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Attorneys for Plaintiff, Diana Lange, individually
and on behalf of other individuals similarly situated

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF ORANGE

DIANA LANGE, individually, and on behalf of
other individuals similarly situated,

Plaintiff,

v.

24-HOUR MEDICAL STAFFING SERVICES
LLC, a Delaware Company and DOES 1-100,
inclusive

Defendants.

CASE NO. 30-2020-01140958-CU-OE-CXC

Assigned for all purposes to:

CLASS ACTION

Judge Randall J. Sherman

Dept: CX105

1. **Failure to Pay Overtime and Double Time Wages (California Labor Code §§ 510, 515.5, 1194, and 1198, and IWC Wage Order No. 5);**
2. **Failure to Pay for All Hours Worked (California Labor Code §§ 201, 202, 204, and 221-223)**
3. **Failure to Provide Meal Periods, or Compensation in Lieu Thereof (California Labor Code §§ 226.7 and 512; and Cal. Code Regs., Title 8 §11050 ¶¶ 7 & 11);**
4. **Failure to Provide Rest Periods, or Compensation in Lieu Thereof (California Labor Code §§ 226.7 and Cal. Code Regs., Title 8 § 11050 ¶ 12);**
5. **Failure to Furnish an Accurate Itemized Wage Statement upon**

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Payment of Wages (Labor Code § 226);

6. Failure to Pay All Wages Owed at Termination in Violation of California Labor Code § 203; and

7. Unfair Competition (Bus & Prof Code § 17200 et seq.)

DEMAND FOR A JURY TRIAL

Plaintiff Diana Lange (“Plaintiff”) on behalf of herself and all others similarly situated, hereby brings this Class Action Complaint against Defendants 24-Hour Medical Staffing Services LLC, a Delaware Company; and DOES 1 to 100 (collectively “Defendants”), inclusive, and on information and belief alleges as follows:

INTRODUCTION

Save one life you’re a hero, save a hundred lives you’re a nurse.

-Anonymous

1. This is a class action and law enforcement action brought by Plaintiff on behalf of traveling nurses in the State of California.

2. Plaintiff seeks to recover for Defendants’ failure to pay their traveling nurses all the wages they are owed, failure to compensate them for double time, and failure to provide them with meal and rest periods in compliance with the applicable Wage Order. Defendants have engaged in a common scheme of routinely requiring and/or suffering and permitting the traveling nurses to work in excess of 12 hours per day without compensating them at the statutorily-mandated double-time rate, have failed to compensate the traveling nurses at all for discrete periods of work, have failed to provide them with meal periods in compliance with the applicable Wage Order, have failed to authorize and permit them rest periods in compliance with the applicable Wage Order, have failed to properly calculate the regular rate for the purposes of calculating overtime pay, and have failed to provide protective equipment.

3. The company has failed to establish and implement safety protocols, to and to train employees on such protocols which constitute unfair business practices.

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1 **PARTIES**

2 4. 24-Hour Medical Staffing Services LLC (“24-Hour”) provides medical staffing
3 services. Defendant is a California company headquartered in Diamond Bar, California. Defendants
4 employ hundreds of traveling nurses in California. Traveling nurses travel throughout the country—
5 including in California—working at various hospitals and health systems with which Defendant
6 contracts.

7 5. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
8 Plaintiff was and currently is, a California resident. During the four years immediately preceding the
9 filing of the Complaint in this action and within the statute of limitations periods applicable to each
10 cause of action pled herein, Plaintiff was employed by Defendants as a “Traveling Nurse.”

11 6. Plaintiff was, and is, a victim of Defendants' policies and/or practices complained of
12 herein, lost money and/or property, and has been deprived of the rights guaranteed to her by California
13 Labor Code §§ 2802, 200-204, 226, 226.7, 512, 515, 516, 226.8, 6311, 6400, 6401, 6401.7, 6402, and
14 6403, and California Business and Professions Code § 17200 et seq. (Unfair Competition).

15 7. Plaintiff is informed and believes, and based thereon alleges, that during the four years
16 preceding the filing of the Complaint and continuing to the present, Defendants did (and do) business
17 by a delivery service throughout Orange County and throughout California, and employed Plaintiff
18 and other similarly-situated non-exempt employees within Orange County and, therefore, were (and
19 are) doing business in Orange County and the State of California.

20 8. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
21 herein, Defendants were conducting business in California and Orange County, and were the
22 employers of Plaintiff and all members of the Class (as defined in Paragraph 46).

23 9. Plaintiff does not know the true names, capacities, relationships and/or the extent of
24 participation of Defendants DOES 1 through 100, inclusive, in the conduct alleged in this Complaint.
25 For that reason, Defendants DOES 1 through 100, inclusive, are sued under such fictitious names.
26 Plaintiff prays for leave to amend this Complaint when the true names and capacities are known.
27 Plaintiff is informed and believes, and based thereon alleges, that each fictitiously named defendant is
28 and was responsible in some way for the alleged wage and hour violations and other wrongful conduct

1 which subjected Plaintiff and the Class, as defined below, to the illegal employment practices, wrongs
2 and injuries complained of herein. All references in this Complaint to “Defendants” shall be deemed
3 to include all DOE Defendants.

4 10. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
5 herein, Defendants were and are the employers of Plaintiff and all members of the Class (as defined
6 in Paragraph 46).

7 11. At all times herein mentioned, each of said Defendants participated in the doing of the
8 acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants,
9 and each of them, were the agents, servants, and employees of each and every one of the other
10 Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting
11 within the course and scope of said agency and employment. Defendants, and each of them, approved
12 of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of
13 herein.

14 12. At all times mentioned herein, Defendants, and each of them, were members of and
15 engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope
16 of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges
17 that all Defendants were joint employers for all purposes of Plaintiff and all members of the Class (as
18 defined in Paragraph 46).

19 JURISDICTION

20 13. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this class
21 action for recovery of unreimbursed expenses under Labor Code §§ 558, 2802, 2804, 2698 et seq.,
22 and California Business and Professions Code § 17200 et. seq., in addition to seeking declaratory
23 relief, injunctive relief, and restitution.

24 14. This class action is brought pursuant to California Code of Civil Procedure 382.

25 15. This Court has jurisdiction over Defendants' violations of the California Labor Code
26 because the amount in controversy exceeds this Court's jurisdictional minimum.

27 VENUE

28 16. Venue as to each Defendant is proper in this judicial district pursuant to California

1 Code of Civil Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained
2 of hereon occurred in Orange County. Further, at all times relevant herein Plaintiff was employed by
3 Defendants within Orange County.

4 **GENERAL FACTUAL ALLEGATIONS**

5 **COVID-19**

6 17. Coronavirus disease 2019 (COVID-19) is a respiratory illness that spreads from person
7 to person. COVID-19 appeared in Wuhan, a city in China, in December 2019. Although health
8 officials are still tracing the exact source of this new coronavirus, early hypotheses thought it may be
9 linked to a seafood market in Wuhan, China. Some people who visited the market developed viral
10 pneumonia caused by the new coronavirus. A study that came out on Jan. 25, 2020, notes that the
11 individual with the first reported case became ill on Dec. 1, 2019, and had no link to the seafood
12 market. Investigations are ongoing as to how this virus originated and spread.

13 18. COVID-19 is now a pandemic affecting many countries globally, including the United
14 States.

15 19. The virus is thought to spread mainly between people who are in close contact with
16 one another (within about six feet) through respiratory droplets produced when the infected person
17 coughs or sneezes. It also may be possible that persons can get COVID-19 by touching surfaces or
18 object that has the virus on it and then touching their own mouth, nose or possibly their eyes.

19 20. Infection with SARS-CoV-2, the virus that causes COVID-19, can cause illness
20 ranging from mild to severe and, in some cases, can be fatal¹.

21 21. The Center for Disease Control has identified the following symptoms associated with
22 COVID-19 after two-fourteen days of exposure²:

- 23 • Fever
- 24 • Chills
- 25 • Repeated shaking with chills
- 26 • Cough
- Shortness of breath or difficulty breathing
- Muscle pain

27 ¹ <https://www.osha.gov/Publications/OSHA3990.pdf>

28 ² <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>

- Headache
- Sore throat
- New loss of taste or smell

22. As of Apr. 23, 2020, 184,268 deaths have been attributed to COVID-19³.

23. Recent studies have suggested that COVID-19 may be spread by people who are not manifesting symptoms⁴.

24. Some populations are especially vulnerable to the consequences of COVID-19, including individuals 65 years and older, people living in a nursing home or long-term care facility, and others of all ages with underlying medical conditions, such as people with lung disease, asthma, heart conditions, severe obesity, diabetes, kidney disease, or liver disease and people who are immunocompromised.

California's Response to COVID-19

25. On March 4, 2020, California Governor Gavin Newsom proclaimed a "state of emergency" as a result of the threat of COVID-19.

26. Thereafter, on March 11, 2020, the World Health Organization declared the Coronavirus a pandemic.

27. On March 19, 2020, California Executive Order N-33-20 established stay-at-home requirements for individuals living in the State of California, subject to essential worker exemptions. The executive order did not set a date for the lifting of the "stay-at-home" requirement.

28. Additionally, numerous cities, counties and municipalities throughout California have issued orders related to COVID-19 including the City of Los Angeles, County of Los Angeles, the City and County of San Francisco, and the City of San Jose.

Defendants' Failure to Provide Required Safety Gear & Institute Proper Safety Protocols

29. Fit testing confirms the fit of any respirator that forms a tight seal on the user's face before it is used in the workplace. This ensures that users are receiving the expected level of protection by minimizing contaminant leakage into the facepiece. When a respirator does not fit properly, a portion of the air you breathe can bypass the respirator's filter and enter your breathing airstream through

³ <https://www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus>

⁴ <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>

1 breaks in the seal of the respirator along your face. If this happens, you may be exposed to harmful
2 pathogens in the environment. In a similar vein, it is important to wear the respirator at all times during
3 the exposure because even short periods of exposure substantially reduces the wearers protection. This
4 all boils down to a simple reality: **if the respirator does not form a seal with the face, it cannot**
5 **provide the expected level of protection.**

6 30. Defendant failed to make a good-faith effort to comply with 29 CFR § 1910.134 and to comply
7 with the Temporary Enforcement Guidance - Healthcare Respiratory Protection Annual Fit-Testing
8 for N95 Filtering Facepieces During the COVID-19 Outbreak

9 **General Facts Regarding Defendant's Operation**

10 31. During the relevant time period of this action, Defendants have employed Plaintiff and other
11 similarly situated individuals to provide nursing services. Their job duties have included assisting
12 patients in recovery and prevention, filling out patient charts, administering tests, checking vital signs,
13 blood pressures, and temperatures, filling out reports regarding a patient's health and recovery for
14 review by the treating physician and other nurses, providing medication, providing pre-and post-
15 operation care, administering intravenous infusions, providing wound care, physically moving and
16 otherwise assisting patients with everyday activities, performing other treatment duties, and
17 performing additional administrative duties at the direction of Defendants, such as attending staff
18 meetings and filling out patient charts and other paperwork.

19 32. Defendant 24-Hour contracts with several hospitals throughout California—including Garden
20 Grove—to provide nurse staffing services by employing and compensating traveling nurses and
21 assigning them to work at one of the several hospitals with which it contracts.

22 **Defendant Failed to Compensate Traveling Nurses for All Time Worked**

23 33. Defendants have engaged in a common scheme of routinely requiring and/or suffering and
24 permitting the traveling nurses to work in excess of 12 hours per day without compensating them at
25 the statutorily-mandated double-time rate and have failed to compensate the traveling nurses at all for
26 discrete periods of work.

27 34. Traveling nurses are scheduled at least eight hour shifts and most typically work three 12-hour
28 shifts per week. However, Defendants have routinely required and/or suffered and permitted Plaintiff

1 and the other traveling nurses to work well in excess of 12 hours per day without paying them at all
2 for hours in excess of 12 per day, much less at their statutorily mandated double-time rate of
3 compensation.

4 35. Defendants assign the traveling nurses so many patients and such a heavy workload (consisting
5 of duties including, but not limited to: taking patient pulses, samples, temperatures, and blood
6 pressures; writing records; filling out patient charts; providing pre- and post-operation care;
7 monitoring and administering medication and intravenous infusions; handing-off patients to the next
8 shift of nurses; performing physical exams and health histories; giving reports; providing wound care;
9 providing healthcare counseling and education to patients; and directing other healthcare personnel,
10 among other duties) that they typically cannot complete all of their duties within the pre-allotted 12
11 hour shift time.

12 36. Defendants have also required and/or suffered and permitted the traveling nurses to complete
13 various training programs, without compensation. This training time has been substantial.

14 37. Finally, Defendants failed to properly calculate the overtime rate of pay.

15 **Facts Regarding Meal and Rest Periods**

16 38. In addition, Defendants have failed to provide sufficient “break nurses” to tend to patients
17 while traveling nurses take statutorily-mandated meal and rest periods. Specifically, Defendants’
18 policy has been to require the traveling nurses to skip meal or rest breaks whenever a traveling nurse’s
19 assigned patient needs treatment or monitoring, rather than to maintain a system whereby other nurses
20 relieve them at regular intervals throughout the day. Even when the traveling nurses are provided with
21 meal periods, they are subject to interruption to respond to patient treatment needs. As a result, the
22 traveling nurses routinely are not provided with uninterrupted, thirty-minute meal periods during
23 which they are completely relieved of any duty, by the end of the fifth hour of work, and again by the
24 end of the tenth hour of work, and are routinely not authorized and permitted to take rest breaks of at
25 least ten minutes by the end of every fourth hour of work or major fraction thereof.

26 **Facts Regarding Plaintiff**

27 39. Plaintiff worked for 24-Hour as a traveling nurse from February 2017 until May of
28 2020. Plaintiff has been staffed by 24-Hour at Garden Grove Hospital and Medical Center.

1 40. Plaintiff was instructed by her supervisors not to wear masks, Plaintiff worked directly
2 with COVID-19 patients but was not provided with sufficient personal protective equipment. For
3 example, Plaintiff was forced to re-use received masks paper masks, was refused access to N95 and
4 Papr.

5 41. Plaintiff refused to comply with managerial orders prohibiting her to wear paper
6 masks. After such refusal, Plaintiff's contract was not renewed.

7 ***Plaintiff's Exhaustion of Administrative Remedies***

8 42. Plaintiff is currently complying with the procedures for bringing suit specified in
9 California *Labor Code* § 2699.3.

10 43. By letters dated May 19, 2020 and April 29, 2020, required notice was sent to Labor
11 and Workforce Development Agency ("LWDA") and Defendant of the specific provisions of the
12 California *Labor Code* alleged to have been violated, including the facts and theories to support the
13 alleged violations.

14 44. This Complaint will be amended when Plaintiff has exhausted administrative remedies
15 and/or Defendant fails to cure within the specified timeframe.

16 **CLASS ACTION ALLEGATIONS**

17 45. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

18 46. Plaintiff brings this action on behalf of himself and all others similarly situated as a
19 class action, pursuant to California Code of Civil Procedure §382. The classes which Plaintiff seeks
20 to represent are composed of, and defined as follows:

21 **Plaintiff Class:**

22 All individuals who were or are employed by Defendant in California during
23 the Class Period as "Traveling Nurses". (collectively "Plaintiff Class" or
24 "Class Members")

25 **Terminated Sub-Class:**

26 All members of the Plaintiff Class whose employment with Defendants
27 terminated during the Class Period.

28 47. The Class Period is the period from four years prior to the filing of the complaint until,

1 through and including the date judgment is rendered in this matter.

2 48. The class is so numerous that the individual joinder of all members is impracticable.
3 While the exact number and identification of class members are unknown to Plaintiff at this time and
4 can only be ascertained through appropriate discovery directed to Defendant, Plaintiff is informed and
5 believes that the class includes potentially hundreds of members.

6 49. Common questions of law and fact exist as to all members of the class which
7 predominate over any questions affecting only individual members of the class. These common legal
8 and factual questions, which do not vary from class member to class member, and which may be
9 determined without reference to the individual circumstances of any class member, include, but are
10 not limited to, the following:

- 11 a. Whether Plaintiff and members of the proposed class are subject to and entitled to the
12 benefits of California wage and hour statutes;
- 13 b. Whether Defendants complied with all OSHA requirements;
- 14 c. Whether Defendants' policies and practices (or lack thereof) for the payment of
15 overtime and double time violate California law;
- 16 d. Whether Defendants failed to provide meal and rest breaks;
- 17 e. Whether Defendants failed to keep accurate records of hours worked and wages earned
18 by traveling nurses
- 19 f. Whether Defendants' failure to compensate Plaintiffs and the other traveling nurses at
20 a double-time rate for hours worked in excess of 12 per day has been willful, intentional
21 or reckless
- 22 g. Whether the paychecks provided to the traveling nurses in connection with their
23 compensation contain all the elements mandated for accurate itemized wage statements
24 under Cal. Labor Code § 226(a);
- 25 h. Whether Plaintiff and members of the Plaintiff Class sustained damages, and if so, the
26 proper measure of such damages, as well as interest, penalties, costs, attorneys' fees,
27 and equitable relief; and
- 28 i. Whether Defendant's conduct as alleged herein violates the Unfair Business Practices

1 Act of California, Bus. & Prof. Code § 17200, *et seq.*

2 50. The claims of the named Plaintiff are typical of the claims of the members of the
3 putative class. Plaintiff and other class members sustained losses, injuries and damages arising from
4 Defendant's common policies, practices, procedures, protocols, routines, and rules which were applied
5 to other class members as well as Plaintiff. Plaintiff seeks recovery for the same type of losses,
6 injuries, and damages as were suffered by other members of the proposed class.

7 51. Plaintiff is an adequate representative of the proposed classes because she is a member
8 of the class, and her interests do not conflict with the interests of the members she seeks to represent.
9 Plaintiff has retained competent counsel, experienced in the prosecution of complex class actions, and
10 together Plaintiff and her counsel intends to prosecute this action vigorously for the benefit of the
11 classes. The interests of the Class Members will fairly and adequately be protected by Plaintiff and
12 her attorneys.

13 52. A class action is superior to other available methods for the fair and efficient
14 adjudication of this litigation since individual litigation of the claims of all Class Members is
15 impracticable. It would be unduly burdensome to the courts if these matters were to proceed on an
16 individual basis, because this would potentially result in hundreds of individuals, repetitive lawsuits.
17 Further, individual litigation presents the potential for inconsistent or contradictory judgments, and
18 the prospect of a "race to the courthouse," and an inequitable allocation of recovery among those with
19 equally meritorious claims. By contrast, the class action device presents far fewer management
20 difficulties, and provides the benefit of a single adjudication, economics of scale, and comprehensive
21 supervision by a single court.

22 53. The various claims asserted in this action are additionally or alternatively certifiable
23 under the provisions of the California Code of Civil Procedure § 382 because:

- 24 a. The prosecution of separate actions by hundreds of individual class members
25 would create a risk of varying adjudications with respect to individual class
26 members, thus establishing incompatible standards of conduct for Defendant,
27 and
28 b. The prosecution of separate actions by individual class members would also

1 create the risk of adjudications with respect to them that, as a practical matter,
2 would be dispositive of the interest of the other class members who are not a
3 party to such adjudications and would substantially impair or impede the ability
4 of such non-party class members to protect their interests.

5 **FIRST CAUSE OF ACTION**

6 **Failure to Pay Overtime Compensation**

7 **California Labor Code §§ 510, 515.5, 1194, and 1198, and IWC Wage Order No. 5**

8 **(By Plaintiff and the Plaintiff Class Against All Defendants)**

9 54. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though fully
10 set forth herein.

11 55. California Labor Code §§ 510 and 1198, and IWC Wage Order No. 5, §3, provides that
12 employees in California shall not be employed more than eight (8) hours in any workday or forty (40)
13 hours in any workweek unless they receive additional compensation beyond their regular wages in
14 amounts specified by law.

15 56. Defendants also fail to properly calculate the overtime rate by failing to include the amount of
16 the stipend in the employees' regular rate.

17 57. Defendants have failed to pay Plaintiffs, and other members of the Class, overtime
18 compensation for the hours they worked in excess of the maximum hours permissible by law under
19 California Labor Code §§ 510 and 1198, and IWC Wage Order No. 5, §3. Defendants require and/or
20 suffer and permit Plaintiffs and other members of the Class to work hours in excess of 8 in a day and
21 12 in a day.

22 58. Defendants' failure to pay additional, premium rate compensation to Plaintiffs and members
23 of the Class for their overtime and double time hours worked has caused Plaintiffs and Class Members,
24 and continues to cause many Class Members to suffer damages in amounts which are presently
25 unknown to them but which exceed the jurisdictional threshold of this Court and which will be
26 ascertained according to proof at trial.

27 59. Pursuant to Labor Code §218.6 or Civil Code §3287(a), Plaintiffs and other members of the
28 Class are entitled to recover pre-judgment interest on wages earned, but not paid every pay period.

1 60. As a direct and proximate result of the unlawful acts and/or omissions of Defendants, Plaintiffs
2 and Class Members have been deprived of overtime and double time compensation in an amount to
3 be determined at trial. Plaintiffs and other members of the class request recovery of overtime and
4 double time compensation according to proof, interest, attorney's fees and costs of suit pursuant to
5 California Labor Code §§1194(a), 554, 1194.3 and 1197.1, as well as the assessment of any statutory
6 penalties against Defendants, in a sum as provided by the California Labor Code and/or other statutes.

7 **SECOND CAUSE OF ACTION**

8 **Failure to Pay for All Hours Worked in Violation of**
9 **California Labor Code §§ 201, 202, 204, and 221-223**

10 **(By Plaintiff and the Plaintiff Class Against All Defendants)**

11 61. Plaintiff hereby re-alleges, and incorporates by reference as though set fully forth
12 herein, the allegations contained above.

13 62. California Labor Code §200 defines wages as "all amounts for labor performed by employees
14 of every description, whether the amount is fixed or ascertained by the standard of time, task, piece,
15 commission basis or other method of calculation."

16 63. California Labor Code §§ 201 and 202 require an employer to pay all wages earned but unpaid
17 immediately upon the involuntary discharge of an employee or within seventy-two (72) hours of an
18 employee's voluntary termination of employment.

19 64. California Labor Code §204 provides that employers must compensate employees for all hours
20 worked "twice during each calendar month, on days designated in advance by the employer as the
21 regular paydays."

22 65. California Labor Code §§221-223 prohibit employers from withholding and deducting wages,
23 or otherwise artificially lowering the wage scale of an employee.

24 66. Defendants have maintained and continues to maintain a policy of denying the traveling nurses
25 compensation for time spent on required training, including performing online trainings. Accordingly,
26 Defendants have artificially reduced Plaintiffs' and its other traveling nurses' pay rates by denying
27 them compensation for performing online trainings.

28 67. As a proximate result of these violations, Defendants have damaged Plaintiffs and the Class in

1 amounts to be determined according to proof at trial.

2 68. Pursuant to Labor Code §218.6 and/or Civil Code §3287(a), Plaintiffs and other members of
3 the Class are entitled to recover pre-judgment interest on wages earned, but not paid every pay period.

4 69. Plaintiffs, on behalf of themselves and all others similarly situated, seek all unpaid
5 compensation, damages, penalties, interest and attorneys' fees and costs, recoverable under applicable
6 law set forth below.

7 **THIRD CAUSE OF ACTION**

8 **Failure to Provide Meal Periods, or Compensation in Lieu Thereof**

9 **California Labor Code §§ 226.7 and 512; and Cal. Code Regs., Title 8 §11050 ¶¶ 7 & 11**

10 **(By Plaintiff and the Plaintiff Class Against All Defendants)**

11 70. Plaintiff hereby re-alleges, and incorporates by reference as though set fully forth
12 herein, the allegations contained above.

13 71. Plaintiffs hereby reallege and incorporate by reference the paragraphs above as though fully
14 set forth herein.

15 72. California Labor Code §§ 226.7 and 512, and Title 8 of the California Code of Regulations §
16 11050, ¶ 11 require Defendants to provide meal periods to Plaintiffs and members of the proposed
17 Class. California Labor Code §§ 226.7 and 512, and Title 8 of the California Code of Regulations §
18 11050, § 11 prohibit employers from employing an employee for more than five hours without a meal
19 period no less than thirty (30) minutes and for more than ten (10) hours without a second meal period.
20 Unless the employee is relieved of all duty during the thirty (30) minute meal period, the employee is
21 considered "on-duty" and the meal or rest period is counted as time worked.

22 73. Defendants do not provide the traveling nurses with meal periods during which they are
23 completely relieved of duty for at least thirty (30) minutes by the fifth hour of work and again by the
24 tenth hour of work.

25 74. Rather, the traveling nurses regularly work twelve (12) hours in a day, and often far more,
26 without the opportunity to take a meal period during which they are relieved of all duty.

27 75. Defendants' policy has been to require the traveling nurses to skip statutorily-mandated meal
28 periods whenever a traveling nurse's assigned patient needs treatment or monitoring, rather than to

1 maintain a system whereby other nurses relieve them at regular intervals throughout the day. Even
2 when the traveling nurses are provided with meal periods, they are subject to interruption to respond
3 to patient treatment needs.

4 76. Defendants have failed to perform their obligations to provide Plaintiffs and Class Members
5 off-duty meal periods by the end of the fifth hour of work and a second meal period by the end of the
6 tenth hour of work. Defendants also have failed to pay Plaintiff and Class Members one (1) hour of
7 pay for each off-duty meal period that they have been denied. Defendants' conduct described herein
8 violates California Labor Code §§226.7 and 512 and Title 8 of the California Code of Regulations
9 §11090. Therefore, Plaintiffs and members of the putative Class are entitled to compensation for
10 Defendants' failure to provide meal periods, plus interest, expenses, and costs of suit pursuant to
11 California Labor Code §§226.7(b) and Title 8 of the California Code of Regulations §11090.

12 **FOURTH CAUSE OF ACTION**

13 **Failure to Provide Rest Periods, or Compensation in Lieu Thereof**

14 **California Labor Code §§ 226.7 and Cal. Code Regs., Title 8 § 11050 ¶ 12**

15 **(By Plaintiff and the Plaintiff Class Against All Defendants)**

16 77. Plaintiff hereby re-alleges, and incorporates by reference as though set fully forth herein, the
17 allegations contained above.

18 78. California Labor Code §226.7 and Title 8 of the California Code of Regulations § 11050, ¶ 12
19 requires Defendants to authorize and permit rest periods to Plaintiffs and members of the proposed
20 Class at the rate of ten minutes net rest time per four hours or major fraction thereof.

21 79. Defendants simply do nothing to authorize or permit such rest periods, even if there were an
22 opportunity to take them.

23 80. 111. To the contrary, the traveling nurses regularly work twelve (12) hours in a day, and often
24 far more, without any realistic opportunity to rest for even ten minutes during a four-hour period or
25 major fraction thereof.

26 81. 112. Defendants' policy has been to require the traveling nurses to skip statutorily-mandated
27 rest breaks whenever a traveling nurse's assigned patient needs treatment or monitoring, rather than
28 to maintain a system whereby other nurses relieve them at regular intervals throughout the day. As a

1 result, the traveling nurses routinely are not authorized and permitted to take rest breaks of at least ten
2 minutes by the end of every fourth hour of work or major fraction thereof.

3 82. 113. Under both California Labor Code § 226.7 and Title 8 of the California Code of
4 Regulations §1150, ¶ 12, an employer must pay an employee who was denied a required rest period
5 one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest
6 period was not provided.

7 83. 114. At all relevant times herein, Defendants have failed to perform their obligations to
8 authorize and permit Plaintiff and Class Members to take rest periods as set forth above. Defendants
9 also failed to pay Plaintiffs and Class Members one (1) hour of pay for each rest period they have been
10 denied. Defendants’ conduct described herein violates California Labor Code §§ 226.7 and Title 8 of
11 the California Code of Regulations §11050. Therefore, Plaintiffs and members of the putative Class
12 are entitled to compensation for Defendants’ failure to authorize and permit rest periods, plus interest,
13 and costs of suit pursuant to California Labor Code §§ 226.7(b), and Title 8 of the California Code of
14 Regulations § 11050.

15 **FIFTH CAUSE OF ACTION**

16 **Failure to Furnish an Accurate Itemized Wage Statement**

17 **In Violation Of California Labor Code § 226**

18 **(by Plaintiff and the Members of the Plaintiff Class against Defendant)**

19 84. Plaintiff hereby re-alleges, and incorporates by reference as though set fully forth herein, the
20 allegations contained above.

21 85. California *Labor Code* § 226(a) sets forth reporting requirements for employers when they pay
22 wages, as follows: “[e]very employer shall ... at the time of each payment of wages, furnish his or her
23 employees ... an accurate itemized statement in writing showing (1) gross wages earned; (2) total hours
24 worked by the employee.... (5) net wages earned, (6) the inclusive dates of the period for which the
25 employee is paid.... (8) the name and address of the legal entity that is the employer... (9) all
26 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
27 at each hourly rate by the employee.” (Emphasis added.) Section (e) provides: “An employee suffering
28 injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a)

1 shall be entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay
2 period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in
3 a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4000), and
4 shall be entitled to an award of costs and reasonable attorney's fees."

5 86. Defendant failed to comply with California *Labor Code* §226(a)(6) it failed to provide
6 compliant itemized wage statements.

7 87. Additionally, Defendant failed to comply with California *Labor Code* §226(a) because the
8 hours that are listed on the wage statement are incorrect and do not include the hours spent procuring
9 items necessary business equipment.

10 88. Plaintiff and Class members were damaged by these failures because, among other things, the
11 failures hindered Plaintiff and Class members from determining the amounts of wages actually owed
12 to them.

13 89. Plaintiff and Class members request recovery of California *Labor Code* § 226(e) penalties
14 according to proof, as well as interest, attorneys' fees and costs pursuant to California *Labor Code* §
15 226(e), in a sum as provided by the Labor Code and/or other statutes.

16 90. Wherefore, Plaintiff requests relief as hereinafter provided.

17 **SIXTH CAUSE OF ACTION**

18 **Waiting Time Penalties**

19 **California Labor Code §§ 201-203**

20 **(By Plaintiff and the Terminated Sub-Class Against All Defendants)**

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

23 92. California Labor Code §201 requires an employer who discharges an employee to pay all
24 compensation due and owing to said employee immediately upon discharge. California Labor Code
25 §202 requires an employer to promptly pay compensation due and owing to said employee within
26 seventy-two (72) hours of that employee's termination of employment by resignation. California
27 Labor Code §203 provides that if an employer willfully fails to pay compensation promptly upon
28 discharge or resignation, as required under California Labor Code §§201-202, then the employer is

1 liable for waiting time penalties in the form of continued compensation for up to thirty (30) work days.

2 93. Plaintiffs and members of the Class have left their employment with Defendants during the
3 statutory period. Defendants willfully failed and refused, and continue to willfully fail and refuse, to
4 timely pay all wages owed to Plaintiffs and to all other proposed Class members whose employment
5 with Defendants has ended or been terminated at any point during the statutory period. As a result,
6 Defendants are liable to Plaintiffs and other formerly employed members of the proposed Class for
7 waiting time penalties, together with interest thereon, attorneys' fees, and costs of suit, under
8 California Labor Code §203.

9 94. Plaintiffs, on behalf of herself and the proposed Class, request waiting time penalties pursuant
10 to California Labor Code §203, plus attorneys' fees and costs, as described below.

11 **SEVENTH CAUSE OF ACTION**

12 **Unfair Competition and Unlawful Business Practices**

13 **California Business and Professions Code §§ 17200, et seq.**

14 **(By Plaintiff and the Plaintiff Class Against All Defendants)**

15 95. Defendants have engaged and continue to engage in unfair and/or unlawful business practices
16 in California in violation of California Business and Professions Code § 17200 et seq., by failing to
17 provide a safe workplace, failing to provide necessary protective equipment failing to comply with
18 the provisions of the California Labor Code.

19 96. 24-Hour willful misclassification and other conduct, as set forth above, violates the California
20 Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq. ("UCL").

21 97. 24-Hour's conduct constitutes unlawful business acts or practices, in that 24-Hour has violated
22 California Labor Code §§ 2802, 200-204, 226, 226.7, 512, 515, 516, 1194, 2804, 6311, 6400, 6401,
23 6401.7, 6402, and 6403. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct
24 alleged herein, Plaintiff for herself and on behalf of the members of the Class, seeks full restitution of
25 monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or
26 converted by the Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

27 98. There were reasonably available alternatives to further Defendants' legitimate business
28 interests, other than the conduct described herein.

1 99. All of the conduct alleged herein occurs and continues to occur in Defendants' business.
2 Defendants' wrongful conduct is part of a pattern or generalized course of conduct repeated on
3 hundreds of occasions daily.

4 100. The acts complained of herein occurred within the last four years immediately
5 preceding the filing of the Complaint in this action.

6 101. Plaintiff was compelled to retain the services of counsel to file this court action to
7 protect her interests and those of the Class, to secure injunctive relief on behalf of Defendants' current
8 employees, and to enforce important rights affecting the public interest. Plaintiff thereby incurred the
9 financial burden of attorneys' fees and costs, which she is entitled to recover under Code of Civil
10 Procedure § 1021.5.

11 **PRAYER**

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

- 14 1. For an order certifying the proposed Class;
- 15 2. For an order appointing Plaintiff as representative of the Class;
- 16 3. For an order appointing Counsel for Plaintiff as Counsel for the Class;
- 17 4. For an order entering judgement for Plaintiff against Defendants;
- 18 5. For compensatory, consequential, general and special damages according to proof;
- 19 6. For an injunction requiring Defendants to conform their practices to the laws of California;
- 20 7. Declaratory Relief;
- 21 8. Entering a preliminary and final injunction to protect workers and the community from
22 transmission including but not limited to:
 - 23 a. Providing sufficient personal protective equipment, including clean masks,
24 to all 24-Hour employees/couriers;
 - 25 b. Creating and implementing a social distancing Plan that will allow workers to
26 remain six feet apart from customers and retailers with whom they must
27 interact;
 - 28 c. Providing handwashing stations and hand sanitizer;

- d. Providing tissues;
- e. Creating and implementing a protocol to clean surfaces;
- f. Training employees on the use of hand sanitizers and on the safety, protocols listed above;
- g. Developing and implementing a plan to test workers showing symptoms and perform contact tracing for those they have been near who could have been exposed;
- h. Providing a date for sampling of inspections by Plaintiff's workplace health and safety expert to determine what additional steps may be required.

9. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code § 2802(b) and Civil Code §§ 3287 and 3289;

10. Penalties pursuant to California *Labor Code* §§ 226, 2802, 510, 1194.2, 1194.5, 512.

11. For attorneys' fees and costs as provided by, *inter alia*, Labor Code § 1194, 226, 2802(c), and Code of Civil Procedure § 1021.5; and

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

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1 DATED: May 19, 2020

BRADLEY/GROMBACHER LLP

2
3 By: 

4 Kiley Lynn Grombacher, Esq.
5 Marcus J. Bradley, Esq.
6 Lirit Ariella King, Esq.
7 Attorneys for Plaintiff

8 **JURY DEMAND**

9 Plaintiff demands a trial by jury on all issues so triable as a matter of right.

10 DATED: May 19, 2020

BRADLEY/GROMBACHER LLP

11 By: 

12 Kiley Lynn Grombacher, Esq.
13 Marcus J. Bradley, Esq.
14 Lirit Ariella King, Esq.
15 Attorneys for Plaintiff