



1 Richard A. Hoyer (SBN 151931)
 2 LAW OFFICES OF RICHARD A. HOYER & ASSOCIATES
 3 Michael S. Sorgen (SBN 43107)
 4 LAW OFFICES OF MICHAEL S. SORGEN
 240 Stockton Street, Ninth Floor
 San Francisco, CA 94108
 (415) 956-1360

FILED
 ALAMEDA COUNTY

JAN 29 2009

CLERK OF THE SUPERIOR COURT

By Richard A. Hoyer
 Deputy

5 Attorneys for Plaintiff

8 SUPERIOR COURT OF CALIFORNIA
 9 IN THE COUNTY OF ALAMEDA

11 JESSICA NEU-HELMS, VALEEN)
 12 HAUPT, KATHERINE)
 13 WOOLSTENCROFT and ON BEHALF OF)
 ALL OTHERS SIMILARLY SITUATED)

14 Plaintiffs,

14 v.

15 UHS OF DELAWARE, INC. WHICH)
 16 WILL TRANSACT BUSINESS IN CALIF.)
 AS UNIVERSAL HEALTH SERVICES)
 17 OF DELAWARE, INC.; ELMIRA NPS,)
 LLC and DOES 1-100)

18 Defendants.

Case No: RG 08425516

**AMENDED COMPLAINT FOR
 VIOLATIONS OF STATE WAGE AND
 HOUR LAWS AND UNLAWFUL
 BUSINESS PRACTICES; CLAIMS FOR
 INJUNCTIVE AND DECLARATORY
 RELIEF- CLASS ACTION**

DEMAND FOR JURY TRIAL

19
 20 1. This class actions is about Defendants' refusal to provide its employees any meal or
 21 rest periods, in violation of the California Labor Code. Defendants own and operate over a dozen for
 22 profit, non public schools for children with severe psychological and physical disabilities. Defendants
 23 employed the Plaintiffs and members of the Class as classroom assistants and bus drivers at the
 24 schools. In order to maximize profit, Defendants deliberately under-staffed the schools and used lack
 25 of staff as an excuse to systematically deny all rest and meal periods. As a consequence, Plaintiffs
 26 and the Class were forced to work with profoundly disabled children for up to twelve hours per day
 27 without any break.
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1
2 **Jurisdiction and Venue**

3 2. The Court has jurisdiction over Plaintiffs' claims because the acts and omissions
4 complained of occurred at workplaces owned and operated by Defendants in California, greater than
5 two-thirds of the Class are citizens of California, ELMIRA NPS LLC is a local defendant from whom
6 significant relief is sought and whose conduct forms a significant basis for this suit, the site of the
7 injuries and violations of law are in California, and the total amount in controversy, including
8 attorney's fees, is less than five million dollars. Venue is proper in Alameda County. While defendant
9 UHS OF DELAWARE, INC. (hereafter "UHS") does business in the State of California, UHS has
10 not designated with the California Secretary of State a principal place of business within the State
11 pursuant to Corporations Code § 2105(a)(3). Accordingly, UHS may be sued in any county in the
12 State, including the County of Alameda.
13

14 **Parties**

15 3. Plaintiff JESSICA NEU-HELMS is an individual over the age of eighteen and, at all
16 relevant times, was a resident of the State of California. NEU-HELMS was an Educational Assistant
17 and Van Driver at Defendant UHS Elmira, located in Elmira, California, from October 2005 to July
18 2007. Throughout the class period, NEU-HELMS had held the job classification of Educational
19 Assistant and Van Driver.
20

21 4. Plaintiff VALENE HAUPT is an individual over the age of eighteen and, at all
22 relevant times, was a resident of the State of California. HAUPT was an Educational Assistant and
23 Van Driver at UHS Elmira, located in Elmira, California beginning in January 2006 and ending in
24 May 2007. HAUPT was then transferred to UHS Vallejo, located in Vallejo, California, where she
28 worked as an Educational Assistant and Van Driver until August, 2007. At that time UHS transferred
26 HAUPT to its San Rafael campus, UHS San Rafael, located in San Rafael, California, where she
27 worked as an Education Assistant and Van Driver until January, 2008.
28

1 5. Plaintiff KATHERINE WOOLSTENCROFT is an individual over the age of eighteen
2 and, at all relevant times, was a resident of the State of California. WOOLSTENCROFT was an
3 Educational Assistant and Van Driver at UHS Elmira, located in Elmira, California beginning in
4 January 2005 and ending in February 2006. WOOLSTENCROFT was then transferred to UHS'
5 Carmichael campus, UHS Carmichael, located in Carmichael, California, where she worked as an
6 Educational Assistant and Van Driver until June 2007.

7
8 6. Defendant UHS OF DELAWARE, INC. WHICH WILL TRANSACT BUSINESS IN
9 CALIF. AS UNIVERSAL HEALTH SERVICES OF DELAWARE, INC. ('UHS') is a Delaware
10 corporation with its principal place of business in Pennsylvania. UHS is licensed or registered to
11 conduct business in the State of California. UHS has owned and/or operated a number of Non-Public
12 Schools in California, including UHS Elmira, UHS Vallejo, UHS San Rafael, and UHS Carmichael
13 since October 2005.

14 7. Defendant ELMIRA NPS, LLC ('UHS Elmira') is, and at all times mentioned herein
15 was, a corporation organized and existing under the laws of the State of California with its principal
16 place of business in Solano County, California. ELMIRA NPS, LLC is a wholly owned subsidiary of
17 UHS, which directs its daily business affairs. ELMIRA NPS, LLC is a joint employer of Plaintiffs
18 and members of the Class, and its conduct forms a significant basis for the acts complained of herein.

19
20 8. Plaintiffs do not know the true names and capacities of Defendants sued herein as
21 DOES 1-100 and therefore sue these Defendants by such fictitious names. Plaintiffs will amend this
22 Complaint to allege their true identity and capacities when ascertained. Plaintiffs are informed and
23 believe and on that basis allege that each of these fictitiously named Defendants is responsible in
24 some manner for the occurrences alleged herein and thereby proximately caused Plaintiffs' injuries
28 alleged herein.

26
27 9. Plaintiffs are informed and believe and on that basis allege that at all relevant times
28 each of the Defendants was the agent or employee of each of the remaining Defendants, and in doing

1 the things herein alleged was acting within the course and scope of such employment, and that
2 Defendants authorized ratified, and approved, expressly or implicitly, all of the conduct herein
3 alleged.

4
5 **Class and Collective Action Allegations**

6 10. Plaintiffs bring this class action pursuant to Code of Civil Procedure § 382 and
7 Business & Professions Code § 17200 for violations of California's Wage and Hour Law, on behalf
8 of themselves and all others similarly situated who were or are non-exempt hourly employees at any
9 Defendant or any NPS owned or operated by UHS in California, who worked at least one six-hour
10 shift during the course of their employment, and who were denied statutorily mandated "off duty"
11 meal periods and rest periods during that time. The non-exempt classifications of the Class include,
12 without limitation, Educational Assistant, Mental Health Assistant, One-to-One Aide, and/or Van
13 Driver.
14

15 11. Common questions of law and fact exist as to members of the Class that include,
16 without limitation, the following:
17

- 18 (a) Whether UHS and/or UHS Elmira implemented and engaged in a systematic
19 practice whereby they unlawfully failed to provide hourly, non-exempt employees
20 "off duty" meal periods;
21 (b) Whether UHS and/or UHS Elmira implemented and engaged in a systematic
22 practice whereby they unlawfully failed to provide hourly, non-exempt employees
23 "off duty" rest periods;
24 (c) Whether UHS and/or UHS Elmira implemented and engaged in a systematic
28 practice whereby they failed to provide accurate compensation statements to their
26 hourly, non-exempt employees;
27 (d) Whether UHS and/or UHS Elmira have willfully failed to pay at the time of
28

1 termination of employment all earned wages owed as a consequence for failing to
2 provide required meal and rest periods;

3 (e) Whether UHS and/or UHS Elmira have engaged in unfair competition proscribed
4 by Business & Professions Code § 17200 by engaging in the above described
5 conduct.

6 (f) Whether the systematic acts and practices of UHS and/or UHS Elmira as alleged
7 herein violated, inter alia, applicable provisions of the Labor Code, including but
8 not limited to Sections 226, 226.7, 512, and 2698 as well as the applicable Wage
9 Orders.

10 (g) Whether UHS and/or UHS Elmira should be enjoined from continuing to deprive
11 members of the Class of legally required meal and rest periods.

12 12. Plaintiffs' claims are typical of the claims of the Class that Plaintiffs seek to represent.
13 Plaintiffs and members of the Class have been denied "off duty" meal periods and rest periods
14 required by California law. Plaintiffs and members of the Class have not been paid all earned wages
15 owed as a result of the denial of "of duty" meal and rest periods.
16

17 13. The potential members of the Class are so numerous that joinder of all members
18 would be unfeasible and impractical. The disposition of the claims through this class action will
19 benefit both the parties and the Court. The exact number of members is unknown to Plaintiffs at this
20 time. However, at present, it is estimated that each of the UHS' thirteen (13) Non-Public Schools
21 employs between three (3) and fifteen (15) potential members of the Class, and it is believed these
22 individuals are geographically dispersed among over a dozen California counties. The number and
23 identity of the proposed Class members are readily ascertainable through inspection of Defendants'
24 records.
25

26 14. Plaintiffs will fairly and adequately represent and protect the interests of the members
27 of the Class. Plaintiffs have retained and are represented by counsel competent and experienced in
28

1 complex class action litigation, including Wage and Hour class actions of this type.

2 15. Plaintiffs know of no difficulty which will be encountered in the management of this
3 litigation which would preclude its maintenance as a class action.

4 16. The nature of this action and the nature of laws available to Plaintiffs make use of the
5 class action format the superior and appropriate procedure to afford relief for the wrongs herein
6 alleged.

7
8
9 **Factual Allegations Common to All Claims**

10 17. Defendant UHS owns and operates for profit, Non Public Schools ('NPS'), including
11 UHS Elmira, for California public school students with disabilities. These children are between the
12 ages of 5 and 18 and each has an Individual Education Plan ('IEP'), which UHS is supposed to
13 implement.

14 18. Various California public school districts contract with UHS and/or UHS Elmira to
15 provide educational and related services, whereby UHS and/or UHS Elmira agree to accept students
16 with disabilities for a per diem rate. UHS and UHS Elmira generate profit by accepting as many
17 students as possible while keeping its personnel and labor costs at a minimum.

18 19. In order to maximize profits, it is Defendants' policy and practice to operate each NPS
19 with a skeletal crew. UHS and UHS Elmira staff classrooms with unqualified teachers and a
20 minimum number of educational aides. UHS and/or UHS Elmira provides minimal training and
21 support for these staff.

22 20. Defendants are authorized by California public school districts to physically restrain
23 students with disabilities. With too few and untrained staff these restraints are a prominent feature of
24 the educational environment at each UHS NPS. Staff who are not trained in approved techniques are
25 forced to engage in these restrains, which often occur multiple times a school day and can last for
26 several hours.

1 21. In addition to educational and related services, each UHS NPS contracts to provide
2 transportation services for its students. The same staff who support classroom teachers or mental
3 health specialists are responsible for transporting students to and from UHS NPSs in ten-person
4 passenger vans.

5 22. Adequate rest and nutrition are required to operate motor vehicles safely. Moreover,
6 exhaustion impairs staff ability to deal effectively with physically and/or emotionally challenged
7 children. Regular staff breaks for meals and rest are therefore necessary to ensure the continued
8 safety of the disabled children.

9 23. Plaintiffs and the Class were or are non-exempt, Educational Aides, Mental Health
10 Assistants, One-to-One Aides, or Van Drivers. All drove the vans used to transport the children or
11 acted as van attendants.

12 24. As part of its effort to slash costs, UHS has failed to provide Plaintiffs and the Class
13 with statutorily mandated meal periods under Labor Code §§ 226.7(a) and 512(a) and Wage Order
14 No. 4.
15

16 25. During the four years preceding this case and continuing into the present time,
17 Plaintiffs and the Class worked shifts consisting of between eight and twelve hours and were
18 therefore entitled to at least one "off duty" meal period. On days when Plaintiffs and the Class
19 worked in excess of ten hours, they were by law entitled to two "off duty" meal periods.
20

21 26. However, for the past four years, UHS and UHS Elmira have refused to permit
22 Plaintiffs and Class members to take off-duty meal periods. As a consequence, the Plaintiffs and the
23 Class were and are today required to remain in the classroom or on a van for an uninterrupted period
24 exceeding six hours and at times lasting up to twelve hours. UHS and UHS Elmira have made no
28 effort to develop a system to relieve Plaintiffs or the Class and, as a practice and policy, will not hire
26 the sufficient number of qualified staff needed to implement such a system. Rather, Defendants
27 purposely and systematically exhausted staff and thereby needlessly endangered them and the
28

1 students.

2 27. The Class consists of all non-exempt employees who were denied a mandated off duty
3 meal period.

4 28. Moreover, UHS and UHS Elmira failed and continues to fail to provide Plaintiffs and
5 the Class with statutorily mandated rest periods under Labor Code § 226.7 and Wage Order No. 4.

6 29. During the four years preceding this complaint, Plaintiffs and the Class worked shifts
7 of between eight and twelve hours and were thus entitled to two or three rest periods per shift. UHS
8 and UHS Elmira have failed to provide Plaintiffs and the Class with rest periods during which they
9 were relieved of all duty. Rather, Plaintiffs and the Class toiled without break, at times having
10 literally to beg to use bathroom facilities. UHS and UHS Elmira have developed and implemented
11 practices and policies which require Plaintiffs and the Class to remain on-duty at all times. By
12 willfully and systematically exhausting their staff, Defendants have exposed the disabled students to
13 considerable, undue risk of harm.
14

15 30. UHS and UHS Elmira have failed to pay all earned wages owed to Plaintiffs and
16 members of the Class for the missed meal and rest periods under Labor Code § 226.7(b) and Wage
17 Order 4. Plaintiffs and the Class were and are entitled to an hour of pay at their regular rate for each
18 day with a meal period violation and an additional hour of pay for each day with a rest period
19 violation. Plaintiffs and members of the Class have not received that payment. UHS and UHS Elmira
20 have also willfully refused to pay Plaintiffs these amounts at the time of their termination, in violation
21 of Labor Codes §§ 201-203.
22

23 31. Plaintiffs and members of the Class who are no longer employed by UHS and/or UHS
24 Elmira are entitled to penalties pursuant to Labor Code § 203, in the amount of each person's daily
28 wage multiplied by the number of days since termination, up to thirty days.
26

27 32. The policies of denying off-duty meal and rest periods are substantially similar if not
28 identical at every UHS NPS and for all Plaintiffs and the Class.

1 students.

2 27. The Class consists of all non-exempt employees who were denied a mandated off duty
3 meal period.

4 28. Moreover, UHS and UHS Elmira failed and continues to fail to provide Plaintiffs and
5 the Class with statutorily mandated rest periods under Labor Code § 226.7 and Wage Order No. 4.

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7 of between eight and twelve hours and were thus entitled to two or three rest periods per shift. UHS
8 and UHS Elmira have failed to provide Plaintiffs and the Class with rest periods during which they
9 were relieved of all duty. Rather, Plaintiffs and the Class toiled without break, at times having
10 literally to beg to use bathroom facilities. UHS and UHS Elmira have developed and implemented
11 practices and policies which require Plaintiffs and the Class to remain on-duty at all times. By
12 willfully and systematically exhausting their staff, Defendants have exposed the disabled students to
13 considerable, undue risk of harm.
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26

27 32. The policies of denying off-duty meal and rest periods are substantially similar if not
28 identical at every UHS NPS and for all Plaintiffs and the Class.

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First Cause of Action

Failure to Provide Required Meal Periods

(California Labor Code §§226.7(2), 512(a), 8 Cal. Code Regs. § 11050)

Plaintiffs incorporate each of the foregoing paragraphs as though fully set forth herein.

33. At all times relevant herein, in violation of Labor Code § 226.7(a), Defendants knowingly and intentionally required employees to work during meal periods that are mandated by Labor Code § 512 and California Administrative Code § 11050.

34. As a proximate result of Defendants' violation, the Named Plaintiffs and the Class members were injured.

35. The Named Plaintiffs and the Class members are entitled to recover, per Labor Code § 226.7(b) and related administrative orders and regulations, the pay to each employee of one additional hour of pay at the employee's regular rate of compensation for each work day that the meal period was not provided.

Second Cause of Action

Failure to Provide Required Rest Periods

(Labor Code §§ 226.7, 516, 8 Cal. Code Regs. § 11010(12))

Plaintiffs incorporate each of the foregoing paragraphs as though fully set forth herein.

36. California Labor Code section 516 authorizes California's Industrial Welfare Commission to "adopt or amend working conditions order with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers." California Labor Code section 226.7(a) prohibits an employer from requiring employees to

1 work during any mandated rest period.

2 37. The IWC has issued various Wage Orders pursuant to Labor Code §516. These
3 include Wage Order 4, which regulates Professional, Technical, Clerical, Mechanical and Similar
4 Operations, including the delivery of educational services.

5 38. Section 12(A) of the applicable Wage Order sets the rest period requirement to include
6 one, ten minute, off duty period for every four hours of work or major fraction thereof.

7 39. Section 12(B) of the applicable Wage Order requires an employer to pay an employee
8 one hour of regular pay for each work day that the required off duty rest period is not provided.

9 40. At all times relevant herein, in violation of Labor Code § 226.7(a), Defendants
10 knowingly and intentionally required employees to work during required rest periods.

11 41. As a proximate result of Defendants' violation, the Plaintiffs and the Class members
12 were injured.

13 42. The Named Plaintiffs and the Class members are entitled to recover, per Labor Code §
14 226.7(b) and related administrative orders and regulations, the pay to each employee of one
15 additional hour of pay at the employee's regular rate of compensation for each work day that the rest
16 period was not provided.

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20 **Third Cause of Action**

21 **California Record-Keeping Provisions,**

22 **(Cal. Labor Code §§ 226, 1174, & 1174.5)**

23 Plaintiffs incorporate each of the foregoing paragraphs as though fully set forth herein.

24 43. Defendants knowingly and intentionally failed to provide timely, accurate, itemized
25 wage statements including, *inter alia*, hours worked, to the Named Plaintiffs and the Class members
26 in accordance with Labor Code § 226(a) and the IWC Wage Orders. Such failure caused injury to the
27 Named Plaintiffs and the Class members. At all times relevant herein, Defendants have failed to
28

1 maintain accurate records of hours worked by the Named Plaintiff and the Class members as required
2 under Labor Code § 1174(d).

3 44. Plaintiffs and the Class will seek penalties under Labor Code §§ 226(e) and 1174.5,
4 including the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a
5 violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
6 period.

7
8
9 **Fourth Cause of Action**

10 **Waiting Time Penalties,**

11 **(Labor Code § 203)**

12 Plaintiffs incorporate each of the foregoing paragraphs as though fully set forth herein.

13 45. Plaintiffs and certain members of the Class are no longer employed by Defendants, in
14 that they quit or were discharged from employment.

15 46. Defendants willfully refused, and continue to refuse, to pay these Plaintiffs and
16 members of the Class all owed wages in a timely manner, as required by Labor Code § 203.

17 47. Plaintiffs therefore request restitution and penalties provided by Labor Code § 203, in
18 the amount of each persons daily wage multiplied by thirty (30) days.
19

20
21 **Fifth Cause of Action**

22 **Labor Code PAG Act Penalties**

23 **(Labor Code § 2698)**

24
28 Plaintiffs incorporate each of the foregoing paragraphs as though fully set forth herein.

26 48. The policies, acts and practices heretofore described were and are an unlawful
27 business act or practice because the failure of UHS and UHS Elmira to provide rest and meal period
28 breaks, failure to pay compensation for work without rest and meal period breaks, and failure to

1 provide accurate compensation statements to Plaintiffs and members of the Class violates applicable
2 Labor Code sections and gives rise to statutory penalties as a result of such conduct, including but not
3 limited to penalties as provided by Labor Code §§ 226.3, 558, and 2699.5 and applicable IWC Wage
4 Orders. Plaintiffs, as aggrieved employees, hereby seek recovery of civil penalties as prescribed by
5 the Labor Code Private Attorney General Act of 2004 on behalf of themselves and other current and
6 former employees of UHS and/or UHS Elmira against whom one or more of the violations of the
7 Labor Code was committed.

8
9 49. Before filing this lawsuit, the Plaintiffs gave written notice by certified mail to the
10 California Labor and Workforce Development Agency and defendant UHS of labor code violations
11 and pursuant to Cal. Lab. Code § 2699.3.

12
13 **Sixth Cause of Action**

14 **Unfair Competition—Unfair and Unlawful Business Practices**

15 **(Business and Professions Code § 17200)**

16 Plaintiffs incorporate each of the foregoing paragraphs as though fully set forth herein.

17
18 50. The foregoing conduct, as alleged, violates the California Unfair Competition Law
19 (“UCL”), Cal. Bus. & Prof. Code § 17200 *et seq.* Section 17200 of the Cal. Bus. & Prof. Code
20 prohibits unfair competition by prohibiting, inter alia, any unlawful or unfair business acts or
21 practices.

22
23 51. Beginning at a date unknown to Plaintiffs, Defendants committed, and continue to
24 commit, acts of unfair competition, as defined by the UCL, by, among other things, engaging in the
28 acts and practices described herein. Defendants’ conduct as herein alleged have damaged the
26 Plaintiffs and the Class members by wrongfully denying them earned wages and therefore was
27 substantially injurious to the Named Plaintiffs and the Class. Defendants engaged in unfair
28

1 competition in violation of the UCL by violating, *inter alia*, each of the following laws. Each of
2 these violations constitutes an independent and separate violation of the UCL:

3 (a) Defendants have failed to provide Plaintiffs and the Class with meal periods in
4 which they were relieved for all duty for 30 minutes, in violation of California
5 Labor Code §§ 226.7 and 516 and applicable Wage Orders, including without
6 limitation Wage Order 4; and

7
8 (b) Defendants have failed to provide Plaintiffs and the Class with rest periods in
9 which they were relieved of all duty for 10 minutes, in violation of Labor Code §§
10 226.7 and 516 and applicable Wage Orders, including without limitation Wage
11 Order 4.

12 52. Defendants' course of conduct, acts, and practices in violation of the California laws
13 mentioned in the above paragraph constitute a separate and independent violation of the UCL.
14 Defendants' conduct described herein violates the policy or spirit of such laws or otherwise
15 significantly threatens or harms competition.
16

17 53. The harm to the Plaintiffs and the Class in being wrongfully denied lawfully earned
18 wages outweighs the utility, if any, of Defendants' policies or practices and, therefore, Defendants'
19 actions described herein constitute an unfair business practice or act within the meaning of the UCL.

20 54. The unlawful and unfair business practices and acts of Defendants, as described
21 above, have injured the Class members in that they were wrongfully denied the payment of earned
22 wages.
23

24 55. The Plaintiffs, on behalf of themselves and the Class members, further request that the
28 Court enforce the penalty provision of Labor Code §203, pursuant to Business and Professions Code
26 § 17200, which provides: "Notwithstanding Section 3369 of the Civil Code, specific or preventive
27 relief may be granted to enforce a penalty, forfeiture, or penal law in a case of unfair competition."
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Seventh Cause of Action

Preliminary and Permanent Injunction

(California Code of Civil Procedure § 526)

Plaintiffs incorporate each of the foregoing paragraphs as though fully set forth herein.

56. Defendants have violated various provisions of California’s Labor Code, Business & Professions Code, and Wage Orders as alleged hereinabove.

57. If UHS and UHS Elmira are not enjoined from this conduct they will continue to engage in these unlawful practices.

58. Monetary compensation alone will not afford adequate and complete relief to Plaintiffs and members of the Class because it is impossible to determine the amount of damages that will compensate for Defendants’ actions in the future if such actions are not enjoined now. Thus without injunctive relief, a multiplicity of actions will result from UHS’ continuing conduct.

59. Plaintiffs request that the Court issue a preliminary and permanent injunction requiring UHS and UHS Elmira (a) to advise all Class members of their rights pursuant to the California Labor Code and Wage Orders; (b) to provide Plaintiffs and members of the Class all applicable benefits afforded by California’s Labor Code and the appropriate Wage Orders including but not limited to the provision of meal and rest periods; (c) to provide Plaintiffs and members of the Class wage and hours statements as required by California’s Labor Code and regulations; (d) to pay Plaintiffs and members of the Class all wages earned upon termination of their employment, including unpaid premium wages.

Eighth Cause of Action

Declaratory Relief

1
2 Plaintiffs incorporate each of the foregoing paragraphs as though fully set forth herein.

3 60. An actual controversy has arisen between Plaintiffs and members of the Class on the
4 one hand, and UHS and UHS Elmira on the other, as to their respective rights, remedies and
5 obligations. Specifically, Plaintiffs contend and Defendants deny that:

- 6 (a) UHS and UHS Elmira have failed to provide Plaintiffs and the Class with meal
7 periods in which they were relieved of all duty for 30 minutes on violation of
8 California Labor Code §§ 226.7 and 512(a) and the applicable Wage Orders; and
- 9 (b) UHS and UHS Elmira have failed to provide Plaintiffs and the Class with rest
10 periods in which they were relieved of all duty for 10 minutes, in violation of
11 Labor Code §§ 226.7 and applicable Wage Orders.
- 12 (c) Plaintiffs and members of the Class are entitled to recover earned wages and
13 penalties as hereinabove alleged.
14

15
16 61. Accordingly, Plaintiffs seek a declaration as to the respective rights, remedies, and
17 obligations of the parties.

18
19 WHEREFORE, Plaintiffs, on behalf of themselves and members of the Class, respectfully pray for
20 relief as set forth below.

Prayer for Relief

- 21
22 1. For an order certifying this case as a class action, and appointing Plaintiffs as the
23 representatives of the Class;
24
- 25 2. For an order finding and declaring that the acts and practices of UHS and UHS Elmira
26 as challenged herein are unlawful and unfair;
27
- 28 3. For an order finding and declaring the Defendants' acts and practices in failing to pay

1 earned wages when due were willful, and penalties shall be awarded against UHS and UHS Elmira
2 pursuant to Labor Code § 203;

3 4. For an order preliminarily and permanently enjoining UHS and UHS Elmira from
4 engaging in the practices challenged herein;

5 5. For an order requiring UHS and UHS Elmira to advise all members of the Class of
6 their rights pursuant to California Labor Code, Wage Orders, and Business & Professions Code;

7 6. For restitution of all earned wages earned and unpaid;

8 7. For compensatory damages in amounts to be determined at trial;

9 8. For a declaration as to the respective rights, remedies, and obligations of the parties,
10 and establishment of a post-judgment reference proceeding to identify, locate and fully reimburse all
11 affected employees all monies due to them;

12 9. For an award of all civil penalties provided by law;

13 10. For prejudgment interest to the extent permitted by law;

14 11. For an award of attorneys' fees, costs, and expenses incurred in the prosecution of this
15 action; and
16

17 12. For such other and further relief as the Court may deem proper.
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20 Dated: January 23, 2009

LAW OFFICES OF MICHAEL SORGEN

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23 By: 

24 MICHAEL SORGEN

28 Attorney for Plaintiffs and Proposed Class
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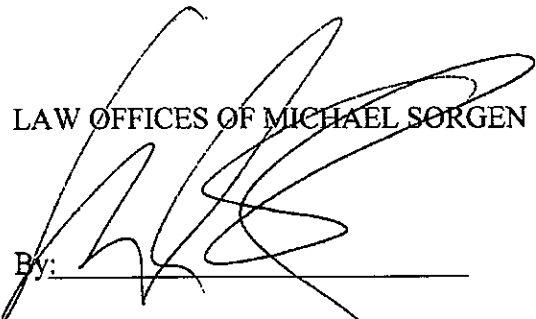
DEMAND FOR JURY TRIAL

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Plaintiffs hereby demand a jury trial on all causes of action and claims with respect to which they have a right to jury trial.

Dated: January 23, 2009

LAW OFFICES OF MICHAEL SORGEN

By:  _____

MICHAEL SORGEN

Attorney for Plaintiffs and Proposed Class