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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11
12 BARBARA GRADY, individually
13 and on behalf of all others similarly
14 situated,

15 **Plaintiffs,**

16 v.

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18 RCM TECHNOLOGIES, INC.,

19 **Defendant.**
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Case No. 5:22-cv-00842-JLS-SHK

DECLARATION OF CHERYL BORELLI

Date: August 18, 2023

Time: 10:30 a.m.

Location:

First Street U.S. Courthouse
350 W. 1st Street, Courtroom 8A, 8th
Floor, Los Angeles, CA 90012

Complaint Filed: February 7, 2022

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Case No.: 5:22-cv-00842 JLS-SHK

BARBARA GRADY, individually and
on behalf of all others similarly situated,

Plaintiffs,

vs.

RCM TECHNOLOGIES, INC.,

Defendant.

**DECLARATION OF CHERYL
BORELLI REGARDING CLASS
DATA**

I, Cheryl Borelli, having been sworn, declare as follows:

1. I am the Director of Operations for RCM Technologies (USA), Inc. In this role, I am responsible for overseeing payroll and billing operations. As such, I have personal knowledge of the matters set forth in this Declaration.

2. I understand that this lawsuit alleges class action claims against RCM for meal and rest break violations and failure to pay all hours worked by Plaintiff Barbara Grady and those working in travel nurse and like positions on assignments in the State of California from October 8, 2017 to March 7, 2023 (“the class period”).

3. I was personally involved in overseeing the collection of data from RCM’s payroll and timekeeping records that was used to assemble the class list.

4. Those who worked in travel nurse or like positions in the State of California during the class period were identified by pulling reports from RCM’s ADP payroll system. A report was pulled and updated to cover the entire class

1 period from the ADP payroll system by searching for all Healthcare Division
2 employees who were paid for working on assignment in California, and generating a
3 report -- Healthcare California Employees Paid -- that included the following fields:

- 4 a. HR identification number
- 5 b. Business title
- 6 c. Employee type: hourly or salaried
- 7 d. Employee status: active or terminated
- 8 e. Personnel area: Health Care Services
- 9 f. Personnel Sub Area: Travel Health Care, Healthcare K-12, and
10 various large clients.
- 11 g. Reporting location
- 12 h. Hire and rehire dates
- 13 i. Termination date
- 14 j. Rows for each paycheck including amount and date and work state

15 5. Using the HR identification numbers from this report, I was able to have
16 a report -- Hours by day-Detail & Summary -- run, showing the hours by day detail,
17 including a row for each day worked, showing:

- 18 a. HR identification number
- 19 b. Date worked
- 20 c. Week ending
- 21 d. Hours worked
- 22 e. Hours type
- 23 f. WBS element – which shows the customer name and the position
24 title
- 25 f. Pay rate
- 26 g. Title of the assignment
- 27 h. The employee's title with RCM.

1 6. I was also able to pull weekly files that are uploaded to SAP and are the
2 source for the hours by day detail. The hours data is derived from weekly files that
3 are created via data entry from paper timesheets as well as some electronic timesheets
4 (different clients have different requirements). The weekly data is uploaded to SAP
5 each week to generate customer invoices and the data is also transferred to ADP to
6 generate payroll. The weekly files included the client location to which the RCM
7 employee was assigned. For example, Plaintiff was assigned to the San Bernardino
8 County client and we could tell from this report, the various worksites to which she
9 was assigned on her shifts.

10 7. Many of RCM's clients are other professional staffing agencies, for
11 which RCM is a subcontractor.

12 7. During the class period, our data shows 360 instances of meal and rest
13 break premiums totaling \$14,071.19.

14 I declare under penalty of perjury under the laws of the United States of
15 American and the state of New Jersey that the foregoing is true and correct.

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17 Executed on June 30, 2023 in Randolph, New Jersey.
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20 Cheryl Borelli
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California Timekeeping, Meal Period and Rest Break Policy

The Company complies with applicable wage and hour laws, including those governing timekeeping, meal periods and rest breaks. Employees are to accurately record their hours worked to ensure payment in accordance with applicable law. The Company also recognizes that employees perform at their best when they have rest and time to eat. This policy explains the Company's policies and procedures regarding timekeeping, meal periods and rest breaks.

Timekeeping

The Company is committed to accurately paying all employees. In order for the Company to fulfill this commitment, employees need to accurately record all hours worked. The Company maintains records of actual hours worked for all non-exempt employees based on the information that employees provide in their time sheets (or electronic time punches at the beginning and end of each workday and meal period). Non-exempt employees must record or be clocked in for all of their time spent on the job actually performing assigned duties.

Hours worked includes the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work, whether or not required to do so (except that rest breaks are counted as hours worked). Normal commuting to an assignment and home from your last assignment is not considered included in hours worked; however travel between worksites during the day is included. If you are unsure whether an activity is included in hours worked, err on the side of including it and make a note on your timesheet (if your time is recorded electronically, submit a timesheet if necessary to submit the additional time with a short explanation), regardless of any client approval or call the Human Resources Department at 442-637-4404 for clarification.

Employees must record or be clocked in for actual work time, even if that work time is over and above their scheduled hours, and even if that work time is not at the worksite. Employees are prohibited from performing any "off-the-clock" work. "Off-the-clock" work means work that is performed, but not recorded on a timesheet or in the timekeeping system. If an employee who records work time electronically has any additional work time that is not captured by the electronic time punches, and/or if a client fails to approve any timesheet or time worked, the employee must submit a separate timesheet to the Company (**even if not signed by a client representative**) with a short explanation to ensure that time worked is paid in accordance with applicable law. Employees working off-the-clock and supervisors who are aware of or who are directing or permitting employees to work off-the-clock will be subject to disciplinary action, up to and including termination.

If an employee makes an error, the employee must promptly complete an edit to their timecard OR a Time Punch Correction Form and submit it to the payroll department as soon as reasonably practicable. Payroll will evaluate the information and make the correction in the timekeeping system. Employees who believe they have not been paid properly or in accordance with Company policy, or if any circumstances arise in which the employee is requested to perform work contrary to this policy, the employee should immediately provide a written or oral report to the Human Resources Department at 442-637-4404, the employee's manager, or any other member of management.

Employees who fail to submit timely and accurate work time each day or fail to submit work time when it is due, which is generally FRIDAY by 11 p.m. (Pacific), and in no event later than MONDAY by 8:00 a.m. (Pacific), will be subject to disciplinary action. The first late timesheet will yield a warning. A subsequent late time sheet will lead to dismissal from the assignment. Time sheets should be sent in with or without the client supervisor signature.

Meal Periods

The Company provides at least a 30-minute meal period to employees who work more than 5 hours and a second 30-minute meal period to employees who work more than 10 hours in a workday, unless they have elected to waive a meal period in accordance with the Company’s policy and state law. Meal periods are unpaid. Employees are relieved of all of their duties during meal periods and rest breaks and are allowed to leave the worksite. To ensure a full 30-minute meal period, non- exempt employees must record the actual start and stop times of their meal periods, without rounding it. The Company provides meal periods as follows:

Number of Actual Hours Worked Per Shift	# Meal Periods	Explanation of Meal Period
0 to 5.0	0	An employee who does not work more than 5 hours in a workday is not provided with a meal period.
> 5.0 to 10.0	1	An employee who works more than 5 hours in a workday, but who does not work more than 10 hours in a workday, is provided with a 30-minute meal period, to be started before the end of the fifth hour worked (ideally at least 30 minutes before the end of the fifth hour worked), subject to any meal period waiver in effect.
> 10.0	2	An employee who works more than 10 hours in a workday is provided with a second 30-minute meal period, to be started prior to the end of the tenth hour worked (ideally at least 30 minutes before the end of the 10th hour worked), subject to any meal period waiver in effect. The meal period waiver will be invalidated if the employee works more than 12 hours.

Rest Breaks

Employees are authorized and permitted to take a 10-minute paid rest break for every 4 hours worked, or major fraction thereof. The Company authorizes and permits rest breaks as follows:

Number of Actual Hours Worked Per Shift	# of 10-Minute Rest Breaks	Explanation of Rest Breaks
0 to < 3.5	0	A non-exempt employee who works less than 3.5 hours in a workday is not entitled to a rest break.
3.5 to 6	1	A non-exempt employee who works between 3.5 and 6 hours in a workday is entitled to one 10-minute rest break.
> 6.0 to 10.0	2	A non-exempt employee who works more than 6 hours in a workday but who does not work more than 10 hours in a workday is entitled to two 10-minute rest breaks.
> 10.0 to 14.0	3	A non-exempt employee who works more than 10 hours in a workday but who does not work more than 14 hours in a workday is entitled to three 10-minute rest breaks. Additional rest breaks may be due for work over 14 hours.

Whenever practicable, rest breaks should be taken near the middle of each four-hour work period. Employees may not accumulate rest breaks or use rest breaks as a basis for starting work late, leaving work early, or extending a meal period. Rest breaks are paid time. Non-exempt employees should not clock out for rest breaks.

Responsibilities

Because Company employees work at assigned client sites, we need your cooperation to ensure meal period and rest break compliance. This means cooperating with co-workers to cover for each other as necessary to enable all to take meal periods and rest breaks. Any non-exempt employee who is not provided with a meal period or authorized and permitted to take a rest

break pursuant to the terms of this Policy should (1) inform Desiree Disotell at 442-637-4404 immediately or as soon as practicable so that the situation can be addressed, and (2) fill out and submit to Payroll no later than 11:00 p.m. on Friday a "Premium Request Form" so that a meal period or rest break premium can be paid. Any supervisor who knows or should reasonably know that a meal period or rest break was not provided in accordance with this Policy should also report this to Desiree Disotell at 442-637-4404 to ensure that the situation is addressed and that a premium is paid to the employee. Any employee who believes that he or she was entitled to a meal period or rest break premium under this Policy but who did not receive the premium payment should report this immediately to Human Resources at HealthcareHRQuestions@rcmt.com. We want to ensure correct payment.

Any employee, supervisor, or manager who fails to comply with this Timekeeping, Meal Period and Rest Break Policy will be subject to discipline, up to and including termination of employment. Violations of this Policy should be reported to Human Resources at HealthcareHRQuestions@rcmt.com. Every report will be investigated, and corrective action will be taken where appropriate. In addition, the Company will not allow any form of retaliation against individuals who report alleged violations of this Policy or who cooperate in the Company's investigation of such reports. Any form of retaliation in violation of this Policy will result in disciplinary action, up to and including termination.

**ACKNOWLEDGMENT OF RECEIPT OF
CALIFORNIA TIMEKEEPING, MEAL PERIOD AND REST BREAK POLICY**

I acknowledge that I have been provided with and understand the Company's California Timekeeping, Meal Period and Rest Break Policy. I understand the Policy is effective immediately and I agree to comply with this Policy.

I understand that I am required to inform Human Resources if I am not provided with a meal period or not authorized and permitted to take a rest break. I understand that I can submit a California Meal Period and Rest Break Premium Request Form to report any instance in which I was not provided with a meal period or was not authorized and permitted to take a rest break in compliance with the Policy.

I understand that I may be subject to disciplinary action, up to and including termination of employment, if I violate or fail to comply with this Policy.

Employee Name (print)

Employee Signature

Date

Employee Meal Period Waiver Election Form

I understand that I am entitled to a 30 minute duty-free unpaid meal period on any day that I work more than 5 hours, and that I am entitled to a second 30-minute duty-free unpaid meal period on any day that I work more than 10 hours. I understand that I may waive my entitlement to meal periods under the following circumstances:

If I work no more than 6 hours on any given workday, I may waive my right to a meal period. By checking the box next to this paragraph and signing below, I am confirming that I am voluntarily electing to waive my employer's obligation to provide a 30-minute uninterrupted meal period on any day on which I work 6 or fewer hours. **I understand that any day I work more than 6 hours, this waiver is invalid.** I understand that I may revoke this waiver at any time by providing written notice of the decision to do so.

If I work no more than 12 hours on any given workday, I may waive my right to a second meal period. By checking the box next to this paragraph and signing below, I am confirming that I am voluntarily electing to waive my employer's obligation to provide a second 30-minute uninterrupted meal period, so long as any day that I waive my second meal period I will work no more than 12 hours and I have been provided a timely uninterrupted first meal period of 30 minutes. **I understand that any day I work more than 12 hours, this waiver is invalid.** I understand that I may revoke this waiver at any time by providing written notice of the decision to do so.

I do not elect to waive a first or second meal period.

As a courtesy and for planning purposes, the Company would appreciate receiving notice of revocation the day prior to the revocation taking effect.

Employee Name (print)

Date

Employee Signature

RCM00064