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Attorney for Plaintiff, CLAUDIA SARABIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CLAUDIA SARABIA, on behalf of herself and
all others similarly situated and the general
public,

Plaintiffs,

v.

ADVENTIST HEALTH CARE NETWORK,
INC. dba ADVENTIST HEALTH WHITE
MEMORIAL, a California corporation; and
DOES 1 to 100,

Defendants

Case No.: **25STCV28851**

CLASS ACTION

COMPLAINT FOR:

1. Violation of B&PC §17200, et seq.;
2. Failure to Pay All Wages (Labor Code §§ 200, et seq., 218, 226, 510, 511, 1194 and 1198, and 2802);
3. Failure to Provide Meal Breaks Labor Code §§226.7 & 512, et seq.
4. Failure to Provide Rest Periods (Labor Code §§226.7 & 512);
5. Inaccurate Wage Statements (LC §226);
6. Waiting Time Penalties;
7. Penalties Under PAGA Labor Code §2698, et seq.

1 Plaintiff, Claudia Sarabia, on behalf of herself and all other persons similarly situated,
2 and the general public, hereby complain against Defendant Adventist Health Care Network, Inc.
3 dba Adventist Health White Memorial (hereinafter referred to as “Defendant” or “AHWM”), and
4 DOES 1 to 100, inclusive, and on information and belief allege as follows:

5 **GENERAL ALLEGATIONS**

6 **JURISDICTION**

7 1. This is a civil action seeking recovery of unpaid wages, waiting time penalties,
8 and PAGA penalties under California Labor Code §§ 226, 226.7, 510, 512, 1194, 1194.2, 1197,
9 1198, and the applicable wage order. The Plaintiff for herself and on behalf of the general
10 public, and all others similarly situated, brings an action for monetary damages for failure to pay
11 wages as well as for injunctive relief, declaratory relief and restitution for Defendants’ violations
12 of Business and Professions Code (B&PC) §17200, et seq., including full restitution of all
13 compensation retained by Defendants, as a result of its unlawful, fraudulent and unfair business
14 practices. Plaintiff seeks all available relief, including full damages, full restitution and/or
15 disgorgement of all revenues, earnings, profits, compensation and benefits retained by Defendant
16 as a result of their unlawful, unfair business practices. Further, Plaintiff seeks injunctive relief
17 under B&PC §17200, et seq.

18 **VENUE**

19 2. Venue as to the Defendant is proper in this judicial district pursuant to California
20 Code of Civil Procedure (CCP) §§ 395(a) and 395.5, as at least some of the acts complained of
21 herein occurred in the County of Los Angeles. Defendant either owns or maintains offices,
22 transacts business, has an agent or agents within the County of Los Angeles, or otherwise is
23 found within the County of Los Angeles and Defendant is within the jurisdiction of this Court for
24 purposes of service of process.

25 **PARTIES**

26 3. Claudia Sarabia is an individual over the age of eighteen (18). At all relevant
27 times herein, Plaintiff Sarabia was a resident of the County of Los Angeles, State of California.

28 /////

1 4. Plaintiff is informed and believes and thereon alleges that at all times mentioned
2 herein, Defendant, Adventist Care Network, Inc. dba Adventist Health White Memorial, a
3 California Corporation, is and was a California corporation.

4 5. Plaintiff is informed and believes and thereon alleges that at all times mentioned
5 herein, Defendant and each of them listed herein are professional entities licensed to do business
6 in California.

7 6. Plaintiff is informed and believes and thereon alleges that at all relevant times
8 each Defendant was licensed to do business in the State of California, County of Los Angeles,
9 with its principal place of business in Irvine, California, among other counties throughout the
10 State of California.

11 7. Plaintiff is informed and believes AHWM is and was the employer of the Plaintiff
12 and Plaintiff Class during the Class Period. During the liability period, Defendant employed
13 Plaintiff and similarly situated persons and due to Defendant's uniform payroll practices,
14 deprived Plaintiff and the Class of proper overtime, failed to schedule Plaintiff and Plaintiff
15 Class in such a manner that allowed Plaintiff and Plaintiff Class to receive and/or take their meal
16 and/or rest breaks, Plaintiff and Plaintiff Class were not provided and/or denied work free meal
17 and rest breaks. Defendant failed to pay Plaintiff and Plaintiff class premiums for missed meal
18 and rest breaks. Defendant also failed to pay Plaintiff and Plaintiff Class proper premium
19 overtime for hours worked over eight (8) in a day or forty (40) in a week, or on the seventh
20 consecutive workday, nor were they paid proper premium overtime/ double time at the correct
21 rate. Defendant also failed to pay due and owed wages upon ending of employment for
22 employees within California. On information and belief and based thereon alleges that
23 Defendant is conducting business in good standing in California.

24 8. Plaintiff is informed and believes and thereon alleges that Defendant and DOES 1
25 to 100, control and operate business and establishments in locations within the State of
26 California, including, but not limited to, the County of Los Angeles, for the purposes of hospital
27 and healthcare services. Thus, each named Defendants and DOES 1 to 100 are subject to B&PC
28 §17200, et seq. (Unfair Competition Law) and the Labor Code as hereinafter alleged.

1 9. Plaintiff does not know the true names or capacities, whether individual, partner,
2 or corporate, of Defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
3 Defendants are sued under such fictitious names, and Plaintiff will seek from this Court leave to
4 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed
5 and believes and thereon alleges that each Defendant and each fictitious Defendant, whether
6 individual, partners, or corporate, was responsible in some manner for the circumstances alleged
7 herein, and proximately caused Plaintiff and all others similarly situated hereinafter alleged and
8 the general public to be subjected to the unlawful employment practices, wrongs, injuries and
9 damages complained of herein.

10 10. At all times herein mentioned, each of said Defendants participated in the doing
11 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore,
12 Defendants, and each of them, were the agents, servants, and employees of each and every one of
13 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
14 were acting within the course and scope of said agency and employment. Plaintiff herein alleges
15 that Defendants and each of them are the joint employer of Plaintiff and the classes.

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

19 12. At all times herein mentioned, the acts and omissions of various Defendants, and
20 each of them, concurred and contributed to the various acts and omissions of each and every one
21 of the other Defendants in proximately causing the complaints, injuries and damages alleged
22 herein.

23 13. At all times herein mentioned, Defendants, and each of them, approved of,
24 condoned, and/or otherwise ratified each and every one of the acts or omissions complained of
25 herein. At all times herein mentioned, Defendants, and each of them, aided and abetted the acts
26 and omissions of each and every one of the other Defendants, thereby proximately causing the
27 damages, as herein alleged.
28

1 **PRIVATE ATTORNEY GENERAL ALLEGATIONS**

2 14. Plaintiff on behalf of herself and all others similarly situated, filed this cause of
3 action acting as a private attorney general on behalf of the general public to challenge and
4 remedy the business practices of Defendant alleged herein.

5 15. B&PC §17200, et seq., often referred to as the Unfair Competition Law, prohibits
6 unfair competition, which is defined to include any unlawful, unfair, or fraudulent business act or
7 practices. Defendant have instituted and implemented unlawful wage-and-hour policies, which
8 constitute unfair, unlawful, or fraudulent business acts or practices within the State of California.
9 Any person that has suffered injury may initiate an action to enforce B&PC §17200. The court is
10 authorized to order injunctive relief, declaratory relief, and restitution to affected members of the
11 general public as remedies for any violations of B&PC §17200.

12 16. Plaintiff is entitled to an award of attorneys' fees and costs in prosecuting this
13 action as a private attorney general against Defendants under CCP §1021.5 based in part on the
14 following:

15 a. A successful outcome in this action will result in the enforcement of
16 important rights affecting the public interest by maintaining the integrity of entities that employ
17 employees;

18 b. This action will result in a significant benefit to the general public by
19 ceasing unlawful, unfair and deceptive activity, and by causing the return of ill-gotten gains
20 obtained by Defendants through their failure to properly pay their employees;

21 c. Unless this action is prosecuted, members of the general public will not
22 recover monies wrongfully taken from them, and many employees and consumers would not be
23 aware that they were victimized by Defendants' wrongful acts and practices; and unless
24 attorneys' fees and costs are awarded against Defendants, the general public will not be made
25 whole.

26 **PLAINTIFF CLASSES**

27 17. The class representative Plaintiff who worked in the position of non-exempt
28 hourly employee, while employed by Defendant within the State of California, is Claudia

1 Sarabia.

2 **CLASS ACTION ALLEGATIONS**

3 18. Plaintiff brings this action on behalf of herself and all others similarly situated as
4 a class action pursuant to CCP §382. The Classes which Plaintiff seeks to represent are
5 composed of and defined as follows:

6 **Class 1:**

7 All California based non-exempt hourly employees of Defendant who worked in
8 California at least one (1) day of more than eight (8) hours in a day or more than forty (40) hours
9 in a week from four (4) years preceding the filing of this Complaint through the date of class
10 certification order and were not paid proper premium overtime. ("Overtime Class")

11 **Class 2:**

12 All non-exempt hourly employees of Defendant who worked in California at any time
13 from four (4) years preceding the filing of this Complaint through the date of class certification
14 order who were not provided legally-compliant meal periods. ("Meal Break Class")

15 **Subclass 1:**

16 All non-exempt hourly employees of Defendant who worked in California at any time
17 from four (4) years preceding the filing of this Complaint through the date of class certification
18 order who were required to work through their meal breaks and/or remain on-premises for their
19 meal breaks. ("On-Duty/ On Premises Meal Break Class")

20 **Subclass 2:**

21 All non-exempt hourly employees of Defendant who worked in California at any time
22 from four (4) years preceding the filing of this Complaint through the date of class certification
23 order who were not paid meal break violation penalties at the correct regular rate. ("Meal Break
24 Regular Rate Class")

25 **Class 3:**

26 All non-exempt hourly employees of Defendant who worked in California at any time
27 from four (4) years preceding the filing of this Complaint through the date of class certification
28

1 order, who were not provided with 10-minute rest periods for every 4 hours of work or major
2 fraction thereof. (“Rest Break Class”)

3 **Subclass 3:**

4 All non-exempt hourly employees of Defendant who worked in California at any time
5 from four (4) years preceding the filing of this Complaint through the date of class certification
6 order, who were required to work through rest breaks, and/or remain on premises for their rest
7 breaks. (“On Duty/ On Premises Rest Break Class”)

8 **Subclass 4:**

9 All non-exempt hourly employees of Defendant who worked in California at any time
10 from four (4) years preceding the filing of this Complaint through the date of class certification
11 order, who were not paid rest break violation penalties at the correct regular rate. (“Rest Break
12 Regular Rate Class”)

13 **Class 4:**

14 All California based non-exempt hourly employees of Defendant who worked in
15 California at any time from one (1) year preceding the filing of this Complaint through the date
16 of class certification order who were provided a paystub (a.k.a. wage statement) from Defendant.
17 (“Pay Stub Class”)

18 **Class 5:**

19 All California based non-exempt hourly employees of Defendant who worked for
20 Defendant during the time period from three (3) years preceding the filing of this Complaint
21 through the date of the class certification order, who are no longer employed by Defendants and
22 were not paid all their earned wages. (“Waiting Time Penalty Class”)

23 The members of the classes are so numerous that joinder of all members would be
24 unfeasible and not practicable. The membership of the classes is unknown to Plaintiff at this
25 time; however, it is estimated that the classes number greater than 100 individuals. The identity
26 of such membership is readily ascertainable via inspection of Defendant’s employment records.

27 19. There are common questions of law and fact as to Plaintiff and all others similarly
28 situated which predominate over questions affecting only individual members including, without

1 limitation to:

- 2 i. Whether Defendants violated the applicable Labor Code provisions
- 3 including §510 and 1194 by requiring substantial overtime work and not
- 4 paying for said work according to the overtime laws of the State of
- 5 California;
- 6 ii. Whether Defendant failed to pay the appropriate straight time and
- 7 premium overtime compensation to the non-exempt hourly employees;
- 8 iii. Whether Defendant improperly retained, appropriated or deprived Plaintiff
- 9 of the use of monies or sums to which Plaintiff were legally entitled;
- 10 iv. Whether Defendant engaged in unfair business practices;
- 11 v. Whether Defendant, and each of them, were participants in the alleged
- 12 unlawful conduct;
- 13 vi. Whether Defendant's conduct was willful or reckless;
- 14 vii. The effect upon and the extent of injuries suffered by Plaintiff and all
- 15 others similarly situated and the appropriate amount of compensation;
- 16 viii. The appropriate amount of monetary penalties allowed by Labor Code
- 17 §§201, et. seq. and 226;
- 18 ix. Whether Defendant violated Labor Code §226 and relevant IWC Wage
- 19 Orders by failing to, among other violations, accurately report total hours
- 20 worked by Plaintiff and the members of the Plaintiff class;
- 21 x. Whether Defendants willfully violated provisions of the California Labor
- 22 Code;
- 23 xi. Whether Defendant fails to provide regularly compliant meal periods;
- 24 xii. Whether Defendant fails to authorize and permit legally compliant rest
- 25 period breaks; and
- 26 xiii. Whether Defendant is subject to civil penalties pursuant to Labor Code
- 27 §§2699, et seq.

28 20. Plaintiff's claims are typical of the claims of all members of the classes and

1 subclasses mentioned herein. Plaintiff, as a representative party, will fairly and adequately
2 protect the interest of the classes by vigorously pursuing this suit through his attorneys who are
3 skilled and experienced in handling matters of this type. Plaintiff has no claims or interests that
4 are antagonistic to any class member.

5 21. The nature of this action and the nature of laws available to the members of the
6 classes and subclasses identified herein make use of the class action format a particularly
7 efficient and appropriate procedure to afford relief to Plaintiff for the wrongs alleged herein.
8 Further, this claim involves a large corporate employer, Defendant, and a large number of
9 individual employees (Plaintiff and all others similarly situated) with many relatively small
10 claims with common issues of law and fact. If each employee were required to file an individual
11 lawsuit, the corporate Defendant would necessarily gain an unconscionable advantage since it
12 would be able to exploit and overwhelm the limited resources of each individual Plaintiff with
13 their vastly superior financial and legal resources. Requiring each class member to pursue an
14 individual remedy would also discourage the assertion of lawful claims by employees who
15 would be disinclined to pursue an action against their present and/or former employer for an
16 appreciable and justifiable fear of retaliation and permanent damage to their careers at present
17 and/or subsequent employment. Proof of a common business practice or factual pattern, of
18 which the named Plaintiff experienced, is representative of the class mentioned herein and will
19 establish the right of each of the members of the named class to recovery on the causes of action
20 alleged herein.

21 22. The prosecution of separate actions by the individual class members, even if
22 possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with
23 respect to the individual class members against Defendants herein; and which would establish
24 potentially incompatible standards of conduct for Defendants; and/or (b) legal determinations
25 with respect to individual class members which would, as a practical matter, be dispositive of the
26 interest of the other class members not parties to adjudications or which would substantially
27 impair or impede the ability of the class members to protect their interests. Further, the claims of
28 the individual members of the class are not sufficiently large to warrant vigorous individual

1 prosecution considering all of the concomitant costs and expenses attending thereto.

2 23. Plaintiff and all others similarly situated are entitled to the wages and other
3 monies unlawfully withheld. This action is brought for the benefit of the public.

4 **FIRST CAUSE OF ACTION**

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

6 **(Against All Defendants)**

7 24. Plaintiff re-alleges and incorporates by reference herein the allegations of all
8 preceding paragraphs as though fully set forth herein.

9 25. Beginning on an exact date unknown to Plaintiff but believed to have occurred at
10 least since four (4) years before the filing of this action, Defendants have engaged in a pattern
11 and practice of acts of unfair competition in violation of B&PC §17200, including the practices
12 alleged herein.

13 **FAILURE TO PAY PROPER WAGES, PREMIUM PAY AND OVERTIME**

14 **COMPENSATION**

15 26. Plaintiff is informed and believe and thereon allege that as part of Defendant's
16 ongoing unfair business practices, Defendant's non-exempt hourly employees were and are
17 employed and scheduled as a matter of established company policy to work, and in fact, worked
18 shifts in excess of eight (8) hours a day, including but not limited to shifts lasting ten (10) hours
19 and twelve (12) hours, or in some cases, 24-hour shifts.

20 27. Defendant's policy is to pay straight time for all hours worked in excess of eight
21 (8) hours per day, both straight time (first eight (8) hours) and overtime (last four (4) hours) pay
22 is paid at the base hourly rate which is lower than required by law due to Defendant's failure to
23 pay daily overtime hours at time-and-a-half of the employees' correct regular rate of pay. The
24 mathematical result of this practice is that employees are underpaid their earned statutory
25 overtime premium wages. Defendant's mathematical scheme is in violation of the Labor Code.
26 Defendant's employees are not paid proper overtime compensation at the correct rate. The
27 "regular rate" means "the hourly rate actually paid for the normal, non-overtime workweek."
28 (See *Walling v. Youngerman-Reynolds Hardwood Co.*, 325 U.S. 419, 424 (1945) ("[T]he regular

1 rate refers to the hourly rate actually paid the employee for the normal, non-overtime workweek
2 for which he is employed.") (emphasis added); *United States v. Rosenwasser*, 323 U.S. 360, 364
3 (1945) (defining the "regular rate" is defined as "the hourly rate actually paid for the normal,
4 non-overtime workweek.") (quotation omitted) (emphasis added); *Huntington Memorial Hosp. v.*
5 *Superior Court*, (2005) 131 Cal.App.4th 893, 905 (regular rate is the hourly rate paid for a non-
6 overtime workweek); *Brunozzi v. Cable Communications, Inc.*, 851 F.3d 990, 996 (9th Cir.
7 2017) (To determine the regular rate, "we must first determine what the parties agreed [the
8 employee] is to be paid in a normal, non-overtime workweek.") (emphasis added).) "Wage
9 divided by hours equals regular rate." (*Bay Ridge*, 334 U.S. at 461 (quotation omitted).) The
10 employer may not "compute the regular rate in a wholly unrealistic and artificial manner so as to
11 negate the statutory purposes." (*Walling*, 325 U.S. at 424.) The regular rate "must reflect all
12 payments which the parties have agreed shall be received regularly during the workweek,
13 exclusive of overtime payments." (*Id.*) The regular rate "is not an arbitrary label chosen by the
14 parties; it is an actual fact. Once the parties have decided upon the amount of wages and the
15 mode of payment the determination of the regular rate becomes a matter of mathematical
16 computation" (*Id.* at 244-45.) "The regular hourly rate of pay of an employee is determined
17 by dividing his total remuneration for employment (except statutory exclusions) in any
18 workweek by the total number of hours actually worked by him in that workweek for which such
19 compensation was paid." (29 C.F.R. § 778.109.)

20 28. Plaintiff believes and thereon alleges that Defendant fails to include all
21 remuneration into the calculation of the regular rate for overtime, meal and rest period premium
22 payments, including but not limited to, differentials, bonuses, and other pay.

23 **VIOLATION OF MEAL PERIOD PROVISIONS**

24 29. Defendant failed to provide, impeded and/or discouraged Plaintiff and others from
25 taking timely meal breaks of not less than thirty (30) minutes as required by the Labor Code
26 during the relevant class period and/or failed to obtain legal waivers waiving the first or second
27 meal period in a shift in excess of 10 hours. Additionally, Defendant required Plaintiff and the
28 class to stay on the premises for their meal, resulting in failure to provide duty-free meal periods

1 without an exemption. Defendant fails to provide hourly employees with duty-free meals and/or
2 failed to obtain valid on-duty meal agreements.

3 30. Defendant's improper meal policies are in violation of California law including,
4 but not limited to Labor Code § 226.7, 512, and IWC Wage Order 5-2001. Plaintiff and all
5 others similarly situated these classes are entitled to wages at their regular rate of pay for each
6 violation where Defendants violated the meal break provisions and failed to provide a compliant
7 meal period due interrupted, impeded or on premises meal periods that deprived Plaintiff and the
8 class of statutory meal periods. Plaintiff and the class are entitled to one (1) hour of pay for
9 each meal break violation at the correct regular rate of pay.

10 **FAILURE TO PERMIT AND AUTHORIZE REST PERIOD BREAKS**

11 31. Plaintiff and other members of the Rest Period Class are entitled to the benefits of
12 Labor Code § 226.7 and Order 5-2001 of the Industrial Welfare Commission. Pursuant to Labor
13 Code § 226.7 and Wage Order 5-2001, Plaintiff and the other members of the Rest Period Class
14 were entitled to separate rest periods of at least 10 minutes for each four-hour period of work or
15 major fraction thereof, and one hour of additional pay for every shift a rest period was not
16 provided in conformance with this obligation.

17 32. Plaintiff is informed and believes, and thereon allege that Defendants consistently
18 compelled Plaintiff and other members of the Rest Period Class employed for shifts of more than
19 four (4) hours, to take only one (1) rest break during their shifts, instead of two (2) or three (3)
20 rest breaks required depending on shift length. Further, Plaintiff alleges Defendant failed to
21 provide duty-free rest periods and off-site rest periods to Plaintiff and the class.

22 33. Plaintiff is informed and believes and thereon alleges that at all times herein
23 mentioned, Defendants have engaged in unlawful, deceptive, and unfair business practices
24 prohibited by California B&PC §17200, thereby depriving their employees and the putative class
25 the minimum working condition, standards and conditions due to them under the California
26 Labor Laws and Industrial Welfare Commission wage orders as specifically described herein.
27 Plaintiff further seeks an order requiring Defendant to identify by full name, telephone number,
28 and last known address employees who worked or still work for Defendant from four (4) years

1 preceding the filing of the original Complaint through the date of judgment; Plaintiff further
2 seeks an order requiring Defendant to timely pay restitution to all current and former employees,
3 including back wages, and interest.

4 34. Plaintiff, and all persons similarly situated, and all persons in interest, are entitled
5 to and do seek such relief as may be necessary to restore to them the money and property which
6 Defendant has acquired, or of which Plaintiff and class members have been deprived by means
7 of the herein described unfair, unlawful, and/or fraudulent business practices.

8 35. Plaintiff seeks restitution for said violations. Plaintiff requests attorney's fees and
9 costs pursuant to Code of Civil Procedure §1021.5 since this action is brought to vindicate
10 important rights of a large class and the public.

11 **SECOND CAUSE OF ACTION**

12 **FAILURE TO PAY ALL WAGES AND OVERTIME COMPENSATION**

13 **(Labor Code section 200, et. seq., 218, 226, 510, 511, 1194, 1198, 2802)**

14 **(Against All Defendants)**

15 36. Plaintiff re-alleges and incorporates by reference herein the allegations of all
16 preceding paragraphs as though fully set forth herein.

17 37. Plaintiff and all others similarly situated identified herein were and are employed
18 and scheduled as a matter of established company policy to work and in fact worked as non-
19 exempt hourly employees in excess of eight (8) hours per day and/or in excess of forty (40)
20 hours per pay period, including shifts that last ten (10) hours, twelve (12) hours, or in some cases
21 twenty-four (24) hours, without daily overtime paid for the hours worked in excess of eight (8) in
22 a day at the correct regular rate. Labor Code § 204 establishes the fundamental right of all
23 employees in the state of California to be paid the proper amount of wages in a timely fashion for
24 their work, including overtime.

25 38. Plaintiff is informed and believes and thereon alleges that the hourly non-exempt
26 class was underpaid due to Defendant's willful and wrongful underpayment of overtime
27 premiums at an incorrect regular rate in order to avoid payment of overtime wages and other
28 benefits in violation of the Labor Code and the orders issued by the IWC, thereby Defendant is

1 able to reduce its overhead and operating expenses and gain an unfair advantage over competing
2 companies complying with state law.

3 39. Plaintiff is informed and believes and thereon alleges that the hourly non-exempt
4 class was under paid premium overtime compensation at a lower rate of pay than the regular rate
5 when Defendant paid overtime. The "regular rate" means "the hourly rate actually paid for the
6 normal, non-overtime workweek." (Id. (emphasis added); see also *Walling v. Youngerman-*
7 *Reynolds Hardwood Co.*, 325 U.S. 419, 424 (1945) ("[T]he regular rate refers to the hourly rate
8 actually paid the employee for the normal, non-overtime workweek for which he is employed.")
9 (emphasis added); *United States v. Rosenwasser*, 323 U.S. 360, 364 (1945) (defining the "regular
10 rate" is defined as "the hourly rate actually paid for the normal, non-overtime workweek.")
11 (quotation omitted) (emphasis added); *Huntington Memorial Hosp. v. Superior Court*, (2005)
12 131 Cal.App.4th 893, 905 (regular rate is the hourly rate paid for a non-overtime workweek);
13 *Brunozzi v. Cable Communications, Inc.*, 851 F.3d 990, 996 (9th Cir. 2017) (To determine the
14 regular rate, "we must first determine what the parties agreed [the employee] is to be paid in a
15 normal, non-overtime workweek.") (emphasis added).) "Wage divided by hours equals regular
16 rate." (*Bay Ridge*, 334 U.S. at 461 (quotation omitted).) The employer may not "compute the
17 regular rate in a wholly unrealistic and artificial manner so as to negate the statutory purposes."
18 (*Walling*, 325 U.S. at 424.) The regular rate "must reflect all payments which the parties have
19 agreed shall be received regularly during the workweek, exclusive of overtime payments." (Id.)
20 The regular rate "is not an arbitrary label chosen by the parties; it is an actual fact. Once the
21 parties have decided upon the amount of wages and the mode of payment the determination of
22 the regular rate becomes a matter of mathematical computation" (Id. at 244-45.) "The
23 regular hourly rate of pay of an employee is determined by dividing his total remuneration for
24 employment (except statutory exclusions) in any workweek by the total number of hours actually
25 worked by him in that workweek for which such compensation was paid." (29 C.F.R. §
26 778.109.)

27 40. Plaintiff is informed and believes and thereon alleges that Defendant consistently
28 administered a corporate policy regarding both staffing levels and duties and responsibilities of

1 the members of the classes which required the entirety of all classes to work without overtime or
2 minimum wages, by working off-the-clock for pre and post shift work related duties. Thus,
3 Plaintiff and all others similarly situated routinely, regularly and customarily performed overtime
4 work. Accordingly, Plaintiff and all others similarly situated are entitled to overtime and
5 minimum wage compensation under California law.

6 41. Pursuant to Labor Code §§ 218 and 1194(a), Plaintiff may bring a civil action for
7 overtime wages directly against the employer without first filing a claim with the Division of
8 Labor Standards Enforcement (hereinafter “DLSE”) and may recover such wages, together with
9 interest thereon, penalties, attorneys’ fees and costs.

10 42. At all times relevant hereto, Defendant has failed to pay to Plaintiff and all
11 persons similarly situated wages when due as required by Labor Code § 204.

12 43. Pursuant to Labor Code § 1198, it is unlawful to employ persons for longer than
13 the hours set by the IWC or under conditions prohibited by the applicable IWC Wage Orders.
14 IWC Wage Order No. 5, as amended, applies to Plaintiff.

15 44. At all times relevant hereto, Plaintiff is informed and believes and thereon alleges
16 that Defendant has treated Plaintiff and all other similarly situated hourly employees as hourly
17 non-exempt employees. Despite this classification, Defendants have willfully and wrongfully
18 underpaid overtime premiums at the regular rate in order to avoid payment of overtime wages
19 and other benefits in violation of the Labor Code and the orders issued by the IWC, thereby
20 Defendant is able to reduce its overhead and operating expenses and gain an unfair advantage
21 over competing companies complying with state law.

22 45. Plaintiff is informed and believes and thereon alleges that Defendant consistently
23 administered a corporate policy regarding both staffing levels and duties and responsibilities of
24 the members of the classes which required the entirety of all classes to work overtime without
25 proper premium pay at the correct regular rate. This included a uniform corporate policy and
26 practice of allocating straight time only hourly rate for all hours worked in a day in excess of
27 eight (8) hours and for carrying out a policy that fails to pay overtime premiums. This corporate
28 policy and pattern of conduct was/is accomplished with the advance knowledge and design of all

1 Defendants herein. Thus, Plaintiff and all others similarly situated routinely, regularly and
2 customarily performed overtime work. Accordingly, Plaintiff and all others similarly situated
3 are entitled to overtime compensation under California law.

4 46. Defendant has willfully failed to pay the earned and unpaid wages of such
5 individuals, including, but not limited to premium pay at the correct rate, and other wages earned
6 and remaining uncompensated according to amendment, or proof.

7 47. The pattern, practice and uniform administration of corporate policy regarding
8 illegal employee compensation as described herein is unlawful and creates an entitlement to
9 recovery by Plaintiff and all others similarly situated, in a civil action, for the unpaid balance of
10 the full amount of the all wages owing, including the proper calculation of the regular rate,
11 including interest thereon, willful penalties, reasonable attorneys' fees, and costs of suit
12 according to the mandate of Labor Code § 1194, et. seq.

13 48. Likewise, Defendant has a pattern, practice and uniform administration of
14 corporate policy regarding failure to comply with the required provisions of Labor Code § 226.7,
15 in failing to pay Plaintiff and the class the meal and rest break violation payment at the regular
16 rate.

17 **THIRD CAUSE OF ACTION**

18 **VIOLATION OF MEAL PERIOD PROVISIONS**

19 **(Against All Defendants)**

20 49. Plaintiff re-alleges and incorporates by reference herein the allegations of all
21 preceding paragraphs as though fully set forth herein.

22 50. Defendant's improper meal policies are in violation of California law including,
23 but not limited to Labor Code § 226.7, 512, and IWC Wage Order 5. The Plaintiff and the
24 members of the class are entitled to a thirty-minute meal period for every five (5) hours of their
25 shift worked. Defendant violated the meal break provisions and did not provide Plaintiff and the
26 class with duty free meal periods for every five (5) hours of their shift worked. Plaintiff and the
27 class were entitled to one (1) hour of pay for each meal break violation at their regular rate of
28 pay.

1 51. Defendant failed to provide, impeded and/or discouraged Plaintiff and others from
2 taking timely of-premises, compliant meal breaks of not less than thirty (30) minutes as required
3 by the Labor Code during the relevant class period and/or failed to obtain legal waivers waiving
4 the first or second meal period in a shift in excess of 10 hours. Additionally, Defendant required
5 Plaintiff and the class to stay on the premises for their meal, resulting in failure to provide duty-
6 free meal periods without an exemption. Defendant fails to provide hourly employees with duty-
7 free meals and/or failed to obtain valid on-duty meal agreements.

8 /////

9 **FOURTH CAUSE OF ACTION**

10 **FAILURE TO PERMIT AND AUTHORIZE REST PERIOD BREAKS**

11 **(Against All Defendants)**

12 52. Plaintiff re-alleges and incorporates by reference as if fully set forth herein, the
13 aforementioned allegations.

14 53. The Plaintiff alleges that Defendants have violated Labor Code §§226.7 & the
15 applicable Wage Order. Section 226.7 of the Labor Code requires an employer to pay an
16 additional hour (1) of compensation for each rest period the employer fails to provide. Hourly
17 non-exempt employees are entitled to a paid ten (10) minute rest break for every four (4) hours
18 worked or major fraction thereof. The Defendant's policy discourages, dissuades, and prevents
19 all hourly non-exempt employees from taking a duty-free rest period break for any work period
20 that is greater than two (2) hours up to four (4) hours. Plaintiff and the class consistently worked
21 over four (4) hours per shift with no duty-free, off-premises rest breaks, due to Defendant's
22 policy of discouraging, dissuading and/or preventing hourly employees from taking said breaks
23 off-premises.

24 54. Further, even if rest premiums were paid, they were not paid at the correct regular
25 rate.

26 55. Pursuant to Labor Code §226.7, Plaintiff and the class are entitled to damages in
27 an amount equal to one (1) hour of wages at the hourly non-exempt regular rate of pay per rest
28 break violation, in a sum to be proven at trial.

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

3 **PURSUANT TO LABOR CODE §226**

4 **(Against All Defendants)**

5 56. Plaintiff re-alleges and incorporates by reference herein the allegations of all
6 preceding paragraphs as though fully set forth herein.

7 57. The applicable Wage Order provides:

8 Every employer shall semimonthly or at the time of each payment of wages
9 furnish each employee, either as a detachable part of the check, draft, or voucher
10 paying the employee's wages, or separately, an itemized statement in writing
11 showing: (1) all deductions; (2) the inclusive dates of the period for which the
12 employee is paid; (3) the name of the employee or the employee's social security
13 number; and (4) the name of the employer, provided all deductions made on
14 written orders of the employee may be aggregated and shown as one item.
15 Subsection (e) provides: "Any employee suffering injury as a result of a
16 knowing and intentional failure by an employer to comply with subdivision (a)
17 shall be entitled to recover the greater of all actual damages or fifty dollars (\$50)
18 for the initial pay period in which a violation occurs and one hundred dollars
19 (\$100) per employee for each violation in a subsequent pay period, not exceeding
20 an aggregate penalty of four thousand dollars (\$4,000), and shall be entitled to an
21 award of costs and reasonable attorney's fees."

22 58. During the Class Period, Defendant knowingly and intentionally failed to provide
23 Plaintiff and the class members, including Plaintiff, with timely and accurate wage statements
24 showing gross wages earned, total hours worked, all deductions made, net wages earned, and all
25 applicable hourly rates in effect during each pay period and the corresponding number of hours
26 worked at each hourly rate by that Class Member. The wage statements provided to Plaintiff
27 failed to state the words "total hours worked" as required by California Labor Code §226.
28 Further, the wage statements did not list all the hours worked, did not list the correct straight
time hourly rates, did not list the correct overtime rates, or premium missed meal or rest breaks.

59. Defendant thus required the Class Members, including Plaintiff, to work under
conditions prohibited by order of the Industrial Welfare Commission, in violation of those
orders.

60. The Class Members, including Plaintiff, suffered injury as a result of Defendants'

1 knowing and intentional failure to provide the Class Members, including Plaintiff, with the wage
2 statements required by law.

3 61. Based on Defendant's conduct as alleged herein, Defendant is liable for actual
4 damages, statutory damages and/or statutory penalties pursuant to California Labor Code §226,
5 including attorney's fees and costs.

6 **SIXTH CAUSE OF ACTION**

7 **WAITING TIME PENALTIES**

8 **(Against All Defendants)**

9 62. Plaintiff re-alleges and incorporates by reference as if fully set forth herein, the
10 allegations of the preceding paragraphs.

11 63. Labor Code §§ 200, et. seq., provides that an employer is required to pay an
12 employee all wages (including accrued vacation), within twenty four (24) hours of the
13 employees' involuntary separation from employment; within twenty four (24) hours of his or her
14 voluntary separation if the employee gave at least seventy two (72) hours' notice, and within
15 seventy two (72) hours, if the employee voluntarily separated, but did not give at least seventy
16 two (72) hours' notice.

17 64. Plaintiff and other former employees of Defendant employed in the State of
18 California separated from employment with Defendant. Plaintiff and all others similarly situated
19 did not timely receive a final paycheck from Defendant in violation of Labor Code §§
20 200, et seq.

21 65. Plaintiff is informed and believes and thereon alleges that defendant also violated
22 the mandates of Labor Code §§ 200, et seq., as to other employees whose employment ended
23 during the period of time covered by this action.

24 66. Pursuant to Labor Code §§ 200, et. seq., each member of the class that no longer
25 works for Defendant, and who was not timely paid is entitled to one (1) day of pay in penalties
26 for each day that he or she was paid late, until payment was made, up on a maximum of thirty
27 (30) days.

28 67. Based on the willful nonpayment of wages as described above, the waiting time

penalty applies to Plaintiff and members of the waiting time penalty subclass, which is 30 days of each class members' wages at their regular rate of pay.

SEVENTH CAUSE OF ACTION

CIVIL PENALTIES UNDER LABOR CODE §§ 2698-2699

68. Plaintiff re-alleges and incorporates each and every one of the allegations of all preceding paragraphs contained in paragraphs, inclusive of this Complaint, as if fully set forth herein.

69. Labor Code §§2698 - 2699, the Labor Code Private Attorney General Act of 2004, provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (LWDA), or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the Labor Code, may be recovered through a civil action by an aggrieved employee on behalf of himself or herself, and collectively on behalf of all other current or former employees.

70. Whenever the LWDA, or any of its departments, divisions, commissions, boards agencies or employees, has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions to assess a civil penalty.

71. Plaintiff, and all hourly non-exempt employees of Defendants are "aggrieved employees" as defined by Labor Code §2699, in that they are all current or former employees of Defendants, and one or more of the alleged violations was committed against them.

72. Prior to filing this Complaint, Plaintiff gave written notice to the LWDA on or about July 25, 2025, via mandatory online filing through the State of California LWDA/ Department of Industrial Relations website with a copy to the employer via certified mail, of the specific provisions of this code alleged to have been violated, including listing some facts and some theories to support the alleged violations as required by Labor Code §2699.3; A true and correct copy of the letter is attached hereto as **Exhibit 1**. Plaintiff alleges that she has exhausted all administrative remedies and filed thCOMplaine herein complaint 65 days after mailing said notice. At the date of filing this Complaint, the LWDA has not responded with any intention to

investigate. As such, Plaintiff has exhausted her administrative requirements pursuant to LC §2699.3(a)(1) and (2) (A-C).

73. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on behalf of themselves and other current or former employees, to bring a civil action to recover civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

74. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the aggrieved employees are entitled to recover civil penalties for each of the Defendant's violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 510, 512, and 1194, 1197, and 1198 during the applicable limitations period in the following amounts:

- a. For violations of California Labor Code § 204, one hundred dollars (\$100.00) for each aggrieved employee for each initial violation and two hundred dollars (\$200.00) for each aggrieved employee plus twenty-five percent (25%) of the amount unlawfully withheld from each aggrieved employee for each subsequent, willful or intentional violation (penalty amounts established by California Labor Code § 210).
- b. For violations of California Labor Code § 226(a), two hundred fifty dollars (\$250.00) per employee for initial violation and one thousand dollars (\$1,000.00) per employee for each subsequent violation (penalty amounts established by California Labor Code § 226.3).
- c. For violations of California Labor Code § 512, fifty dollars (\$50.00) for each aggrieved employee for each initial violation for pay period for which the employee was underpaid in addition to an amount sufficient to recover unpaid wages and one hundred dollars (\$100.00) for each underpaid employee for each pay period for which the employee was underpaid (penalty amounts established by California Labor Code § 558).
- d. For violations of California Labor Code § 1197, one hundred dollars (\$100.00) for each aggrieved employee for each initial and intentional violation per pay period

(regardless of whether the initial violations were intentionally committed) and two hundred fifty dollars (\$250.00) for each aggrieved employee for each subsequent violation per pay period (regardless of whether the initial violations were intentionally committed), in addition to an amount sufficient to recover unpaid wages, liquidated damages pursuant to California Labor Code § 1194.2, and applicable penalties imposed pursuant to California Labor Code § 203.

- e. For violations of California Labor Code §§ 201, 202, 203, and 226.7, one hundred dollars (\$100.00) for each aggrieved employee per pay period for each initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation (penalty amounts established by California Labor Code § 2699(f)(2)).
- f. Penalties under Code of Regulations, Title 8 §11070 or other applicable Code of Regulations in the amount of \$50 for each aggrieved employee per pay period for the initial violation, and \$100 for each aggrieved employee per pay period for each subsequent violation;
- g. Penalties under Labor Code §210, in addition to and entirely independent and apart from other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for each subsequent violation, plus 25% of the wage wrongly withheld;
- h. Penalties under Labor Code §256, in addition to and entirely independent and apart from other penalty provided in the Labor Code, including Labor Code §2699, et seq., for any aggrieved employee who was discharged or quit, and was not paid all earned wages at termination in accordance with Labor Code §§201, 201.1, 201.5, 202, and 205.5, in the amount of a civil penalty of one day of pay, at the same rate, for each day that he or she was paid late, until payment was/is made, up to a maximum of thirty (30) days;

- 1 i. Penalties under Labor Code §558, in addition to and entirely independent and
2 apart from other penalty provided in the Labor Code, in the amount of \$50 for
3 each underpaid aggrieved employee for each pay period the aggrieved employee
4 was underpaid, and \$100 for each subsequent violation for each underpaid
5 employee for each pay period for which the employee was underpaid pursuant to
6 Labor Code §558 provided to the affected employees;
- 7 j. Penalties under Labor Code §226.3, in addition to and entirely independent and
8 apart from other penalty provided in the Labor Code, in the amount of \$250 for
9 each aggrieved employee per pay period for each violation, and \$1,000 for each
10 aggrieved employee per pay period for each subsequent violation;
- 11 k. Any and all additional penalties and sums as provided by the Cal. Labor Code
12 and/or other statutes.
- 13 l. Penalties under Labor Code section 210 for the weekly pay violations.

14
15 75. Pursuant to California Labor Code §2699(g), Plaintiff and the aggrieved
16 employees are entitled to an award of civil penalties, reasonable attorney's fees and costs in
17 connection with their claims for civil penalties.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff prays:

- 20 1. That the Court determine this action may be maintained as a class action;

21 **As to the First Cause of Action:**

22 2. For an order preliminarily and permanently enjoining Defendants from engaging
23 in the practices challenged herein;

24 3. An order for full restitution of all monies, as necessary and according to proof, to
25 restore any and all monies withheld by the Defendants by means of the unfair practice
26 complained of herein. Plaintiff seeks, on behalf of the putative class, the appointment of a
27 receiver, as necessary. The restitution includes all monies retained as wages, as defined in Labor
28 Code §§ 200, et seq., 510, and 1194, and interest, and attorneys' fees as a result of the unfair
business practices or retained in violation of Labor Code §1198 and IWC Wage Order 16;

1 4. For an order finding and declaring that Defendants' acts and practices as
2 challenged herein are unlawful, and unfair and/or fraudulent;

3 5. For an accounting, under administration of Plaintiff and subject to Court Review,
4 to determine the amount to be returned by Defendants and the amounts to be refunded to
5 members who are or were not paid all their wages due to Defendants' unfair business practices;

6 6. For the creation of an administrative process wherein each injured current and
7 former employee receives his or her back wages in the form of overtime pay or alternatively that
8 each current or former eligible employee may submit a claim in order to receive his/her money;

9 7. For an order requiring Defendants to make full restitution and payment pursuant
10 to B&PC Sections 17200, et seq. for unfair business practices that violate Labor Code §§ 200, et
11 seq., 510, and 1194;

12 8. For reasonable attorneys' fees under Code of Civil Procedure §1021.5 all other
13 appropriate declaratory and equitable relief;

14 9. For pre-judgment interest to the extent permitted by law;

15 10. For pre-judgment interest to the extent permitted by law and the California
16 Constitution;

17 11. For an order requiring Defendants to identify, by name, address and telephone
18 number of each person who worked as an hourly non-exempt employee for Defendants from four
19 (4) years before filing of the original complaint in this action through the time of judgment;

20 **As to the Second Cause of Action:**

21 12. For damages according to proof, as set forth in Labor Codes §§ 204, 218, 226,
22 510, 1194, and 1198 et seq., (and the applicable California Industrial Welfare Commission wage
23 orders) regarding wages due and owing;

24 13. For unpaid straight time wages pursuant to Labor Code §1194;

25 14. For pre-judgment interest as allowed by Labor Code § 1194 and California Civil
26 Code § 3287(b), and for reasonable attorneys' fees;

27 **As to the Third Cause of Action:**

28 15. One (1) hour of pay at each of the employees' regular rate of compensation for

each workday that a meal break was not provided, impeded, discouraged and/or dissuaded;

As to the Fourth Cause of Action:

16. One (1) hour of pay at each of the employees' regular rate of compensation for each workday that a rest break was not provided, impeded, interrupted, discouraged and/or dissuaded;

As to the Fifth Cause of Action:

17. For recovery as authorized by Labor Code §226(e);

18. For injunctive relief to ensure Defendants' compliance with Labor Code §226 and the IWC Wage Orders §7(A) pursuant to Labor Code §226(g);

19. For an award of costs and reasonable attorneys' fees pursuant to Labor Code §226(e) and/or §226(g);

As to the Sixth Cause of Action:

20. Waiting time penalties;

21. For reasonable attorneys' fees and costs;

As to the Seventh Cause of Action:

22. On behalf of all current and former employees, for all civil penalties authorized by Labor Code Private Attorney General Act of 2004 as specified in California Labor Code §558 plus Labor Code §1197.1 for former or current employees who are due wage payments;

23. For civil penalties per Labor Code §226.3 in the amount of \$250 for each aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for each subsequent violation;

24. For civil penalties per Labor Code §256 in the amount of one day of pay, at the same rate, for each day that an aggrieved employee was paid late, at the time of termination, until payment was/is made, up to a maximum of thirty (30) days;

25. For civil penalties, pursuant to Labor Code § 558 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

1 underpaid employee for each pay period for which the employee was underpaid;

2 26. For civil penalties under Labor Code §210, in addition to and entirely independent
3 and apart from other penalty provided in the Labor Code, in the amount of \$100 for each
4 aggrieved employee per pay period for each violation, and \$200 for each aggrieved employee per
5 pay period for each subsequent violation, plus 25% of the wage wrongly withheld;

6 27. For civil penalties under Labor Code §2699(f), in addition to and entirely
7 independent and apart from other penalty provided in the Labor Code and for Labor Code
8 violations without a specific civil penalty, in the amount of \$100 for each aggrieved employee
9 per pay period for each violation, and \$200 for each aggrieved employee per pay period for each
10 subsequent violation.

11 **As to All Causes of Action:**

12 28. For such other and further relief as this Court may deem just and proper.
13

14 Dated: September 30, 2025

JANELLE CARNEY – ATTORNEY AT LAW, APC
SALUSKY LAW GROUP

15
16
17 By:



Janelle Carney, Attorney for Plaintiff

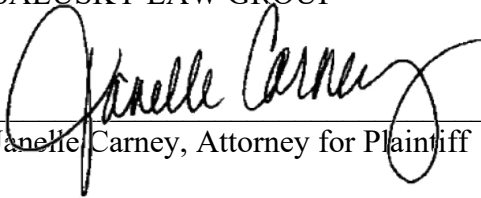
JURY TRIAL DEMAND

Plaintiff hereby demands a jury trial on all issues so triable.

Dated: September 30, 2025

JANELLE CARNEY – ATTORNEY AT LAW, APC
SALUSKY LAW GROUP

By:



Janelle Carney, Attorney for Plaintiff

Exhibit 1



July 25, 2025

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

Adventist Health
c/o White Memorial Medical Center
1720 E. Cesar E. Chavez Ave.
Los Angeles, CA 90033
Via: Certified U.S. Mail/ Return Receipt Requested

Re: Sarabia v. Adventist Health/ White Memorial Medical Center

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION §§ 2699, *et seq.***

To: California Labor and Workforce Development Agency and Defendant Adventist Health/ White Memorial Medical Center

From: Claudia Sarabia, on behalf of herself and all aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

Please be advised that Janelle Carney – Attorney at Law, APC and Salusky Law Group, APC, represent Claudia Sarabia and all other aggrieved employees ("Plaintiff") defined as hourly employees, with respect to their employment with Adventist Health/ White Memorial Medical Center ("Defendant").

Ms. Sarabia believes and alleges that Defendant has committed numerous violations of the California Labor Code, including, but not limited to, §§226, 226.7, 510, 512, 1194, 1194.2, 1197, 1198, and 2698, *et. seq.* The facts and theories to support the alleged violations are set forth herein.

THEORIES OF LABOR CODE VIOLATIONS AND REMEDIES

Overtime Violations

Labor Code section 510 and the applicable Wage Order provide that an employee shall be paid 1.5 times their regular rate of pay for any work over eight (8) hours in one workday or forty (40) hours in a workweek. Defendant did not pay overtime pursuant to these mandates. Thus,

Ms. Sarabia and the aggrieved employees were either not paid proper premium overtime for hours worked over eight in a day or forty in a week, or on the seventh consecutive workday, nor were they paid proper premium overtime/ double time at the correct rate. Ms. Sarabia and the Aggrieved Employees were not paid premium overtime and/or double time for time spent working twenty-four (24) consecutive hours.

Applicable Civil Penalties

As a result of the above overtime violations, Employer is subject to the civil penalties listed in Labor Code sections 210, 558, 1197.1, and 2699.

Meal Break Violations

Labor Code section 512(a) and the applicable Wage Order provide that an employer shall not employ an employee for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, or more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes. Meal periods must be uninterrupted, and the employee must be relieved of all duty. Defendant did not provide compliant meal periods including but not limited to uninterrupted meals and required employees to remain on premises during their meals. Further, on shifts in excess of 12 hours, Defendant failed to provide a second meal period.

Labor Code section 226.7(c) further provides that an employee is entitled to one (1) hour of pay at their regular rate of pay for each day that a compliant meal period was not provided.

Premium Pay Paid at the Wrong Regular Rate

Premium pay for missed meal breaks must be paid at the employees' regular rate of pay. (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858.) The regular rate of pay includes all remuneration, including shift differentials, incentive pay, and other non-discretionary bonuses. Here, it is unclear if Defendant ever paid for a missed meal break at the correct regular rate, or that Plaintiff earned any additional remuneration.

On Premises / On-Duty Meal Breaks

An employer provides compliant meal breaks to its employees "if it relieves its employees of all duty, relinquishes control over their activities and permits them a reasonable opportunity to take an uninterrupted 30-minute break." (*Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1040 (2012)).

Here, Ms. Sarabia and the Aggrieved Employees were required to remain on premises during any alleged meal breaks, so they should have received premium pay for the missed breaks at the regular rate of pay.

Applicable Civil Penalties

As a result of the above meal break violations, Employer is subject to the civil penalties listed in Labor Code sections 558 and 2699.

Rest Break Violations

Labor Code section 226.7 and the applicable Wage Order require employers to authorize and permit rest periods of 10 minutes net per four hours or major fraction thereof. Employees must be relieved of all duties during their rest breaks. Labor Code section 226.7(c) further provides that an employee is entitled to one hour of pay at their regular rate of pay for missed breaks. Ms. Sarabia and the aggrieved employees were not authorized or permitted to take compliant rest periods for every four hours or fraction thereof. Ms Sarabia regularly was only provided one rest period per shift and not her second or third rest break. On occasions when she worked over 12 hours, White Memorial failed to authorize and permit additional rest breaks.

Premium Pay Paid at the Wrong Regular Rate

Premium pay for missed rest breaks must be paid at the employees' regular rate of pay. (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858.) The regular rate of pay includes all remuneration, including shift differentials, incentive pay, and other non-discretionary bonuses. Here, it is unclear if Defendant ever paid for a missed rest break at the correct regular rate.

On Premises Rest Breaks

An employer generally may not place restrictions on its employees during their rest breaks, such as requiring its employees to remain on the premises and subject to the employer's control. In fact, the Division of Labor Standards and Enforcement provided the following:

Q. Can my employer require that I stay on the work premises during my rest period?

A. No, your employer cannot impose any restraints not inherent in the rest period requirement itself. In *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269, the California Supreme Court held that the rest period requirement "obligates employers to permit-and authorizes employees to take-off-duty rest periods. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time." (Citation omitted.) As a practical matter, however, if an employee is provided a ten-minute rest period, the employee can only travel five minutes from a work post before heading back to return in time.

Here, Ms. Sarabia and the aggrieved employees were not allowed to leave the premises for their ten (10) minute breaks. Since the Aggrieved Employees were not allowed to leave the work premises during their rest breaks, they were subject to Employer's control during the rest

breaks and would only be authorized or permitted to take one rest break per 8 hour shift. Thus, Ms. Sarabia and the Aggrieved Employees were not provided with compliant rest breaks.

Applicable Civil Penalties

As a result of the above rest break violations, Defendant is subject to the civil penalties listed in Labor Code section 558 and 2699.

Wage Statement Violations

Labor Code section 226 requires an employer to provide wage statements to its employees which includes, gross and net wages earned / total hours worked / all deductions / the inclusive dates of the period for which the employee is paid / the name of the employee and only the last four digits of his or her social security number or an employee identification number / the name and address of the legal entity that is the employer / all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Employer failed to provide wage statements which accurately reflected this information.

Ms. Sarabia and the aggrieved employees' wage statements were inaccurate since they did not list all the hours worked, did not list the correct straight time hourly rates, did not list the correct overtime rates, or premium missed meal or rest breaks.

Ms. Sarabia is "injured" under Labor Code section 226(e) "If the accuracy of any of the items enumerated in § 226(a) [...] cannot be ascertained from the four corners of the wage statement." (*Ovieda v. Sodexo Operations, LLC* (C.D.Cal., Oct. 9, 2013, No. CV 12-1750-GHK) 2013 WL 12122413, p. *3.) An actual injury is shown where "there is a need for both additional documentation and additional mathematical calculations in order to determine whether Ms. Sarabia's were correctly paid and what they may be owed." (*Reinhardt v. Gemini Motor Transport* (E.D.Cal. 2012) 879 F.Supp.2d 1138, 1142.) In contrast, where the deficiency in the wage statement could be corrected by "simple math," there is no actual injury. (*Price v. Starbucks Corp.* (2011) 192 Cal.App.4th 1136, 1143.)

Applicable Civil Penalties

As a result of the wage statement violations detailed above, Defendant is subject to the civil penalties listed in Labor Code section 226.3 and 2699.

Waiting Time Penalties

Because Defendant did not pay Ms. Sarabia and the Aggrieved Employees all wages owed during their employment, they should have received waiting time penalties. Since they did not receive waiting time penalties, PAGA applies.

Applicable Civil Penalties

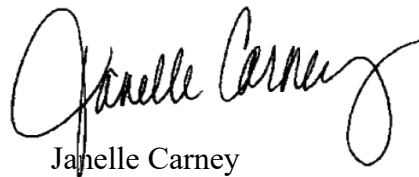
Defendant is subject to the civil penalties listed in Labor Code section 210 and 2699.

Reservation of Rights

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Ms. Sarabia becomes aware of additional compensation owed or losses incurred by Ms. Sarabia or by any other aggrieved employee, Ms. Sarabia expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

Please advise the undersigned if the agency intends to investigate the alleged violations. If not, Ms. Sarabia intends to pursue her claims and those of the aggrieved employees under PAGA in a civil lawsuit. Please also consider this letter as providing notice on behalf of other aggrieved employees working for Defendant that were subject to the same Labor Code violations described above.

Very truly yours,



Janelle Carney

JC/jw
cc: Salusky Law Group