Clinical Nurse I and Clinical Nurse II at their Community Regional Medical Center hospital in Fresno, California. Plaintiff typically worked twelve (12) hours per day, and two (2) or more days per week. At the time Plaintiff's employment with Defendants ended, she was compensated approximately \$42.18 per hour. Plaintiff's job duties included, without limitation, checking patients' vital signs, charting, administering medication, and caring for patients.

7. On information and belief, Defendants required some employees, including Plaintiff, to execute arbitration agreements at the time of their hire or during their employment. On further information and belief, Defendants' arbitration agreements were and are both procedurally and substantively unconscionable. Specifically, Defendants presented employees with a "DISPUTE RESOLUTION AGREEMENT" ("Arbitration Agreement") which had to be reviewed and acknowledged immediately. Specifically, the Arbitration Agreement was among several documents presented to employees for signature during the orientation process, including Employee Acknowledgement of Elder and Dependent Adult Abuse and Neglect Reporting Obligations, Employee Acknowledgement of Child Abuse and Neglect Reporting

1 Obligations, Confidentiality of Information Agreement, Meal Period Waiver, and Ethic and
2 Compliance Code. Also, employees did not have a meaningful opportunity to negotiate the
3 terms of the Arbitration Agreement. Rather, they were provided to Defendants' employees for
4 them to sign on a take-it or leave-it basis, along with other onboarding documents. Further,
5 Defendants did not set forth in the agreements or otherwise provide employees with the rules
6 which will govern the arbitration, instead forcing employees to seek this information out on
7 their own.

8 8. COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA was and is, upon
9 information and belief, a California corporation, and at all times hereinafter mentioned, an
10 employer whose employees are engaged throughout this county and the State of California.

11 9. FRESNO COMMUNITY HOSPITAL AND MEDICAL CENTER was and is,
12 upon information and belief, a California corporation, and at all times hereinafter mentioned,
13 an employer whose employees are engaged throughout this county and the State of California.

14 10. Plaintiff is unaware of the true names or capacities of the Defendants sued herein
15 under the fictitious names DOES 1 through 10, but will seek leave of this Court to amend the
16 complaint and serve such fictitiously named Defendants once their names and capacities
17 become known.

18 11. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
19 were the partners, agents, owners, or managers of COMMUNITY HOSPITALS OF CENTRAL
20 CALIFORNIA and FRESNO COMMUNITY HOSPITAL AND MEDICAL CENTER at all
21 relevant times.

22 12. Plaintiff is informed and believes, and thereon alleges, that each and all of the
23 acts and omissions alleged herein was performed by, or is attributable to, COMMUNITY
24 HOSPITALS OF CENTRAL CALIFORNIA, FRESNO COMMUNITY HOSPITAL AND
25 MEDICAL CENTER, and/or DOES 1 through 10 (collectively, "Defendants" or "CMC"), each
26 acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert with,
27 each of the other co-Defendants and was acting within the course and scope of such agency,
28 employment, joint venture, or concerted activity with legal authority to act on the others' behalf.

1 The acts of any and all Defendants were in accordance with, and represent, the official policy
2 of Defendants.

3 13. At all relevant times, Defendants, and each of them, ratified each and every act
4 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
5 and abetted the acts and omissions of each and all the other Defendants in proximately causing
6 the damages herein alleged.

7 14. Plaintiff is informed and believes, and thereon alleges, that each of said
8 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
9 omissions, occurrences, and transactions alleged herein.

10 15. Under California law, Defendants are jointly and severally liable as employers
11 for the violations alleged herein because they have each exercised sufficient control over the
12 wages, hours, working conditions, and employment status of Plaintiff and other non-party
13 Aggrieved Employees. Each Defendant had the power to hire and fire Plaintiff and other non-
14 party Aggrieved Employees, supervised and controlled their work schedule and/or conditions
15 of employment, determined their rate of pay, and maintained their employment records.
16 Defendants suffered or permitted Plaintiff and other non-party Aggrieved Employees to work
17 and/or “engaged” Plaintiff and other non-party Aggrieved Employees so as to create a common-
18 law employment relationship. As joint employers of Plaintiff and other non-party Aggrieved
19 Employees, Defendants are jointly and severally liable for the civil penalties available to
20 Plaintiff and other non-party Aggrieved Employees under the law.

21 16. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
22 Defendants, and each of them, have acted as joint employers with respect to Plaintiff and other
23 non-party Aggrieved Employees because Defendants have:

- 24 (a) jointly exercised meaningful control over the work performed by Plaintiff
25 and other non-party Aggrieved Employees;
- 26 (b) jointly exercised meaningful control over Plaintiff’s and other non-party
27 Aggrieved Employees’ wages, hours, and working conditions, including
28 the quantity, quality standards, speed, scheduling, and operative details

1 of the tasks performed by Plaintiff and other non-party Aggrieved
2 Employees;

3 (c) jointly required that Plaintiff and other non-party Aggrieved Employees
4 perform work which is an integral part of Defendants' businesses; and

5 (d) jointly exercised control over Plaintiff and other non-party Aggrieved
6 Employees as a matter of economic reality in that Plaintiff and other non-
7 party Aggrieved Employees were dependent on Defendants, who shared
8 the power to set the wages of Plaintiff and other non-party Aggrieved
9 Employees and determined their working conditions, and who jointly
10 reaped the benefits from the underpayment of their wages and
11 noncompliance with other statutory provisions governing their
12 employment.

13 17. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
14 there has existed a unity of interest and ownership between Defendants such that any
15 individuality and separateness between the entities has ceased.

16 18. COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA, FRESNO
17 COMMUNITY HOSPITAL AND MEDICAL CENTER, and/or DOES 1 through 10 are
18 therefore alter egos of each other.

19 19. Adherence to the fiction of the separate existence of Defendants would permit an
20 abuse of the corporate privilege, and would promote injustice by protecting Defendants from
21 liability for the wrongful acts committed by them under the name CMC.

22 20. Plaintiff further alleges, upon information and belief, that the Defendants
23 COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA and FRESNO COMMUNITY
24 HOSPITAL AND MEDICAL CENTER are alter egos of each other for the following reasons:

25 (a) On the California Secretary of State's website
26 (<https://bizfileonline.sos.ca.gov/>), COMMUNITY HOSPITALS OF
27 CENTRAL CALIFORNIA and FRESNO COMMUNITY HOSPITAL
28 AND MEDICAL CENTER have the same principal and mailing address,

“789 MEDICAL CENTER DRIVE EAST, CLOVIS, CA 93611”;

(b) According to the California Secretary of State’s website, COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA and FRESNO COMMUNITY HOSPITAL AND MEDICAL CENTER share the same agent for service of process, BRIANNE L. MARRIOTT;

(c) According to their most recent “Statement of Information” forms filed with the California Secretary of State, COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA and FRESNO COMMUNITY HOSPITAL AND MEDICAL CENTER share the officers, including, but not limited to, Christopher Neuman, who serves as the Chief Financial Officer; Karen McCaffrey, who serves a Secretary; Craig S. Castro, who serves as a Chief Executive Officer; Deborah P. Moffett, who serves as Vice-Treasurer; and Isabel Martinez, who serves as Vice-Secretary; and

(d) On information and belief, COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA and FRESNO COMMUNITY HOSPITAL AND MEDICAL CENTER utilize the same standardized employment forms and issue the same employment policies.

PAGA REPRESENTATIVE ALLEGATIONS

21. Defendants are a private, not-for-profit healthcare network based in Fresno, California, operating four hospitals, a cancer institute, and several long-term care, outpatient, and other healthcare facilities. Upon information and belief, Defendants maintain a single, centralized Human Resources (HR) department at their corporate headquarters in Clovis, California, for all non-exempt, hourly paid employees working for Defendants in California, which is responsible for the recruiting and hiring of new employees, and communicating and implementing Defendants’ company-wide policies, including timekeeping policies and meal and rest period policies, to employees throughout California.

22. In particular, Plaintiff and other non-party Aggrieved Employees, on information and belief, received the same standardized documents and/or written policies. Upon

1 information and belief, the usage of standardized documents and/or written policies, including
2 new-hire documents, indicate that Defendants dictated policies at the corporate level and
3 implemented them company-wide, regardless of their employees' assigned locations or
4 positions. Upon information and belief, Defendants set forth uniform policies and procedures
5 in several documents provided at an employee's time of hire.

6 23. Upon information and belief, Defendants maintain a centralized Payroll
7 department at their corporate headquarters in Clovis, California, which processes payroll for all
8 non-exempt, hourly paid employees working for Defendants at their various locations in
9 California, including Plaintiff and other non-party Aggrieved Employees. Based upon
10 information and belief, Defendants issue the same formatted wage statements to all non-exempt,
11 hourly paid employees in California, irrespective of their work locations. Upon information
12 and belief, Defendants process payroll for departing employees in the same manner throughout
13 the State of California, regardless of the manner in which each employee's employment ends.

14 24. Defendants continue to employ non-exempt or hourly paid employees in
15 California.

16 25. Plaintiff is informed and believes, and thereon alleges, that at all times herein
17 mentioned, Defendants were advised by skilled lawyers and other professionals, employees and
18 advisors knowledgeable about California labor and wage law, employment and personnel
19 practices, and about the requirements of California law.

20 26. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other
21 non-party Aggrieved Employees were not paid for all hours worked because all hours worked
22 were not recorded.

23 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
24 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
25 meal periods in accordance with the California Labor Code and applicable IWC Wage Order or
26 payment of one (1) additional hour of pay at their regular rates of pay when they were not
27 provided with timely, uninterrupted, thirty (30) minute meal periods and that Plaintiff and other
28 non-party Aggrieved Employees were not provided with all meal periods or payment of one (1)

1 additional hour of pay at their regular rates of pay when they did not receive a timely,
2 uninterrupted, thirty (30) minute meal period.

3 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to rest
5 periods in accordance with the California Labor Code and applicable IWC Wage Order or
6 payment of one (1) additional hour of pay at their regular rates of pay when they were not
7 authorized and permitted to take a compliant rest period and that Plaintiff and other non-party
8 Aggrieved Employees were not authorized and permitted to take compliant rest periods or
9 provided with payment of one (1) additional hour of pay at their regular rates of pay when they
10 were not authorized and permitted to take a compliant rest period.

11 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
12 should have known that Plaintiff and/or other non-party Aggrieved Employees were entitled to
13 receive certain wages for overtime compensation and that they were not receiving certain wages
14 for overtime compensation.

15 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
16 should have known that Plaintiff and/or other non-party Aggrieved Employees were entitled to
17 be paid at a regular rate of pay, and corresponding rates of pay for overtime wages and/or meal
18 and rest period premiums, that included as eligible income all remuneration required by law,
19 including but not limited to, all income derived from shift differential pay, incentive pay,
20 nondiscretionary bonuses, and/or other forms of compensation, but failed to include all forms
21 of remuneration in calculating the regular rate of pay for Plaintiff and/or other non-party
22 Aggrieved Employees.

23 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
24 should have known that Plaintiff and/or other non-party Aggrieved Employees were entitled to
25 receive at least minimum wages for compensation and that they were not receiving at least
26 minimum wages for work that was required to be done off-the-clock. In violation of the
27 California Labor Code, Plaintiff and/or other non-party Aggrieved Employees were not paid at
28 least minimum wages for work done off-the-clock.

1 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
3 receive complete and accurate wage statements in accordance with California law. In violation
4 of the California Labor Code, Plaintiff and other non-party Aggrieved Employees were not
5 provided complete and accurate wage statements.

6 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
7 should have known that they had a duty to maintain accurate and complete payroll records in
8 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,
9 and intentionally failed to do so.

10 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
12 timely payment of wages during their employment. In violation of the California Labor Code,
13 Plaintiff and other non-party Aggrieved Employees did not receive payment of all wages,
14 including, but not limited to, overtime wages, minimum wages, meal and rest period premiums,
15 and/or sick leave pay, within permissible time periods.

16 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
18 timely payment of all wages earned upon termination of employment. In violation of the
19 California Labor Code, Plaintiff and other non-party Aggrieved Employees did not receive
20 payment of all wages due, including, but not limited to, overtime wages, minimum wages, meal
21 and rest period premiums, and/or sick leave pay, within permissible time periods.

22 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
23 should have known that other non-party Aggrieved Employees were entitled to receive sick
24 leave benefits to be paid at a regular rate of pay, that included, as eligible income, all income
25 derived from shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms
26 of compensation. In violation of the California Labor Code, Defendants failed to include all
27 forms of remuneration in calculating the regular rate of pay for sick leave pay.

28 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and other non-party Aggrieved Employees were entitled to
2 receive reimbursement for all business-related expenses and costs they incurred during the
3 course and scope of their employment and that they did not receive reimbursement of applicable
4 business-related expenses and costs incurred.

5 38. Plaintiff is informed and believes, and thereon alleges, that at all times herein
6 mentioned, Defendants knew or should have known that Defendants had a duty to provide
7 Plaintiff and other non-party Aggrieved Employees with written notice of the material terms of
8 their employment with Defendants as required by the California Wage Theft Prevention Act,
9 but failed to do so.

10 39. Plaintiff is informed and believes, and thereon alleges, that at all times herein
11 mentioned, Defendants knew or should have known that they had a duty to compensate Plaintiff
12 and other non-party Aggrieved Employees for all hours worked, and that Defendants had the
13 financial ability to pay such compensation, but willfully, knowingly, and intentionally failed to
14 do so, and falsely represented to Plaintiff and other non-party Aggrieved Employees that they
15 were properly denied wages, all in order to increase Defendants' profits.

16 40. At all times herein set forth, PAGA provides that any provision of law under the
17 Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and
18 collected by the LWDA for violations of the California Labor Code and applicable IWC Wage
19 Order may, as an alternative, be recovered by aggrieved employees in a civil action brought on
20 behalf of themselves and other current or former employees pursuant to procedures outlined in
21 California Labor Code section 2699.3.

22 41. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any
23 person who was employed by the alleged violator and against whom one or more of the alleged
24 violations was committed."

25 42. Plaintiff and other current and former employees of Defendants are "aggrieved
26 employees" as defined by Labor Code section 2699(c)(1) in that they are all Defendants' current
27 or former employees and one or more of the alleged violations were committed against them.

28 43. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved

1 employee, including Plaintiff, may pursue a civil action arising under PAGA after the following
2 requirements have been met:

3 (a) The aggrieved employee shall give written notice by online filing
4 (hereinafter “Employee’s Notice”) to the LWDA and by certified mail to
5 the employer of the specific provisions of the California Labor Code
6 alleged to have been violated, including the facts and theories to support
7 the alleged violations.

8 (b) An aggrieved employee’s notice filed with the LWDA pursuant to
9 2699.3(a) and any employer response to that notice shall be accompanied
10 by a filing fee of seventy-five dollars (\$75).

11 (c) The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
12 employer and the aggrieved employee by certified mail that it does not
13 intend to investigate the alleged violation within sixty (60) calendar days
14 of the postmark date of the Employee’s Notice. Upon receipt of the
15 LWDA Notice, or if the LWDA Notice is not provided within sixty-five
16 (65) calendar days of the postmark date of the Employee’s Notice, the
17 aggrieved employee may commence a civil action pursuant to California
18 Labor Code section 2699 to recover civil penalties in addition to any other
19 penalties to which the employee may be entitled.

20 44. Pursuant to California Labor Code section 2699.3(c), aggrieved employees,
21 through Plaintiff, may pursue a civil action arising under PAGA for violations of any provision
22 other than those listed in Section 2699.5 after the following requirements have been met:

23 (a) The aggrieved employee or representative shall give written notice by
24 online filing to the LWDA and by certified mail to the employer of the
25 specific provisions of the California Labor Code alleged to have been
26 violated (other than those listed in Section 2699.5), including the facts
27 and theories to support the alleged violation.

28 (b) An aggrieved employee’s notice filed with the LWDA pursuant to

2699.3(c) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars (\$75).

(c) The employer may cure the alleged violation within thirty-three (33) calendar days of the postmark date of the notice. The employer shall give written notice by certified mail within that period of time to the aggrieved employee or representative and the agency if the alleged violation is cured, including a description of actions taken, and no civil action pursuant to Section 2699 may commence. If the alleged violation is not cured within the 33-day period, the employee may commence a civil action pursuant to Section 2699.

45. On May 22, 2024, Plaintiff provided written notice by online filing to the LWDA and by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including facts and theories to support the alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff's written notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The LWDA PAGA Administrator has confirmed receipt of Plaintiff's written notice and assigned Plaintiff PAGA Case Number LWDA-CM-1029992-24. A true and correct copy of Plaintiff's written notice to the LWDA and Defendants dated May 22, 2024, is attached hereto as "Exhibit 1."

46. As of the filing date of this complaint, over 65 days have passed since Plaintiff sent the written notice described above, and the LWDA has not responded that it intends to investigate Plaintiff's claims, and Defendants have not cured the violations.

47. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor Code sections 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, 2802, and 2810.5.

48. Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission

1 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
2 each underpaid employee for each pay period for which the employee was underpaid (2)
3 For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for
4 each pay period for which the employee was underpaid” Labor Code section 558(c)
5 provides “[t]he civil penalties provided for in this section are in addition to any other civil or
6 criminal penalty provided by law.” Plaintiff, acting in the public interest as a private attorney
7 general, seeks assessment and collection of civil penalties under Labor Code section 558 for
8 herself, all other non-party Aggrieved Employees, and the State of California against
9 Defendants for violations of Labor Code sections 510, 512(a), 516, and 1198, and the applicable
10 IWC Wage Order. Plaintiff, acting in the public interest as a private attorney general, does not
11 seek the recovery of unpaid wages under Labor Code section 558 from Defendants for violations
12 of Labor Code sections 510, 512(a), 516, and 1198, and the applicable IWC Wage Order.

13 49. Defendants, at all times relevant to this complaint, were employers or persons
14 acting on behalf of an employer(s) who violated Plaintiff’s and other non-party Aggrieved
15 Employees’ rights by violating various sections of the California Labor Code as set forth above.

16 50. As set forth below, Defendants have violated numerous provisions of both the
17 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
18 Order.

19 51. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
20 2699.3(a), 2699.3(c), 2699.5, and section 558, Plaintiff, acting in the public interest as a private
21 attorney general, seeks assessment and collection of civil penalties for herself, all other non-
22 party Aggrieved Employees, and the State of California against Defendants for violations of
23 California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d),
24 1182.12, 1194, 1197, 1198, 2802, and 2810.5.

25 **FIRST CAUSE OF ACTION**

26 **For Civil Penalties, Pursuant to California Labor Code §§ 2698, *et seq.***

27 **(Against all Defendants)**

28 52. Plaintiff incorporates by reference and re-alleges as if fully stated herein each

1 and every allegation set forth above.

2 53. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover
3 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code section
4 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 204, 226(a), 226.7, 510,
5 511, 512(a), 1174(d), 1194, 1197, 1198, and 2802. Labor Code section 2699.3(c) permits
6 aggrieved employees, including Plaintiff, to recover civil penalties for violations of those Labor
7 Code sections not found in section 2699.5, including sections 246, 516, 1182.12, and 2810.5.

8 54. Defendants’ conduct, as alleged herein, violates numerous sections of the
9 California Labor Code, including, but not limited to, the following:

- 10 (a) Violation of Labor Code sections 226.7, 512(a), 516, and 1198, and the
11 applicable IWC Wage Order for Defendants’ failure to provide Plaintiff
12 and other non-party Aggrieved Employees with meal periods, as set forth
13 below;
- 14 (b) Violation of Labor Code sections 226.7, 516, and 1198, and the applicable
15 IWC Wage Order for Defendants’ failure to authorize and permit Plaintiff
16 and other non-party Aggrieved Employees to take rest periods, as set forth
17 below;
- 18 (c) Violation of Labor Code sections 510, 511, and 1198, and the applicable
19 IWC Wage Order for Defendants’ failure to compensate Plaintiff and/or
20 other non-party Aggrieved Employees with all required overtime pay, as
21 set forth below;
- 22 (d) Violation of Labor Code sections 226.7, 510, and 1198, and the applicable
23 IWC Wage Order for Defendants’ failure to include all forms of
24 remuneration in the regular rate of pay as required by law for purposes of
25 paying overtime wages and/or meal and rest period premiums to Plaintiff
26 and/or other non-party Aggrieved Employees, as set forth below;
- 27 (e) Violation of Labor Code sections 1182.12, 1194, 1197, and 1198, and the
28 applicable IWC Wage Order for Defendants’ failure to compensate

1 Plaintiff and/or other non-party Aggrieved Employees with at least
2 minimum wages for all hours worked, as set forth below;

3 (f) Violation of Labor Code sections 226(a) and 1198, and the applicable
4 IWC Wage Order for failure to provide accurate and complete wage
5 statements to Plaintiff and other non-party Aggrieved Employees, as set
6 forth below;

7 (g) Violation of Labor Code sections 1174(d) and 1198, and the applicable
8 IWC Wage Order for failure to maintain payroll records, as set forth
9 below;

10 (h) Violation of Labor Code section 204 for failure to pay all earned wages
11 during employment, as set forth below;

12 (i) Violation of Labor Code sections 201 and 202 for failure to pay all earned
13 wages upon termination, as set forth below;

14 (j) Violation of Labor Code section 246 for failure to properly calculate the
15 sick leave paid to other non-party Aggrieved Employees, as set forth
16 below;

17 (k) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
18 and other non-party Aggrieved Employees for all business expenses
19 necessarily incurred, as set forth below; and

20 (l) Violation of Labor Code section 2810.5(a)(1)(A)-(C) for failure to
21 provide written notice of information material to Plaintiff's and other
22 non-party Aggrieved Employees' employment with Defendants, as set
23 forth below.

24 **FAILURE TO PROVIDE AND RECORD MEAL PERIODS**

25 **VIOLATION OF LABOR CODE SECTIONS 226.7, 512(a), 516, AND 1198**

26 55. At all relevant times herein set forth, the applicable IWC Wage Order and
27 California Labor Code sections 226.7, 512(a), 516, and 1198 were applicable to Plaintiff's and
28 non-party Aggrieved Employees' employment by Defendants.

1 56. At all relevant times herein set forth, California Labor Code section 512(a)
2 provides that an employer may not require, cause, or permit an employee to work for a period
3 of more than five (5) hours per day without providing the employee with a meal period of not
4 less than thirty (30) minutes, except that if the total work period per day of the employee is not
5 more than six (6) hours, the meal period may be waived by mutual consent of both the employer
6 and the employee. Under California law, first meal periods must start after no more than five
7 hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

8 57. At all relevant times herein set forth, California Labor Code sections 226.7,
9 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
10 meal period mandated by an applicable order of the IWC.

11 58. At all relevant times herein set forth, Labor Code sections 226.7, 512(a), 1198,
12 and the applicable IWC Wage Order also require employers to provide a second meal period of
13 not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an
14 employee one (1) additional hour of pay at the employee's regular rate, except that if the total
15 hours worked is no more than twelve (12) hours, the second meal period may be waived by
16 mutual consent of the employer and the employee only if the first meal period was not waived.
17 The applicable IWC Wage Order further provides that employees in the health care industry
18 who work shifts in excess of eight (8) hours in a workday may waive one of their two meal
19 periods, if the waiver is signed by both the employee and employer. Cal. Code Regs. tit. 8,
20 § 11050(11)(D).

21 59. First, during the relevant period, on information and belief, Defendants had, and
22 continue to have, a company-wide policy and/or practice of understaffing their facilities while
23 assigning heavy workloads, resulting in a failure to provide Plaintiff and other non-party
24 Aggrieved Employees with adequate meal period coverage. Because Defendants did not
25 employ or staff a sufficient number of employees to meet patient demand, there was no one
26 available to relieve employees needing meal period coverage, and Plaintiff and other non-party
27 Aggrieved Employees were not always afforded timely, uninterrupted 30-minute meal periods
28 during shifts when they were entitled to receive a meal period. Additionally, Defendants, on a

1 company-wide basis, had a practice of failing to schedule meal periods, which further caused
2 Plaintiff and other non-party Aggrieved Employees to not be relieved of their duties for
3 compliant meal periods. For example, Plaintiff sometimes missed her meal periods and
4 frequently had to take them late, after the fifth hour of work, in order to meet the hospital's
5 patient demand.

6 60. Second, upon information and belief, Defendants' company-wide timekeeping
7 system prevented Plaintiff and/or other non-party Aggrieved Employees from recording when
8 their meal periods were shortened or interrupted, because the system locked out Plaintiff and/or
9 other non-party Aggrieved Employees once they clocked out for a meal period, and would not
10 permit them to clock back in from a meal period before 30 minutes had elapsed.

11 61. Third, Defendants did not provide Plaintiff and other non-party Aggrieved
12 Employees with second 30-minute meal periods on days that they worked in excess of ten (10)
13 hours in one day. For example, during the relevant time period, Plaintiff worked shifts in excess
14 of 10 hours in one day and never took a second meal period. Plaintiff and other non-party
15 Aggrieved Employees did not sign valid meal period waivers on days that they were entitled to
16 meal periods and were not relieved of all duties.

17 62. At all times herein mentioned, Defendants knew or should have known that, as a
18 result of these policies, Plaintiff and other non-party Aggrieved Employees were prevented from
19 being relieved of all duties to take timely, uninterrupted meal periods. Defendants further knew
20 or should have known that they did not pay Plaintiff and other non-party Aggrieved Employees
21 meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

22 63. Moreover, Defendants engaged in a company-wide practice and/or policy of not
23 paying all meal period premiums owed when compliant meal periods are not provided. Because
24 of this practice and/or policy, Plaintiff and other non-party Aggrieved Employees have not
25 received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the
26 extent that Defendants did pay Plaintiff and/or other non-party Aggrieved Employees for
27 missed, late, and interrupted meal periods, Defendants did so at the incorrect rates. In addition
28 to an hourly wage, Defendants paid Plaintiff and/or other non-party Aggrieved Employees shift

1 differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration.
2 However, in violation of the California Labor Code, Defendants failed to include all forms of
3 compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or
4 other forms of remuneration, in the regular rate of pay. Therefore, during times when Plaintiff
5 and/or other non-party Aggrieved Employees received meal period premiums and these other
6 forms of pay, Defendants failed to pay full meal period premiums by paying a lower rate than
7 required.

8 64. Defendants' conduct violates the applicable IWC Wage Order, and California
9 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and other non-party Aggrieved
10 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558
11 and/or 2699(a), (f), and (k).

12 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

13 **VIOLATION OF LABOR CODE SECTIONS 226.7, 516, AND 1198**

14 65. At all relevant times herein set forth, the applicable IWC Wage Order and
15 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff's and other
16 non-party Aggrieved Employees' employment by Defendants.

17 66. At all relevant times, the applicable IWC Wage Order provides that "[e]very
18 employer shall authorize and permit all employees to take rest periods, which insofar as
19 practicable shall be in the middle of each work period" and that the "rest period time shall be
20 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
21 hours or major fraction thereof" unless the total daily work time is less than three and one-half
22 (3 ½) hours.

23 67. At all relevant times, California Labor Code section 226.7 provides that no
24 employer shall require an employee to work during any rest period mandated by an applicable
25 order of the California IWC. To comply with its obligation to authorize and permit rest periods
26 under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer
27 must "relinquish any control over how employees spend their break time, and relieve their
28 employees of all duties—including the obligation that an employee remain on call. A rest

1 period, in short, must be a period of rest.” *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th
2 257, 273 (2016).

3 68. Pursuant to the applicable IWC Wage Order and California Labor Code section
4 226.7(c), Plaintiff and other non-party Aggrieved Employees are entitled to recover from
5 Defendants one (1) additional hour of pay at their regular rates of pay for each work day that a
6 required rest period was not authorized and permitted.

7 69. During the relevant time period, Defendants regularly failed to authorize and
8 permit Plaintiff and other non-party Aggrieved Employees to take a ten (10) minute rest period
9 per each four (4) hour period worked or major fraction thereof. As with meal periods,
10 Defendants’ company-wide practices of understaffing while assigning heavy workloads
11 prevented Plaintiff and other non-party Aggrieved Employees from being relieved of all duty
12 to take rest periods. Additionally, Defendants failed to schedule rest periods, which, coupled
13 with Defendants’ failure to provide adequate rest period coverage, further led to Plaintiff and
14 other non-party Aggrieved Employees not being authorized and permitted to take rest periods.

15 70. Furthermore, upon information and belief, Defendants maintained and
16 implemented a company-wide on-premises rest period policy, which effectively required that
17 Plaintiff and/or other non-party Aggrieved Employees remain on the premises during their rest
18 periods. Because Plaintiff and/or other non-party Aggrieved Employees were restricted from
19 leaving Defendants’ premises during rest periods, they were denied the ability to use their rest
20 periods freely for their own purposes, such as completing personal errands. Thus, Defendants
21 effectively maintained control over Plaintiff and/or other non-party Aggrieved Employees during
22 rest periods.

23 71. As a result of Defendants’ practices and policies, Plaintiff and other non-party
24 Aggrieved Employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess
25 of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were
26 entitled. For example, throughout her employment, Plaintiff had to regularly forgo her rest
27 periods because the hospital was busy, and she did not have sufficient rest period coverage.
28 When Plaintiff was able to take rest periods, they were often interrupted by her patients

1 requesting her assistance.

2 72. Defendants have also engaged in a company-wide practice and/or policy of not
3 paying rest period premiums owed when compliant rest periods are not authorized and
4 permitted. Because of this practice and/or policy, Plaintiff and other non-party Aggrieved
5 Employees have not received premium pay for all missed rest periods. Alternatively, to the
6 extent that Defendants did pay Plaintiff and/or other non-party Aggrieved Employees one (1)
7 additional hour of premium pay for missed rest periods, Defendants did not pay Plaintiff and/or
8 other non-party Aggrieved Employees at the correct rate of pay for premiums because
9 Defendants failed to include all forms of compensation, such as shift differential pay, incentive
10 pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.
11 Accordingly, Defendants failed to authorize and permit all compliant rest periods and failed to
12 pay the full rest period premiums due.

13 73. Defendants' conduct violates the applicable IWC Wage Order and California
14 Labor Code sections 226.7, 516, and 1198. Plaintiff and other non-party Aggrieved Employees
15 are therefore entitled to recover civil penalties pursuant to Labor Code sections 558 and/or
16 2699(a), (f), and (k).

17 **FAILURE TO PAY OVERTIME**

18 **VIOLATION OF LABOR CODE SECTIONS 510, 511, AND 1198**

19 74. Labor Code section 1198 makes it illegal to employ an employee under
20 conditions of labor that are prohibited by the applicable IWC Wage Order. California Labor
21 Code section 1198 requires that “. . . the standard conditions of labor fixed by the commission
22 shall be the . . . standard conditions of labor for employees. The employment of any employee
23 . . . under conditions of labor prohibited by the order is unlawful.”

24 75. California Labor Code section 1198 and the applicable IWC Wage Order provide
25 that it is unlawful to employ persons without compensating them at a rate of pay either time-
26 and-one-half or two-times that person's regular rate of pay, depending on the number of hours
27 worked by the person on a daily or weekly basis.

28 76. Specifically, the applicable IWC Wage Order provides that Defendants are and

1 were required to pay Plaintiff and other non-party Aggrieved Employees working more than
2 eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of time and
3 one-half (1 ½) for all hours worked in excess of eight (8) hours in a day or more than forty (40)
4 hours in a workweek.

5 77. The applicable IWC Wage Order further provides that Defendants are and were
6 required to pay Plaintiff and other non-party Aggrieved Employees working more than twelve
7 (12) hours in a day, overtime compensation at a rate of two (2) times their regular rate of pay.
8 An employee's regular rate of pay includes all remuneration for employment paid to, or on
9 behalf of, the employee, including nondiscretionary bonuses and incentive pay.

10 78. California Labor Code section 510 codifies the right to overtime compensation
11 at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8)
12 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh
13 (7th) day of work, and to overtime compensation at twice the employee's regular rate of pay for
14 hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on
15 the seventh (7th) day of work.

16 79. California Labor Code section 511 allows the employer, with the employees'
17 approval, to offer an alternative workweek schedule that authorizes employees to work no more
18 than ten (10) hours per day and forty (40) hours per week without receiving overtime
19 compensation. An alternative workweek schedule must pay the employees overtime at one and
20 one-half times their regular hourly rate for work in excess of ten (10) hours per day or forty (40)
21 hours per week. Overtime must be paid at twice the employees' regular hourly rate for work in
22 excess of twelve (12) hours a day.

23 80. During the relevant time period, Defendants willfully failed to pay all overtime
24 wages owed to Plaintiff and/or other non-party Aggrieved Employees. During the relevant time
25 period, Plaintiff and/or other non-party Aggrieved Employees were not paid overtime premiums
26 for all of the hours they worked in excess of eight (8) hours in a day, in excess of ten (10) hours
27 in a day, and/or in excess of forty (40) hours in a week, because all hours worked were not
28 recorded.

1 81. As stated, Defendants' policies and/or practices of understaffing their facilities
2 while assigning heavy workloads resulted in a failure to provide Plaintiff and/or other non-party
3 Aggrieved Employees with adequate meal period coverage, and thus, Plaintiff and/or other non-
4 party Aggrieved Employees were not always afforded uninterrupted 30-minute meal periods
5 during shifts when they were entitled to receive a meal period. Consequently, Plaintiff and/or
6 other non-party Aggrieved Employees worked through meal periods and/or had meal periods
7 interrupted in order to complete their assigned workloads. Moreover, as stated, upon
8 information and belief, Defendants' company-wide timekeeping system prevented Plaintiff
9 and/or other non-party Aggrieved Employees from recording all hours worked when their meal
10 periods were shortened or interrupted, because the system locked out Plaintiff and/or other non-
11 party Aggrieved Employees once they clocked out for a meal period, and would not permit them
12 to clock back in from a meal periods before 30 minutes had elapsed. Thus, Defendants did not
13 record all hours worked during meal periods and Plaintiff and/or other non-party Aggrieved
14 Employees performed work during meal periods for which they were not paid.

15 82. Furthermore, Defendants had, and continue to have, a company-wide policy
16 and/or practice of failing to pay proper overtime when they required Plaintiff and/or other non-
17 party Aggrieved Employees to work outside of their regularly scheduled alternative workweek
18 schedule and failed to pay all applicable overtime and/or double-time compensation owed for
19 such hours of work. In addition, to the extent Defendants implemented an alternative workweek
20 schedule as to Plaintiff and/or other non-party Aggrieved Employees, Defendants failed to
21 comply with all requirements for implementing an alternative workweek schedule, including,
22 but not limited to, holding proper workweek elections for the employees working alternative
23 workweeks. Accordingly, Defendants owe Plaintiff and/or other non-party Aggrieved
24 Employees unpaid overtime wages.

25 83. Defendants knew or should have known that as a result of these company-wide
26 practices and/or policies, Plaintiff and/or other non-party Aggrieved Employees were performing
27 their assigned duties off-the-clock during their meal periods, and were suffered or permitted to
28 perform work for which they were not paid. Because Plaintiff and/or other non-party Aggrieved

1 Employees worked shifts of eight (8) hours a day and/or shifts of ten (10) hours or more, or more
2 or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime
3 premium pay.

4 84. Furthermore, Defendants did not pay Plaintiff and/or other non-party Aggrieved
5 Employees the correct overtime rate for the recorded overtime hours that they generated.
6 Defendants failed to incorporate all compensation, including shift differential pay, incentive
7 pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the
8 regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times
9 when Plaintiff and/or other non-party Aggrieved Employees worked overtime and received
10 these other forms of pay, Defendants failed to pay all overtime wages by paying a lower
11 overtime rate than required.

12 85. Defendants' failure to pay Plaintiff and other non-party Aggrieved Employees
13 the balance of overtime compensation as required by California law, violates the provisions of
14 California Labor Code sections 510, 511, and 1198. Plaintiff and other non-party Aggrieved
15 Employees are therefore entitled to recover civil penalties pursuant to Labor Code sections 558
16 and/or 2699(a), (f), and (k).

17 **FAILURE TO PAY MINIMUM WAGES**

18 **VIOLATION OF LABOR CODE SECTIONS 1182.12, 1194, 1197, AND 1198**

19 86. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, and
20 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to
21 be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful.
22 Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which
23 an employee is suffered or permitted to work for the employer, whether or not required to do
24 so, as interpreted in accordance with the provisions of the Fair Labor Standards Act." Cal. Code
25 Regs. tit. 8, § 11050(2)(L) (defining "Hours Worked").

26 87. As stated above, due to Defendants' uniform practice of understaffing,
27 assignment of heavy workloads, and resultant lack of meal period coverage, Plaintiff and/or
28 other non-party Aggrieved Employees were impeded from taking all uninterrupted meal periods

1 to which they were entitled and were required to work off-the-clock during meal periods, have
2 their meal periods interrupted and/or were otherwise not relieved of all duties during unpaid
3 meal periods. Also, as set forth above, during the relevant time period, Defendants
4 systematically failed to pay Plaintiff and/or other non-party Aggrieved Employees for actual
5 hours worked during unpaid meal periods, because Defendants' timekeeping system locked out
6 Plaintiff and/or other non-party Aggrieved Employees for 30 minutes when they clocked out
7 for a meal period. Thus, Defendants systematically failed to pay Plaintiff and/or other non-
8 party Aggrieved Employees for actual hours worked during unpaid meal periods because these
9 hours were not always correctly recorded.

10 88. Thus, Defendants did not pay at least minimum wages for all hours worked by
11 Plaintiff and/or other non-party Aggrieved Employees. To the extent that these off-the-clock
12 hours did not qualify for overtime premium payment, Defendants did not pay at least minimum
13 wages for those hours worked off-the-clock in violation of California Labor Code sections
14 1182.12, 1194, 1197, and 1198.

15 89. Defendants' failure to pay Plaintiff and/or other non-party Aggrieved Employees
16 minimum wages violates California Labor Code sections 1182.12, 1194, 1197, and 1198.
17 Plaintiff and/or other non-party Aggrieved Employees are therefore entitled to recover civil
18 penalties pursuant to Labor Code sections 2699(a), (f), and (k).

19 **FAILURE TO PROVIDE AND MAINTAIN COMPLIANT WAGE STATEMENTS**
20 **VIOLATION OF LABOR CODE SECTIONS 226(a), 1174(d), AND 1198**

21 90. At all relevant times herein, California Labor Code section 226(a) provides that
22 every employer shall furnish each of his or her employees an accurate and complete itemized
23 wage statement in writing, including, but not limited to, the name and address of the legal entity
24 that is the employer, the inclusive dates of the pay period, total hours worked, and all applicable
25 rates of pay.

26 91. During the relevant time period, Defendants have knowingly and intentionally
27 provided Plaintiff and other non-party Aggrieved Employees with uniform, incomplete, and
28 inaccurate wage statements. For example, Defendants issued uniform wage statements to

1 Plaintiff and other non-party Aggrieved Employees that fail to correctly list: gross wages
2 earned; total hours worked; net wages earned; the address of legal entity that is the employer;
3 and all applicable hourly rates in effect during the pay period, including rates of pay for overtime
4 wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number
5 of hours worked at each hourly rate. Specifically, Defendants violated sections 226(a)(1),
6 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

7 92. First, because Defendants did not record the time Plaintiff and/or other non-party
8 Aggrieved Employees spent working off-the-clock and deducted time from their meal periods
9 that were missed and/or interrupted (and therefore time for which they should have been paid),
10 Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff and/or
11 other non-party Aggrieved Employees in compliance with section 226(a)(1) and section
12 226(a)(5), respectively. For the same reason, Defendants failed to accurately list the total number
13 of hours worked by Plaintiff and/or other non-party Aggrieved Employees, in violation of section
14 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and
15 the corresponding accurate number of hours worked at each hourly rate, in violation of section
16 226(a)(9).

17 93. Second, because Defendants did not calculate Plaintiff's and/or other non-party
18 Aggrieved Employees' regular rate of pay correctly for purposes of paying overtime wages, meal
19 and rest period premiums, and/or paid sick leave, Defendants did not list the correct amount of
20 gross wages in compliance with section 226(a)(1). For the same reason, Defendants failed to list
21 the correct amount of net wages in violation of section 226(a)(5). Defendants also failed to
22 correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of
23 pay for overtime wages, meal and rest period premiums, and/or paid sick leave, in violation of
24 section 226(a)(9).

25 94. Third, and separately from these violations, Defendants issued uniform wage
26 statements to Plaintiff and other non-party Aggrieved Employees that failed to correctly list the
27 address of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section
28 226(a)(8) is to provide California employees with transparency as to the true identity of their

1 employer, to allow the employee to contact their employer during employment or in the future for
2 various reasons, including filing an administrative claim, judicial claim, or other action to seek
3 relief against their employer, to obtain unemployment benefits, etc. This includes providing
4 employees with a physical address of the employer and not a Post Office Box. Plaintiff's and
5 other non-party Aggrieved Employees' wage statements list the employer as "Community
6 Medical Centers," with the address "P.O. Box 1232, Fresno, CA, 93715," but, according to the
7 California Secretary of State's website, the correct address for COMMUNITY HOSPITALS OF
8 CENTRAL CALIFORNIA and FRESNO COMMUNITY HOSPITAL AND MEDICAL
9 CENTER is "789 MEDICAL CENTER DR EAST STE 101, CLOVIS, CA 93611." Adding to
10 the confusion, a similarly-named entity "COMMUNITY MEDICAL CENTERS, INC." is
11 registered with the California Secretary of State, which, upon information and belief, has no
12 affiliation with Defendants.¹ Thus, it is not apparent and clear to Plaintiff and other non-party
13 Aggrieved Employees which entity is their actual employer.

14 95. The wage statement deficiencies also include, among other things, failing to list
15 the number of piece-rate units earned and any applicable piece rate if the employee is paid on a
16 piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for
17 which aggrieved employees were paid; failing to list the name of the employee and only the last
18 four digits of his or her social security number or an employee identification number other than
19 a social security number; failing to list the name of legal entity that is the employer; and/or
20 failing to state all hours worked as a result of not recording or stating hours worked off-the-
21 clock.

22 96. California Labor Code section 1174(d) provides that "[e]very person employing
23 labor in this state shall . . . [k]eep a record showing the names and addresses of all employees
24 employed and the ages of all minors" and "[k]eep, at a central location in the state or at the
25 plants or establishments at which employees are employed, payroll records showing the hours
26 worked daily by and the wages paid to, and the number of piece-rate units earned by and any
27

28 ¹ COMMUNITY MEDICAL CENTERS, INC.'s principal office address is 7210 MURRAY
DRIVE, STOCKTON, CA 95210.

1 applicable piece rate paid to, employees employed at the respective plants or
2 establishments” Labor Code section 1174.5 provides that employers are subject to a \$500
3 civil penalty if they fail to maintain accurate and complete records as required by section
4 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d),
5 Defendants willfully failed to maintain accurate payroll records for Plaintiff and/or other non-
6 party Aggrieved Employees showing the daily hours they worked and the wages paid thereto as
7 a result of failing to record the off-the-clock hours that they worked.

8 97. California Labor Code section 1198 provides that the maximum hours of work
9 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set
10 forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment
11 of any employees for longer hours than those fixed by the order or under conditions of labor
12 prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers
13 are required to keep accurate time records showing when the employee begins and ends each
14 work period and meal period. During the relevant time period, Defendants engaged in company-
15 wide practices and/or policies of failing to record actual hours worked, and thereby failed to
16 keep accurate records of work period and meal period start and end times for Plaintiff and/or
17 other non-party Aggrieved Employees, in violation of section 1198. Also, in light of
18 Defendants’ failure to provide Plaintiff and other non-party Aggrieved Employees with second
19 30-minute meal periods to which they were entitled, Defendants kept no records of meal start
20 and end times for second meal periods.

21 98. Defendants’ conduct violates California Labor Code 226(a), 1174(d), and 1198.
22 Plaintiff and other non-party Aggrieved Employees are therefore entitled to recover civil
23 penalties pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f), and (k).

24 **FAILURE TO PAY WAGES DURING EMPLOYMENT**

25 **VIOLATION OF LABOR CODE SECTION 204**

26 99. At all relevant times herein set forth, California Labor Code section 204 requires
27 that all wages earned by any person in any employment between the 1st and the 15th days,
28 inclusive, of any calendar month, other than those wages due upon termination of an employee,

1 are due and payable between the 16th and the 26th day of the month during which the labor was
2 performed. Labor Code section 204 further provides that all wages earned by any person in any
3 employment between the 16th and the last day, inclusive, of any calendar month, other than
4 those wages due upon termination of an employee, are due and payable between the 1st and the
5 10th day of the following month.

6 100. At all relevant times herein, California Labor Code section 204 also requires that
7 all wages earned for labor in excess of the normal work period shall be paid no later than the
8 payday for the next regular payroll period. Alternatively, at all relevant times herein, Labor
9 Code section 204 provides that the requirements of this section are deemed satisfied by the
10 payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more
11 than seven (7) calendar days following the close of the payroll period.

12 101. During the relevant time period, Defendants willfully failed to pay Plaintiff and
13 other non-party Aggrieved Employees all wages due to them within any time period specified
14 by California Labor Code section 204 including, but not limited to, overtime wages, minimum
15 wages, meal and rest period premiums, and/or sick leave pay.

16 102. Plaintiff and other non-party Aggrieved Employees are therefore entitled to
17 recover civil penalties pursuant to Labor Code sections 210 and/or 2699(a), (f), and (k).

18 **FAILURE TO PAY WAGES UPON TERMINATION**

19 **VIOLATION OF LABOR CODE SECTIONS 201 AND 202**

20 103. At all times relevant herein set forth, Labor Code sections 201 and 202 provide
21 that if an employer discharges an employee, the wages earned and unpaid at the time of
22 discharge are due and payable immediately, and that if an employee voluntarily leaves his or
23 her employment, his or her wages shall become due and payable not later than seventy-two (72)
24 hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his
25 or her intention to quit, in which case the employee is entitled to his or her wages at the time of
26 quitting.

27 104. On information and belief, Defendants have a company-wide practice and/or
28 policy of paying departing employees their final wages on the next regular pay cycle, instead of

1 adhering to the time requirements set forth in Labor Code sections 201 and 202. For example,
2 Plaintiff was terminated on or about September 29, 2023; however, Defendants did not provide
3 Plaintiff with her final paycheck until about 10 days later. Thus, Defendants failed to pay
4 Plaintiff her final wages immediately, in violation of California Labor Code section 201.

5 105. Additionally, Defendants willfully failed to pay Plaintiff and other non-party
6 Aggrieved Employees who are no longer employed by Defendants the earned and unpaid wages
7 set forth above, including but not limited to, overtime wages, minimum wages, meal and rest
8 period premiums, and/or sick leave pay, either at the time of discharge, or within seventy-two
9 (72) hours of their leaving Defendants' employ.

10 106. Defendants' failure to pay Plaintiff and those non-party Aggrieved Employees
11 who are no longer employed by Defendants their wages earned and unpaid at the time of
12 discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates Labor
13 Code sections 201 and 202. Plaintiff and other non-party Aggrieved Employees are therefore
14 entitled to recover civil penalties pursuant to Labor Code sections 256 and/or 2699(a), (f), and
15 (k).

16 **FAILURE TO PROPERLY CALCULATE SICK LEAVE RATES OF PAY**

17 **VIOLATION OF LABOR CODE SECTION 246**

18 107. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5,
19 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days
20 from the commencement of employment with paid sick days, to be accrued at least one hour for
21 every 30 hours worked. Further, Labor Code section 246(l) provides that an employer shall
22 calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt
23 employees shall be calculated in the same manner as the regular rate of pay for the workweek in
24 which the employee uses paid sick time, whether or not the employee actually works overtime in
25 that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing
26 the employee's total wages, not including overtime premium pay, by the employee's total hours
27 worked in the full pay periods of the prior 90 days of employment."

28 108. During the relevant time period, Defendants did not pay other non-party Aggrieved

1 Employees the correct sick leave rates of pay. As stated, in addition to an hourly wage,
2 Defendants paid other non-party Aggrieved Employees shift differential pay, incentive pay,
3 nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the
4 California Labor Code, Defendants failed to incorporate all remunerations, including shift
5 differential pay, incentive pay, and nondiscretionary bonuses, into the calculation of the regular
6 rate of pay for purposes of calculating the sick leave rate. Therefore, during times when other
7 non-party Aggrieved Employees took sick leave and received these other forms of pay,
8 Defendants failed to pay all sick leave benefits by paying a lower sick leave rate than required.
9 Specifically, Defendants paid other non-party Aggrieved Employees sick leave based on their
10 hourly rate of pay instead of their regular rate of pay.

11 109. Defendants' failure to properly calculate the sick leave rates of pay based on all
12 remuneration paid has resulted in an underpayment of sick leave benefits to other non-party
13 Aggrieved Employees on a company-wide basis in violation of California Labor Code section
14 246(l).

15 110. Other non-party Aggrieved Employees are therefore entitled to recover civil
16 penalties pursuant to Labor Code sections 248.5 and/or 2699(a), (f), and (k).

17 **FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES**

18 **VIOLATION OF LABOR CODE SECTION 2802**

19 111. At all times herein set forth, California Labor Code section 2802 provides that
20 an employer must reimburse employees for all necessary expenditures and losses incurred by
21 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
22 to prevent employers from passing off their cost of doing business and operating expenses on
23 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
24 (2014). The applicable wage order, IWC Wage Order No. 5-2001 provides that: "[w]hen tools
25 or equipment are required by the employer or are necessary to the performance of a job, such
26 tools and equipment shall be provided and maintained by the employer, except that an employee
27 whose wages are at least two (2) times the minimum wage provided herein may be required to
28 provide and maintain hand tools and equipment customarily required by the trade or craft."

IWC Wage Order No. 5-2001 further provides that: “[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer.”

112. First, during the relevant time period, Defendants required Plaintiff and other non-party Aggrieved Employees to wear uniforms bearing the company logo, including medical scrubs and a jacket. Due to the nature of hospital work, Plaintiff’s uniform items would become exposed to germs and bacteria such that she was unable to mix these clothes in with other laundry. As a result, she had to wash her uniform items separately from her regular clothing, thus incurring additional utility and laundry expenses for the upkeep of her uniforms. Thus, Defendants failed to maintain uniforms they required Plaintiff and other non-party Aggrieved Employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

113. Second, during the relevant time period, Defendants, on a company-wide basis, required other non-party Aggrieved Employees to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties but failed to reimburse them for the costs of their work- related mobile device and/or mobile data expenses. Although Defendants required other non-party Aggrieved Employees to use their personal mobile devices and/or mobile data to carry out their work-related duties, Defendants failed to reimburse them for their costs incurred.

114. Third, during the relevant time period, on information and belief, Defendants required other non-party Aggrieved Employees to purchase equipment and supplies necessary for the performance of their duties, but failed to reimburse them for their out-of-pocket costs. Although Defendants required other non-party Aggrieved Employees purchase equipment and supplies to carry out their work-related responsibilities, Defendants failed to reimburse them for their out-of-pocket costs to purchase necessary supplies and equipment.

115. Defendants could have provided Plaintiff and other non-party Aggrieved Employees with the actual equipment for use on the job, such as company phones and supplies and equipment, as well as access to laundering services; or Defendants could have reimbursed employees for the costs of their mobile device usage, supply expenses, and laundering expenses

1 or provided a uniform maintenance allowance. Instead, Defendants passed these operating costs
2 off onto Plaintiff and other non-party Aggrieved Employees.

3 116. Defendants' company-wide policy and/or practice of not reimbursing employees
4 for expenses necessarily incurred and passing on their operating costs to Plaintiff and other non-
5 party Aggrieved Employees violates California Labor Code section 2802. Plaintiff and other
6 non-party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to
7 Labor Code sections 2699(a), (f), and (k).

8 **FAILURE TO PROVIDE WRITTEN NOTICE OF MATERIAL TERMS OF**
9 **EMPLOYMENT**

10 **VIOLATION OF LABOR CODE SECTION 2810.5(a)(1)(A)-(C)**

11 117. California's Wage Theft Prevention Act was enacted to ensure that employers
12 provide employees with basic information material to their employment relationship at the time
13 of hiring, and to ensure that employees are given written and timely notice of any changes to
14 basic information material to their employment. Codified at California Labor Code section
15 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must
16 provide written notice to employees containing basic and material payroll information,
17 including, among other things, the rate(s) of pay and basis thereof, whether paid by the hour,
18 shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the
19 regular payday designated by the employer, and any allowances claims as part of the minimum
20 wage, including meal or lodging allowances. Labor Code § 2810.5(a)(1)(A)-(C).

21 118. Defendants failed to provide Plaintiff and other non-party Aggrieved Employees
22 written notice that lists all the requisite information set forth in Labor Code section
23 2810.5(a)(1)(A)-(C). Specifically, Defendants failed to provide Plaintiff and other non-party
24 Aggrieved Employees with the hourly rate(s) of pay, including the overtime rate(s) of pay, in
25 violation of section 2810.5(a)(1)(A). Instead, the wage theft form that Defendants provided to
26 Plaintiff is blank where the aforementioned wage information should be filled in. Defendants'
27 failure to provide Plaintiff and other non-party Aggrieved Employees with written notice of
28 basic information regarding their employment with Defendants is in violation of Labor Code

1 section 2810.5.

2 119. Defendants' failure to provide Plaintiff and other non-party Aggrieved
3 Employees with written notice of basic information regarding their employment with
4 Defendants is in violation of California Labor Code section 2810.5. Plaintiff and other non-
5 party Aggrieved Employees are therefore entitled to recover civil penalties pursuant to Labor
6 Code sections 2699(a), (f), and (k).

7 **REQUEST FOR JURY TRIAL**

8 Plaintiff requests a trial by jury.

9 **PRAYER FOR RELIEF**

10 Plaintiff, on behalf of all other non-party Aggrieved Employees, prays for relief and
11 judgment against Defendants, jointly and severally, as follows:

12 1. For civil penalties and attorneys' fees in excess of twenty-five thousand dollars
13 (\$25,000). Plaintiff reserves the right to amend her prayer for relief to seek a different amount.

14 **As to the First Cause of Action**

15 2. That the Court declare, adjudge and decree that Defendants violated the
16 following California Labor Code provisions as to Plaintiff and/or other non-party Aggrieved
17 Employees: 226.7, 512(a), 516, and 1198 (by failing to provide all meal periods); 226.7, 516,
18 and 1198 (by failing to authorize and permit all rest periods); 510, 511, and 1198 (by failing to
19 pay all overtime compensation); 226.7, 510, and 1198 (by failing to include all forms of
20 remuneration in the regular rate of pay for purposes of paying overtime wages and/or meal and
21 rest period premiums); 1182.12, 1194, 1197, and 1198 (by failing to pay at least minimum
22 wages for all hours worked); 226(a), 1174(d), and 1198 (by failing to provide accurate wage
23 statements and maintain accurate payroll records); 204 (by failing to timely pay all earned wages
24 during employment); 201 and 202 (by failing to timely pay all earned wages upon termination);
25 246 (by failing to properly calculate sick leave pay); 2802 (by failing to reimburse business
26 expenses); and 2810.5 (by failing to provide written notice of information material to
27 employment);

28 3. For civil penalties, pursuant to California Labor Code sections 210, 226.3, 248.5,

1 256, 558, 1174.5, 2699(a), (f), and (k), for violations of California Labor Code sections 201,
2 202, 204, 226(a), 226.7, 246, 510, 511, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1198, 2802,
3 and 2810.5;

4 4. For attorneys' fees and costs pursuant to California Labor Code section
5 2699(k)(1), and any and all other relevant statutes, for Defendants' violations of California
6 Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 511, 512(a), 516, 1174(d), 1182.12,
7 1194, 1197, 1198, 2802, and 2810.5;

8 5. For pre-judgment and post-judgment interest as provided by law; and

9 6. For such other and further relief as the Court may deem equitable and
10 appropriate.

11
12 Dated: July 29, 2024

Respectfully submitted,

13 Capstone Law APC

14 By: 
15 Bevin Allen Pike
16 Daniel S. Jonathan
17 Trisha K. Monesi
18 Shealene P. Mancuso

19 Attorneys for Plaintiff Shaira Guevara
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EXHIBIT “1”

NINEL KOCHARYAN
310.712.8146 Direct
Ninel.Kocharyan@capstonelawyers.com

May 22, 2024

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.govfa.net/308>)

Subject: *Shaira Guevara v. Community Hospitals of Central California, et al.*

Dear PAGA Administrator:

This office represents Shaira Guevara in connection with her claims under the California Labor Code. Ms. Guevara was an employee of COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA and/or FRESNO COMMUNITY HOSPITAL AND MEDICAL CENTER. For the purpose of this letter, Ms. Guevara collectively refers to these entities as "CMC."

The employers may be contacted directly at the addresses below:

COMMUNITY HOSPITALS OF CENTRAL
CALIFORNIA
789 MEDICAL CENTER DRIVE EAST
CLOVIS, CA 93611

FRESNO COMMUNITY HOSPITAL AND
MEDICAL CENTER
789 MEDICAL CENTER DR EAST STE 101
CLOVIS, CA 93611

Ms. Guevara intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Guevara seeks relief on behalf of herself, the State of California, and other persons who are or were employed by CMC as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

CMC employed Ms. Guevara as an hourly paid, non-exempt employee from approximately January 2021 to September 2023. Ms. Guevara worked as a Clinical Nurse I and Clinical Nurse II at CMC's Community Regional Medical Center hospital in Fresno, California. During her employment, Ms. Guevara typically worked twelve (12) hours per day and two (2) or more days per week. At the time her employment ended, Ms. Guevara was compensated approximately \$42.18 per hour. Her primary job duties included, without limitation, checking patients' vital signs, charting, administering medication, and caring for patients.

CMC committed one or more of the following Labor Code violations against Ms. Guevara, the facts and theories of which follow, making her an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

CMC’s Company-Wide and Uniform Payroll and HR Practices

COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA and FRESNO COMMUNITY HOSPITAL AND MEDICAL CENTER are California corporations. Together, they operate a private non-profit healthcare network including four hospitals, a cancer institute, and several long-term care, outpatient, and other healthcare facilities. Upon information and belief, CMC maintains a single, centralized Human Resources (HR) department at its corporate headquarters in Clovis, California, for all non-exempt, hourly paid employees working for CMC in California, including Ms. Guevara and other aggrieved employees. At all relevant times, CMC issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Guevara and other aggrieved employees, regardless of their location or position.

Upon information and belief, CMC maintains a centralized Payroll department at its corporate headquarters in Clovis, California, which processes payroll for all non-exempt, hourly paid employees working for CMC in California, including Ms. Guevara and other aggrieved employees. Further, CMC issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Guevara and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, CMC utilized the same methods and formulas when calculating wages due to Ms. Guevara and other aggrieved employees in California.

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee’s regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012).

¹ These facts, theories, and claims are based on Ms. Guevara’s experience and counsel’s review of those records currently available relating to Ms. Guevara’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Ms. Guevara reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived. The applicable IWC Wage Order further provides that employees in the health care industry who work shifts in excess of eight (8) hours in a workday may waive one of their two meal periods, if the waiver is signed by both the employee and employer. Cal. Code Regs. tit. 8, § 11050(11)(D).

First, during the relevant period, on information and belief, CMC had, and continues to have, a company-wide policy and/or practice of understaffing its facilities while assigning heavy workloads, resulting in a failure to provide Ms. Guevara and other aggrieved employees with adequate meal period coverage. Because CMC did not employ or staff a sufficient number of employees to meet patient demand, there was no one available to relieve employees needing meal period coverage, and Ms. Guevara and other aggrieved employees were not always afforded timely, uninterrupted 30-minute meal periods during shifts when they were entitled to receive a meal period. Additionally, CMC, on a company-wide basis, had a practice of failing to schedule meal periods, which further caused Ms. Guevara and other aggrieved employees to not be relieved of their duties for compliant meal periods. For example, Ms. Guevara sometimes missed her meal periods and frequently had to take them late, after the fifth hour of work, in order to meet the hospital's patient demand.

Second, upon information and belief, CMC's company-wide timekeeping system prevented other aggrieved employees from recording when their meal periods were shortened or interrupted, because the system locked out other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed.

Third, CMC did not provide Ms. Guevara and other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. For example, during the relevant time period, Ms. Guevara worked shifts in excess of 10 hours in one day and never took a second meal period. Ms. Guevara and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

At all times herein mentioned, CMC knew or should have known that, as a result of these policies, Ms. Guevara and other aggrieved employees were prevented from being relieved of all duties to take timely, uninterrupted meal periods. CMC further knew or should have known that it did not pay Ms. Guevara and other aggrieved employees meal period premiums when meal periods were late, interrupted, shortened, and/or missed.

Moreover, CMC engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Guevara and other aggrieved employees have not received premium pay for all missed, late, and interrupted meal periods. Alternatively, to the extent that CMC did pay other aggrieved employees for missed, late, and interrupted meal periods, CMC did so at the incorrect rates. In addition to an hourly wage, CMC paid other aggrieved employees shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, CMC failed to include all forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay. Therefore, during times when other aggrieved employees received meal period premiums

and these other forms of pay, CMC failed to pay full meal period premiums by paying a lower rate than required.

Accordingly, CMC failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Guevara and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, CMC regularly failed to authorize and permit Ms. Guevara and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, CMC's company-wide practices of understaffing while assigning heavy workloads prevented Ms. Guevara and other aggrieved employees from being relieved of all duty to take rest periods. Additionally, CMC failed to schedule rest periods, which, coupled with CMC's failure to provide adequate rest period coverage, further led to Ms. Guevara and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, CMC maintained and implemented a company-wide on-premises rest period policy, which effectively required that Ms. Guevara and/or other aggrieved employees remain on the premises during their rest periods. Because Ms. Guevara and/or other aggrieved employees were restricted from leaving CMC's premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as completing personal errands. Thus, CMC effectively maintained control over Ms. Guevara and/or other aggrieved employees during rest periods.

As a result of CMC's practices and policies, Ms. Guevara and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, throughout her employment, Ms. Guevara had to regularly forego her rest periods because the hospital was busy,

and she did not have sufficient rest period coverage. When Ms. Guevara was able to take rest periods, they were often interrupted by her patients requesting her assistance.

CMC has also engaged in a company-wide practice and/or policy of not paying rest period premiums owed when compliant rest periods are not authorized and permitted. Because of this practice and/or policy, Ms. Guevara and other aggrieved employees have not received premium pay for all missed rest periods. Alternatively, to the extent that CMC did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, CMC did not pay other aggrieved employees at the correct rate of pay for premiums because CMC failed to include all forms of compensation, such as shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, CMC failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Guevara and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 510, 511, and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable IWC Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

California Labor Code section 511 and the applicable IWC Wage Order allow employers, with the employees' approval, to offer an alternative workweek schedule that authorizes employees to work no more than ten (10) hours per day and forty (40) hours per week without receiving overtime compensation. An alternative workweek schedule must pay the employees overtime at one and one-half times their regular hourly rate for work in excess of ten (10) hours per day or forty (40) hours per week. Overtime must be paid at twice the employees' regular hourly rate for work in excess of twelve (12) hours a day. Labor Code 511 and the applicable IWC Wage Order further provide that an employer may not implement an alternative workweek schedule unless at least two-thirds of the affected employees approve the schedule through a secret ballot election, and the results must be reported to the California Division of Labor Standards Enforcement within 30 days after the results are final.

CMC willfully failed to pay all overtime wages owed to Ms. Guevara and other aggrieved employees. During the relevant time period, Ms. Guevara and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of ten (10) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

As stated, CMC's policies and/or practices of understaffing its facilities while assigning heavy workloads resulted in a failure to provide other aggrieved employees with adequate meal period coverage, and thus, other aggrieved employees were not always afforded uninterrupted 30-minute

meal periods during shifts when they were entitled to receive a meal period. Consequently, other aggrieved employees worked through meal periods and/or had meal periods interrupted in order to complete their assigned workloads. Moreover, as stated, upon information and belief, CMC's company-wide timekeeping system prevented other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal periods before 30 minutes had elapsed. Thus, CMC did not record all hours worked during meal periods and other aggrieved employees performed work during meal periods for which they were not paid.

Furthermore, CMC had, and continues to have, a company-wide policy and/or practice of failing to pay proper overtime when they required other aggrieved employees to work outside of their regularly scheduled alternative workweek schedule and failed to pay all applicable overtime and/or double-time compensation owed for such hours of work. In addition, to the extent CMC implemented an alternative workweek schedule, as to other aggrieved employees, CMC failed to comply with all requirements for implementing an alternative workweek schedule, including, but not limited to, holding proper workweek elections for the employees working alternative workweeks. Accordingly, CMC owes other aggrieved employees unpaid overtime wages.

CMC knew or should have known that as a result of these company-wide practices and/or policies, other aggrieved employees were performing their assigned duties off-the-clock during their meal periods, and were suffered or permitted to perform work for which they were not paid. Because other aggrieved employees worked shifts of eight (8) hours a day and/or shifts of ten (10) hours or more, or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay.

Furthermore, CMC did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. CMC failed to incorporate all compensation, including shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, CMC failed to pay all overtime wages by paying a lower overtime rate than required.

CMC's failure to pay other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510, 511, and 1198. Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which an employee is suffered or permitted to work for the employer, whether or not required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards Act." Cal. Code Regs. tit. 8, § 11050(2)(L) (defining "Hours Worked").

As stated above, due to CMC's uniform practice of understaffing, assignment of heavy workloads, and resultant lack of meal period coverage, other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock during meal periods, have their meal periods interrupted and/or were otherwise not relieved of all duties during unpaid meal periods. Also, as set forth above, during the relevant time period, CMC systematically failed to pay other aggrieved employees for actual hours worked during unpaid meal periods, because CMC's timekeeping system locked out other aggrieved employees for 30 minutes when they clocked out for a meal period. Thus, CMC systematically failed to pay other aggrieved employees for actual hours worked during unpaid meal periods because these hours were not always correctly recorded.

Thus, CMC did not pay at least minimum wages for all hours worked by and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, CMC did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, CMC regularly failed to pay at least minimum wages to other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep, and provide true, accurate, and complete employment records. CMC has not provided Ms. Guevara and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, CMC has knowingly and intentionally provided Ms. Guevara and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, CMC issued uniform wage statements to Ms. Guevara and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; the address of legal entity that is the employer; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, CMC violated sections 226(a)(1), 226(a)(2), 226(a)(5), 226(a)(8), and 226(a)(9).

First, because CMC did not record the time other aggrieved employees spent working off-the-clock and deducted time from their meal periods that were missed and/or interrupted (and therefore time for which they should have been paid), CMC did not list the correct amount of gross wages and net wages earned by other aggrieved employees in compliance with section 226(a)(1) and section

226(a)(5), respectively. For the same reason, CMC failed to accurately list the total number of hours worked by other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Second, because CMC did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, CMC did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, CMC failed to list the correct amount of net wages in violation of section 226(a)(5). CMC also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, in violation of section 226(a)(9).

Third, and separately from these violations, CMC issued uniform wage statements to Ms. Guevara and other aggrieved employees that failed to correctly list the address of the legal entity of the actual employer in violation of 226(a)(8). The purpose of section 226(a)(8) is to provide California employees with transparency as to the true identity of their employer, to allow the employee to contact their employer during employment or in the future for various reasons, including filing an administrative claim, judicial claim, or other action to seek relief against their employer, to obtain unemployment benefits, etc. This includes providing employees with a physical address of the employer and not a Post Office Box. Ms. Guevara's and other aggrieved employees' wage statements list the employer as "Community Medical Centers," with the address "P.O. Box 1232, Fresno, CA, 93715," but, according to the California Secretary of State's website, the correct address for COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA and FRESNO COMMUNITY HOSPITAL AND MEDICAL CENTER is "789 MEDICAL CENTER DR EAST STE 101, CLOVIS, CA 93611." Adding to the confusion, a similarly-named entity "COMMUNITY MEDICAL CENTERS, INC." is registered with the California Secretary of State, which, upon information and belief, has no affiliation with CMC.² Thus, it is not apparent and clear to Ms. Guevara and other aggrieved employees which entity is their actual employer. *See example paystub below.*

Community Medical Centers P. O. Box 1232 Fresno, CA 93715	Pay Begin Date: 09/24/2023 Pay Ending Date: 10/07/2023 Check #: 00124983	Facility: Community Regional Medical Department: 61790 Check Date: 09/28/2023
Shaïra Mae Roan B. Guevara [REDACTED] [REDACTED]	Employee ID: [REDACTED] Employee Status: Regular Base Pay Rate: 42.18	TAX DATA: Federal State Marital St: Single Single Allowances 00000 00000 Addl Amt .00 .00
HOURS AND EARNINGS		TAXES

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name of legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating hours worked off-the-clock.

² COMMUNITY MEDICAL CENTERS, INC.'s principal office address is 7210 MURRAY DRIVE, STOCKTON, CA 95210.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), CMC willfully failed to maintain accurate payroll records for other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, CMC engaged in company-wide practices and/or policies of failing to record actual hours worked, and thereby failed to keep accurate records of work period and meal period start and end times for other aggrieved employees, in violation of section 1198. Also, in light of CMC’s failure to provide Ms. Guevara and other aggrieved employees with second 30-minute meal periods to which they were entitled, CMC kept no records of meal start and end times for second meal periods.

Because CMC failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Guevara and/or other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Guevara and/or other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Guevara and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are

deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, CMC willfully failed to pay Ms. Guevara and other aggrieved employees all wages due including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, within the time periods specified by California Labor Code section 204.

Ms. Guevara and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201 and 202 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

On information and belief, CMC has a company-wide practice and/or policy of paying departing employees their final wages on the next regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, Ms. Guevara was terminated on or about September 29, 2023; however, CMC did not provide Ms. Guevara with her final paycheck until about 10 days later. Thus, CMC failed to pay Ms. Guevara her final wages immediately, in violation of California Labor Code section 201.

Additionally, CMC willfully failed to pay Ms. Guevara and other aggrieved employees who are no longer employed by CMC the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or sick leave pay, either at the time of discharge, or within seventy-two (72) hours of their leaving CMC's employ.

Ms. Guevara and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 246– Failure to Properly Calculate Paid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Effective January 1, 2024, employers must provide no less than 40 hours or five (5) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including

overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

During the relevant time period, CMC did not pay other aggrieved employees the correct sick leave rates of pay. As stated, in addition to an hourly wage, CMC paid other aggrieved employees shift differential pay, incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, CMC failed to incorporate all remunerations, including shift differential pay, incentive pay, and nondiscretionary bonuses, into the calculation of the regular rate of pay for purposes of calculating the sick leave rate. Therefore, during times when other aggrieved employees took sick leave and received these other forms of pay, CMC failed to pay all sick leave benefits by paying a lower sick leave rate than required. Specifically, CMC paid other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

CMC's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to other aggrieved employees on a company-wide basis in violation of Labor Code section 246(l). Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 5-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft." IWC Wage Order No. 5-2001 further provides that: "[w]hen uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer."

First, during the relevant time period, CMC required Ms. Guevara and other aggrieved employees to wear uniforms bearing the company logo, including medical scrubs and a jacket. Due to the nature of hospital work, Ms. Guevara's uniform items would become exposed to germs and bacteria such that she was unable to mix these clothes in with other laundry. As a result, she had to wash her uniform items separately from her regular clothing, thus incurring additional utility and laundry expenses for the upkeep of her uniforms. Thus, CMC failed to maintain uniforms they required Ms. Guevara and other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

Second, during the relevant time period, CMC, on a company-wide basis, required other aggrieved employees to use their personal mobile devices, including, but not limited to, cellular phones, and/or mobile data to carry out their job duties but failed to reimburse them for the costs of their work-related mobile device and/or mobile data expenses. Although CMC required other aggrieved employees to use their personal mobile devices and/or mobile data to carry out their work-related duties, CMC failed to reimburse them for their costs incurred.

Third, during the relevant time period, on information and belief, CMC required other aggrieved employees to purchase equipment and supplies necessary for the performance of their duties, but failed to reimburse them for their out-of-pocket costs. Although CMC required other aggrieved employees purchase equipment and supplies to carry out their work-related responsibilities, CMC failed to reimburse them for their out-of-pocket costs to purchase necessary supplies and equipment.

CMC could have provided Ms. Guevara and other aggrieved employees with the actual equipment for use on the job, such as company phones and supplies and equipment, as well as access to laundering services; or CMC could have reimbursed employees for the costs of their mobile device usage, supply expenses, and laundering expenses or provided a uniform maintenance allowance. Instead, CMC passed these operating costs off onto Ms. Guevara and other aggrieved employees.

Thus, CMC had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Guevara and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

CMC failed to provide Ms. Guevara and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Specifically, CMC failed to provide Ms. Guevara and other aggrieved employees with the hourly rate(s) of pay, including the overtime rate(s) of pay, in violation of section 2810.5(a)(1)(A). Instead, the wage theft form that CMC provided to Ms. Guevara is blank where the aforementioned wage information should be filled in. CMC's failure to provide Ms. Guevara and other aggrieved employees with written notice of basic information regarding their employment with CMC is in violation of Labor Code section 2810.5.

Ms. Guevara and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides “[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” CMC, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Guevara’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Ms. Guevara seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Guevara, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for herself, all other aggrieved employees, and the State of California against CMC for violations of California Labor Code sections 201, 202, 204, 226(a), 226.7, 246, 510, 511, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Guevara seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Pre-Litigation Demand

This notice shall further serve as Ms. Guevara’s reasonable attempt to settle her dispute with CMC prior to litigation. Pursuant to *Graham v. Daimler Chrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to inform CMC of Ms. Guevara’s aforementioned grievances and the proposed remedies as detailed below, while affording CMC a reasonable opportunity to satisfy Ms. Guevara’s demands.

Demand is hereby made that CMC shall, within 30 calendar days of this notice, agree, in writing to the following corrective actions:

1. CMC shall pay Ms. Guevara and all other aggrieved employees employed by CMC at any time during the past three years from the date of this notice unpaid wages and compensation for the above-referenced violations.
2. CMC shall comply with all California labor laws and ensure that its non-exempt employees are paid overtime wages and minimum wages for all hours worked and provided lawful meal and rest periods.
3. CMC shall conduct a survey or interview all current and former aggrieved employees in California who worked for CMC in the past three years to obtain information from them regarding the above-referenced violations, including, but not limited to: the number of meal periods which were not provided; the number of rest periods which were not authorized and permitted; and the number of employees who were required to pay for mobile device

expenses, supply and equipment expenses, uniform maintenance, or other expenditures in the discharge of their duties, with the investigation to be completed within 60 days.

4. CMC shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not provided one or more meal periods, as required by Labor Code sections 226.7, 512(a), 516, and 1198. CMC also shall pay each aggrieved employee one hour of pay at his or her regular rate of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code sections 226.7, 516, and 1198.
5. CMC shall pay accrued legal interest to Ms. Guevara and all aggrieved employees at the rate of 10% per annum for said unpaid wages.
6. CMC shall properly calculate Ms. Guevara's and aggrieved employees' rates of pay for overtime, meal and rest period premiums, and/or paid sick leave based on all remuneration paid, pursuant to Labor Code sections 226.7, 510, and/or 246(l).
7. CMC shall provide Ms. Guevara and all aggrieved employees employed by CMC at any time during the past three years from the date of this notice corrected wage statements that include the requisite information set forth in Labor Code section 226(a).
8. CMC shall pay waiting time penalties, equal to 30 days of pay, to each former aggrieved employee who was not paid all wages due as described herein.
9. CMC shall reimburse Ms. Guevara and all aggrieved employees who were required to pay for any business expenses incurred for CMC's benefit, including, but not limited to, mobile devices, equipment, and laundering expenses, and other expenditures, as required by Labor Code section 2802.
10. CMC shall provide all aggrieved employees written notice of basic information regarding their employment that includes the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C).
11. CMC shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code sections 2698, *et seq.*, including, but not limited to, penalties under Labor Code sections 210, 226.3, 248.5, 256, 558, 1174.5, 1197.1, and 2699, and IWC Wage Order No. 5-2001, section 20.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Ninel Kocharyan
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

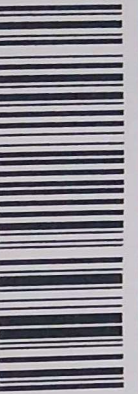
Best Regards,

A handwritten signature in cursive script, appearing to read "Ninel", with a light blue ink smudge or highlight underneath.

Ninel Kocharyan

Copy: COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA (via U.S. Certified Mail);
FRESNO COMMUNITY HOSPITAL AND MEDICAL CENTER (via U.S. Certified Mail)

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067



7022 2410 0000 2264 9582

**COMMUNITY HOSPITALS OF
CENTRAL CALIFORNIA
789 MEDICAL CENTER DRIVE EAST
CLOVIS, CA 93611**

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

**COMMUNITY HOSPITALS OF
CENTRAL CALIFORNIA
789 MEDICAL CENTER DRIVE EAST
CLOVIS, CA 93611**



2. **ADDRESS ONLY** (Print or type name and address on reverse of mailpiece)
7022 2410 0000 2264 9582

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature X	☐ Agent ☐ Addressee
B. Received by (Printed Name)	C. Date of Delivery
D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	

Service Type	☐ Priority Mail Express®
☐ Adult Signature	☐ Registered Mail™
☐ Adult Signature Restricted Delivery	☐ Registered Mail Restricted Delivery
☒ Certified Mail®	☐ Signature Confirmation™
☐ Certified Mail Restricted Delivery	☐ Signature Confirmation Restricted Delivery
☐ Collect on Delivery	
☐ Collect on Delivery Restricted Delivery	
☐ Insured Mail	
Restricted Delivery	

Domestic Return Receipt

7022 2410 0000 2264 9582

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT**
Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee	\$	Guatemala
Extra Services & Fees (check box, add fee as appropriate)		
☐ Return Receipt (hardcopy)	\$	FRESNO
☐ Return Receipt (electronic)	\$	Postmark

**COMMUNITY HOSPITALS OF
CENTRAL CALIFORNIA
789 MEDICAL CENTER DRIVE EAST
CLOVIS, CA 93611**

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Capstone Law, APC
1875 Century Park, East, 1000
Los Angeles, CA. 90067

7022 2410 0000 2264 9599



FRESNO COMMUNITY HOSPITAL
AND MEDICAL CENTER
789 MEDICAL CENTER DR EAST
STE 101
CLOVIS, CA 93611

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece.

FRESNO COMMUNITY HOSPITAL
AND MEDICAL CENTER
789 MEDICAL CENTER DR EAST
STE 101
CLOVIS, CA 93611



2. Article Number (Printed on each label)

7022 2410 0000 2264 9599

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X ☐ Agent
☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Restricted Delivery

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com.

OFFICIAL USE

Certified Mail Fee

GUERMA V.

FALSE

Extra Services & Fees (Enter box, add fee as appropriate)
☒ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$

Postmark

Date

FRESNO COMMUNITY HOSPITAL
AND MEDICAL CENTER
789 MEDICAL CENTER DR
EAST STE 101
CLOVIS, CA 93611

7022 2410 0000 2264 9599

PS Form 3811, July 2020 PSN 7530-02-000-9053

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece,

**FRESNO COMMUNITY HOSPITAL
AND MEDICAL CENTER
789 MEDICAL CENTER DR EAST
STE 101
CLOVIS, CA 93611**



2. Article Number (Transfers from service label)

7022 2410 0000 2264 9599

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Christina Torres*☐ Agent☐ Addressee

B. Received by (Printed Name)

Christina Torres

C. Date of Delivery

*5/28/21*D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type

☐ Adult Signature☐ Adult Signature Restricted Delivery☒ Certified Mail®☐ Certified Mail Restricted Delivery☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted

Delivery

☐ Signature Confirmation™☐ Signature Confirmation

Restricted Delivery

Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece,

**COMMUNITY HOSPITALS OF
CENTRAL CALIFORNIA
789 MEDICAL CENTER DRIVE EAST
CLOVIS, CA 93611**



2. Article Number (Transfers from service label)

7022 2410 0000 2264 9582

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Christina Torres*☐ Agent☐ Addressee

B. Received by (Printed Name)

Christina Torres

C. Date of Delivery

*5/28/21*D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Service Type

☐ Adult Signature☐ Adult Signature Restricted Delivery☒ Certified Mail®☐ Certified Mail Restricted Delivery☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery☐ Insured Mail☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted

Delivery

☐ Signature Confirmation™☐ Signature Confirmation

Restricted Delivery

Restricted Delivery

Domestic Return Receipt