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Attorneys for Plaintiff Nicole Chettero and the Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SONOMA

NICOLE CHETTERO, individually and on behalf of all others similarly situated,

Plaintiff,

vs.

AURORA BEHAVIORAL HEALTHCARE-SANTA ROSA, LLC, d/b/a AURORA SANTA ROSA HOSPITAL; SIGNATURE HEALTHCARE SERVICES, LLC; and DOES 1-20, inclusive,

Defendants.

Case No: SCV-268610
Unlimited Civil Case

COMPLAINT FOR VIOLATIONS OF THE LABOR CODE AND BUSINESS AND PROFESSIONS CODE § 17200, *et seq.*

CLASS AND PRIVATE ATTORNEYS GENERAL ACT ACTION

DEMAND FOR JURY TRIAL

COMPLEX

Plaintiff Nicole Chettero ("Plaintiff"), on behalf of herself and all others similarly situated, and on behalf of herself and other aggrieved employees as defined herein, complains and alleges against Defendant Aurora Behavioral Healthcare-Santa Rosa, LLC, which does business as Aurora Santa Rosa Hospital ("Aurora"); Signature Healthcare Services, LLC ("Signature"); and Does 1-20, inclusive (collectively "Defendants") as follows:

INTRODUCTION

1. This is a class and Private Attorneys General Act ("PAGA") action against the owners and operators of Aurora Santa Rosa Hospital, a 95-bed mental health treatment center for adolescents and adults in Santa Rosa, California. Plaintiff brings this class action on behalf of herself and a Class comprised of all non-exempt registered nurses ("RNs"), licensed vocational nurses ("LVNs"), licensed psychiatric technicians ("LPTs"), and mental health workers ("MHWs"), who worked at Aurora Santa Rosa Hospital at any time during the period starting on July 21, 2016 and ending on the date of class certification (the "Class Period"). As a PAGA labor code enforcement action, Plaintiff brings this case on behalf of the State of California and aggrieved employees who worked in the above-mentioned job positions during the applicable PAGA liability period.

2. Since the start of the Class Period and continuing through to the present, Plaintiff and members of the Class regularly performed work for which they have not been compensated. They have also performed work during or otherwise skipped or delayed taking meal and rest periods. Though Aurora purports to have policies against such behavior, Aurora actually creates the conditions that ensure this outcome, effectively ratifying the wanton violation of California law designed to protect nurses, and thus, their patients.

3. Plaintiff and members of the Class have been forced to miss meal and rest breaks due to Aurora's policy of chronically understaffing the hospital, leaving Plaintiff and Class members unable to take breaks due to the necessity of providing care to their patients.

4. As set forth herein, Aurora's policies and practices violate the California Labor Code and constitute unlawful, unfair and fraudulent business acts and practices under Business & Professions Code section 17200, *et seq.*, in that they have allowed Defendants to gain an unfair

competitive advantage over their competitors while depriving Plaintiff and members of the Class money and property.

5. Plaintiff seeks full restitution and compensation on behalf of herself and all others similarly situated for unpaid wages, including meal and rest period premiums, penalties and interest. Plaintiff also seeks injunctive and declaratory relief, and reasonable attorneys' fees and costs under the Labor Code and California Code of Civil Procedure § 1021.5.

PARTIES

6. Plaintiff NICOLE CHETTERO is an individual over the age of eighteen (18) and at all relevant times a resident of Sonoma County, California. Plaintiff Chettero worked for Aurora from February 2018 to March 2018 as a Mental Health Worker. Once her nursing license in California was activated in March 2018, Plaintiff worked as a registered nurse for Aurora until her resignation in January 2020.

7. Defendant AURORA BEHAVIORAL HEALTHCARE-SANTA ROSA, LLC is a limited liability company located in Santa Rosa, California. It operates a 95-bed acute psychiatric hospital for adolescents and adults in Santa Rosa.

8. Defendant SIGNATURE HEALTHCARE SERVICES, LLC is a Michigan-based limited liability company with its principal place of business in Troy, Michigan. It is the sole owner of Defendant AURORA BEHAVIORAL HEALTHCARE-SANTA ROSA, LLC.

9. Does 1 through 20, inclusive, are sued pursuant to California Code of Civil Procedure § 474. Plaintiff is ignorant of the true names or capacities of these defendants, and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes that each of the fictitiously-named Doe defendants, including any such defendants that may be the agents, representatives, or parents or subsidiary corporations of the named defendants, is responsible in some manner for the occurrences, events, transactions, and injuries alleged herein and that the harm suffered by Plaintiff was proximately caused by them in addition to Defendants.

10. Plaintiff is informed and believes and thereon alleges that each of the Defendants, including the Doe defendants, acted in concert with each and every other defendant, intended to

and did participate in the events, acts, practices, and courses of conduct alleged herein, and was a proximate cause of damage and injury thereby to Plaintiff as alleged herein.

11. Plaintiff is informed and believes and thereon alleges that with respect to the employment policies at issue in this case defendants and each of the Doe defendants participated in a single integrated or joint enterprise.

12. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned Defendants and each of the Doe defendants are Plaintiff's employer(s), and/or agents, servants, employees, partners, joint venturers, alter egos, aiders and abettors, and/or co-conspirators of one or more of their co-defendants, and, in committing the acts alleged herein, were acting within the course and scope of said agency, employment, partnership, joint venture, and/or conspiracy, or were aiding and abetting their co-defendants.

JURISDICTION AND VENUE

13. Venue is proper in this Court because this case involves issues of state law and all Defendants conduct substantial and continuous commercial activities in Sonoma County. Defendant AURORA BEHAVIORAL HEALTHCARE-SANTA ROSA, LLC maintains its principal place of business in Sonoma County.

FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS

14. Plaintiff worked for Defendants as a Mental Health Worker from approximately February 2018 to March 2018 and then as a registered nurse from approximately March 2018 until January 2020.

15. In May 2018, Defendants conducted an election for an alternative workweek schedule for registered nurses.[1] Prior to that election, registered nurses worked eight-hour shifts.

16. Following the adoption of an alternative workweek, Plaintiff typically worked three, 12-hour shifts per week and was eligible for overtime for hours worked beyond 12 hours. She was also entitled to two meal periods per shift, and three, 10-minute paid rest periods.

[1] *See* https://www.dir.ca.gov/databases/oprl/DLSR-AWE.ASP?Company+Name=aurora&Address=&City=&county=&State=&ZIP=&Date+of+Election=&sortfield= (last visited June 11, 2021).

17. Plaintiff was responsible for the care of patients at the hospital.

18. Defendants are required to provide sufficient licensed and unlicensed staff in order to meet the acuity needs of patients. Plaintiff was regularly in charge of far more patients, and was often responsible for the primary care of as many as 19 patients. By way of contrast, at medical-surgical hospitals that have psychiatric units – where patients are similarly or less acute than the patients at Defendants' hospital – the law requires that the staffing ratio should not exceed six patients to one registered nurse.

19. In order for Plaintiff and other Class members to receive a break, they had to be relieved by another individual. Because Plaintiff and Class members are licensed, they could only be relieved by other licensed professionals who were allowed to assume care for the patient. In the case of a registered nurse (RN) such as Plaintiff, a break would usually need to be provided by another registered nurse as regulations require that there be at least one RN on the unit at all times.

20. Defendants employed registered nurses to act as the "charge nurse" for a hospital unit. A charge nurse is responsible for overseeing all patient care on the unit, including patient assessments, planning and documenting patient care, and coordinating the work of other nursing personnel in their unit. Defendants also expect a charge nurse to ensure that patient care is covered by appropriate staff when staff take breaks.

21. Defendants' policy was to assign certain registered nurses or licensed vocational nurses or licensed psychiatric technicians to act in the role of "medication nurse" during shifts if the number of patients exceeded a certain threshold. If the threshold was not reached, the charge nurse was solely responsible for medication administration.

22. The medication nurse was responsible for administering medication for all patients in the unit, although they also technically had certain primary care duties. Because many patients at the hospital are in acute psychiatric distress, most patients are medicated and the responsibilities of the medication nurse are time consuming. As a result, it is difficult for one nurse to serve as both the medication nurse and the primary nurse for certain patients.

23. Defendants relied heavily on unlicensed mental health workers to provide direct care and monitoring. Mental Health Workers provided general nursing assistance under the

direction of licensed nurses. They provided all around monitoring and observations. Mental Health Workers were tasked with supervising patients at the Hospital, assisting patients in their daily life activities, escorting them from place to place onsite and taking patients to offsite appointments. Oftentimes Mental Health Workers were occupied with one patient requiring a higher level of care and observation, although they were also expected to monitor and work with groups of patients.

24. Defendants' understaffing made it extremely difficult for Mental Health Workers to assist one another in a timely manner, as they – like other Nursing personnel – were often placed in a position of either leaving certain patients without adequate care and monitoring or not assisting or relieving other staff.

25. Defendants are responsible for hiring and scheduling sufficient staff, including "break nurses" to ensure that there are appropriate staff available to be assigned to relieve other staff. For example, sufficient "break nurses" who are RNs are supposed to be scheduled to ensure that all RNs get appropriate and lawful breaks during a shift. Defendants failed to do so.

26. Every single role was chronically understaffed at Aurora. Staffing was determined by adherence to tight staffing budgets, and without enough staff to draw from to meet State law requirements for staffing to acuity, and without enough staff to provide break relief. At all times, staffing budgets and policies emanated from, were controlled by, and were monitored by Signature. Plaintiff alleges on information and belief that Defendants' staffing policies were motivated by labor costs and the desire to maximize profits even though it knew or should have known the staffing was insufficient to comply with the requirements of the Labor Code.

27. As a matter of Hospital policy, Class members were not permitted to leave their patient care and patient monitoring duties without being relieved first by another, appropriately licensed or trained staff member. Defendants required Plaintiff and Class members to do a "hand off" to relief staff so that the needs of the patients were communicated and known to the relief staff before Plaintiff and Class members could take a break. As a matter of Hospital policy, Plaintiff and Class members would be subject to discipline, including termination, for leaving their responsibilities for patient care and monitoring without being covered by appropriate relief staff.

28. Defendants did not provide sufficient relief staff.

29. Because of these requirements and Defendants' chronic understaffing of Aurora, Plaintiff regularly worked without breaks. Often, there were no "break nurses" on duty who could relieve Plaintiff of her duties or the "break nurses" who were on duty were too busy assisting in an understaffed or high acuity unit to provide break relief.

30. Defendants' barebones staffing ratios were inadequate because of factors well known to Defendants, such as staff injuries and illnesses and changes in patient acuity that could occur at any point during a shift. Defendants were well aware that the lack of enough dedicated break or float staff deprived Plaintiff and Class members of the opportunity to take breaks because a unit could start a shift with sufficient staff and become understaffed during the shift due to changes in acuity. These changes include circumstances such as when a patient required seclusion or restraint, when a patient's level of observation changed from 15-minute checks to one-on-one supervision mid-shift, or when a patient needed to be accompanied off-site to the emergency room.

31. Sometimes there were two nurses assigned to a unit. One of the nurses, however, was assigned to work as a "medication nurse." "Medication nurses" did not perform the charting duties, and so this work would fall to "charge nurses" like Plaintiff. Given the acuity of care necessary for patients – most patients were heavily medicated for serious psychological and psychiatric conditions – the "medication nurse" was fully-engaged in the dispensing of medication. The consequence of these staffing decisions was that Plaintiff would be responsible for all the charting and all the other needs of as many as 19 patients at a time.

32. Defendants knew or should have known that its chronic understaffing made it impossible for Plaintiff and Class members to have the opportunity to take lawful meal and rest breaks. In spite of Defendants' knowledge, however, Defendants had a common practice against paying meal and rest break premiums. Defendants seldom, if ever, paid premium wages to Plaintiff and Class members despite its awareness that breaks were not provided during lengthy, 12-hour shifts. Defendants even criticized Plaintiff in a performance review for missing meal breaks, reflecting their knowledge of the problem and the punitive Hospital culture that blamed the staff for the Hospital's own understaffing.

33. In short, as a matter of classwide and centralized staffing and budgeting policies,

Defendants did not schedule a sufficient number of licensed or unlicensed staff to allow breaks to be taken by Plaintiff or other Class members.

CLASS ACTION ALLEGATIONS

34. Pursuant to California Code of Civil Procedure § 382 Plaintiff seeks to represent the following Class:

> All non-exempt registered nurses, licensed vocational nurses, licensed psychiatric technicians, and mental health workers who worked at Aurora Santa Rosa Hospital at any time during the period starting on July 21, 2016 and ending on the date of class certification.

35. This action may properly be maintained as a class action pursuant to California Code of Civil Procedure § 382 because the Class consists of numerous persons who share factual and legal questions that are common, there is a well-defined community of interest in the litigation, and the Class is manageable in that certification would produce substantial benefits to both the litigants and the Court.

36. Numerosity. The Class is so numerous that joinder of all members is impracticable. Plaintiff is informed and believes, and on that basis alleges, that there are hundreds of individuals in the Class.

37. Typicality. Plaintiff's claims are typical of Class members' claims. Plaintiff, like other Class members, was subjected to Defendants' policies and practices that violated California law. Plaintiff was not provided lawful meal and rest periods, and was subject to the same violations of the Labor Code. Plaintiff's claims were and are typical of those of the Class members.

38. Adequacy. Plaintiff will fairly and adequately represent and protect the interests of the Class members. Plaintiff's counsel are experienced in complex, employment class actions and will fairly and adequately represent and protect the interests of the Class members.

39. Predominance. Common questions of law and fact exist as to members of the Class that predominate over any individualized questions, including the following:

(a) Whether Defendants compensated Plaintiff and members of the Class for all hours worked;

(b) Whether Defendants provided Plaintiff and members of the Class meal and rest

periods as required by California law or otherwise provided them with premium wages;

(c) Whether Defendants failed to pay Plaintiff and members of the Class all wages due upon the end of their employment;

(d) Whether Defendants provided Plaintiff and members of the Class accurate wage statements showing all hours worked;

(e) Whether Defendants engaged in unfair competition proscribed by the Business and Professions Code by engaging in the conduct described hereinabove as to members of the Class;

(f) The measure of restitution and damages to compensate Plaintiff and members of the Class for the violations alleged herein;

40. Superiority. Class treatment would benefit the courts and Class members. Certification of the Class would provide substantial benefits to the courts and Class members. The damages suffered by individual Class members are relatively small compared to the significant expense and burden of individual prosecution of this litigation. In addition, class certification will obviate the need for unduly duplicative litigation which might result in inconsistent judgments about Defendants' practices.

41. Community of interest. Plaintiff and the Class share a community of interest in the outcome of this action and the advancement of their rights under the California Labor Code. Plaintiff is a member of the Class and does not have any conflict of interest with other Class members.

42. The exact number and identity of the Class members are readily ascertainable through inspection of Defendants' records.

FIRST CAUSE OF ACTION
Failure to Provide Meal Periods
(On behalf of the Class against All Defendants)
(California Labor Code §§ 226.7(a), 512(a), 516; Cal. Code Regs., tit. 8, § 11050(11))

43. Plaintiff re-alleges and incorporates by reference the allegations contained in the preceding paragraphs as though fully set forth herein.

44. Section 11(A) of Wage Order 5-2001 (Cal. Code Regs., tit. 8, § 11050(11)(A)) reiterates the legislative mandate set out in Labor Code § 512, subdivision (a), and provides that "[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes." During such a meal period, the employee is to be relieved of all duty such that they can freely attend to personal pursuits, including leaving the job site for 30 minutes.

45. Since the start of the Class Period and continuing to the present, Plaintiff and members of the Class worked shifts of six hours or longer. Plaintiff and members of the Class were subject to a policy that resulted in chronic understaffing at the hospital and made it impossible to take a break without abandoning their patient responsibilities. By virtue of Aurora's staffing policies, Defendants have impeded, discouraged, and/or dissuaded Plaintiff and members of the Class from taking meal periods.

46. Section 11(D) of Wage Order 5-2001 (Cal. Code Regs., tit. 8, § 11050(11)(D)) provides that "[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the meal period was not provided." This parallels the requirement in Labor Code § 226.7, subdivision (b), that an employee be paid one additional hour of pay at the employee's regular rate of compensation for each work day that a legal meal period is not provided.

47. Under Wage Order 5-2001 and Labor Code § 226.7, subdivision (b), Plaintiff and members of the Class are entitled to one hour of pay at their regular rate for each shift during which they were not provided "off duty" 30-minute meal periods.

48. Plaintiff and members of the Class have been deprived of their rightfully earned compensation for missed or untimely off-duty meal periods as a direct and proximate result of Defendants' policies and failure and refusal to pay that compensation. Plaintiff and members of the Class are entitled to recover such amounts that have been withheld including interest and attorneys' fees and costs, and civil penalties.

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SECOND CAUSE OF ACTION
Failure to Provide Rest Periods
(On behalf of the Class against All Defendants)
(California Labor Code §§ 226.7(a), 516; Cal. Code Regs., tit. 8, § 11050(12))

49. Plaintiff re-alleges and incorporates by reference the allegations contained in the preceding paragraphs as though fully set forth herein.

50. Section 12(A) of Wage Order 5-2001 (Cal. Code Regs., tit. 8, § 11050(12)(A)) provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period." The authorized rest period time "shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof." During such a rest period, the employee is to be relieved of all duty.

51. Since the start of the Class Period and continuing to the present, Plaintiff and members of the Class worked shifts of four hours or longer. Plaintiff and members of the Class were subject to a corporate culture that caused them to do whatever it took to service customers and succeed within Aurora, which meant skipping or delaying rest periods. By virtue of Aurora's culture, Defendants have impeded, discouraged, and/or dissuaded Plaintiff and members of the Class from sometimes taking timely rest periods.

52. Section 12(B) of Wage Order 5-2001 (Cal. Code Regs., tit. 8, § 11050(12)(B)) provides that "[i]f an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period was not provided." This parallels the requirement in Labor Code § 226.7, subdivision (b), that an employee be paid one additional hour of pay at the employee's regular rate of compensation for each work day that a legal rest period is not provided.

53. Under Wage Order 5-2001 and Labor Code § 226.7, subdivision (b), Plaintiff and members of the Class are entitled to one hour of pay at their regular rate for each shift during which they were not provided rest periods.

54. Plaintiff and members of the Class have been deprived of their rightfully earned

compensation for missed or untimely rest periods as a direct and proximate result of Defendants' policies and failure and refusal to pay that compensation. Plaintiff and members of the Class are entitled to recover such amounts that have been withheld including interest and attorneys' fees and costs, and civil penalties.

THIRD CAUSE OF ACTION
Failure to Provide Accurate Wage Statements
(On behalf of the Class against All Defendants)
(California Labor Code § 226)

55. Plaintiff re-alleges and incorporates by reference the allegations contained in the preceding paragraphs as though fully set forth herein, and further alleges as follows:

56. Labor Code § 226 requires that Defendants provide Plaintiff and the members of the Class with timely and accurate statements showing, *inter alia*, gross wages earned and total hours worked, all applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate by the employee.

57. The Division of Labor Standards and Enforcement ("DLSE") has stated that "[t]he purpose of the wage statement requirement is to provide transparency as to the calculation of wages." DLSE, Opinion Letter (July 6, 2006), p. 2. Accordingly, "a complying wage statement accurately reports most of the information necessary for an employee to verify if he or she is being properly paid in accordance with the law and that deductions from wages are proper."

58. During the Class Period, the wage statements for Plaintiff and members of the Class have not included all the time they spent working, including the time they spent working through meal periods, for which they were not paid.

59. Defendants have failed to provide Plaintiff and members of the Class accurate wage statements showing all the hours worked and the wages earned. Plaintiff and members of the Class have been injured by Defendants' failure to include all wages earned on each wage statement because Plaintiff and members of the Class were not able to verify that they were paid the proper amount.

60. Plaintiff and members of the Class have been injured by the failure of Defendants to furnish lawful wage statements, because in order to determine whether they were paid correctly,

Plaintiff and members of the Class must conduct mathematical calculations. The need to conduct such calculations is contrary to the requirements of Labor Code § 226, subdivision (e).

61. At all times during the Class Period, Defendants knew or should have known that Plaintiff and members of the Class were entitled to accurate and complete wage statements and that Plaintiff and members of the Class were working more hours than reflected on their wage statements. Defendants also knew or should have known that they were denying Plaintiff and members of the Class meal and rest periods and/or denying Plaintiff and members of the Class premium wages for meal/rest period violations. Despite this, Defendants did not supply Plaintiff and members of the Class with complete and accurate wage statements showing all hours worked, the corresponding hourly rate, and all wages earned.

62. As a consequence of Defendants' actions, Plaintiff and members of the Class have been injured and are entitled to all available statutory and civil penalties, costs and reasonable attorneys' fees, including those provided in Labor Code § 226, subdivision (e). Plaintiff also seeks an injunction pursuant to Labor Code § 226, subdivision (g), to ensure compliance with the requirements of § 226 and to enjoin Defendants' unlawful conduct.

FOURTH CAUSE OF ACTION
Waiting Time Penalties
(On behalf of the Class against All Defendants)
(California Labor Code §§ 201-203)

63. Plaintiff re-alleges and incorporates by reference the allegations contained in the preceding paragraphs as though fully set forth herein, and further alleges as follows:

64. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with California Labor Code §§ 201, 201.5, 202 and 205.5, any wages of an employee who is discharged or who resigns, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid up to a maximum of thirty (30) days.

65. Defendants had and continue to have a consistent and uniform policy, practice and procedure of willfully failing to pay members of the Class, including Plaintiff, at the termination of their employment their earned wages owed for all work performed, in violation of California

Labor Code §§ 201 and 202.

66. Certain members of the Class are no longer still employed by Defendants in that they were either discharged from or resigned from Defendants' employ.

67. Defendants willfully failed to pay Class Members who left their employ a sum certain for earned wages, at the time of their termination or within seventy-two (72) hours of their resignation. Defendants knew or should have known that wages were due, but nevertheless failed to pay them.

68. Members of the Class who left Defendants' employ are entitled to penalties pursuant to California Labor Code § 203, in the amount of each person's daily wage, multiplied by thirty (30) days.

FIFTH CAUSE OF ACTION
Unfair Competition
(On behalf of the Class against All Defendants)
(Cal. Bus. & Prof. Code § 17200)

69. Plaintiff re-alleges and incorporates by reference the allegations contained in the preceding paragraphs as though fully set forth herein, and further alleges as follows:

70. The Unfair Competition Law ("UCL"), California Business & Professions Code § 17200, *et seq.*, prohibits unfair competition in the form of any unlawful, unfair or fraudulent business acts or practices. The UCL provides that a Court may enjoin acts of unfair competition, and order restitution to affected members of the public.

71. Since the start of the Class Period and continuing to the present, Defendants have committed acts of unfair competition as defined by the UCL, by engaging in the unlawful, unfair and fraudulent business practices and acts described in this Complaint, including, but not limited to:

(a) Failing to maintain accurate records showing daily hours worked and wages paid, in violation of Labor Code § 1174, subdivision (d) and Wage Order 5-2001, Cal. Code Regs., tit. 8, § 11050, subdivision (7), which imposes a requirement on all employers to "keep accurate information with respect to each employee," including "[t]ime records showing when the employee begins and ends each work period" as

well as "total daily hours worked."

(b) Failing to provide Plaintiff and members of the Class meal and rest periods during which they were relieved of all duty, in violation of Labor Code §§ 226.7 and 512, and Wage Order 5-2001;

(c) Failing to provide Plaintiff and members of the Class with accurate wage statements showing all hours worked, the corresponding hourly rate, and wages earned, in violation of California Labor Code § 226; and

(d) Failing to pay all accrued wages and other compensation due immediately to each member of the Class who was terminated or within 72 hours to each member of the Class who resigned, in violation of California Labor Code § 203.

72. The violations of these laws and regulations, as well as of the fundamental California public policies protecting wages and safe and healthy working conditions underlying them, serve as unlawful predicate acts and practices for purposes of Business and Professions Code § 17200, *et seq*.

73. The acts and practices described above constitute unfair, unlawful and fraudulent business practices, and unfair competition, within the meaning of Business and Professions Code § 17200 *et seq*. Among other things, the acts and practices have taken from Plaintiff and the Class wages rightfully earned by them, while enabling Defendants to gain an unfair competitive advantage over law-abiding employers and competitors.

74. Business and Professions Code § 17203 provides that a court may make such orders or judgments as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition. Injunctive relief is necessary and appropriate to prevent Defendants from repeating its unlawful, unfair and fraudulent business acts and business practices alleged above. If Defendants are not enjoined from this conduct, they will continue to engage in these unlawful practices. Monetary compensation alone will not afford adequate and complete relief to Plaintiff and members of the Class because it is impossible to determine the amount of damages that will compensate for Defendants' actions in the future if such actions are not enjoined now. Thus, without injunctive relief, a multiplicity of actions will result from Defendants'

continuing conduct.

75. As a direct and proximate result of the aforementioned acts and practices, Plaintiff and members of the Class have suffered a loss of money and property, in the form of unpaid wages that are due and payable to them.

76. Business and Professions Code § 17203 provides that the Court may restore to any person in interest any money or property that may have been acquired by means of such unfair competition. Plaintiff and members of the Class are entitled to restitution pursuant to Business and Professions Code § 17203 for all wages and payments unlawfully withheld from employees since the start of the Class Period.

77. Business and Professions Code § 17202 provides: "Notwithstanding Section 3369 of the Civil Code, specific or preventive relief may be granted to enforce a penalty, forfeiture, or penal law in a case of unfair competition." Plaintiff and members of the Class are entitled to enforce all applicable penalty provisions of the Labor Code pursuant to Business and Professions Code § 17202.

78. Plaintiff requests that the Court issue a preliminary and permanent injunction requiring Defendants to advise all Class members of their rights pursuant to the California Labor Code and Wage Order 5-2001, and to provide Plaintiff and members of the Class all applicable benefits afforded by California's Labor Code and Wage Order 5-2001, including but not limited to (a) payment of all wages earned for all hours worked; (b) payment of all premium wages earned for improper meal and rest periods; (c) provision of accurate wage statements; and (d) payment of all wages earned upon termination of employment.

79. Plaintiff's success in this action will enforce important rights affecting the public interest and in that regard Plaintiff sues on behalf of herself as well as others similarly situated. Plaintiff and members of the Class seek and are entitled to unpaid wages, declaratory and injunctive relief, and all other equitable remedies owing to them.

80. Plaintiff herein takes upon herself enforcement of these laws and lawful claims. There is a financial burden involved in pursuing this action, the action is seeking to vindicate a public right, and it would be against the interests of justice to penalize Plaintiff by forcing her to

pay attorneys' fees from the recovery in this action. Attorneys' fees are appropriate pursuant to Code of Civil Procedure § 1021.5 and otherwise.

SIXTH CAUSE OF ACTION
Private Attorneys General Act
(On behalf of the Aggrieved Employees against All Defendants)
(Cal. Labor Code § 2698 et seq.)

81. Plaintiff incorporates by reference as though fully set forth herein the preceding paragraphs of this Complaint.

82. Plaintiff is an "aggrieved employee," as that term is defined in Labor Code section 2699(a), and Plaintiff therefore brings this action on behalf of herself, all other aggrieved employees, and the State of California.

83. Pursuant to Labor Code section 2699.3(a), prior to filing this Complaint, on December 31, 2020, Plaintiff gave written notice by certified mail to Defendants and online to the Labor and Workforce Development Agency ("LWDA") of the factual and legal bases for the Labor Code violations alleged in this Complaint. See **Exhibit A**. On January 7, 2021 Plaintiff made a minor amendment and duly filed and served the amended notice letter. See **Exhibit B**. The LWDA has not issued any citations related to the violations alleged. Therefore, Plaintiff has exhausted her administrative remedies and is entitled to proceed as a private attorney general on behalf of herself and all other current and former aggrieved RNs, LVNs, LPTs and MHWs who worked or will work in Aurora Santa Rosa Hospital.

84. Pursuant to Labor Code sections 2699(a) and 2699.5, Plaintiff is entitled to recover all applicable civil penalties for each of the Labor Code violations on behalf of herself and all aggrieved employees pursuant to Labor Code section 2699(f)(2), as pled in the attached Exhibits A and B, whose contents are incorporated by reference here.

85. Plaintiff is entitled to recover civil penalties for the Labor Code violations identified above and in Exhibits A and B. Pursuant to Labor Code section 2699(i), 25% of all civil penalties recovered pursuant to this cause of action shall be payable to Plaintiff and other aggrieved employees.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for relief as follows:

1. Declaratory relief as pled or as the Court may deem proper;

2. Preliminary, permanent and mandatory injunctive relief prohibiting Defendants, their officers, agents and all those acting in concert with them, from committing in the future those violations of law herein alleged;

3. Equitable accounting to identify, locate and restore to all current and former employees the wages they are due, with interest thereon;

4. Award Plaintiff and the Class compensatory damages, including lost wages and all other sums of money owed to Plaintiff and Class Members, together with interest on these amounts, according to proof;

5. Award of statutory and civil penalties pursuant to the Labor Code in amounts according to proof;

6. Award of pre-judgment and post-judgment interest on all monetary amounts awarded in this action, as provided by law;

7. Award of reasonable attorneys' fees as provided by the Labor Code, Code of Civil Procedure § 1021.5, and all other applicable law;

8. All costs of suit as provided by the Labor Code, Code of Civil Procedure § 1021.5, and all other applicable law; and

9. For such other and further relief as this Court deems equitable, just and proper.

Respectfully submitted,

Dated: June 14, 2021

OLIVIER SCHREIBER & CHAO LLP
VALERIAN LAW, P.C.

By: 

Xinying Valerian

Attorneys for Plaintiff NICOLE CHETTERO and the Proposed Class

DEMAND FOR JURY TRIAL

Plaintiff hereby requests a jury trial on all claims so triable.

Dated: June 14, 2021

OLIVIER SCHREIBER & CHAO LLP
VALERIAN LAW, P.C.

By: _____
Xinying Valerian

Attorneys for Plaintiff NICOLE CHETTERO and the Proposed Class

EXHIBIT A

December 31, 2020

VIA ONLINE FILING
Labor and Workforce Development Agency
Department of Industrial Relations

Re: Private Attorney General Act – Notice of Labor Code and Wage Order Violations Committed by Aurora Behavioral Healthcare – Santa Rosa, LLC and Signature Healthcare Services, LLC

Dear Labor and Workforce Development Agency:

This is a notification letter, pursuant to the Private Attorney General Act, California Labor Code § 2698 *et seq.*, concerning violations of the Labor Code committed by Aurora Behavioral Healthcare – Santa Rosa, LLC ("Aurora") and its corporate parent, Signature Healthcare Services, LLC ("Signature") (collectively "Defendants").

The undersigned counsel submit this letter on behalf of aggrieved employee Nicole Chettero ("Chettero") to inform the LWDA and Defendants of Chettero's intention to pursue a Private Attorney General Act (PAGA) action on behalf of the State of California for Labor Code and Wage Order violations experienced by all aggrieved employees who work or worked or will work for Defendants at Aurora Santa Rosa Hospital in Santa Rosa from the date that is one year before the date of this letter through the date of judgment. All current and former non-exempt employees in Aurora's nursing department, including but not limited to registered nurses ("RNs"), licensed vocational nurses ("LVNs"), licensed psychiatric technicians ("LPTs"), and mental health workers ("MHWs"), are potentially aggrieved employees. This notice is intended to cover all ongoing and continuing violations experienced by non-exempt employees working for Defendants in Santa Rosa, California.

I. The Parties

Aurora is a limited liability company located in Santa Rosa, California that does business as Aurora Santa Rosa Hospital. It operates an in-patient and out-patient acute psychiatric facility for adolescents and adults in Santa Rosa. Signature is a Michigan-based limited liability company with its headquarters in Troy, Michigan and its Central Business Office in Southern California. The two entities are joint, single, and integrated enterprise employers of the non-exempt employees.

While Aurora's day to day operations are managed by an on-site management team, an executive team at Signature provides centralized oversight and direction for Aurora by setting the budget, approving expenses, setting wages, fringe benefits, and working conditions, and setting operational and clinical policies. Signature directly runs Aurora by virtue of its financial and operational control, by virtue of the fact that it employs Aurora's Chief Executive Office and Chief Financial Officer, and by virtue of its control and direction in all aspects of Aurora's hospital operations. Each Defendant LLC is controlled by the same, single managing member, Dr. Soon

Kim, who owns 100% of each LLC.

Chettero worked for Defendants at their Santa Rosa acute psychiatric hospital as a mental health worker from February 2018 to March 2018 and as a registered nurse from March 2018 until her resignation in January 2020.

II. Failure to Provide Employees with Meal Breaks and Rest Periods, and to Pay Premium Wages for Late, Short and Missed Meal and Rest Periods, as Required by Cal. Lab. Code Sections 512, 226.7, and 1198 and IWC Wage Order No. 5-2001.

Defendants are bound by California law to ensure that patients at the Hospital are cared for by a sufficient number of licensed and unlicensed staff to meet the needs of acute psychiatric patients. Defendants are also bound by state, federal and accreditation requirements to at all times maintain sufficient on-duty licensed and unlicensed staff to provide patient care, monitoring, and treatment. Every role in the nursing department (including RN, LVN, LPT, and MHW) was chronically understaffed at Aurora. Defendants' barebones staffing ratios were exacerbated by ordinary work-related staffing issues, such as illnesses. For example, during Chettero's employment, only one or two licensed nurses were assigned to cover up to 19 patients. Understaffing was caused by Defendants' staffing budget, which relied on low ratios of staff to patients. At all times, staffing budgets and policies emanated from, was controlled by, and was monitored by SHS.

As a matter of hospital policy, in order for RNs, LVNs, LPTs, and MHWs at Aurora to receive a break, they had to be relieved by a qualified staff member. For licensed nurses, the regulations and ethics of their profession – in addition to Hospital policy, also prevented them from leaving their posts and going on break without being relieved by another qualified licensed nurse.

As a result of Defendants' chronic understaffing and meager staffing budget, there were regularly insufficient qualified staff members on duty to relieve RNs, LVNs, LPTs, and MHWs of their duties so that they could take lawful meal and rest breaks. Defendants did not provide sufficient (or at all) dedicated float or break relief staff members. Consequently RNs, LVNs, LPTs, and MHWs at Aurora, including Chettero, regularly worked without timely, full, and uninterrupted meal and rest periods in violation of the California Labor Code and Industrial Welfare Commission Wage Orders (Cal. Lab. Code §§ 512, 226.7; IWC Order No. 5-2001, § 12).

Defendants knew or should have known that its chronic understaffing commonly made it impossible for RNs, LVNs, LPTs, and MHWs to take lawful meal and rest breaks. In spite of Defendants' knowledge, however, Defendants had a common policy and practice against paying meal and rest break premiums. Defendants seldom, if ever, paid premium wages of any kind to Chettero and other RNs, LVNs, LPTs, and MHWs despite their awareness that lawful meal and rest breaks were not provided.

Missed, late or shortened breaks typically went unreported because the Defendants

discouraged non-exempt employees from accurately recording missed, late or truncated meal periods in order to save the hospital money – i.e., to minimize premium wage payments for missed meal periods. Defendants' policies recognized only fully missed meal periods as a theoretically reportable event, and even those Defendants tried to underreport. Employees who did not receive lawful meal breaks were commonly told to clock in and out as if they had a full 30 minute break, or instructed to fill out Time Adjustment Forms indicating they had 30 minute meal breaks that they did not actually have. In addition, Defendants falsified electronic time records to show lawful or timely 30-minute meal breaks that were not actually provided.

III. Failure to Provide Accurate Wage Statements as Required by Cal. Lab. Code § 226

Labor Code § 226 requires that Defendants provide non-exempt employees with timely and accurate statements showing, *inter alia*, gross wages earned and total hours worked, all applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate by the employee. In violation of Labor Code § 226, the wage statements Defendants provided to non-exempt employees have not included all gross wages earned due to omission of rest period and meal period premium wages earned and have not included all work time due to inaccurate or falsified records of work time. In addition, Defendants' wage statements do not permit employees to promptly and easily determine the total hours worked and the hours subject to meal period and rest period premiums in violation of Labor Code § 226(e).

As a result of all foregoing allegations Defendants have knowingly and intentionally issued inaccurate and incomplete wage statements to non-exempt employees.

IV. Failure to Pay All Earned Wages Upon Separation from Employment as Required by Cal. Lab. Code §§ 201, 202, 203

Labor Code § 201(a) provides: "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code § 202(a) provides: "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting." California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with California Labor Code §§ 201, 201.5, 202 and 205.5, any wages of an employee who is discharged or who resigns, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid up to a maximum of thirty (30) days.

Defendants had and continue to have a consistent and uniform policy, practice and procedure of willfully failing to pay non-exempt employees, including Chettero, at the termination of their employment their earned wages owed for all work performed, including compensation for all hours worked and premium wages for missed meal periods and rest periods, in violation of California Labor Code §§ 201, 202, and 203.

V. Failure to Keep Accurate Payroll Records of Daily Hours Worked as Required by Cal. Lab. Code § 1174(d) and § 1198, and Wage Order 5-2001

Under Labor Code § 1174(d), employers must keep "payroll records showing the hours worked daily by and the wages paid to . . . employees [. . .]." Under Wage Order 5-2001, Cal. Code Regs., tit. 8, § 11050, subdivision (7), employers must "keep accurate information with respect to each employee," including "[t]ime records showing when the employee begins and ends each work period" as well as "total daily hours worked."

As a result of all foregoing allegations Defendants violated these requirements and failed to maintain accurate records showing the complete and true total time non-exempt employees spent working and accurate start and end times to work periods.

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Upon information and belief, the foregoing conditions, practices, and policies persist today at Aurora Santa Rosa Hospital.

Chettero provides this notice to the LWDA and Defendants pursuant to California Labor Code § 2699.3. Chettero intends to recover civil penalties for all violations of the Labor Code and IWC Wage Order No. 5-2001 applicable to non-exempt employees who work or worked or will work in Aurora Santa Rosa Hospital from the date that is one year before the date of this letter through the date of judgment.

Thank you for your attention to this matter.

Sincerely,

/s/ Xinying Valerian, Esq.
VALERIAN LAW, P.C.
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Albany, CA 94707

s/ Christian Schreiber
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Attorneys for Nicole Chettero

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Agent for Service of Process for Aurora Behavioral Healthcare – Santa Rosa, LLC and Signature Healthcare Services, LLC

EXHIBIT B

January 7, 2021

VIA ONLINE FILING
Labor and Workforce Development Agency
Department of Industrial Relations

Re: LWDA Case No. LWDA-CM-817548-20
Private Attorney General Act – First Amended Notice of Labor Code and Wage Order Violations Committed by Aurora Behavioral Healthcare – Santa Rosa, LLC and Signature Healthcare Services, LLC

Dear Labor and Workforce Development Agency:

This is an amended notification letter, pursuant to the Private Attorney General Act, California Labor Code § 2698 *et seq.* ("PAGA"), concerning violations of the Labor Code committed by Aurora Behavioral Healthcare – Santa Rosa, LLC ("Aurora") and its corporate parent, Signature Healthcare Services, LLC ("Signature") (collectively "Defendants"). It amends the initial PAGA Claim notice submitted on behalf of aggrieved employee Nicole Chettero on December 31, 2020.

The undersigned counsel submit this letter on behalf of aggrieved employee Nicole Chettero ("Chettero") to inform the LWDA and Defendants of Chettero's intention to pursue a PAGA action on behalf of the State of California for all Labor Code and Wage Order violations, occurring between July 6, 2019 and the date of judgment, experienced by all aggrieved employees who work or worked or will work for Defendants at Aurora Santa Rosa Hospital in Santa Rosa. All current and former non-exempt employees in Aurora's nursing department, including but not limited to registered nurses ("RNs"), licensed vocational nurses ("LVNs"), licensed psychiatric technicians ("LPTs"), and mental health workers ("MHWs"), are potentially aggrieved employees. This notice is intended to cover all ongoing and continuing violations experienced by non-exempt employees working for Defendants in Santa Rosa, California.

I. The Parties

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While Aurora's day to day operations are managed by an on-site management team, an executive team at Signature provides centralized oversight and direction for Aurora by setting the budget, approving expenses, setting wages, fringe benefits, and working conditions, and setting operational and clinical policies. Signature directly runs Aurora by virtue of its financial and operational control, by virtue of the fact that it employs Aurora's Chief Executive Office and Chief

Financial Officer, and by virtue of its control and direction in all aspects of Aurora's hospital operations. Each Defendant LLC is controlled by the same, single managing member, Dr. Soon Kim, who owns 100% of each LLC.

Chettero worked for Defendants at their Santa Rosa acute psychiatric hospital as a mental health worker from February 2018 to March 2018 and as a registered nurse from March 2018 until her resignation in January 2020.

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As a matter of hospital policy, in order for RNs, LVNs, LPTs, and MHWs at Aurora to receive a break, they had to be relieved by a qualified staff member. For licensed nurses, the regulations and ethics of their profession – in addition to Hospital policy, also prevented them from leaving their posts and going on break without being relieved by another qualified licensed nurse.

As a result of Defendants' chronic understaffing and meager staffing budget, there were regularly insufficient qualified staff members on duty to relieve RNs, LVNs, LPTs, and MHWs of their duties so that they could take lawful meal and rest breaks. Defendants did not provide sufficient (or at all) dedicated float or break relief staff members. Consequently RNs, LVNs, LPTs, and MHWs at Aurora, including Chettero, regularly worked without timely, full, and uninterrupted meal and rest periods in violation of the California Labor Code and Industrial Welfare Commission Wage Orders (Cal. Lab. Code §§ 512, 226.7; IWC Order No. 5-2001, § 12).

Defendants knew or should have known that its chronic understaffing commonly made it impossible for RNs, LVNs, LPTs, and MHWs to take lawful meal and rest breaks. In spite of Defendants' knowledge, however, Defendants had a common policy and practice against paying meal and rest break premiums. Defendants seldom, if ever, paid premium wages of any kind to Chettero and other RNs, LVNs, LPTs, and MHWs despite their awareness that lawful meal and rest breaks were not provided.

Missed, late or shortened breaks typically went unreported because the Defendants discouraged non-exempt employees from accurately recording missed, late or truncated meal periods in order to save the hospital money – i.e., to minimize premium wage payments for missed meal periods. Defendants' policies recognized only fully missed meal periods as a theoretically reportable event, and even those Defendants tried to underreport. Employees who did not receive lawful meal breaks were commonly told to clock in and out as if they had a full 30 minute break, or instructed to fill out Time Adjustment Forms indicating they had 30 minute meal breaks that they did not actually have. In addition, Defendants falsified electronic time records to show lawful or timely 30-minute meal breaks that were not actually provided.

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As a result of all foregoing allegations Defendants have knowingly and intentionally issued inaccurate and incomplete wage statements to non-exempt employees.

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Defendants had and continue to have a consistent and uniform policy, practice and procedure of willfully failing to pay non-exempt employees, including Chettero, at the termination of their employment their earned wages owed for all work performed, including compensation for all hours worked and premium wages for missed meal periods and rest periods, in violation of

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As a result of all foregoing allegations Defendants violated these requirements and failed to maintain accurate records showing the complete and true total time non-exempt employees spent working and accurate start and end times to work periods.

*****

Upon information and belief, the foregoing conditions, practices, and policies persist today at Aurora Santa Rosa Hospital.

Chettero provides this notice to the LWDA and Defendants pursuant to California Labor Code § 2699.3. Chettero intends to recover civil penalties for all violations of the Labor Code and IWC Wage Order No. 5-2001, occurring between July 6, 2019 and the date of judgment, experienced by all aggrieved employees who work or worked or will work for Defendants at Aurora Santa Rosa Hospital in Santa Rosa.

Thank you for your attention to this matter.

Sincerely,

/s/ Xinying Valerian, Esq.
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