

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: 207237 NAME: Martha Keon FIRM NAME: Littler Mendelson, PC STREET ADDRESS: 1601 Cherry St., Suite 1400 CITY: Philadelphia STATE: PA ZIP CODE: 19102-1313 TELEPHONE NO.: (215) 866-7261 FAX NO.: (267) 402-3131 E-MAIL ADDRESS: MKeon@littler.com ATTORNEY FOR (Name): Defendant RCM Technologies, Inc.	<i>FOR COURT USE ONLY</i>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO</b> STREET ADDRESS: 247 West Third Street MAILING ADDRESS: 247 West Third Street CITY AND ZIP CODE: San Bernardino, 92415 BRANCH NAME: San Bernardino Justice Center	
Plaintiff/Petitioner: Barbara Grady Defendant/Respondent: RCM Technologies, Inc.	
<b>NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL</b>	
CASE NUMBER: CIV SB 2204890	

TO (insert name of party being served): RCM Technologies, Inc.

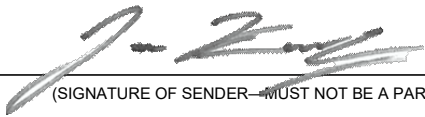
**NOTICE**

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: April 19, 2022

Joshua G. Konecky  
 (TYPE OR PRINT NAME)

  
 (SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

**ACKNOWLEDGMENT OF RECEIPT**

This acknowledges receipt of (to be completed by sender before mailing):


- 1.  A copy of the summons and of the complaint.
- 2.  Other (specify):

Civil Case Cover Sheet, Class Action Complaint, Summons, Certificate of Assignment, and Initial Complex Order and Guidelines

**(To be completed by recipient):**

Date this form is signed: \_\_\_\_\_

\_\_\_\_\_  
 (TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)

  
 (SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  
Joshua Konecky, SBN 182897; Nathan Piller, SBN 300569; Yuri Chornobil, SBN 331905  
Schneider Wallace Cottrell Konecky LLP  
2000 Powell Street, Suite 1400, Emeryville, CA 94608

TELEPHONE NO.: (415) 421-7100 FAX NO. (Optional): (415) 421-7105  
ATTORNEY FOR (Name): Plaintiff Barbara Grady

FOR COURT USE ONLY

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO CIVIL DIVISION

FEB 07 2022

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO**

STREET ADDRESS: 247 West Third Street  
MAILING ADDRESS: 247 West Third Street  
CITY AND ZIP CODE: San Bernardino, 92415  
BRANCH NAME: San Bernardino Justice Center

CASE NAME: Grady v. RCM Technologies, Inc.

FILED BY: *[Signature]*  
SHELLE BAYLESS CHAPA, DEPUTY

CASE NUMBER: **CIV SB 2204890**

JUDGE: *[Signature]*  
DEPT.: **FAXED**

**CIVIL CASE COVER SHEET**

**Unlimited** (Amount demanded exceeds \$25,000)  **Limited** (Amount demanded is \$25,000)

**Complex Case Designation**

Counter  Joinder  
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

**Auto Tort**

Auto (22)  
 Uninsured motorist (46)

**Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**

Asbestos (04)  
 Product liability (24)  
 Medical malpractice (45)  
 Other PI/PD/WD (23)

**Non-PI/PD/WD (Other) Tort**

Business tort/unfair business practice (07)  
 Civil rights (08)  
 Defamation (13)  
 Fraud (16)  
 Intellectual property (19)  
 Professional negligence (25)  
 Other non-PI/PD/WD tort (35)

**Employment**

Wrongful termination (36)  
 Other employment (15)

**Contract**

Breach of contract/warranty (06)  
 Rule 3.740 collections (09)  
 Other collections (09)  
 Insurance coverage (18)  
 Other contract (37)

**Real Property**

Eminent domain/Inverse condemnation (14)  
 Wrongful eviction (33)  
 Other real property (26)

**Unlawful Detainer**

Commercial (31)  
 Residential (32)  
 Drugs (38)

**Judicial Review**

Asset forfeiture (05)  
 Petition re: arbitration award (11)  
 Writ of mandate (02)  
 Other judicial review (39)

**Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)**

Antitrust/Trade regulation (03)  
 Construction defect (10)  
 Mass tort (40)  
 Securities litigation (28)  
 Environmental/Toxic tort (30)  
 Insurance coverage claims arising from the above listed provisionally complex case types (41)

**Enforcement of Judgment**

Enforcement of judgment (20)

**Miscellaneous Civil Complaint**

RICO (27)  
 Other complaint (not specified above) (42)

**Miscellaneous Civil Petition**

Partnership and corporate governance (21)  
 Other petition (not specified above) (43)

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a.  Large number of separately represented parties
- b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c.  Substantial amount of documentary evidence
- d.  Large number of witnesses
- e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f.  Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive

4. Number of causes of action (specify):

5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: February 7, 2022

Yuri Chornobil

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

EXHIBIT A Page 1 of 2

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

**Auto Tort**

Auto (22)–Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

**Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice–Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

**Non-PI/PD/WD (Other) Tort**

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/PD/WD Tort (35)

**Employment**

Wrongful Termination (36)  
Other Employment (15)

**Contract**

Breach of Contract/Warranty (06)  
Breach of Rental/Lease  
Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach–Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case–Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

**Real Property**

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

**Unlawful Detainer**

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

**Judicial Review**

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ–Administrative Mandamus  
Writ–Mandamus on Limited Court Case Matter  
Writ–Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal–Labor Commissioner Appeals

**Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)**

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

**Enforcement of Judgment**

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

**Miscellaneous Civil Complaint**

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

**Miscellaneous Civil Petition**

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition

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2 Nathan Piller, SBN 300569  
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13 Attorneys for Plaintiffs

14  
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16 **IN AND FOR THE COUNTY OF SAN BERNARDINO**

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

20 Plaintiffs,

21 v.

22 RCM TECHNOLOGIES, INC.,

23 Defendant.

24 Case No. **CIV SB 2204890**  
25 **CLASS ACTION COMPLAINT;**

26 **LAW ENFORCEMENT ACTION**

- 27 (1) CALIFORNIA LABOR CODE;  
28 (2) CALIFORNIA INDUSTRIAL  
WELFARE COMMISSION  
WAGE ORDERS; and  
(3) CALIFORNIA BUSINESS AND  
PROFESSIONS CODE §§ 17200,  
*et seq.*

**JURY TRIAL DEMANDED**



29 Plaintiff Barbara Grady ("Plaintiff" or "Ms. Grady"), by and through her  
30 undersigned attorneys, hereby brings this class and law enforcement action under  
31 the California Private Attorneys General Act ("PAGA") against RCM  
32 Technologies, Inc. ("RCM" or "Defendant") and alleges as follows:

33 **I. NATURE OF THE CASE**

34 1. Plaintiff brings this class action and law enforcement action to remedy  
35 policies and procedures that result in Defendant's nurses consistently working  
36 hours outside of their scheduled shift for which they are not paid and not receiving  
37 the off-duty meal and rest periods during their shifts to which they are entitled

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO CIVIL DIVISION

**FEB 07 2022**

*Ashlee Bayless Chapa*  
BY: ASHLEE BAYLESS CHAPA, DEPUTY

1 under California law.

2 2. Defendant RCM is a specialty healthcare staffing company  
3 headquartered in New Jersey that employs numerous traveling nurses in California.  
4 The nurses work in hospitals, nursing homes, and other healthcare facilities with  
5 which Defendant contracts. Defendant’s traveling nurses typically work at a  
6 location for several weeks or months before Defendant assigns them to a new  
7 location. Defendant employed Ms. Grady, for example, as a traveling nurse in  
8 California from approximately August 30, 2020, through approximately October  
9 17, 2020. RCM placed Ms. Grady at Hi-Desert Continuing Care and various other  
10 sites operated Desert Care Network in California.

11 3. As a matter of policy and practice, Defendant has routinely suffered  
12 and permitted Plaintiff and other similarly situated nurses to work over 12 hours  
13 per day without compensating them at a “double time” premium rate of two times  
14 their regular rate. This occurs because of unscheduled overtime (double time) that  
15 Defendant suffers and permits—and directs—the nurses to work off-the-clock.  
16 Examples of work that Plaintiff and other nurses perform off-the-clock include  
17 patient “hand-offs” or transfers (during which nurses on the outgoing shift will  
18 update those working the incoming shift regarding patient care), charting, and pre-  
19 shift temperature checks. At COVID-19 vaccination clinics, Plaintiff and other  
20 nurses also have had to set up and break down the equipment, including unloading  
21 and loading equipment onto vehicles, while off-the-clock. Because Defendant  
22 typically schedules the nurses for 12-hour shifts, this unpaid pre- and post-shift  
23 work means the nurses are routinely being denied their statutorily-mandated  
24 “double time” pay of two times the regular rate of pay for work beyond 12 hours  
25 in a day.

26 4. RCM also maintains insufficient staffing levels to provide nurses with  
27 off-duty meal and rest periods at the frequency and duration required by California  
28 law. Consequently, the nurses, who are ethically and professionally bound to

1 remain with their patients until relieved, routinely are unable to take off-duty meal  
2 and rest periods in a timely manner. Moreover, even when nurses find occasion to  
3 step away from their patients, they are not permitted to leave the premises and are  
4 on call. At the same time, RCM also fails to provide nurses with the required  
5 premium pay owed for each workday when they are not provided with the off-duty  
6 meal and rest periods required by the California Wage Order.

7 5. Plaintiff, Barbara Grady, brings Causes of Action One through Eight  
8 (the “class claims”) as a class action on behalf of herself and other similarly  
9 situated individuals who have worked as traveling nurses for Defendant in  
10 California at any time beginning October 8, 2017, through the resolution of this  
11 action. These class action claims are brought pursuant to California Labor Code  
12 §§ 201-203, 221-223, 226, 226.7, 510, 1174, 1194, and 1198; and California Code  
13 of Regulations, Title 8 § 11040 §§ 3 & 7, 11-12 (Wage Order No. 4), and under  
14 Business & Professions Code §§ 17200-17208, for unfair competition due to  
15 Defendant’s unlawful, unfair and fraudulent business acts and practices.

16 6. Plaintiff, Barbara Grady, brings Causes of Action Nine as a  
17 representative action, but not a class action, on behalf of the State of California and  
18 other aggrieved employees, seeks civil penalties under the Private Attorneys  
19 General Act of 2004 (PAGA), Labor Code §§ 2698 *et seq.* In passing PAGA, the  
20 California Legislature “declared that adequate financing of labor law enforcement  
21 was necessary to achieve maximum compliance with state labor laws, that staffing  
22 levels for labor law enforcement agencies had declined and were unlikely to keep  
23 pace with future growth of the labor market, and that it was therefore in the public  
24 interest to allow aggrieved employees, acting as private attorneys general, to  
25 recover civil penalties for Labor Code violations.” *Arias v. Super. Ct.*, 46 Cal. 4th  
26 969, 980 (2009).

27 7. PAGA permits aggrieved employees to bring an action to recover civil  
28 penalties available under any provision of the Labor Code that provides for a civil

1 penalty be assessed and collected by the Labor and Workforce Development  
2 Agency (“LWDA”) or any of its departments or divisions. *See* Labor Code §  
3 2699(a). Additionally, for all provisions of the Labor Code that do not specify a  
4 civil penalty, PAGA establishes a civil penalty for violation of these provisions in  
5 the amount of one hundred dollars (\$100) for each aggrieved employee per pay  
6 period for the initial violation and two hundred dollars (\$200) for each aggrieved  
7 employee per pay period for each subsequent violation. *Id.* at § 2699(f). Because  
8 the action is brought on behalf of the state, 75% of the fees collected are distributed  
9 to the LWDA for the enforcement of labor laws and for the education of employers  
10 and employees. The remaining 25% is shared between aggrieved employees. *Id.*  
11 at § 2699(i).

12 8. On July 22, 2021, Plaintiff provided written notice of the Labor Code  
13 violations alleged herein to the LWDA via online submission, with a certified copy  
14 mailed to Defendant. More than 65 calendar days have passed since the date of  
15 this notice. Accordingly, Plaintiff has satisfied the administrative prerequisites  
16 under California Labor Code § 2699.3(a) to recover civil penalties against  
17 Defendant for the Labor Code violations alleged herein.

18 9. Before the filing of this lawsuit, Defendant agreed to toll the statute of  
19 limitation effective October 8, 2021, on all claims based on alleged off-the-clock  
20 or meal or rest period violations under the California Labor Code, California  
21 Industrial Welfare Commission Wage Orders or Section 17200 of the California  
22 Business and Professions Code asserted on behalf of Plaintiff, the Class Members,  
23 and the aggrieved employees alleged herein.

24 10. Plaintiff, on behalf of herself and all others similarly situated, also  
25 requests reasonable attorneys’ fees and costs pursuant to California Labor Code §§  
26 1194(a), 2699(g); and Code of Civil Procedure § 1021.5.

## 27 **II. JURISDICTION AND VENUE**

28 11. The Court has jurisdiction over this action pursuant to Article 6, § 10

1 of the California Constitution and California Code of Civil Procedure § 410.10.

2 12. The Court has jurisdiction over Defendant because it is a corporation  
3 authorized to transact business in the State of California and are registered with the  
4 California Secretary of State. Defendants transact sufficient business with  
5 sufficient minimum contacts in California, or otherwise intentionally avail  
6 themselves of the California market through the advertising, marketing, and sale  
7 of products and services, to render the exercise of jurisdiction over Defendant by  
8 the California court consistent with traditional notions of fair play and substantial  
9 justice.

10 13. Venue is proper in this judicial district pursuant to Code of Civil  
11 Procedure § 395.5. Defendant employed Plaintiff and other employees in this  
12 County, transacts business in this County, and events complained of in this  
13 Complaint occurred in this County.

### 14 **III. THE PARTIES**

15 14. Plaintiff, class members and aggrieved employees as set forth below  
16 are current and/or former traveling nurses who worked for Defendants in California  
17 at any time beginning October 8, 2017, through the resolution of this action.

18 15. Plaintiff Barbara Grady is a resident of Santa Monica, California.  
19 Plaintiff worked as a nurse for Defendant in San Bernardino, California, from  
20 approximately August 30, 2020 through October 17, 2020.

21 16. Defendant RCM Technologies, Inc., is a corporation incorporated in  
22 the State of New Jersey and headquartered in the State of Pennsylvania. Defendant  
23 is registered to do business in California, and at all relevant times has been engaged  
24 in the business of health care staffing in the State of California. Defendant employs  
25 nurses throughout California, including the County of Alameda.

### 26 **IV. FACTUAL ALLEGATIONS**

27 17. Plaintiff incorporates herein by reference the allegations set forth  
28 above.



1           18. During the relevant time period of this action, Defendant has employed  
2 Plaintiff and other similarly situated individuals as traveling nurses (“Nurses”) to  
3 provide nursing services in hospital and health system settings throughout  
4 California.

5           19. Plaintiff worked as an hourly, non-exempt nurse for Defendant in  
6 Joshua City, California, providing care and treatments for patients at Hi Desert  
7 Continuing Care and various COVID-19 treatment and vaccination sites.

8           **A. Defendants’ Failure to Pay for All Hours Worked**

9           20. Nurses were regularly scheduled to work 12-hour shifts. Plaintiff  
10 Grady for example, was scheduled to work five twelve hour shifts per week during  
11 her employment with Defendant.

12           21. Defendant maintains policies and practices that lead to pre- and post-  
13 shift “off the clock”, uncompensated work. Specifically, prior to clocking in,  
14 Nurses have been required to undergo mandatory temperature checks. Plaintiff and  
15 the other Nurses have not been compensated for this additional time.

16           22. Additionally, Plaintiff and the other Nurses have had to work  
17 significantly longer than their scheduled shift time to complete their assigned  
18 duties. Due to the low staff and high patient volume, Plaintiff and the other nurses  
19 were unable to complete charting for their patients during their shift and were  
20 required to finish this paperwork before leaving. Additionally, patient “hand-offs”,  
21 during which Nurses on one shift will update those working the incoming shift  
22 regarding patient care, routinely went past Nurses scheduled shifts. As a result,  
23 Plaintiff and the other Nurses were not compensated for any of this additional time.

24           23. In fact, Plaintiff was instructed that her timecard needed to reflect her  
25 scheduled start and end times, rather than the actual start and end times that she  
26 worked. Plaintiff was informed that failure to follow these instructions would result  
27 in her timecard not being approved. Plaintiff informed Defendant of the inaccuracy  
28 of her timecard but was instructed by Defendant that she needed to comply with

1 those instructions.

2 24. Further, when Plaintiff Grady and the other Nurses were assigned to  
3 work at various COVID-19 vaccination clinics they were forced to arrive one hour  
4 prior to their shift to assist with unloading of the supply trucks and setup of the  
5 clinic. Once the clinic was closes, Plaintiff and the other Nurses were required to  
6 stay another hour or two later to assist in reloading of the truck and cleaning of the  
7 clinic. Again, Plaintiff and the other Nurses were required to sign in and out during  
8 their scheduled shift times, rather than the actual time worked. Thus, Plaintiff and  
9 the Nurses were not compensated for any of this pre- and post- shift work.

10 **B. Defendants' failure to provide off duty meal and rest periods**

11 25. Defendant does not institute policies and procedures that would enable  
12 their nurses to take statutorily mandated meal and rest periods. Defendant's Nurses  
13 such as Ms. Grady are duty-bound to remain attentive to their patients and on-duty,  
14 unless relieved from duty by another nurse. Nurses who abandon patients violate  
15 ethical and professional codes, which can lead to the revocation of their nursing  
16 license and/or termination of employment.

17 26. Defendant routinely fails to provide the Nurses with uninterrupted,  
18 thirty-minute meal periods during which they are completely relieved of duty, and  
19 routinely do not permit and authorize them to take rest breaks of at least ten minutes  
20 by the end of every fourth hour of work or major fraction thereof. Ms. Grady, for  
21 example, worked approximately 12-hour shifts providing nursing services as a  
22 RCM employee, but was regularly unable to take meal or rest breaks because of  
23 her patient care responsibilities and the lack of additional staff to relieve her.  
24 Accordingly, Defendant's Nurses like Ms. Grady typically manage to eat only  
25 while performing other work.

26 27. Even when Plaintiff and the other Nurses managed to get a break, they  
27 were not relieved of all duty. Defendant required that Ms. Grady and all other  
28 Nurses be on call during their breaks. Defendant required the Nurses to keep their

1 'beeper' with them at all times to be able to be contacted and therefore interrupted  
2 during their breaks. Additionally, Defendant required Plaintiff and the other nurses  
3 to remain on the hospital premises for all meal breaks. Nonetheless, Defendants  
4 automatically deducted meal break times from Plaintiff and the other Nurses time  
5 sheets and pay, even when they never received them.

6 28. Plaintiff and Nurses never received premium pay for any of these  
7 missed meal periods.

### 8 CLASS ACTION ALLEGATIONS

9 29. Plaintiff brings Causes of Action Two through Nine as a class action on behalf of  
10 herself and all others similarly situated pursuant to Code of Civil Procedure § 382.  
11 This action satisfies the criteria for class certification because there is an  
12 ascertainable class and a well-defined community of interest among class  
13 members, as alleged herein.

14 30. Plaintiff brings the PAGA Cause of Action as a representative law  
15 enforcement action, but not as a class action.

16 31. Class Definition: The Class that Plaintiff seeks to represent is defined  
17 as, and comprises, the following:

18 **All individuals who worked as a traveling nurse or like**  
19 **hourly position for Defendant in California at any**  
20 **time beginning October 8, 2017, through the date of**  
21 **notice to the Class.**

22 32. Ascertainability: The Class is ascertainable because it comprises a  
23 well-defined and objectively identifiable group of individuals who are too  
24 numerous to be individually joined in the lawsuit. The Class members also are  
25 easily identifiable from Defendants' business records.

26 33. Existence and Predominance of Common Questions of Law and/or  
27 Fact. Common questions of law and/or fact exist as to the members of the Class  
28 and, in addition, common questions of law and/or fact predominate over questions  
affecting only individual members of the Class. The common questions include the  
following:

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- i. Whether Defendant required and/or suffered and permitted Plaintiff and the other Nurses to work unscheduled overtime;
- ii. Whether Defendant’s policies fail to account for and compensate Nurses for time spent undergoing temperature checks required by Defendant.
- iii. Whether Defendant requires and/or suffers and permits Nurses to perform patient hand-offs off-the-clock;
- iv. Whether Defendant requires and/or suffers and permits Nurses to perform patient charting off-the-clock;
- v. Whether Defendant requires and/or suffers and permits Nurses to perform other patient care duties off-the-clock;
- vi. Whether Defendant requires and/or suffers and permits Nurses to work through and/or remain on-duty during their meal periods;
- vii. Whether Defendant has sufficient policies and procedures to permit Nurses to verify their unscheduled work time with the host facility or otherwise;
- viii. Whether Defendant has failed to compensate Plaintiff and the other Nurses at their the statutorily mandated overtime rates for hours worked in excess of 8 hours in a day and/or 40 hours in a week;
- ix. Whether Defendant has failed to compensate Plaintiff and the other Nurses at their the statutorily mandated double time rates for hours worked in excess of 12 hours in a day;
- x. Whether Defendant has sufficient policies and procedures to provide Nurses with off-duty meal periods at the host facilities during which they are completely removed from duty for at least 30 minutes by the end of the fifth hour of work;

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- xi. Whether Defendant has sufficient policies and procedures to provide Nurses with a second off-duty meal period at the host facilities during which they are completely removed from duty for at least 30 minutes by the end of the tenth hour of work;
- xii. Whether Defendant has sufficient policies and procedures to authorize and permit off-duty rest periods at the host facilities during which they are completely removed from duty for at least 10 minutes during every four hours of work or major fraction thereof;
- xiii. Whether Defendant failed to keep accurate records of hours worked and wages earned by Nurses;
- xiv. Whether Defendant's failure to compensate Plaintiff and the other Nurses for all their work-time, including overtime, double-time and/or through meal periods, has been willful, intentional or reckless;
- xv. Whether the paychecks provided to Nurses in connection with their compensation contain all the elements mandated for accurate itemized wage statements under Cal. Labor Code § 226(a);
- xvi. Whether Nurses whose employment relationship with Defendant has terminated are entitled to waiting time penalties for Defendant's failure to timely pay all outstanding amounts of compensation owed upon termination of the employment relationship;
- xvii. Whether Defendant's policies and practices have resulted in violation of one or more of the Labor Code Provisions cited herein;
- xviii. Whether Defendant's policies and practices are unlawful, unfair

1 and/or fraudulent business practices in violation of California  
2 Business & Professions Code §§17200, et seq.; and

3 xix. The injunctive and/or monetary relief to which Plaintiff and the  
4 Class may be entitled as a result of the violations alleged herein.

5 34. Typicality. Plaintiff's claims are typical of the claims of the Class.  
6 Defendant's common course of conduct in failing to approve and compensate  
7 Nurses for the hours they are required and/or suffered and permitted to work,  
8 including overtime and double time; failing to provide off-duty meal periods in  
9 accordance with the timing and durational requirements of the applicable Wage  
10 Order; failing to authorize and permit off-duty rest periods in accordance with the  
11 timing and durational requirements of the applicable Wage Order; failing to keep  
12 accurate records of time worked and issue accurate itemized wage statements; and  
13 failure to pay waiting time penalties; has caused Plaintiff and the Class to sustain  
14 the same or similar injuries and damages. Plaintiff's claims are thereby  
15 representative of and co-extensive with the claims of the Class.

16 35. Adequacy. The class action is superior to other available means for the  
17 fair and efficient adjudication of this dispute. The injury suffered by each member  
18 of the Class, while meaningful on an individual basis, is not of such magnitude as  
19 to make the prosecution of individual actions against Defendant economically  
20 feasible. Furthermore, individualized litigation increases the delay and expense to  
21 all parties and the court system presented by the legal and factual issues of the case.  
22 In contrast, the class action device presents far fewer management difficulties and  
23 provides the benefits of single adjudication, economy of scale, and comprehensive  
24 supervision by a single court, and avoids the problem of inconsistent judgments.

25 36. Appropriateness of Injunctive or Declaratory Relief: Final injunctive  
26 relief or corresponding declaratory relief is appropriate respecting the Class as a  
27 whole. Defendant has acted or refused to act on grounds that apply generally to  
28 the Class, such that final injunctive relief or corresponding declaratory relief may

1 be properly applied to the Class as a whole.

2 **CAUSES OF ACTION**

3 **FIRST CAUSE OF ACTION**

4 **Failure to Pay Overtime Compensation**

5 **California Labor Code §§ 510, 1194, and 1198 *et seq.*, and IWC Wage Order  
6 No. 5.**

7 36. Plaintiff hereby realleges and incorporates by reference the paragraphs  
8 above as though fully set forth herein.

9 37. California Labor Code §§ 510 and 1198, and IWC Wage Order No. 5,  
10 §3, provides that employees in California shall not be employed more than eight  
11 (8) hours in any workday or forty (40) hours in any workweek unless they receive  
12 compensation for those hours at a rate of one and one-half (1 1/2) times the  
13 employee's regular rate of pay.

14 38. California Labor Code §§ 510 and 1198, and IWC Wage Order No. 5,  
15 §3, provides that employees in California shall not be employed more than twelve  
16 (12) hours in any workday and for all hours worked in excess of eight (8) hours on  
17 the seventh (7th) consecutive day of work in a workweek, unless they receive  
18 compensation for those hours double the employee's regular rate of pay.

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

24 40. Defendant has failed to pay Plaintiff, and other members of the Class,  
25 overtime and double time compensation for the hours they worked in excess of the  
26 maximum hours under California Labor Code §§ 510 and 1198, and IWC Wage  
27 Order No. 5, §3. Defendant requires and/or suffers and permits Plaintiff and other  
28 members of the Class to work hours in excess of 8 in a day and 40 in a week. This  
includes unscheduled overtime and double time resulting from time spent

1 performing patient hand-offs, patient charting and other patient care duties; time  
2 spent on pre-shift temperature checks; time spent on site set up, equipment  
3 unloading/loading, and site cleaning; and time spent working through and/or  
4 remaining on duty during meal periods.

5 41. Defendant's failure to pay additional, premium rate compensation to  
6 Plaintiff and members of the Class for their overtime and double time hours worked  
7 has caused Plaintiff and Class Members, and continues to cause Class Members to  
8 suffer damages in amounts which are presently unknown to them but which exceed  
9 the jurisdictional threshold of this Court and which will be ascertained according  
10 to proof at trial.

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

14 43. As a direct and proximate result of the unlawful acts and/or omissions  
15 of Defendant, Plaintiff and Class Members have been deprived of overtime and  
16 double time compensation in an amount to be determined at trial. Plaintiff and other  
17 members of the class request recovery of overtime and double time compensation  
18 according to proof, interest, attorney's fees and costs of suit pursuant to California  
19 Labor Code §§1194(a), as well as the assessment of any statutory penalties against  
20 Defendant, in a sum as provided by the California Labor Code and/or other statutes.

21 **SECOND CAUSE OF ACTION**

22 **Failure to Provide Meal Periods, or Compensation in Lieu Thereof**  
23 **California Labor Code §§ 226.7 and 512; and Cal. Code Regs., Title 8 §11040**  
24 **¶¶ 7 & 11**

25 44. Plaintiff hereby realleges and incorporates by reference the paragraphs  
26 above as though fully set forth herein.

27 45. California Labor Code §§ 226.7 and 512, and Title 8 of the California  
28 Code of Regulations § 11040, ¶ 11 requires Defendant to provide off-duty meal  
periods to Plaintiff and members of the Class. California Labor Code §§ 226.7 and



1 512, and Title 8 of the California Code of Regulations § 11040, § 11 prohibit  
2 employers from employing an employee for more than five hours without a meal  
3 period of no less than thirty (30) minutes and for more than ten (10) hours without  
4 a second meal period. Unless the employee is relieved of all duty during the thirty  
5 (30) minute meal period, the employee is considered “on-duty” and the meal or  
6 rest period is counted as time worked.

7 46. Defendant does not provide the nurses with meal periods during which  
8 they are completely relieved of duty for at least thirty (30) minutes by the fifth hour  
9 of work and again by the tenth hour of work.

10 47. Rather, the nurses regularly work long shifts without the opportunity  
11 to take one or more meal periods during which they are completely relieved of all  
12 duty for at least 30 minutes.

13 48. Defendant’s policy has been to require the nurses to skip and/or work  
14 through statutorily mandated meal periods whenever a nurse’s assigned patient  
15 needs treatment or monitoring, rather than to maintain a system whereby other  
16 nurses relieve them at regular intervals throughout the day. Even when the nurses  
17 attempt to take meal periods, they are subject to interruption to respond to patient  
18 treatment needs.

19 49. Defendant has failed to perform their obligations to provide Plaintiff  
20 and Class Members off-duty meal periods by the end of the fifth hour of work and  
21 a second meal period by the end of the tenth hour of work. Defendant has also  
22 failed to comply with their obligation to keep accurate information with respect to  
23 meal periods for each employee.

24 50. Further, Defendant has not compensated Plaintiff and Class Members  
25 one (1) hour of pay for each off-duty meal period that they have been denied.  
26 Defendants’ conduct described herein violates California Labor Code §§ 226.7 and  
27 512 and Title 8 of the California Code of Regulations §11040, ¶¶ 7 & 11.

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

4 52. Plaintiff and the Class therefore seek compensation for Defendant's  
5 failure to provide compliant off-duty meal periods, plus interest, expenses, and  
6 costs of suit pursuant to the foregoing provisions and any other applicable law.

7 **THIRD CAUSE OF ACTION**

8 **Failure to Provide Rest Periods, or Compensation in Lieu Thereof**  
9 **California Labor Code §§ 226.7 and Cal. Code Regs., Title 8 § 11040 ¶ 12**

10 53. Plaintiff hereby realleges and incorporates by reference the paragraphs  
11 above as though fully set forth herein.

12 54. California Labor Code §226.7 and Title 8 of the California Code of  
13 Regulations § 11040, ¶ 12 requires Defendant to authorize and permit off-duty rest  
14 periods to Plaintiff and members of the Class at the rate of ten minutes net rest time  
15 per four hours or major fraction thereof.

16 55. Defendant does not authorize or permit such off-duty rest periods to  
17 the extent required by law. To the contrary, the nurses regularly work long shifts  
18 without the opportunity to rest off-duty for even ten minutes during each of their  
19 four-hour work periods or major fractions thereof.

20 56. Defendant's policy has been to require the nurses to skip or work  
21 through statutorily-mandated rest breaks whenever a nurse's assigned patient needs  
22 treatment or monitoring, rather than to maintain a system whereby other nurses  
23 relieve them at regular intervals throughout the day. The nurses routinely are not  
24 authorized and permitted to take rest breaks of at least ten minutes by the end of  
25 every fourth hour of work or major fraction thereof.

26 57. Under both California Labor Code § 226.7 and Title 8 of the California  
27 Code of Regulations §11040, ¶ 12, an employer must pay an employee who was  
28 denied a required rest period one (1) hour of pay at the employee's regular rate of  
compensation for each workday that the rest period was not provided.



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

4 66. Defendant has maintained and continues to maintain a policy of  
5 denying the traveling nurses compensation for all their compensable time,  
6 including time spent performing patient hand-offs, patient charting and other  
7 patient care duties; time spent on pre-shift temperature checks; time spend on site  
8 set up, equipment unloading/loading, and site cleaning; and time spent working  
9 through and/or remaining on duty during meal periods. Accordingly, Defendant  
10 has artificially reduced Plaintiff's and its other traveling nurses' pay rates by  
11 denying them compensation for travel time to and from work worksites.

12 67. As a proximate result of these violations, Defendant has damaged  
13 Plaintiff and the Class in amounts to be determined according to proof at trial.

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

17 69. Plaintiff, on behalf of herself and all others similarly situated, seeks all  
18 unpaid compensation, damages, penalties, interest and attorneys' fees and costs,  
19 recoverable under applicable law set forth below.

20 **FIFTH CAUSE OF ACTION**  
21 **Failure to Keep Accurate Payroll Records**  
22 **California Labor Code §§ 1174 & 1174.5**

23 70. Plaintiff hereby realleges and incorporates by reference the paragraphs  
24 above as though fully set forth herein.

25 71. California Labor Code §1174 requires Defendant to maintain payroll  
26 records showing, among other things, the actual hours worked daily by its  
27 employees, wages paid to its employees, the number of piece-rate units earned by  
28 its employees, and any applicable piece rate paid to its employees.

1           72. California Labor Code §1174.5 provides that employers who willfully  
2 fail to maintain accurate payroll records shall be subject to civil penalties.

3           73. Defendant has knowingly, intentionally, and willfully failed to  
4 maintain payroll records showing the actual hours worked by, and accurate hourly  
5 rate paid to Plaintiff and Class members as required by California Labor Code  
6 §1174 and in violation of §1174.5. As a direct result of Defendant's failure to  
7 maintain payroll records, Plaintiff and Class members have suffered actual  
8 economic harm as they have been precluded from accurately monitoring the  
9 number of hours they work, and thus seeking all wages owed in the form of  
10 overtime and double time compensation. As a direct and proximate result of the  
11 unlawful acts and/or omissions of Defendant, Plaintiff and the Class members are  
12 entitled to recover damages and civil penalties in an amount to be determined at  
13 trial, plus interest, attorneys' fees, and costs of suit.

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

17           75. Plaintiff, on behalf of herself and all others similarly situated, seeks all  
18 unpaid compensation, damages, penalties, interest and attorneys' fees and costs,  
19 recoverable under applicable law set forth below.

20                                 **SIXTH CAUSE OF ACTION**  
21                                 **Failure to Furnish Accurate Wage Statements**  
22                                 **California Labor Code § 226**

23           76. Plaintiff hereby realleges and incorporates by reference the paragraphs  
24 above as though fully set forth herein.

25           77. California Labor Code §226(a) provides that every employer must  
26 furnish each employee with an accurate itemized wage statement, in writing,  
27 showing nine pieces of information, including: 1) gross wages earned; 2) total  
28 hours worked by the employee; 3) the number of piece-rate units earned and any  
applicable piece rate if the employee is paid on a piece rate basis; 4) all deductions,

1 provided that all deductions made on written orders of the employee may be  
2 aggregated and shown as one item; 5) net wages earned; 6) the inclusive dates of  
3 the period for which the employee is paid; 7) the name of the employee and the last  
4 four digits of his or her social security number or an employee identification  
5 number other than a social security number; 8) the name and address of the legal  
6 entity that is the employer; and 9) all applicable hourly rates in effect during the  
7 pay period and the corresponding number of hours worked at each hourly rate by  
8 the employee.

9 78. California Labor Code §226(e) provides that an employee suffering an  
10 injury as a result of a knowing and intentional failure to provide a statement  
11 accurately itemizing the information set forth in Labor Code §226(a), then the  
12 employee is entitled to recover the greater of all actual damages or fifty-dollars  
13 (\$50.00) for the initial violation and one-hundred dollars (\$100.00) for each  
14 subsequent violation, up to a maximum of four-thousand dollars (\$4,000.00).

15 79. Plaintiff and the Class Members are deemed to have suffered injury  
16 under Labor Code § 226(e)(2)(B) because, among other things, Defendant's  
17 violations of Labor Code § 226(a) include the failure to provide wage statements  
18 that accurately show total hours worked by the employees and all applicable hourly  
19 or piece rates that apply to work performed without compliant meal and rest  
20 periods.

21 80. Defendant intentionally and willfully failed to furnish Plaintiff and  
22 Class members with timely, accurate, itemized statements showing total hours  
23 worked, gross wages earned, net wages earned, and the applicable hourly rates as  
24 required by California Labor Code §226(a).

25 81. Plaintiff and the Class members have been injured by Defendant's  
26 violation of California Labor Code §226(a) because they have been denied their  
27 legal right to receive and their protected interest in receiving, accurate, itemized  
28 wage statements, and could not promptly and easily ascertain from the wage

1 statement alone their total hours worked, gross wages earned, net wages earned,  
2 and the applicable hourly rates, among other required information.

3 82. Plaintiff and Class Members have also been injured as a result of  
4 having to bring this action to obtain correct wage information following  
5 Defendant's refusal to comply with many requirements of the California Labor  
6 Code. As a result, Defendant is liable to Plaintiff and Class members, for the  
7 amounts, penalties, attorneys' fees, and costs of suit provided by California Labor  
8 Code §226(e).

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

12 84. Plaintiff, on behalf of herself and the Class, requests an assessment of  
13 damages as stated herein and other relief as described below.

14 85. Plaintiff, on behalf of herself and all others similarly situated, seeks all  
15 unpaid compensation, damages, penalties, interest and attorneys' fees and costs,  
16 recoverable under applicable law set forth below.

17 **SEVENTH CAUSE OF ACTION**  
18 **Waiting Time Penalties**  
19 **California Labor Code §§ 201-203**

20 86. Plaintiff hereby realleges and incorporates by reference the paragraphs  
21 above as though fully set forth herein.

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

1 §§201-202, then the employer is liable for waiting time penalties in the form of  
2 continued compensation for up to thirty (30) work days.

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

11 89. Plaintiff, on behalf of herself and the Class, request waiting time  
12 penalties pursuant to California Labor Code §203, plus attorneys' fees and costs,  
13 as described below.

14 **EIGHTH CAUSE OF ACTION**  
15 **Unfair Competition and Unlawful Business Practices**  
16 **California Business and Professions Code §§ 17200, *et seq.***

17 90. Plaintiff hereby realleges and incorporates by reference the paragraphs  
18 above as though fully set forth herein.

19 91. California Business and Professions Code §17200 defines unfair  
20 competition to include, "unlawful, unfair or fraudulent business practices."

21 92. Plaintiff and all Class Members are "persons" within the meaning of  
22 Business and Professions Code §17204, who have suffered injury in fact and have  
23 lost money or property as a result of Defendant's unfair competition.

24 93. Defendant has been committing, and continues to commit, acts of  
25 unfair competition by engaging in the unlawful, unfair and fraudulent business  
26 practices and acts described in this Complaint, including, but not limited to:

27 (a) violations of California Code Regulations, Title 8 § 11050, ¶ 3,  
28 7, 11, & 12;

(b) violations of California Labor Code §§ 201-203



- 1 (c) violations of California Labor Code §§ 221-223;
- 2 (d) violations of California Labor Code § 226;
- 3 (e) violations of California Labor Code § 226.7
- 4 (f) violations of California Labor Code § 510;
- 5 (g) violations of California Labor Code § 512;
- 6 (h) violations of California Labor Code §§ 1174;
- 7 (i) violations of California Labor Code § 1194; and
- 8 (j) violations of California Labor Code § 1198.

9 94. As a result of its unlawful, unfair, and/or fraudulent business acts and  
10 practices, Defendant has reaped and continues to reap unfair benefits and illegal  
11 profits at the expense of Plaintiff and Class Members. Defendant's unlawful,  
12 unfair, and/or fraudulent conduct has also enabled Defendant to gain an unfair  
13 competitive advantage over law-abiding employers and competitors.

14 95. Business and Professions Code §17203 provides that the Court may  
15 restore to an aggrieved party any money or property acquired by means of the  
16 unlawful, unfair, and/or fraudulent business acts or practices.

17 96. Plaintiff seeks a court order enjoining Defendant from the unlawful,  
18 unfair, and/or fraudulent activity alleged herein.

19 97. Pursuant to Civil Code §3287(a), Plaintiff and other members of the  
20 Class are entitled to recover pre-judgment interest on wages earned, but not paid.

21 98. Plaintiff further seeks an order requiring an audit and accounting of the  
22 payroll records to determine the amount of restitution of all unpaid wages owed to  
23 herself and members of the Class, according to proof, as well as a determination of  
24 the amount of funds to be paid to current and former employees that can be  
25 identified and located pursuant to a court order and supervision.

26 99. Plaintiff seeks restitution to herself and all others similarly situated of  
27 these amounts, including all earned and unpaid wages and attorneys' fees and costs  
28 pursuant to Cal. Code Civ. Proc. §1021.5.

**NINTH CAUSE OF ACTION**  
**Statutory Penalties Pursuant to PAGA (Labor Code §§2698, et seq.)**  
**(On behalf of All Aggrieved Employees)**

100. Plaintiff hereby realleges and incorporates by reference the paragraphs above as though fully set forth herein.

101. At all times set forth herein, the Private Attorneys General Act of 2004 (PAGA, California Labor Code §§ 2698-99) applied to Defendant’s employment of Plaintiff and the Class Members.

102. At all times set forth herein, California Labor Code § 2699(a) has provided that any provision of law under the California Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (LWDA) for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of the State of California and other aggrieved employees.

103. At all times set forth herein, the PAGA has also provided that for the violation of any Labor Code provision that does not itself contain a civil penalty, there are established civil penalties of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation. Cal. Lab. C. § 2699(f).

104. A civil action under PAGA may be brought by an “aggrieved employee,” any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

105. Defendant has been committing, and continues to commit, violations of the California Labor Code, including, but not limited to:

- (a) violations of California Labor Code §§ 201-203
- (b) violations of California Labor Code §§ 221-223;
- (c) violations of California Labor Code § 226;
- (d) violations of California Labor Code § 226.7
- (e) violations of California Labor Code § 510;

- 1 (f) violations of California Labor Code § 512;
- 2 (g) violations of California Labor Code §§ 1174;
- 3 (h) violations of California Labor Code § 1194;
- 4 (i) violations of California Labor Code § 1198; and
- 5 (j) violations of California Code Regulations, Title 8 § 11050, ¶ 3, 7, 11,
- 6 & 12, as incorporated by the Labor Code provisions cited herein;

7 106. Plaintiff was employed by Defendant and the alleged violations were  
8 committed against her during her time of employment and she is, therefore, an  
9 aggrieved employee. Plaintiff and other employees are “aggrieved employees” as  
10 defined by California Labor Code §2699(c) in that they are all current or former  
11 employees of Defendant, and one or more of the alleged violations were committed  
12 against them.

13 107. Pursuant to California Labor Code § 2699.3, an aggrieved employee,  
14 including Plaintiff, may pursue a civil action arising under the PAGA after the  
15 following requirements have been met:

16 (a) The aggrieved employee shall give written notice by  
17 certified mail (hereinafter “Employee’s Notice”) to the LWDA and the  
18 employer of the specific provisions of the California Labor Code  
19 alleged to have been violated, including the facts and theories to  
20 support the alleged violations;

21 (b) The LWDA shall provide notice (hereinafter “LWDA  
22 Notice”) to the employer and the aggrieved employee by certified mail  
23 that it does not intend to investigate the alleged violations within sixty-  
24 five (65) calendar days of the postmark date of the Employee’s Notice.  
25 Upon receipt of the LWDA Notice, or if the LWDA Notice is not  
26 provided within sixty-five (65) calendar days of the postmark date of  
27 the Employee’s Notice, the aggrieved employee may commence a civil  
28 action pursuant to California Labor Code §2699 to recover civil

1 penalties in addition to any other penalties to which the employee may  
2 be entitled.

3 108. On July 22, 2021, Plaintiff provided written notice by certified mail to  
4 the LWDA and Defendant of the specific provisions of the California Labor Code  
5 alleged to have been violated, including the facts and theories to support the alleged  
6 violations. To date, over sixty-five (65) days have passed and the LWDA has not  
7 provided notice of any intention as to whether it will investigate the claims.

8 109. Plaintiff therefore seeks these civil penalties pursuant to Labor Code  
9 §§ 2699(a) and (f), and attorneys' fees and costs pursuant to Labor Code §  
10 2699(g)(1).

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff, on behalf of herself and the Class she seeks to  
13 represent in this action, requests the following relief:

- 14 a) That the Court determine that this action may be maintained as a  
15 class action under California Code of Civil Procedure § 382;
- 16 b) For an order appointing Plaintiff as representative of the Class;
- 17 c) For an order appointing Plaintiff's attorneys as Class Counsel;
- 18 d) That the Court find that Defendant has been in violation of applicable  
19 provisions of the California Labor Code and IWC Wage Order No. 4 by failing to  
20 pay each member of the Class for all hours worked, including failing to pay them  
21 their statutorily mandated overtime and double time wages, despite requiring  
22 and/or suffering and permitting them to work unscheduled time, including  
23 unscheduled overtime and double time;
- 24 e) That the Court find that Defendants have been in violation of  
25 California Labor Code §§ 226.7 and 512 by failing to provide Plaintiff and  
26 members of the Class with off duty meal periods as required by California Code  
27 of Regulations, Title 8 §11040, ¶ 11, and therefore owes premium pay pursuant to  
28 Labor Code 226.7(b) and Wage Order ¶ 11(B);

1 f) That the Court find that Defendants have been in violation of  
2 California Labor Code §§ 226.7 by failing to provide Plaintiff and members of the  
3 Class with off duty rest periods as required by California Code of Regulations,  
4 Title 8 § 11040, ¶ 12, and therefore owes premium pay pursuant to Labor Code  
5 226.7(b) and Wage Order ¶ 12(B);

6 g) That the Court find that Defendant has been unjustly enriched;

7 h) That the Court find that Defendant has violated the recordkeeping  
8 provisions of California Labor Code §§ 1174 and 1174.5 as to Plaintiff and the  
9 Class;

10 i) That the Court find that Defendant has been in violation of California  
11 Labor Code § 226 by failing to timely furnish Plaintiff and members of the Class  
12 with itemized statements accurately showing gross wages earned, net wages  
13 earned, total hours worked, and applicable hourly rates;

14 j) That the Court find that Defendant has been in violation of California  
15 Labor Code §§201 and 202 and therefore owe waiting time penalties under  
16 California Labor Code §203 for willful failure to pay all compensation owed at  
17 the time of termination of employment to Plaintiff and other formerly employed  
18 members of the Class;

19 k) That the Court find that Defendant has committed unfair and  
20 unlawful business practices, in violation of California Business and Professions  
21 Code §17200, *et seq.*, by their violations of the Common Law, Labor Code and  
22 Wage Orders as described above;

23 l) That the Court order an accounting of the payroll records to  
24 determine what restitution is owed and to whom, pursuant to California Business  
25 and Professions Code §17203;

26 m) That the Court award to Plaintiff and the Class members  
27 compensation and restitution for all wages owed;  
28

1 n) That the Court award to Plaintiff and the Class Members statutory  
2 penalties as provided herein, including but not limited to Labor Code §§ 203 and  
3 226;

4 o) That the Court award to the State of California, Plaintiff and the other  
5 aggrieved employees, civil penalties as provided herein pursuant to Labor Code  
6 §2699(a) and (f).

7 p) For pre- and post-judgment interest;

8 q) That Plaintiff and the Class be awarded reasonable attorneys' fees  
9 and costs pursuant to Labor Code §§ 1194 and 2699(g)(1), Code of Civil  
10 Procedure § 1021.5, and/or other applicable law; and

11 r) For such other and further relief as this Court deems just and proper.  
12

13 Respectfully submitted,

14 DATED: February 7, 2022

15 **SCHNEIDER WALLACE**  
16 **COTTRELL KONECKY LLP**

17  
18 By: 

19 Yuri A. Chornobil  
20 Attorneys for Plaintiff  
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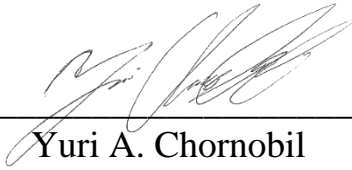
**JURY DEMAND**

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

Respectfully submitted,

DATED: February 7, 2022

**SCHNEIDER WALLACE  
COTTRELL KONECKY LLP**

By:   
Yuri A. Chornobil  
Attorneys for Plaintiff

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**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**  
RCM TECHNOLOGIES, INC.

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**  
BARBARA GRADY, individually and on behalf of all others similarly situated

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)  
**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO CIVIL DIVISION  
  
MAR 24 2022  
  
*[Signature]*  
BY: ASHLEE BAYLESS CHAPA, DEPUTY

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):  
Rene C. Davidson, 1225 Fallon Street, Oakland, CA 94612

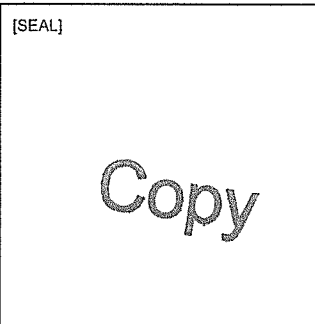
**CIV SB 2204890**  
CASE NUMBER: (Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Joshua Konecky, Schneider Wallace, Cottrell Konecky LLP, 2000 Powell St., Ste. 1400, Emeryville, CA 94608

DATE: **MAR 24 2022** Clerk, by **Ashlee Bayless Chapa**, Deputy  
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



**NOTICE TO THE PERSON SERVED: You are served**

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):
3.  on behalf of (specify):
 

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4.  by personal delivery on (date):





**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN BERNARDINO**

San Bernardino District  
247 West 3rd St  
San Bernardino CA 92415  
www.sb-court.org  
909-708-8678

***complex*** Grady-v-rcm Technologies, Inc.	
IMPORTANT CORRESPONDENCE	Case Number CIVSB2204890

Cottrell Konecky Llp  
2000 Powell Street  
Suite 1400  
EMERYVILLE CA 94608

From the above entitled court, enclosed you will find:

INITIAL COMPLEX ORDER AND GUIDELINES.

CERTIFICATE OF SERVICE

I am a Deputy Clerk of the Superior Court for the County of San Bernardino at the above listed address. I am not a party to this action and on the date and place shown below, I served a copy of the above listed notice:

- Enclosed in a sealed envelope mailed to the interested party addressed above for collection and mailing this date, following standard Court practices.
- Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above or as shown on the attached listing.
- A copy of this notice was given to the filing party at the counter.
- A copy of this notice was placed in the bin located at this office and identified as the location for the above law firm's collection of file stamped documents.

Date of Mailing: 4/7/2022

I declare under penalty of perjury that the foregoing is true and correct. Executed on 4/7/2022 at San Bernardino.

By: Alfie Cervantes

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Superior Court of California  
County of San Bernardino  
247 W. Third Street, Dept. S-26  
San Bernardino, CA 92415-0210

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

APR 05 2022

BY Alfie Cervantes  
ALFIE CERVANTES, DEPUTY

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO, SAN BERNARDINO DISTRICT

BARBARA GRADY

vs.

RCM TECHNOLOGIES, INC.

Case No.: CIVSB 2204890

**INITIAL CASE MANAGEMENT  
CONFERENCE ORDER**

This case is assigned for all purposes to Judge David Cohn in the Complex Litigation Program, Department S-26, located at the San Bernardino Justice Center, 247 West Third Street, San Bernardino, California, 92415-0210. Telephone numbers for Department S-26 are (909) 521-3519 (Judicial Assistant) and (909) 708-8866 (Court Attendant).

**THE INITIAL CASE MANAGEMENT CONFERENCE**

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An initial Case Management Conference (CMC) is scheduled for JUN 28 2022 at 9:00 a.m. The initial CMC will be conducted remotely, via CourtCall. Contact CourtCall at (888) 882-6878 ([www.CourtCall.com](http://www.CourtCall.com)) to schedule your appearance. CourtCall may be used for all CMCs, motions, and other hearings. In person attendance is not required except as specifically ordered by the court.

Counsel for all parties are ordered to attend the initial CMC. If there are defendants who have not yet made a general or special appearance, those parties who are presently before the court may jointly request a continuance of the initial CMC to allow additional time for such non-appearing defendants to make their general or special appearances. Such a request should be made by submitting a Stipulation and Proposed Order to the Court, filed directly in Department S-26, no later than five court days before the scheduled hearing.

**STAY OF THE PROCEEDINGS**

**Pending further order of this Court, and except as otherwise provided in this Order, these proceedings are stayed in their entirety. This stay precludes the filing of any amended complaint, answer, demurrer, motion to strike, motion to compel arbitration, or motion challenging the jurisdiction of the Court. Violation of this order may result in the imposition of monetary sanctions.**

Each defendant, however, is directed to file a Notice of General Appearance (or Notice of Special Appearance if counsel intends to challenge personal jurisdiction) for purposes of identification of counsel and preparation of a service list. The filing of a Notice of General Appearance is without prejudice to any substantive or procedural challenges to the complaint (including subject matter jurisdiction), without prejudice to

1 any denial or affirmative defense, and without prejudice to the filing of any cross-  
2 complaint. The filing of a Notice of Special Appearance is without prejudice to any  
3 challenge to the court's exercise of personal jurisdiction. This stay of the proceedings is  
4 issued to assist the court and the parties in managing this case through the  
5 development of an orderly schedule for briefing and hearings on any procedural or  
6 substantive challenges to the complaint and other issues that may assist in the orderly  
7 management of this case. This stay shall not preclude the parties from informally  
8 exchanging documents and other information that may assist them in their initial  
9 evaluation of the issues.  
10

#### 11 SERVICE OF THIS ORDER

12 **Plaintiffs' counsel is ordered to serve this Order on counsel for each**  
13 **defendant, or, if counsel is not known, on each defendant within five days of the**  
14 **date of this Order. If the complaint has not been served as the date of this Order,**  
15 **counsel for plaintiff is to serve the complaint along with this Order within ten**  
16 **days of the date of this Order. Failure to serve this order may result in the**  
17 **imposition of monetary sanctions.**  
18

#### 19 AGENDA FOR THE INITIAL CASE MANAGEMENT CONFERENCE

20 Counsel for all parties are ordered to meet and confer in person no *later* than  
21 fourteen days before the initial CMC to discuss the subjects listed below. Counsel  
22 must be fully prepared to discuss these subjects with the court:  
23

- 24 1. Any issues of recusal or disqualification;
- 25 2. Any potentially dispositive or important threshold issues of law or fact that, if  
26 considered by the court, may simplify or further resolution of the case;
- 27 3. Appropriate mechanisms for Alternative Dispute Resolution;
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- 4. A plan for the preservation of evidence and a uniform system for the identification of documents to be used throughout the course of this litigation, including discovery and trial;
- 5. A discovery plan for the disclosure and production of documents and other discovery, including whether the court should order automatic disclosures, patterned on Federal Rule of Civil Procedure 26(a) or otherwise;
- 6. Whether it is advisable to conduct discovery in phases so that information needed to conduct meaningful ADR is obtained early in the case;
- 7. Any issues involving the protection of evidence and confidentiality;
- 8. The use and selection of an electronic service provider;
- 9. The handling of any potential publicity issues;
- 10. Any other issues counsel deem appropriate to address with the court.

**THE JOINT REPORT**

Counsel are ordered to prepare a Joint Report for the initial CMC, to be filed directly in Department S-26 (not in the Clerk's office), no later than ten days before the conference date. **Separate reports from each party are not allowed. Judicial Council form CMC statements are not allowed.** The Joint Report must include the following:

- 1. Whether the case should or should not be treated as complex;
- 2. Whether additional parties are likely to be added and a proposed date by which all parties must be served;
- 3. A service list (the service list should identify all primary and secondary counsel, firm names, addresses, telephone numbers, email addresses, and fax numbers for all counsel.)

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4. Whether the court should issue an order requiring electronic service. Counsel should advise the court regarding any preferred web-based electronic service provider;
5. Whether any issues of jurisdiction or venue exist that might affect this court's ability to proceed with this case.
6. Whether there are applicable arbitration agreements, and the parties' views on their enforceability;
7. A list of all related litigation pending in this or other courts (state and federal), a brief description of any such litigation, including the name of the judge assigned to the case, and a statement whether any additional related litigation is anticipated;
8. A description of the major factual and legal issues in the case. The parties should address any contracts, statutes, or regulations on which claims or defenses are based, or which will require interpretation in adjudicating the claims and defenses;
9. The parties' tentative views on an ADR mechanism and how such mechanism might be integrated into the course of the litigation;
10. A discovery plan, including the time need to conduct discovery and whether discovery should be conducted in phases or limited (and, if so, the order of phasing or types of limitations). With respect to the discovery of electronically stored information (ESI ), the plan should include:
  - a. Identification of the Information Management Systems used by the parties;

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- b. The location and custodians of information that is likely to be subject to production (including the identification of network and email servers and hard-drives maintained by custodians);
  - c. The types of ESI that will be requested and produced, e.g. data files, emails, etc.;
  - d. The format in which ESI will be produced;
  - e. Appropriate search criteria for focused requests.
  - f. A statement whether the parties will allow their respective IT consultants or employees to participate directly in the meet and confer process.
11. Whether the parties will stipulate that discovery stays or other stays entered by the court for case management purposes will be excluded in determining the statutory period for bringing the case to trial under Code of Civil Procedure Section 583.310 (the Five Year Rule).
12. Recommended dates and times for the following:
- a. The next CMC (absent special circumstances, the court typically schedules the next CMC approximately six months out);
  - b. A schedule for any contemplated ADR;
  - c. A filing deadline (and proposed briefing schedule) for any anticipated non-discovery motions.
  - d. With respect to class actions, the parties' tentative views on an appropriate deadline for a class certification motion to be filed.

To the extent the parties are unable to agree on any matter to be addressed in the Joint Report, the positions of each party or of various parties should be set forth separately. The parties are encouraged to propose, either jointly or separately, any

1 approaches to case management that they believe will promote the fair and efficient  
2 handling of this case.

3 Any stipulations to continue conferences or other hearings throughout this  
4 litigation must be filed with the court directly in Department S-26 (not in the Clerk's  
5 office), no later than five court days before the conference or hearing date.

6  
7 **INFORMAL DISCOVERY CONFERENCES**

8 Motions concerning discovery cannot be filed without first requesting an informal  
9 discovery conference (IDC) with the court. Making a request for an IDC automatically  
10 stays the deadline for filing any such motion. IDCs are conducted remotely, via the  
11 BlueJeans Video Conferencing program. Attendees will need to download the  
12 BlueJeans program (available from the app stores for IOS or Android) to a computer,  
13 laptop, tablet, or smartphone. If the device being used does not have camera  
14 capability, the BlueJeans application offers an audio-only option. Video appearance at  
15 the IDC, however, is encouraged. The Court will provide a link to join the conference at  
16 the appointed time. Please provide Department S-26's Judicial Assistant ((909) 521-  
17 3519) or Court Attendant ((909) 708-8866) with an e-mail address. No briefing is  
18 required for the IDC, but counsel (either jointly or separately) should lodge (not file) a  
19 one page statement of the issues in dispute in Department S-26 no later than the day  
20 before the IDC.  
21  
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23

24  
25 Dated: 4/5, 2022.

26 **DAVID COHN**

27 \_\_\_\_\_  
28 David Cohn,  
Judge of the Superior Court



# **GUIDELINES FOR THE COMPLEX LITIGATION PROGRAM**

## **SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN BERNARDINO**

**JUDGE DAVID COHN  
DEPARTMENT S-26**

**JUDGE JANET FRANGIE  
DEPARTMENT S-29**

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### **THE SAN BERNARDINO COUNTY COMPLEX LITIGATION PROGRAM**

The Complex Litigation Department for the Superior Court of the State of California, County of San Bernardino, is located at the San Bernardino Justice Center, 247 West Third Street, San Bernardino, CA 92415-0210. The Complex Litigation judges are Judge David Cohn, Department S-26, and Judge Janet Frangie, Department S-29. Telephone numbers for Department S-26 are 909-521-3519 (judicial assistant) and 909-708-8866 (court attendant). Telephone numbers for Department S-29 are 909-521-3461 (judicial assistant) and 909-521-3467 (court attendant)

These guidelines govern complex litigation only in Departments S-26 and S-29. When complex cases are assigned to other Departments, the judges may or may not choose to follow all or some of these guidelines.

### **DEFINITION OF COMPLEX LITIGATION**

As defined by California Rules of Court, rule 3.400(a), a complex case is one that requires exceptional judicial management to avoid placing unnecessary burdens on the court or the litigants and to expedite the case, keep costs reasonable, and promote effective decision making by the court, the parties, and counsel.

Complex cases typically have one or more of the following features:

- A large number of separately represented parties.
- Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve.
- A substantial amount of documentary evidence.
- A large number of witnesses.
- Coordination with related actions pending in one or more courts in other counties or states or in a federal court.
- Substantial post-judgment judicial supervision.

Complex cases may include, but are not necessarily limited to, the following types of cases:

- Antitrust and trade regulation claims.
- Construction defect claims involving many parties or structures.
- Securities claims or investment losses involving many parties.
- Environmental or toxic tort claims involving many parties.
- Mass torts.
- Class actions.
- Claims brought under the Private Attorney General Act (PAGA).
- Insurance claims arising out of the types of claims listed above.
- Judicial Council Coordinated Proceedings (JCCP).
- Cases involving complex financial, scientific, or technological issues.

## **CASES ASSIGNED TO THE COMPLEX LITIGATION DEPARTMENT**

### **A. Cases Designated by a Plaintiff as Complex or Provisionally Complex**

All cases designated by a plaintiff as complex or provisionally complex on the Civil Case Cover Sheet (Judicial Council Form CM-100) will be assigned initially to the Complex Litigation Department. The Court will issue an Initial Case Management Conference Order and schedule an Initial Case Management Conference as provided by California Rules of Court, rule 3.750, for the earliest practicable date, generally within approximately seventy-five days of the filing of the complaint.

A plaintiff designating the case as complex or provisionally complex must serve the Initial Case Management Conference Order and a copy of these guidelines on all parties at the earliest opportunity before the conference, and must file proof of service of the summons and complaint and proof of service of the Initial Case Management Conference Order with the court.

A defendant who agrees that the case is complex or provisionally complex may indicate a "Joinder" on the Civil Case Cover Sheet (Form CM- 100).

A defendant who disagrees that the case is complex or provisionally complex may raise the issue with the court at the Initial Case Management Conference.

### **B. Cases Counter-Designated By a Defendant as Complex or Provisionally Complex**

All cases which were not designated by a plaintiff as complex or provisionally complex, but which are counter-designated by a defendant (or cross-defendant) as complex or provisionally complex on the Civil Case Cover Sheet (Judicial Council Form CM-100), will be re-assigned to the Complex Litigation Department. At such time, the Court will schedule an Initial Case Management Conference for the earliest practicable date, generally within approximately forty-five days. A defendant (or cross-defendant) counter-designating the case as complex or provisionally complex must serve a copy of these guidelines on all parties at the earliest opportunity.

A plaintiff or other party who disagrees with the counter-designation may raise the issue with the court at the Initial Case Management Conference.

### **C. Other Cases Assigned to the Complex Litigation Department**

Whether or not the parties designate the case as complex or provisionally complex, the following cases will be initially assigned to the Complex Litigation Department:

- All Construction Defect Cases.
- All Class Actions.
- All Cases Involving Private Attorney General Act (PAGA) Claims.<sup>1</sup>
- Judicial Council Coordinated Proceedings (JCCP) if so assigned by the Chair of the Judicial Council.

## **REFERRAL TO THE COMPLEX LITIGATION DEPARTMENT BY OTHER DEPARTMENTS**

A judge who is assigned to a case may, but is not required to, refer the case to the Complex Litigation Department to be considered for treatment as a complex case if (1) the case was previously designated by a party as complex or provisionally complex, or (2) the referring judge deems the case to involve issues of considerable legal, evidentiary, or logistical complexity, such that the case would be best served by assignment to the Complex Litigation Department. Such a referral is not a re-assignment, but is a referral for consideration.

In any case referred by another judge to the Complex Litigation Department, the Complex Litigation Department will schedule an Initial Case Management Conference, generally within thirty days, and will provide notice to all parties along with a copy of these guidelines. If the case is determined by the Complex Litigation Department to be appropriate for treatment as a complex case, the case will be re-assigned to the Complex Litigation Department at that time. If the case is determined by the Complex Litigation Department not to be complex, it will be returned to the referring judge.

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<sup>1</sup> The Civil Case cover Sheet (Judicial Council Form CM-100) may not reflect the presence of a PAGA claim. PAGA claims erroneously assigned to non-complex departments are subject to re-assignment to the Complex Litigation Department by the assigned judge.

## **STAY OF DISCOVERY PENDING THE INITIAL CASE MANAGEMENT CONFERENCE**

For cases that are assigned to the Complex Litigation Department, discovery is automatically stayed pending the Initial Case Management Conference, or until further order of the court. Discovery is not automatically stayed, however, for cases that were initially assigned to other departments and are referred to the Complex Litigation Department for consideration, unless the referring judge stays discovery pending determination by the Complex Litigation whether the case should be treated as complex.

## **OBLIGATION TO MEET AND CONFER BEFORE THE INITIAL CASE MANAGEMENT CONFERENCE**

Prior to the Initial Case Management Conference, all parties are required to meet and confer to discuss the items specified in California Rules of Court, rule 3.750(b) , and they are required to prepare a Joint Statement specifying the following:

- Whether additional parties are likely to be added, and a proposed date by which any such parties must be served.
- Each party's position whether the case should or should not be treated as a complex.
- Whether there are applicable arbitration agreements.
- Whether there is related litigation pending in state or federal court.
- A description of the major legal and factual issues involved in the case.
- Any discovery or trial preparation procedures on which the parties agree. The parties should address what discovery will be required, whether discovery should be conducted in phases or otherwise limited, and whether the parties agree to electronic service and an electronic document depository and, if so, their preferred web-based electronic service provider.
- An estimate of the time needed to conduct discovery and to prepare for trial.
- The parties' views on an appropriate mechanism for Alternative Dispute Resolution.
- Any other matters on which the parties request a court ruling.

**The Joint Statement is to be filed directly in the Complex Litigation Department no later than four court days before the conference.** This requirement of a Joint Statement is not satisfied by using Judicial Council Form CM-110, pursuant to California Rules of Court, rule 3.725(a), or by parties filing individual statements. Failure to participate meaningfully in the "meet and confer" process or failure to submit a Joint Statement may result in the imposition of monetary or other sanctions.

## **THE INITIAL CASE MANAGEMENT CONFERENCE**

At the Initial Case Management Conference, the court will determine whether the action is a complex case, as required by California Rules of Court, rule 3.403. If the court determines the case is complex, the court will issue further management-related orders at that time. If the court determines the case is not complex, the case may be retained by the judge, but not treated as a complex case, or it may be reassigned to a different department; if the case was referred by another judge and the case is found to be inappropriate for treatment as a complex case, the case will be returned to the

referring judge.

At the Initial Case Management Conference, the court and counsel will address the subjects listed in California Rules of Court, rule 3.750(b), and all issues presented by the Joint Statement.

Once a case is deemed complex, the function of the Initial Case Management Conference and all subsequent Case Management Conferences is to facilitate discovery, motion practice, and trial preparation, and to discuss appropriate mechanisms for settlement negotiations.

Lead counsel should attend the Initial Case Management Conference. Counsel with secondary responsibility for the case may attend in lieu of lead counsel, but only if such counsel is fully informed about the case and has full authority to proceed on all issues to be addressed at the conference. "Special Appearance" counsel (lawyers who are not the attorneys of record) are not allowed.

### **REMOTE APPEARANCES AT CASE MANAGEMENT CONFERENCES**

Pending further order of the Court, all Case Management Conferences will be conducted remotely, via CourtCall, without in-person attendance of counsel or parties. CourtCall appearances are scheduled by telephoning CourtCall at (888) 882-6878. See [www.CourtCall.com](http://www.CourtCall.com) for further information.

### **CASE MANAGEMENT ORDERS**

The court may issue formal, written case management orders. Typically, complex construction defect cases will proceed pursuant to such an order. Other cases involving numerous parties or unusual logistical complexity may be appropriate for such a written order as well. The need for a written case management order will be discussed at the Initial Case Management Conference or at later times as the need arises. The parties will prepare such orders as directed by the court.

### **ADDITIONAL CASE MANAGEMENT CONFERENCES**

After the Initial Case Management Conference, the court will schedule additional case management conferences as necessary and appropriate on a case-by-case basis.

As with the Initial Case Management Conference, lead counsel should attend all case management conferences. Counsel with secondary responsibility for the case may attend in lieu of lead counsel, but only if such counsel is fully informed about the case and has full authority to proceed on all issues to be addressed. "Special Appearance" counsel (lawyers who are not the attorneys of record) are not allowed. As with the initial Case Management Conference, until further order of the Court, all additional case management conferences are conducted remotely, via CourtCall.

### **VOLUNTARY SETTLEMENT CONFERENCES**

If all parties agree, the court is available to conduct settlement conferences. Requests for settlement conferences may be made at any Case Management Conference or hearing, or by telephoning the Complex Litigation Department.

## **MANDATORY SETTLEMENT CONFERENCES**

In appropriate cases, the court may order mandatory settlement conferences. Parties with full settlement authority, including insurance adjustors with full settlement authority, must attend all mandatory settlement conferences.

## **MANAGEMENT OF CLASS ACTIONS**

In class actions and putative class actions that are deemed complex, the Initial Case Management Conference will function as the Case Conference required by California Rules of Court, rules 3.762 and 3.763.

## **OBLIGATION TO MEET AND CONFER REGARDING MOTIONS**

In addition to any other requirement to "meet and confer" imposed by statute or Rule of Court in connection with motions, all counsel and unrepresented parties are required to "meet and confer" in a good faith attempt to eliminate the necessity for a hearing on a pending motion, or to resolve or narrow some of the issues. The moving party must arrange for the conference, which can be conducted in person or by telephone or video conference, to be held no later than four calendar days before the hearing. No later than two calendar days before the hearing, the moving party is required to file a notice in Department S-26, with service on all parties, specifying whether the conference has occurred and specifying any issues that have been resolved. If the need for a hearing has been eliminated, the motion may simply be taken off-calendar. Failure to participate meaningfully in the conference may result in the imposition of monetary or other sanctions.

The obligation to "meet and confer" does not apply to applications to appear *pro hac vice* or to motions to withdraw as counsel of record.

## **FORMAT OF PAPERS FILED IN CONNECTION WITH MOTIONS**

Counsel and unrepresented parties must comply with all applicable statutes, Rules of Court, and Local Rules regarding motions, including but not limited to their format. Additionally, exhibits attached to motions and oppositions must be separately tabbed at the bottom, so that exhibits can be easily identified and retrieved.

## **ELECTRONIC SERVICE AND DOCUMENT DEPOSITORY**

The parties in cases involving numerous parties or large quantities of documents are encouraged to agree to electronic service for all pleadings, motions, and other materials filed with the court as well as all discovery requests, discovery responses, and correspondence. Nevertheless, parties must still submit "hard" copies to the court of any pleadings, motions, or other materials that are to be filed.

## **INFORMAL DISCOVERY CONFERENCES**

The court is available for informal discovery conferences at the request of counsel. Such

conferences may address the scope of allowable discovery, the order of discovery, issues of privilege, and other discovery issues that may arise. Counsel may contact the Complex Litigation Department to schedule an informal conference.

Before filing any discovery motion, the moving party is required to "meet and confer" with counsel as required by statute. If the "meet and confer" exchange fails to resolve all issues, the moving party is **required** to request an informal conference with the court before filing any discovery motion. Making a request for an informal discovery conference automatically stays the deadline for filing a motion.

Informal Discovery Conferences are conducted remotely, via the BlueJeans Video Conferencing. Attendees will need to download the BlueJeans program (available from the app stores for IOS or Android) to a computer, laptop, tablet, or smartphone. If the device to be used does not have camera capability, the BlueJeans application offers an audio-only option. Video appearance, however, is encouraged. Counsel will be provided with a link to connect to the conference at the appointed time.

Briefing is not required, though each counsel should lodge (not file) a one-page statement of the issues in dispute in the Department before the informal discovery conference.

### **CONFIDENTIAL DOCUMENT AND PROTECTIVE ORDERS**

Proposed protective orders dealing with confidential documents should state expressly that nothing in the order excuses compliance with California Rules of Court, rules 2.550 and 2.551. Proposed protective orders that are not compliant with the requirements of the Rules of Court will be rejected.

### **THE PRETRIAL CONFERENCE**

The court will schedule a pre-trial conference, generally thirty to sixty days in advance of the trial. Counsel and the court will discuss the following matters, which counsel should be fully informed to address:

- Whether trial will be by jury or by the court.
- Anticipated motions *in limine* or the need for other pre-trial rulings.
- The anticipated length of trial.
- The order of proof and scheduling of witnesses, including realistic time estimates for each witness for both direct and cross-examination.
- If there is a large number of anticipated witnesses, whether counsel wish to have photographs taken of each witness to refresh the jury's recollection of each witness during closing argument and deliberation.
- Whether deposition testimony will be presented by video.
- The need for evidentiary rulings on any lengthy deposition testimony to be presented at trial.
- Stipulations of fact.
- Stipulations regarding the admission of exhibits into evidence.
- If there is a large amount of documentary evidence, how the exhibits will be presented in a meaningful way for the jury.
- The use of technology at trial, including but not limited to electronic evidence.

- Any unusual legal or evidentiary issues that may arise during the trial.

## **THE TRIAL READINESS CONFERENCE**

Trial Readiness Conferences are held at 10:00 a.m., typically on the Thursday morning preceding the scheduled trial date. Counsel and unrepresented parties must comply fully with Local Rule 411.2, unless otherwise directed by the court. Failure to have the required materials available for the court may result in the imposition of monetary or other sanctions.

## **TRIALS**

Trial dates are generally Monday through Thursday, 11:00 a.m. to 12:00 p.m. and 1:30 p.m. to 4:30 p.m. Lengthy trials, however, may require deviation from this schedule. Unless otherwise ordered by the court, counsel and unrepresented parties must be present in the courtroom at least ten minutes before each session of trial is scheduled to begin.

Whenever possible, issues to be addressed outside the presence of the jury should be scheduled in a manner to avoid the need for the jury to wait.



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13 Attorneys for Plaintiffs

14  
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16 **IN AND FOR THE COUNTY OF SAN BERNARDINO**

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

20 Plaintiffs,

21 v.

22 RCM TECHNOLOGIES, INC.,

23 Defendant.

24 **Case No. CIV SB 2204890**  
25 **PROOF OF SERVICE**

1 **PROOF OF SERVICE**

2 I, Elvira A. Barajas, hereby declare and state:

3 I am over the age of eighteen years and not a party to the within entitled action.  
4 I am employed at Schneider Wallace Cottrell Konecky LLP located at 2000 Powell  
5 Street, Suite 1400, Emeryville, CA 94608.

6 On April 19, 2022, I served the following document(s) described as:

- 7
- 8 • **NOTICE AND ACKNOWLEDGMENT OF RECEIPT – CIVIL;**
  - 9 • **CIVIL CASE COVER SHEET;**
  - 10 • **CLASS ACTION COMPLAINT;**
  - 11 • **SUMMONS;**
  - 12 • **CERTIFICATE OF ASSIGNMENT;**
  - 13 • **INITIAL COMPLEX ORDER AND GUIDELINES; AND**
  - 14 • **PROOF OF SERVICE.**

15 on the following interested party(s):

16 Martha J. Keon  
17 LITTLER MENDELSON P.C.  
18 Three Parkway  
19 1601 Cherry Street, Suite 1400  
20 Philadelphia, PA 19102


21 as follows:

- 22 [✓] **BY ELECTRONIC SERVICE** by electronically mailing a true and correct  
23 copy in PDF format through SWCK’s electronic mail system to the email  
24 address(s) set forth above.
- 25 [✓] **BY FEDEX:** I placed a true copy(s) thereof enclosed in a sealed  
26 envelope(s) with the postage thereon fully prepaid at the address(s) set forth  
27 above and deposited such envelope(s) in the mail at Emeryville, California.  
28 I am readily familiar with the firm’s practice of collection and processing  
correspondence for mailing. Under that practice it would be deposited with  
U.S. Postal Service on that same day at Emeryville, California. I am aware  
that on motion of the party served, service is presumed invalid if postal  
cancellation date or postage meter date is more than one day after date of  
deposit for mailing in affidavit.

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I declare under penalty of perjury under the laws of the State of Texas and the United States of America that the foregoing is true and correct.

Executed on April 19, 2022 at Houston, Texas.

  
\_\_\_\_\_  
ELVIRA A. BARAJAS