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KAISER FOUNDATION HEALTH PLAN, INC.,
8 KAISER FOUNDATION HOSPITALS, AND
SOUTHERN CALIFORNIA PERMANENTE
9 MEDICAL GROUP

10
11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13

14
15 TIFFANY GRETLER, an individual on
behalf of herself and all others similarly
situated; LAURA CARMONA, an
16 individual on behalf of herself and all others
similarly situated; SHELIA TAYLOR an
17 individual on behalf of herself and all others
similarly situated; SHALYSE KEMP an
18 individual on behalf of herself and all others
similarly situated,

19 Plaintiffs,

20 v.

21 KAISER FOUNDATION HEALTH PLAN,
22 INC., a corporation; KAISER
FOUNDATION HOSPITALS, a
23 corporation; SOUTHERN CALIFORNIA
PERMANENTE MEDICAL GROUP, a
24 partnership; and DOES 1 through 10
inclusive,

25 Defendants.
26

Case No.

**DEFENDANTS KAISER
FOUNDATION HEALTH PLAN,
INC., KAISER FOUNDATION
HOSPITALS, AND SOUTHERN
CALIFORNIA PERMANENTE
MEDICAL GROUP'S NOTICE OF
REMOVAL OF CIVIL ACTION**

(Riverside County Superior Court Case
No. RIC 1805047)

1 TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL
2 DISTRICT OF CALIFORNIA AND TO PLAINTIFFS AND THEIR ATTORNEYS OF
3 RECORD:

4 PLEASE TAKE NOTICE that Defendants KAISER FOUNDATION HEALTH
5 PLAN, INC., KAISER FOUNDATION HOSPITALS, AND SOUTHERN
6 CALIFORNIA PERMANENTE MEDICAL GROUP (“Defendants”) hereby remove the
7 above-referenced action from the Superior Court of the State of California for the County
8 of Riverside to the United States District Court for the Central District of California,
9 pursuant to 28 U.S.C. sections 1331, 1441.

10 **PLEADINGS, PROCESSES, AND ORDERS**

11 1. On March 13, 2018, Plaintiffs TIFFANY GRETHER, LAURA
12 CARMONA, SHELIA TAYLOR, and SHALYSE KEMP (“Plaintiffs”) filed a purported
13 Class Action Complaint for Damages, Restitution, and Injunctive Relief (the
14 “Complaint”) against KAISER FOUNDATION HEALTH PLAN, INC. (“KFHP”), in the
15 Superior Court of the State of California for the County of Riverside, entitled *Tiffany*
16 *Gretler, et al. v. Kaiser Foundation Health Plan, Inc., et al.*, Case No. RIC 1805047.
17 Plaintiffs asserted claims for (1) failure to pay overtime compensation (Cal. Lab. Code §§
18 510, 1194, 1198, 1199, and Wage Order 4-2001); (2) failure to provide compliant meal
19 breaks (Cal. Lab. §§ 226.7 and 512 and Wage Order 4-2001); (3) failure to provide
20 compliant rest periods (Cal. Lab. § 226.7 and Wage Order 4-2001); (4) failure to provide
21 accurate itemized wage statements (Cal. Lab. § 226(a)); and (5) Unfair Competition (Bus.
22 & Prof. Code § 17200).

23 2. On March 20, 2018, Plaintiff mailed copies of the Complaint, Summons,
24 Certificate of Counsel, Case Information Sheet, and Declaration for Court Assignment to
25 Defendant KFHP pursuant to section 415.30 of the California Code of Civil Procedure.
26 True and correct copies of these documents are attached hereto as Exhibit A. On April
27 19, 2018, Defendant KFHP filed its Answer to Plaintiffs’ Complaint in the Superior
28

1 Court of California for the County of Riverside. A true and correct copy of the Answer is
2 attached hereto as Exhibit B.

3 3. On October 3, 2018, Plaintiffs filed a First Amended Complaint for
4 Damages, Restitution, and Injunctive Relief (the “Amended Complaint”) against
5 Defendants KAISER FOUNDATION HEALTH PLAN, INC., KAISER FOUNDATION
6 HOSPITALS, AND SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP
7 (“Defendants”) in the same action. The Amended Complaint purports to assert causes of
8 action for: (1) failure to pay overtime compensation (Cal. Lab. Code §§ 510, 1194, 1198,
9 1199, and Wage Order 4-2001); (2) failure to provide compliant meal breaks (Cal. Lab.
10 §§ 226.7 and 512 and Wage Order 4-2001); (3) failure to provide compliant rest periods
11 (Cal. Lab. § 226.7 and Wage Order 4-2001); (4) failure to provide accurate itemized
12 wage statements (Cal. Lab. § 226(a)); (5) failure to pay all wages owed upon termination
13 (Cal. Lab. §§ 201-203); (6) violations of the Private Attorneys General Act; (7) Unfair
14 Competition (Bus. & Prof. Code § 17200); and (8) violations of the Fair Labor Standards
15 Act (“FLSA”) (29 U.S.C. §§ 201 *et seq.*). A true and correct copy of the Amended
16 Complaint is attached hereto as Exhibit C.

17 4. On October 9, 2018, Defendants filed their Answer to Plaintiffs’ Amended
18 Complaint in the Superior Court of California for the County of Riverside. A true and
19 correct copy of the Answer to the Amended Complaint is attached hereto as Exhibit D.

20 5. Exhibits E through N constitute all remaining pleadings, process, and orders
21 filed in the state court action. Exhibits A through N constitute all pleadings, process, and
22 orders filed in the state court action within the meaning of 28 U.S.C. § 1446(a).

23 **TIMELINESS OF REMOVAL**

24 6. This Notice of Removal is filed within thirty days of receipt by Defendants
25 of a copy of a pleading, motion, order or other papers from which it could first be
26 ascertained that the case is one which is removable. On October 3, 2018, Plaintiffs filed
27 the Amended Complaint, which alleged a cause of action for violation of the FLSA.
28 Thus, this Notice of Removal is therefore filed within thirty days of service of a copy of

1 the initial pleading setting forth the claim for relief upon which this action is based, and is
2 timely pursuant to 28 U.S.C. section 1446(b).

3 **FEDERAL QUESTION JURISDICTION**

4 7. This case is one over which the Court has original jurisdiction under 28
5 U.S.C. Section 1441, since Plaintiffs' purported eighth cause of action asserts claims
6 under the FLSA, 29 U.S.C. section 201, *et seq.*, a federal statute.

7 8. Plaintiffs allege that Defendants misclassified Time System Coordinators as
8 exempt employees, and that they therefore failed to pay them overtime wages, in
9 violation of the FLSA. Because Plaintiffs' cause of action arises under, and requires
10 interpretation of the FLSA, this claim can be removed pursuant to 28 U.S.C. sections
11 1331, 1441.

12 **SUPPLEMENTAL JURISDICTION**

13 9. Plaintiffs also assert claims alleging failure to pay overtime, meal period
14 violations, rest period violations, failure to timely pay wages, inaccurate wage statements,
15 unfair competition, and violations of the Private Attorneys General Act. These claims all
16 fall within this Court's supplemental jurisdiction, pursuant to 28 U.S.C. section 1367, as
17 they relate to and emanate from the same facts and transactions underlying Plaintiffs'
18 federal law claim, thus forming part of the same "case or controversy." Accordingly,
19 pursuant to 28 U.S.C. section 1441, Defendants are entitled to removal all of Plaintiffs'
20 claims to this Court.

21 **VENUE**

22 10. Venue lies in Eastern Division of the United States District Court for the
23 Central District of California pursuant to 28 U.S.C. sections 1441(a), 1446(a), and
24 84(c)(1). This action was originally brought in the Superior Court of the State of
25 California, County of Riverside, which is located within the Eastern Division of the
26 Central District of California. Therefore, venue is proper because it is the "district and
27 division embracing the place where such action is pending." 28 U.S.C. § 1441(a).
28

NOTICE TO STATE COURT

11. This Notice of Removal promptly will be served on Plaintiffs and filed with the Clerk of the Superior Court of the State of California for the County of Riverside, as required by law.

WHEREFORE, Defendants pray that the above action now pending before the Superior Court of the State of California for the County of Riverside be removed to this Court.

DATED: October 12, 2018

Respectfully submitted,

SEYFARTH SHAW LLP

By: /s/ Parnian Vafaenia

Christian J. Rowley
Kerry Friedrichs
Parnian Vafaenia
Attorneys for Defendants
KAISER FOUNDATION HEALTH PLAN,
INC., KAISER FOUNDATION HOSPITALS,
AND SOUTHERN CALIFORNIA
PERMANENTE MEDICAL GROUP

EXHIBIT A

EXHIBIT A

COPY

SURJ-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

KAISER FOUNDATION HEALTH PLAN, INC., a corporation; and DOES 1 through 10 inclusive,

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

TIFFANY GRETLER, an individual on behalf of herself and all others similarly situated; LAURA CARMONA, an individual on behalf of herself and all others similarly situated; SHELLA TAYLOR an individual on behalf of herself and all others similarly situated; SHALYSE KEMP an individual on behalf of herself and all others similarly situated

FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE) FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE MAR 13 2018 J. Marcial

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 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.

Tiene 30 DIAS 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 protegerán. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte.

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.

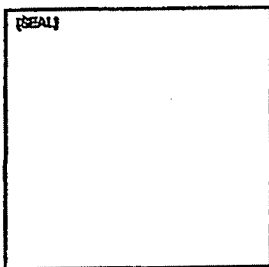
The name and address of the court is: Riverside Historic Courthouse (El nombre y dirección de la corte es): 4050 Main Street, Riverside, CA 92501

CASE NUMBER: (Número del Caso) RIC 1805047

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): Azzadian Law Group, PC; 780 E. COLORADO BLVD 9TH FLOOR; PASADENA, CA 91101; (628) 449-4944

DATE: MAR 13 2018 Clerk, by J. Marcial Deputy (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form FOS-010).) (Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (FOS-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): Kaiser Foundation Health Plan, Inc. a corporation under: CCP 416.10 (corporation) CCP 416.20 (defunct corporation) CCP 416.40 (association or partnership) other (specify): CCP 416.60 (minor) CCP 416.70 (conservatee) CCP 416.80 (authorized person) 4. by personal delivery on (date):

ORIGINAL

AZADIAN LAW GROUP, PC
GEORGE S. AZADIAN (SBN 253342)
ANI AZADIAN (SBN 284007)
EDRIK MEHRABI (SBN 299120)
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

MAR 13 2018

J. Marcial

ASB
MAR 14 2018

Attorneys for Plaintiffs,
TIFFANY GRETLER, LAURA CARMONA, SHELIA TAYLOR, SHALYSE KEMP,
and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

TIFFANY GRETLER, an individual on
behalf of herself and all others similarly
situated; LAURA CARMONA, an
individual on behalf of herself and all
others similarly situated; SHELIA
TAYLOR an individual on behalf of
herself and all others similarly situated;
SHALYSE KEMP an individual on
behalf of herself and all others similarly
situated

Plaintiffs,

v.

KAISER FOUNDATION HEALTH
PLAN, INC., a corporation; and DOES 1
through 10 inclusive,

Defendants.

CASE NO. **RIC 1805047**

CLASS ACTION

**PLAINTIFFS' CLASS ACTION
COMPLAINT FOR:**

1. **FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CALIFORNIA LABOR CODE §§ 510, 1194, 1198, 1199 AND WAGE ORDER 4-2001**
2. **VIOLATION OF CALIFORNIA LABOR CODE §§ 226.7 AND 512 AND WAGE ORDER 4-2001 (MEAL PERIODS)**
3. **VIOLATION OF CALIFORNIA LABOR CODE § 226.7 AND WAGE ORDER 4-2001 (REST PERIODS)**
4. **VIOLATION OF CALIFORNIA LABOR CODE § 226(a) (NON-COMPLIANT WAGE STATEMENTS)**
5. **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200**

JURY TRIAL DEMANDED BY
PLAINTIFFS

FAXED

1 Plaintiffs Tiffany Gretler, Laura Carmona, Shelia Taylor, and Shalyse Kemp
2 (together, "Plaintiffs") allege as follows on knowledge as to their own acts/interactions,
3 and on information and belief as to all other matters:

4 **JURISDICTION AND VENUE**

5 1. This Court has personal jurisdiction over Defendant because it conducts
6 business in the State of California.

7 2. Under California Code of Civil Procedure section 395(a), venue is proper in
8 this County because Defendant does business in this County and the harm to Plaintiffs
9 occurred in this County.

10 **PARTIES**

11 3. Plaintiff Tiffany Gretler ("Plaintiff Gretler") at all times relevant hereto,
12 was and is a resident of the State of California.

13 4. Plaintiff Laura Carmona ("Plaintiff Carmona") at all times relevant hereto,
14 was and is a resident of the State of California.

15 5. Plaintiff Shelia Taylor ("Plaintiff Taylor") at all times relevant hereto, was
16 and is a resident of the State of California.

17 6. Plaintiff Shalyse Kemp ("Plaintiff Kemp") at all times relevant hereto, was
18 and is a resident of the State of California.

19 7. Plaintiffs are informed and believe that Defendant Kaiser Foundation
20 Health Plan, Inc. ("Defendant") is a corporation organized and existing under the laws of
21 California, with its principal place of business located at 1 Kaiser Plaza, Oakland,
22 California.

23 8. The true names and capacities of the defendants named herein as Does 1
24 through 10, inclusive, whether individual, corporate, associate or otherwise, are unknown
25 to Plaintiffs who therefore sues such defendants by fictitious names pursuant to
26 California Code of Civil Procedure section 474. Plaintiffs are informed and believe that
27 all of the Doe defendants are California residents. Plaintiffs will amend this Complaint to
28 show such true names and capacities when they have been determined.

1 9. Plaintiffs are informed and believe that at all times relevant herein, each
2 defendant designated, including Does 1 through 10, was the agent, managing agent,
3 principal, owner, partner, joint venture, representative, manager, servant, employee
4 and/or co-conspirator of each of the other defendants, and was at all times mentioned
5 herein acting within the course and scope of said agency and employment, and that all
6 acts or omissions alleged herein were duly committed with the ratification, knowledge,
7 permission, encouragement, authorization and consent of each defendant designated
8 herein.

9 **PLAINTIFFS' FACTUAL ALLEGATIONS**

10 10. Plaintiffs are current employees of Defendant and have the job title of
11 "National Timekeeping Coordinator" also sometimes referred to as "Time System
12 Coordinator."

13 11. Since approximately 2015, all Timekeeping Coordinators worked from a
14 centralized location at a call center in Corona, California.

15 12. Plaintiff Gretler started as a Timekeeping Coordinator in approximately
16 December of 2015.

17 13. Plaintiff Carmona started as a Timekeeping Coordinator in approximately
18 August of 2017.

19 14. Plaintiff Taylor started as a Timekeeping Coordinator in approximately
20 April of 2016.

21 15. Plaintiff Kemp started as a Timekeeping Coordinator in approximately July
22 of 2015.

23 16. Defendant misclassified Plaintiffs and all other Timekeeping Coordinators
24 as exempt employees not entitled to overtime pay.

25 17. Timekeeping Coordinators are not required to have any college degree
26 (neither Plaintiff Gretler nor Plaintiff Carmona have a college degree), professional
27 certificates or licenses, and they do not manage or supervise other employees.
28

1 18. Plaintiffs and the other Timekeeping Coordinators were micromanaged
2 employees who do not spend the majority of their working time exercising discretion or
3 independent judgment in performing their duties.

4 19. Plaintiffs and the other Timekeeping Coordinators engage in routine and
5 repetitive tasks that do not involve any significant time being spent on a comparison and
6 evaluation of possible courses of conduct and acting or making a decision after the
7 various possibilities have been considered.

8 20. As detailed below, the job duties of Plaintiffs and the other Timekeeping
9 Coordinators consist mainly of: (1) answering a high volume of calls and providing set
10 responses during their scheduled hours at work; (2) repetitive data entry related to
11 processing standardized payroll forms; and (3) repetitive processing of pay period
12 adjustments.

13 21. In total, Plaintiffs and other Timekeeping Coordinators work approximately
14 15-30 hours a week of overtime (hours in excess of eight (8) hours a day or forty (40)
15 hours a week) and are not compensated for overtime due to their misclassification as
16 exempt employees.

17 22. In order to work from home, Defendant provides Plaintiffs and other
18 Timekeeping Coordinators with a laptop that is taken home with the employee, and
19 brought back to work for their scheduled call center hours (the same computer is used at
20 work through a docking station at the call center).

21 23. With regard to answering a high volume of calls and generally providing
22 set responses, Plaintiffs and other Timekeeping Coordinators generally spend over 80-
23 90% of the hours they are scheduled to work at the Corona call center answering calls.

24 24. Plaintiffs and the other Timekeeping Coordinators, answer calls from
25 Defendant's managers and the managers from Defendant's affiliated/controlled
26 companies or organizations who are considered "timekeepers" or "approvers" of
27 employees' timecards. These managers include timekeepers or approvers from
28

1 Defendant, Kaiser Foundation Hospitals, Southern California Permanente Medical
2 Group, The Permanente Medical Group, Inc., and other affiliated Kaiser entities.

3 25. Plaintiffs and the other Timekeeping Coordinators generally answer
4 approximately 400 or more calls a month (ranging from 20-40 calls a day). In addition,
5 Timekeeping Coordinators can also email their questions and Plaintiffs and the other
6 Timekeeping Coordinators largely respond with template email responses (5-10 emails a
7 day with similar questions that can be asked over the phone).

8 26. There is a thirty (30) second rest period between calls to finalize any notes
9 or send out a template email to the manager who called. Thereafter, Plaintiffs and the
10 other Timekeeping Coordinators are marked as "available" to receive another call.

11 27. If Plaintiffs or the other Timekeeping Coordinators are not ready for a call
12 they must electronically designate themselves as not ready for a call. In the event
13 Plaintiffs or the other Timekeeping Coordinators electronically designate themselves as
14 not ready for a call for any period other than their designated lunch time, a supervisor
15 will see why they are not ready.

16 28. Even the times when Plaintiffs and the other Timekeeping Coordinators are
17 permitted to have a meal is micromanaged by management in order to ensure they are
18 answering repetitive and routine calls.

19 29. Defendant tracks how many seconds it takes Plaintiffs and the other
20 Timekeeping Coordinators to answer the phone (speed to answer) and track the number
21 of calls received and number of calls answered. If a Timekeeping Coordinator is below
22 the average or quota set for the number of calls, they are reprimanded and face
23 termination.

24 30. Plaintiffs and the other Timekeeping Coordinators are required to be at
25 their desk at all times during their scheduled shifts. If Plaintiffs are not on calls during
26 their scheduled hours for more than ten to fifteen (10-15) minutes, a manager will "ping"
27 the employee (through Skype) to determine why they are not on the phone.

28

1 31. Calls will generally last for five (5) minutes and if a call lasts fifteen (15)
2 minutes, a manager will “ping” the employee to inquire why the call has not been
3 completed because the answers provided are generally very routine and should not take
4 any significant amount of time to ascertain.

5 32. A very large portion of the calls from managers are responded to with
6 simple, form responses either verbally or through template emails. For example, the
7 following are routine calls generally received by Plaintiffs and other Timekeeping
8 Coordinators that are responded to with standard responses either verbally or through
9 template emails:

- 10 a. Can you walk me through how to do a pay period adjustment?
11 b. Can you remove the HK60 error message?
12 c. How do I code holiday on a timecard?
13 d. I can't clock in for work, I'm getting an error.
14 e. Can you reset my password?
15 f. My computer is frozen, what do I do?
16 g. Can you tell me how to review my time card?
17 h. How do I approve my employees' timecards?
18 i. I sent a Form 3646 form yesterday. Do you know when it will be
19 processed?
20 j. Is an employee eligible for a shift differential if the employee is
21 scheduled for night shifts but works days?

22 33. When a manager/timekeeper has a question related to a specific employee
23 or an employee calls with a question (such as if they are eligible for a specific holiday),
24 Plaintiffs and other Timekeeping Coordinators enter the employee's ID number and the
25 database called “My HR” directs them to the applicable collective bargaining agreement
26 and pay practice policy for the specific employee to obtain the answer. This function
27 does not require anything more than the use of skill in applying well-established
28 techniques, procedures and specific standards described in manuals or other sources that
29 Plaintiffs and other Timekeeping Coordinators are directed to for any specific employee.

30 34. Plaintiffs and other Timekeeping Coordinators cannot make changes to
31 timecards without manager/timekeeper approval.

1 35. Plaintiffs are informed and believe that Defendant operates another call
2 center where non-exempt hourly employees (National Payroll Coordinators) provide a
3 similar function related to questions and issues pertaining to employees' rate of pay or
4 whether the employee was underpaid or overpaid based on their rates of pay.

5 36. With regard to the repetitive data entry related to processing standardized
6 payroll forms (generally done during the thirty (30) minute period they are permitted to
7 be off the phone for lunch and from home after the employees' scheduled call center
8 hours), Plaintiffs and other Timekeeping Coordinators would generally spend ten (10)
9 hours a week in addition to their scheduled call center hours performing data entry. This
10 data entry is for Forms 3644 and 3646. On average, Plaintiffs and other Timekeeping
11 Coordinators complete the data entry for approximately 350 forms a month.

12 37. Form 3644 is a form completed by an employee who requests to view their
13 own time card. The employee fills out the form then the Timekeeping Coordinators view
14 the form on "Case Manager" (a program that is part of My HR) before entering the
15 information from the Form 3644 into "Mainframe" (the centralized time system used by
16 Defendant).

17 38. Form 3646 is a form used to add a new employee or if an employee
18 transfers. This form is filled out by the newly hired or recently transferred employee's
19 manager. A manager/ timekeeper fills out the form then the Timekeeping Coordinators
20 view the form on "Case Manager" (a program that is part of My HR) before entering the
21 information from the Form 3646 into "Mainframe" (the centralized time system used by
22 Defendant).

23 39. Plaintiffs are informed and believe that Defendant utilizes non-exempt
24 hourly employee to conduct the similar data entry related to Form 3645 (a form used to
25 change a primary approver or adding an alternate approver).

26 40. With regard to the repetitive processing of pay period adjustments
27 (generally done during the thirty (30) minute period they are permitted to be off the
28 phone for lunch and from home after the employees' scheduled call center hours),

1 Plaintiffs and other Timekeeping Coordinators generally spend another five (5) hours a
2 week in addition to their scheduled call center hours processing pay period adjustments.
3 On average, Plaintiffs and other Timekeeping Coordinators process approximately 525
4 pay period adjustments a month.

5 41. A pay period adjustment is needed when a manager/timekeeper incorrectly
6 codes time (such as inputting overtime when it was not overtime) or when an employee
7 forgets to punch in or punch out. The pay period adjustment is submitted by the
8 manager/timekeeper through Mainframe. Plaintiffs and other Timekeeping Coordinators
9 merely see if the adjustment is positive (resulting in increased money to the employee).
10 If the adjustment is positive, Timekeeping Coordinators select approve and the
11 information is sent to Defendant's payroll for processing. If the adjustment is negative
12 (resulting in decreased money to the employee), Timekeeping Coordinators send a
13 template email to the manager/timekeeper to have a form authorization signed by the
14 employee, obtains the authorization once it is returned, and transmits the authorization to
15 payroll for processing.

16 **CLASS ACTION ALLEGATIONS**

17 42. This class action is filed under the provisions of Code of Civil Procedure
18 section 382, which provides that a class action may be brought when the question is one
19 of common interest to many persons, or when the number of persons is numerous and it
20 is impractical to bring them all before the court. This action is properly maintained as a
21 class action as set forth below.

22 43. Plaintiffs brings this action on behalf of themselves and all others similarly
23 situated in the "Class", as follows:

24 **All persons within California who worked for Defendant as in the**
25 **position of "National Timekeeping Coordinator," "Time Systems**
26 **Coordinator," or persons with similar titles and/or similar job duties at**
27
28

1 **any time on or after the date that is four (4) years prior to the filing of**
2 **this lawsuit.**

3 44. Plaintiffs reserve the right to amend the class definition to seek recovery on
4 behalf of additional persons as warranted as facts are learned through further
5 investigation and discovery.

6 45. Numerosity: Plaintiffs do not know the number of members in the
7 proposed class, but believe, based on Defendant's number of Timekeeping Coordinators,
8 turnover of employees during the statutory period, and investigation of counsel, that the
9 number is approximately 150 employees, if not substantially higher. Thus, joinder of all
10 members of the Class is impractical due to the number of members and relatively small
11 value of each member's claim.

12 46. Typicality: Plaintiffs' claims are typical of the claims of each member of
13 the Class because Plaintiffs work and/or worked for Defendant as Timekeeping
14 Coordinators, were improperly classified as exempt employees, worked more than eight
15 (8) hours in a day and/or forty (40) hours in a week during their employment, did not
16 receive any overtime compensation, and did not receive meal and rest periods in
17 compliance with the requirements of California law.

18 47. Commonality: The members of the Class share a well-defined community
19 of interest regarding questions of law and fact, which predominate over questions that
20 may affect individual members of the Class. These common questions of law and fact
21 include (but are not limited to):

22 (a) Whether Defendant can meet its burden of proving that it properly
23 classified Timekeeping Coordinators as exempt;

24 (b) Whether Defendant paid Plaintiffs and members of the Class for all
25 hours Defendant suffered and/or permitted them to work;

26 (c) Whether Defendant required Plaintiffs and members of the Class to
27 work over eight (8) hours per day and/or over forty (40) hours per week, and failed
28 to pay the legally required overtime compensation;

1 (d) Whether Defendant required Plaintiffs and members of the Class to
2 work over twelve (12) hours per day and/or over forty (40) hours per week, and
3 failed to pay the legally required overtime compensation;

4 (e) Whether Defendant falsely informed Plaintiffs and members of the
5 Class that they were exempt employees not entitled to overtime compensation;

6 (f) Whether Defendant provided Plaintiffs and members of the Class
7 with laptops and remote access so that they could continue to work from home late
8 into the night or during the weekends;

9 (g) Whether Defendant and its management regularly witnessed
10 Plaintiffs and members of the Class leaving the office after much longer than eight
11 (8) hours of work;

12 (h) Whether Defendant knew or should have known that Plaintiffs and
13 members of the Class were entitled to receive certain wages for overtime
14 compensation;

15 (i) Whether Defendant failed to timely pay all wages due to Plaintiffs
16 and members of the Class during their employment;

17 (j) Whether Defendant engaged in unfair business practices in violation
18 of California Business & Professions Code sections 17200, et seq.;

19 (k) Whether Plaintiffs and the class are entitled to compensatory
20 damages pursuant to the California Labor Code; and

21 (l) The appropriate amount of damages, restitution, and/or monetary
22 penalties resulting from Defendant's violations of California law.

23 48. Predominance: The questions that are common to all class members
24 predominate over any questions that are unique to individual class members because the
25 answers to these questions will determine Defendant's liability to all class members and
26 any remaining individual questions with respect to amounts of relief may be resolved by
27 reference to Defendant's payroll records or a damages phase of the case.

1 54. At all relevant times, the California Industrial Wage Orders and California
2 Code of Regulations were in effect and binding on Defendant.

3 55. Subdivision 3 of Wage Order 4-2001 provides that:

4 (A) Daily Overtime – General Provisions

5 (1) The following overtime provisions are applicable to employees 18 years
6 of age or over and to employees 16 or 17 years of age who are not
7 required by law to attend school and are not otherwise prohibited by law
8 from engaging in the subject work. Such employees shall not be
9 employed more than eight (8) hours in any workday or more than 40
10 hours in any workweek unless the employee receives one and one-half
11 (1 ½) times such employee’s regular rate of pay for all hours worked
12 over 40 hours in the workweek. Eight (8) hours of labor constitutes a
13 day’s work. Employment beyond eight (8) hours in any workday or
14 more than six (6) days in any workweek is permissible provided the
15 employee is compensated for such overtime at not less than:

16 (a) One and one-half (1 ½) times the employee’s regular rate of pay
17 for all hours worked in excess of eight (8) hours up to and
18 including twelve (12) hours in any workday, and for the first
19 eight (8) hours worked on the seventh (7th) consecutive day of
20 work in a workweek.; and

21 (b) Double the employee’s regular rate of pay for all hours worked in
22 excess of 12 hours in any workday and for all hours worked in
23 excess of eight (8) hours on the seventh (7th) consecutive day of
24 work in a workweek.

25 (c) The overtime rate of compensation required to be paid to a
26 nonexempt full-time salaried employee shall be computed by
27 using the employee’s regular hourly salary as one fortieth (1/40)
28 of the employee’s weekly salary.

1 56. At all relevant times, Labor Code § 510 was in effect and binding on
2 Defendant. The pertinent part of Labor Code § 510 provides that:

3 (a) Eight hours of labor constitutes a day's work. Any work in excess of
4 eight hours in one workday and any work in excess of 40 hours in any
5 one workweek and the first eight hours worked on the seventh day of
6 work in any one workweek shall be compensated at the rate of no less
7 than one and one-half times the regular rate of pay for an employee.
8 Any work in excess of 12 hours in one day shall be compensated at the
9 rate of no less than twice the regular rate of pay for an employee. In
10 addition, any work in excess of eight hours on any seventh day of a
11 workweek shall be compensated at the rate of no less than twice the
12 regular rate of pay of an employee.

13 57. At all relevant times, California Labor § 1194 was in effect and binding on
14 Defendant. Labor Code § 1194 provides in relevant part:

15 (a) Notwithstanding any agreement to work for a lesser wage, any
16 employee receiving less than the legal minimum wage or the legal overtime
17 compensation applicable to the employee is entitled to recover in a civil
18 action the unpaid balance of the full amount of this minimum wage or
19 overtime compensation, including interest thereon, reasonable attorney's,
20 and costs of suit.

21 58. At all relevant times, California Labor § 218.5 was in effect and binding on
22 Defendant. Labor Code § 218.5 provides in relevant part:

23 In any action brought for the nonpayment of wages, fringe benefits, or
24 health and welfare or pension fund contributions, the court shall award
25 reasonable attorney's fees and costs to the prevailing party if any party to
26 the action requests attorney's fees and costs upon the initiation of the
27 action.

1 59. At all relevant times, Plaintiffs and members of the Class were
2 misclassified as exempt employees.

3 60. At all relevant times, Plaintiffs and members of the Class were subject to
4 the overtime provisions of the California Industrial Welfare Commission's Wage Orders.

5 61. Throughout their employment, Plaintiffs and members of the Class
6 regularly and with Defendant's knowledge worked more than eight (8) hours in working
7 day. Plaintiffs allege that they sometimes even worked more than 12 hours in a working
8 day.

9 62. Plaintiffs allege that Defendant did not pay 1 ½ times the legal minimum
10 hourly wage rate for all the hours worked over eight (8) hours in a work day and/or 40
11 hours in a work week. Plaintiffs allege that Defendant did not pay two times the legal
12 minimum hourly rate for all the hours worked over 12 hours in a work day.

13 63. During the relevant time period, Defendant intentionally and willfully
14 failed to pay for all hours Defendant suffered and/or permitted Plaintiffs and members of
15 the Class to work, including for overtime hours.

16 64. Plaintiffs and members of the Class allege that wages are due to them for
17 all hours worked during which they were not paid proper overtime wages pursuant
18 California Labor Code §§ 510 and 1194 and all applicable laws, rules, orders,
19 requirements and regulations.

20 65. Plaintiffs and members of the Class demand all applicable reimbursements,
21 interest and penalties for her lost overtime wages. Plaintiffs and members of the Class
22 further demand reasonable attorneys' fees and costs of suit pursuant to California Labor
23 Code §§ 218.5, 1194, and any other applicable statute or regulation.

SECOND CAUSE OF ACTION

**VIOLATION OF CALIFORNIA LABOR CODE SECTIONS 226.7, 512 AND
WAGE ORDER 4-2001 (MEAL PERIODS)
(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANT)**

1
2
3
4
5 66. Plaintiffs incorporate by this reference all preceding and subsequent
6 paragraphs.

7 67. California Labor Code section 512(a) states (in relevant part): “An
8 employer may not employ an employee for a work period of more than five (5) hours per
9 day without providing the employee with a meal period of not less than 30 minutes,
10 except that if the total work period per day of the employee is no more than six hours, the
11 meal period may be waived by mutual consent of both the employer and employee.”

12 68. Section 11(A) of the applicable Industrial Welfare Commission Wage
13 Orders provides (in relevant part): “No employer shall employ any person for a work
14 period of more than five (5) hours without a meal period of not less than 30 minutes,
15 except that when a work period of not more than six (6) hours will complete the day’s
16 work the meal period may be waived by mutual consent of the employer and the
17 employee.”

18 69. California Labor Code section 226.7(b) provides: “If an employer fails to
19 provide an employee a meal period or rest period in accordance with an applicable order
20 of the Industrial Welfare Commission, the employer shall pay the employee one
21 additional hour of pay at the employee’s regular rate of compensation for each work day
22 that the meal or rest period is not provided.”

23 70. Defendant worked Plaintiffs and members of the Class more than five (5)
24 hours per day without an off-duty, timely, and/or uninterrupted 30-minute meal period as
25 required by California Labor Code section 512 and section 11 of the applicable Industrial
26 Welfare Commission Wage Order.

27 71. Plaintiffs and members of the Class demand all applicable reimbursements,
28 interest, and penalties.

THIRD CAUSE OF ACTION

**VIOLATION OF CALIFORNIA LABOR CODE § 226.7 AND WAGE ORDER 4-2001 (REST PERIODS)
(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANT)**

72. Plaintiffs incorporate by this reference all preceding and subsequent paragraphs.

73. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California Industrial Welfare Commission.

74. At all relevant times, the applicable Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof unless the total daily work time is less than three and one-half (3 ½) hours.”

75. During the relevant time period, Defendant required Plaintiffs and members of the Class to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

76. During the relevant time period, Defendant willfully required Plaintiffs and members of the Class to work during rest periods and failed to pay the full rest period premium for work performed during rest periods.

77. During the relevant time period, Defendant failed to pay Plaintiffs and members of the Class the full rest period premium due pursuant to California Labor Code section 226.7. Defendant’s conduct violates applicable Wage Orders and California Labor Code section 226.7.

78. Pursuant to the applicable Industrial Welfare Commission Wage Order and California Labor Code section 226.7(b), Plaintiffs and members of the Class are entitled

1 to recover from Defendant one additional hour of pay at the employee's regularly hourly
2 rate of compensation for each work day that the rest period was not provided.

3 79. Plaintiffs and members of the Class demand all applicable reimbursements,
4 interest, and penalties.

5 **FOURTH CAUSE OF ACTION**

6 **VIOLATION OF CALIFORNIA LABOR CODE § 226(a)**

7 **(NON-COMPLIANT WAGE STATEMENTS)**

8 **(BY PLAINTIFF AND ALL CLASS AGAINST DEFENDANT)**

9 80. Plaintiffs incorporate by this reference all preceding and subsequent
10 paragraphs.

11 81. At all material times set forth herein, California Labor Code section 226(a)
12 provides that every employer shall furnish each of his employees an accurate itemized
13 statement in writing showing (1) gross wages earned, (2) total hours worked by the
14 employee, (3) the number of piece-rate units earned and any applicable piece rate if the
15 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions
16 made on written orders of the employee may be aggregated and shown as one item, (5)
17 net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7)
18 the name of the employee and his or her social security number, (8) the name and address
19 of the legal entity that is the employer, and (9) all applicable hourly rates in effect during
20 the pay period and the corresponding number of hours worked at each hourly rate by the
21 employee.

22 82. Due to their misclassification as an exempt employee, Defendant
23 intentionally and willfully failed to provide Plaintiffs and members of the Class with
24 complete and accurate wage statements. The deficiencies include, but are not limited to:
25 the failure to include total hours worked by the employee.

26 83. As a result, Plaintiffs and members of the Class have suffered injury and
27 damage to their statutory-protected rights.

1 84. Plaintiffs and members of the Class demand damages under California
2 Labor Code section 226 of an aggregate penalty not exceeding four thousand dollars per
3 employee.

4 **FIFTH CAUSE OF ACTION**

5 **VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200**
6 **(PLAINTIFF AND ALL CLASS AGAINST DEFENDANT)**

7 85. Plaintiffs incorporate by this reference all preceding and subsequent
8 paragraphs.

9 86. Business and Professions Code § 17200, et seq. (“UCL”), defines unfair
10 competition to include any “unfair,” “unlawful,” or “fraudulent” business practice.

11 87. At all times relevant herein the UCL was in full force and effect and
12 binding on Defendant.

13 88. The actions alleged herein by Defendant were “unlawful” under the UCL
14 based on the violations of each of the statutes and regulations alleged herein.
15 Defendant’s conduct, as alleged herein, has been, and continues to be, unfair, unlawful
16 and harmful to Plaintiffs, members of the Class, the general public, and to Defendant’s
17 competitors.

18 89. Plaintiffs and members of the Class have been personally injured by
19 Defendant’s unlawful business acts and practices as alleged herein, including, but not
20 necessarily limited to, the loss of money and/or property.

21 90. Pursuant to California Business & Professions Code sections 17200, et seq.,
22 Plaintiffs and members of the Class are entitled to restitution of the wages withheld and
23 retained by Defendant, an injunction requiring Defendant to appropriate classify the Class
24 as non-exempt employees, and an injunction requiring Defendant to pay all outstanding
25 wages due to Plaintiffs and class members.

26 **JURY TRIAL DEMANDED**

27 91. Plaintiffs demand a jury trial.
28

PRAYER FOR RELIEF

92. WHEREFORE, Plaintiffs respectfully requests the Court grant Plaintiffs and the members of the Class the following relief against Defendant:

- (a) For an order certifying each of the Class under California Code of Civil Procedure section 382;
- (b) For appointment of Plaintiffs as representatives of the Class;
- (c) For general economic and non-economic damages according to proof;
- (d) For special damages according to proof;
- (e) For prejudgment interest pursuant to California Civil Code section 3287 and/or California Civil Code section 3288 and/or any other provision of law providing for prejudgment interest;
- (f) For attorneys' fees where allowed by law;
- (g) For costs of suit incurred herein; and
- (h) For such other and further relief as this Court deems just and proper.

Dated: March 13, 2018

Respectfully submitted,
AZADIAN LAW GROUP, PC



By: _____
George S. Azadian
Attorneys for Plaintiffs,
TIFFANY GRETHER, LAURA CARMONA,
SHELIA TAYLOR, SHALYSE KEMP, and
the Proposed Class

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

- BANNING 311 E. Ramsey St., Banning, CA 92220
- BLYTHE 266 N. Broadway, Blythe, CA 92225
- HEMET 880 N. State St., Hemet, CA 92543
- MORENO VALLEY 13800 Heacock St., Ste. D201, Moreno Valley, CA 92553

- MURRIETA 30755 D'Auld Rd., Suite 1226, Murrieta, CA 92563
- PALM SPRINGS 3255 E. Tahquitz Canyon Way, Palm Springs, CA 92262
- RIVERSIDE 4050 Main St., Riverside, CA 92501
- TEMECULA 41002 County Center Dr., #100, Temecula, CA 92591

RI-030

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address)
 George S. Azadian (SBN 253342) / Edrik Mehrabi (SBN 299120)
 AZADIAN LAW GROUP PC
 790 E. Colorado Blvd., 9th Floor
 Pasadena, California 91101

TELEPHONE NO. (626) 449-4944 FAX NO. (Optional) (626) 628-1722
 E-MAIL ADDRESS (Optional) george@azadianlawgroup.com
 ATTORNEY FOR (Name) Plaintiffs, Tiffany Gretler, Laura Carmona, Shella Taylor

FOR COURT USE ONLY
FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF RIVERSIDE

MAR 13 2018
 J. Marcial

CASE NUMBER:
RIC 1805047

ARB
MAR 14 2018

PLAINTIFF/PETITIONER: Tiffany Gretler, et al.
 DEFENDANT/RESPONDENT: Kaiser Foundation Health Plan, Inc.

CERTIFICATE OF COUNSEL

The undersigned certifies that this matter should be tried or heard in the court identified above for the reasons specified below:

- The action arose in the zip code of 92879
- The action concerns real property located in the zip code of _____
- The Defendant resides in the zip code of 94612

For more information on where actions should be filed in the Riverside County Superior Courts, please refer to Local Rule 1.0015 at www.riversidecourts.ca.gov.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date March 13, 2018

Edrik Mehrabi

(TYPE OR PRINT NAME OF ATTORNEY, PARTY MAKING DECLARATION)

(SIGNATURE)

FAXED

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): George S. Azadian (SBN 253342) / Edrik Mehrabi (SBN 299120) AZADIAN LAW GROUP, PC 790 E. Colorado Blvd., 9th Floor Pasadena, California 91101 TELEPHONE NO.: (626) 449-4944 FAX NO.: (626) 628-1722 ATTORNEY FOR (Name): Plaintiffs, Tiffany Gretler et al.		FOR COURT USE ONLY CASE NUMBER: RIC18-05047 JUDGE: DEPT:
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <u>Riverside</u> STREET ADDRESS: 4050 Main Street MAILING ADDRESS: 4050 Main Street CITY AND ZIP CODE: Riverside, 92501 BRANCH NAME: Riverside Historic Courthouse		
CASE NAME: Tiffany Gretler, et al. v. Kaiser Foundation Health Plan, Inc., et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

ORIGINAL

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 <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> 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. <input type="checkbox"/> Large number of separately represented parties.	d. <input type="checkbox"/> Large number of witnesses.
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve.	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court.
c. <input type="checkbox"/> Substantial amount of documentary evidence.	f. <input type="checkbox"/> Substantial post-judgment judicial supervision.

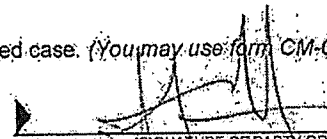
3. Remedies sought (check all that apply): a. monetary b. nonmonetary, declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): **Five (5)**

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: **March 13, 2018**
 Edrik Mehrabi
 (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.

Page 1 of 2

FAXED

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

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 (36) (If the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

Asset Forfeiture (05)
Retiree 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

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

AMC)

NOTICE OF ASSIGNMENT TO DEPARTMENT
AND CASE MANAGEMENT CONFERENCE (CRC 3.722)

MAR 21 2018

GRETTLER VS KAISER FOUND,

CASE NO. RIC1805047

This case is assigned to the Honorable Judge Craig G. Riemer in Department 05 for all purposes.

The Case Management Conference is scheduled for 05/21/18 at 8:30 in Department 05.

Department 5 are located at 4050 Main St, Riverside, CA 92501.

The plaintiff/cross-complainant shall serve a copy of this notice on all defendants/cross-defendants who are named or added to the complaint and file proof of service.

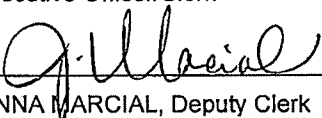
Any disqualification pursuant to CCP section 170.6 shall be filed in accordance with that section.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See California Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing NOTICE on this date, by depositing said copy as stated above.

Court Executive Officer/Clerk

by: 
JOANNA MARCIAL, Deputy Clerk

Date: 03/19/18

Notice 'CCADCC' has been printed for the following Attorneys/Firms
or Parties for Case Number RIC1805047 on 3/19/18:

AZADIAN LAW GROUP PC
790 E COLORADO BLVD
9TH FLOOR
PASADENA, CA 91101

EXHIBIT B

EXHIBIT B



ORIGINAL

1 SEYFARTH SHAW LLP
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3 crowley@seyfarth.com
4 Kerry Friedrichs (SBN 198143)
5 kfriedrichs@seyfarth.com
6 Elizabeth J. MacGregor (SBN 267326)
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8 560 Mission Street, 31st Floor
9 San Francisco, California 94105
10 Telephone: (415) 397-2823
11 Facsimile: (415) 397-8549

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

AAL

APR 19 2018

J. Marcial

APR 20 2018

7 Attorneys for Defendant
8 KAISER FOUNDATION HEALTH PLAN, INC.

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF RIVERSIDE

13 TIFFANY GRETLER, an individual on behalf of
14 herself and all others similarly situated; LAURA
15 CARMONA, an individual on behalf of herself
16 and all others similarly situated; SHELIA
17 TAYLOR an individual on behalf of herself and
18 all others similarly situated; SHALYSE KEMP an
19 individual on behalf of herself and all others
20 similarly situated,

21 Plaintiffs,

22 v.

23 KAISER FOUNDATION HEALTH PLAN, INC.,
24 a corporation; and DOES 1 through 10 inclusive,,

25 Defendants.

Case No. RIC 1805047

DEFENDANT'S ANSWER TO
PLAINTIFFS' CLASS ACTION
COMPLAINT

26 KAISER FOUNDATION HEALTH PLAN, INC. ("Defendant") on behalf of itself and no other
27 defendant, answers the Class Action Complaint ("Complaint") filed by Plaintiffs TIFFANY GRETLER,
28 LAURA CARMONA, SHELIA TAYLOR and SHALYSE KEMP ("Plaintiffs") as follows:

GENERAL DENIAL

Under California Code of Civil Procedure section 431.30, Defendant generally denies each and every allegation contained in Plaintiffs' Complaint, and further denies that Plaintiffs have been or will be injured or damaged in any amount or at all by reason of any act or omission of Defendant.

SEPARATE DEFENSES

In further answer to the Complaint, Defendant alleges the following affirmative and other defenses. In asserting these defenses, Defendant does not assume the burden of proof as to matters that, pursuant to law, are Plaintiffs' burden to prove. Defendant reserves the right to amend its answer and to assert any additional defenses as may become available or apparent during the course of this litigation.

FIRST SEPARATE DEFENSE

(Failure to State a Claim for Relief — All Causes of Action)

1. Plaintiffs' Complaint, and each and every purported cause of action alleged therein, fails to state facts sufficient to constitute a cause of action or claim for relief.

SECOND SEPARATE DEFENSE

(Statute of Limitations — All Causes of Action)

2. Defendant is informed and believes that the causes of action alleged in Plaintiffs' Complaint are barred, in whole or in part, by the applicable statutes of limitation, including but not limited to California Code of Civil Procedure sections 338 and 340, and California Business and Professions Code section 17208.

THIRD SEPARATE DEFENSE

(Laches, Waiver, Estoppel — All Causes of Action)

3. Plaintiffs, and those they seek to represent, are not entitled to any relief to the extent that they forfeited their right to relief under the doctrine of laches, waived their right to relief, or are estopped from seeking the relief requested in the Complaint.

FOURTH SEPARATE DEFENSE

(Good Faith Dispute — All Causes of Action)

4. Plaintiffs are not entitled to any penalty because, at all times relevant and material herein, Defendant did not willfully fail to comply with any provisions of the California Labor Code or

1 applicable wage order, but rather acted in good faith and had reasonable grounds for believing that it did
2 not violate the California Labor Code or the applicable wage order.

3 **FIFTH SEPARATE DEFENSE**

4 (*De Minimis* Doctrine — All Causes of Action)

5 5. The Complaint seeks compensation for time which, even if in fact worked, was *de*
6 *minimis*, and therefore is not recoverable.

7 **SIXTH SEPARATE DEFENSE**

8 (Exempt Employee Status — All Causes of Action)

9 6. Plaintiffs, and those persons they seek to represent, were and are exempt employees
10 pursuant to California Labor Code Section 515 and the applicable wage order, as well as applicable case
11 authority.

12 **SEVENTH SEPARATE DEFENSE**

13 (Executive Exemption — All Causes of Action)

14 7. The claims of Plaintiffs, and/or of those persons they seek to represent, are barred in
15 whole or in part to the extent that they were exempt from the overtime requirements of the California
16 Labor Code and the Industrial Welfare Commission Wage Orders pursuant to the Executive exemptions
17 of the California Labor Code and applicable wage order.

18 **EIGHTH SEPARATE DEFENSE**

19 (Administrative Exemption — All Causes of Action)

20 8. The claims of Plaintiffs, and/or of those persons they seek to represent, are barred in
21 whole or in part to the extent that they were exempt from the overtime requirements of the California
22 Labor Code and the Industrial Welfare Commission Wage Orders pursuant to the Administrative
23 exemption of the California Labor Code and applicable wage order.

24 **NINTH SEPARATE DEFENSE**

25 (Computer/Software Exemption — All Causes of Action)

26 9. The claims of Plaintiffs, and/or of those persons they seek to represent, are barred in
27 whole or in part to the extent that they were exempt from the overtime requirements of the California
28

1 Labor Code and the Industrial Welfare Commission Wage Orders pursuant to the Computer/Software
2 exemptions of the California Labor Code and applicable wage order.

3 **TENTH SEPARATE DEFENSE**

4 (Failure to Perform Expected Duties — All Causes of Action)

5 10. This Complaint, and each purported cause of action alleged therein, is barred because
6 Plaintiffs and/or members of the alleged putative group they purport to represent failed to perform those
7 duties which Defendant realistically expected them to perform.

8 **ELEVENTH SEPARATE DEFENSE**

9 (Labor Code § 2856 — All Causes of Action)

10 11. This Complaint is barred by Labor Code section 2856 to the extent that Plaintiffs or any
11 individuals they seek to represent failed to comply with all the directions of their employer, and such
12 failure proximately caused the alleged losses for which Plaintiffs or those individuals seek relief.

13 **TWELFTH SEPARATE DEFENSE**

14 (No Knowledge — All Causes of Action)

15 12. Plaintiffs' claims, and the claims of those persons they purport to represent, are barred to
16 the extent that Defendant did not have actual or constructive knowledge of any timely meal and rest
17 breaks allegedly denied to, or any overtime hours worked by Plaintiffs or any person they purport to
18 represent.

19 **THIRTEENTH SEPARATE DEFENSE**

20 (DLSE Exemption Permits — Second Through Fifth Causes of Action)

21 13. Plaintiffs' claims, and the claims of those persons they purport to represent, are barred
22 because in each calendar year during the time period relevant to Plaintiffs' Complaint, the California
23 Department of Industrial Relations, Division of Labor Standards Enforcement, issued one or more
24 exemption permits to Defendant partially exempting Defendant from Section 12 of Industrial Welfare
25 Commission Order No. 5-2001 and related provisions of statute and case law.

1 **FOURTEENTH SEPARATE DEFENSE**

2 (Failure to take Meal Periods or Rest Breaks — Second Through Fifth Causes of Action)

3 14. Plaintiffs' claims, and the claims of those persons they seek to represent, for failure to
4 provide meal and rest periods, are barred to the extent Plaintiffs and/or putative class members took
5 meal and rest periods, or voluntarily chose not to take such periods provided.

6 **FIFTEENTH SEPARATE DEFENSE**

7 (No Injury: Labor Code § 226(e) — Fourth and Fifth Causes of Action)

8 15. Plaintiffs, and those individuals they seek to represent, are not entitled to recover any
9 penalties for allegedly non-compliant wage statements to the extent that they did not suffer any injury
10 within the meaning of Labor Code section 226(e).

11 **SIXTEENTH SEPARATE DEFENSE**

12 (No Knowing and Intentional Violation: Labor Code § 226(e) — Fourth and Fifth Causes of Action)

13 16. Plaintiffs, and those individuals they seek to represent, are not entitled to recover any
14 penalties for allegedly non-compliant wage statements because no knowing and intentional violation of
15 Labor Code section 226 occurred.

16 **SEVENTEENTH SEPARATE DEFENSE**

17 (Not Hours Worked — All Causes of Action)

18 17. Plaintiffs' causes of action are barred because the hours Plaintiffs allege were worked are
19 not "hours worked" within the meaning of applicable law.

20 **EIGHTEENTH SEPARATE DEFENSE**

21 (No Section 17200 Standing — Fifth Cause of Action)

22 18. Plaintiffs, and the those persons they seek to represent, lack standing to sue pursuant to
23 California Business & Professions Code section 17200, *et seq.*, because Plaintiffs and/or those they seek
24 to represent have not suffered any injury in fact or lost money or property as a result of any alleged
25 unfair competition, and/or penalties are unavailable under the statutes Plaintiffs sue upon.
26
27
28

1 **NINETEENTH SEPARATE DEFENSE**

2 (No Unlawful, Unfair, or Fraudulent Business Practice — Fifth Cause of Action)

3 19. Without admitting the allegations in the Complaint, Plaintiffs' cause of action pursuant to
4 California Business & Professions Code section 17200, *et seq.* fails because the alleged practices of
5 Defendant are not unfair, unlawful, or fraudulent, and are not likely to deceive the public. In addition,
6 Defendant gained no competitive advantage by such practices, and the benefits of the alleged practices
7 outweigh any harm or other impact they may cause.

8 **TWENTIETH SEPARATE DEFENSE**

9 (No Recovery Under UCL — Fifth Cause of Action)

10 20. Plaintiffs' cause of action pursuant to California Business & Professions Code section
11 17200, *et seq.* fails to the extent that it seeks anything but restitution for alleged violations of the Labor
12 Code that form the basis of the claim under the UCL.

13 **TWENTY-FIRST SEPARATE DEFENSE**

14 (Release — All Causes of Action)

15 21. To the extent Plaintiffs and/or those persons they seek to represent have executed a
16 release encompassing claims alleged in the Complaint, their claims are barred by that release.

17 **TWENTY-SECOND SEPARATE DEFENSE**

18 (Offset — All Causes of Action)

19 22. To the extent that Plaintiffs or any individuals they seek to represent are entitled to
20 damages or penalties, Defendant is entitled to an offset for any payments or overpayments of wages or
21 other remuneration previously provided to Plaintiffs or those individuals.

22 **TWENTY-THIRD SEPARATE DEFENSE**

23 (Accord and Satisfaction — All Causes of Action)

24 23. Defendant alleges that Plaintiffs' claims, and the claims of those persons they seek to
25 represent, are barred by the doctrine of accord and satisfaction. Specifically, Plaintiffs and those they
26 seek to represent were properly and fully compensated for all work performed for Defendant, and
27 acceptances of those payments constitutes an accord and satisfaction for all debts, if any, owed by
28 Defendant.

1 **TWENTY-FOURTH SEPARATE DEFENSE**

2 (Res Judicata, Collateral Estoppel, and Issue Preclusion — All Causes of Action)

3 24. Plaintiffs' Claims, and those of the persons they seek to represent, are barred to the extent
4 that Plaintiffs or any individuals they seek to represent were claimants or plaintiffs or could have been
5 claimants or plaintiffs in any prior litigation or administrative action in which the present claims were or
6 could have been asserted including, but not limited to, any prior class action, collective action, Private
7 Attorney General Act action, claim before the Division of Labor Standards Enforcement, or individual
8 case relating to Plaintiffs' employment or the employment of any persons they seek to represent.
9 Plaintiffs' claims are further barred to the extent that the relief they seek in this action, or any claim on
10 an issue relevant to this action, was decided against Plaintiffs, against any individuals Plaintiffs seek to
11 represent, or against any individuals with similar interest in litigating the matter, in a prior judicial or
12 agency action.

13 **TWENTY-FIFTH SEPARATE DEFENSE**

14 (Adequate Remedy at Law — All Causes of Action)

15 25. Plaintiffs' request for injunctive and/or other equitable relief fails because Plaintiffs, and
16 those persons they seek to represent, have an adequate remedy at law.

17 **TWENTY-SIXTH SEPARATE DEFENSE**

18 (Excessive Penalties Unconstitutional — Second Through Fourth Causes of Action)

19 26. Plaintiffs' claims for penalties pursuant to the California Labor Code are barred because
20 Plaintiffs seek penalties which are excessive, unjust, arbitrary, confiscatory, duplicative, and/or
21 capricious and/or bear no rational relationship to any actual harm allegedly suffered by Plaintiffs or
22 those they seek to represent. See U.S. Const. amends. V and XIV; see also Cal. Const. art. I, § 7.

23 **TWENTY-SEVENTH SEPARATE DEFENSE**

24 (Lack of Standing — All Causes of Action)

25 27. Plaintiffs or any of them do not have standing to pursue some or all of the claims they
26 purport to assert on behalf of others on a representative or class basis.
27
28

1 **TWENTY-EIGHTH SEPARATE DEFENSE**

2 (Class Conflicts — All Causes of Action)

3 28. Plaintiffs' class claims are barred because class certification would be inappropriate due
4 to conflicts of interest between Plaintiffs or any of them and the proposed class members.

5 **TWENTY-NINTH SEPARATE DEFENSE**

6 (No Certifiable Class — All Causes of Action)

7 29. Plaintiffs' Complaint fails to allege facts sufficient to warrant class certification and/or an
8 award of class damages, pursuant to California Code of Civil Procedure section 382.

9 **THIRTIETH SEPARATE DEFENSE**

10 (Class Action: Due Process — All Causes of Action)

11 30. Without admitting the allegations in the Complaint, Plaintiffs' action may not be
12 maintained as a class action because a determination of liability and/or damages, if any, to each member
13 of the proposed class may not be determined by a factfinder on a group-wide basis, and therefore
14 allowing this action to proceed as a class action would violate Defendant's rights to due process and trial
15 by jury.

16 **THIRTY-FIRST SEPARATE DEFENSE**

17 (Incorporation by Reference to Individual Claims — All Causes of Action)

18 31. In the event that a class should be certified in this matter, Defendant incorporates by
19 reference and re-alleges all of its defenses to Plaintiffs' individual claims in response to Plaintiffs'
20 claims on behalf of the class and each putative class member.

21 **ADDITIONAL DEFENSES**

22 Defendant presently has insufficient knowledge or information upon which to form a belief
23 whether there may be additional, as yet unstated, defenses and reserves the right to assert additional
24 defenses in the event that discovery indicates that such defenses are appropriate.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Defendant prays for judgment as follows:

27 1. That Plaintiffs take nothing by their Complaint on file herein;
28

1 2. That judgment be entered in favor of Defendant and against Plaintiffs and those they seek
2 to represent on all causes of action;

3 3. That the Court enter an order denying any proceeding in any class or representative
4 capacity;

5 4. That Defendant be awarded reasonable attorneys' fees according to proof;

6 5. That Defendant be awarded the costs of suit incurred herein; and

7 6. That Defendant be awarded such other and further relief as the Court may deem
8 appropriate;

9 DATED: April 19, 2018

Respectfully submitted,

SEYFARTH SHAW LLP

11
12 By: 

Christian J. Rowley

Kerry Friedrichs

Elizabeth J. MacGregor

Attorneys for Defendant

KAISER FOUNDATION HEALTH PLAN, INC.

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 560 Mission Street, 31st Floor, San Francisco, California. 94105. On April 19, 2018, I served the within document(s):

DEFENDANT'S ANSWER TO PLAINTIFFS' CLASS ACTION COMPLAINT

I sent such document from facsimile machines (415) 397-8549 on 4/19/18. I certify that said transmission was completed and that all pages were received and that a report was generated by said facsimile machine which confirms said transmission and receipt. I, thereafter, mailed a copy to the interested party(ies) in this action by placing a true copy thereof enclosed in sealed envelope(s) addressed to the parties listed below.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California, addressed as set forth below.

by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

by placing the document(s) listed above, together with an unsigned copy of this declaration, in a sealed envelope or package provided by an overnight delivery carrier with postage paid on account and deposited for collection with the overnight carrier at San Francisco, California, addressed as set forth below.

by transmitting the document(s) listed above, electronically, via the e-mail addresses set forth below.

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Attorneys for Plaintiffs
Tiffany Gretler, Laura Carmona, Shelia
Taylor, Shalyse Kemp

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. 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.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on April 19, 2018, at San Francisco, California.

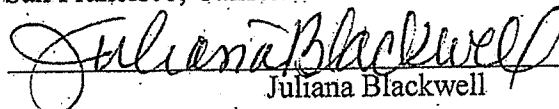

Juliana Blackwell

EXHIBIT C

EXHIBIT C

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

OCT 03 2018

V. Alvarado

COPY

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Attorneys for Plaintiffs,
TIFFANY GRETLER, LAURA CARMONA, SHELIA TAYLOR, SHALYSE KEMP,
and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

TIFFANY GRETLER, an individual on
behalf of herself and all others similarly
situated; LAURA CARMONA, an
individual on behalf of herself and all
others similarly situated; SHELIA
TAYLOR an individual on behalf of
herself and all others similarly situated;
SHALYSE KEMP an individual on
behalf of herself and all others similarly
situated

Plaintiffs,

v.

KAISER FOUNDATION HEALTH
PLAN, INC., a corporation; KAISER
FOUNDATION HOSPITALS, a
corporation; SOUTHERN
CALIFORNIA PERMANENTE
MEDICAL GROUP, a partnership; and
DOES 1 through 10 inclusive,

Defendants.

CASE NO. RIC1805047

[Assigned for all purposes to the Hon. Craig
G. Riemer, Dept. 5]

**PLAINTIFFS' FIRST AMENDED CLASS
ACTION COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CALIFORNIA LABOR CODE §§ 510, 1194, 1198, 1199 AND WAGE ORDER 4-2001
2. VIOLATION OF CALIFORNIA LABOR CODE §§ 226.7 AND 512 AND WAGE ORDER 4-2001 (MEAL PERIODS)
3. VIOLATION OF CALIFORNIA LABOR CODE § 226.7 AND WAGE ORDER 4-2001 (REST PERIODS)
4. VIOLATION OF CALIFORNIA LABOR CODE § 226(a) (NON-COMPLIANT WAGE STATEMENTS)
5. FAILURE TO PAY ALL WAGES OWED UPON TERMINATION IN VIOLATION OF CALIFORNIA LABOR CODE §§ 201-203
6. VIOLATIONS OF CALIFORNIA LABOR CODE SECTION 2698 ET SEQ. - THE PRIVATE ATTORNEYS GENERAL ACT OF 2004
7. VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200
8. VIOLATIONS OF THE FLSA

JURY TRIAL DEMANDED

1 Plaintiffs Tiffany Gretler, Laura Carmona, Shelia Taylor, and Shalyse Kemp
2 (together, "Plaintiffs") allege as follows on knowledge as to their own acts/interactions,
3 and on information and belief as to all other matters:

4 **JURISDICTION AND VENUE**

5 1. This Court has personal jurisdiction over Defendants because they each
6 conduct business in the State of California.

7 2. Under California Code of Civil Procedure section 395(a), venue is proper in
8 this County because Defendants do business in this County and the harm to Plaintiffs
9 occurred in this County.

10 **PARTIES**

11 3. Plaintiff Tiffany Gretler ("Plaintiff Gretler") at all times relevant hereto,
12 was and is a resident of the State of California.

13 4. Plaintiff Laura Carmona ("Plaintiff Carmona") at all times relevant hereto,
14 was and is a resident of the State of California.

15 5. Plaintiff Shelia Taylor ("Plaintiff Taylor") at all times relevant hereto, was
16 and is a resident of the State of California.

17 6. Plaintiff Shalyse Kemp ("Plaintiff Kemp") at all times relevant hereto, was
18 and is a resident of the State of California.

19 7. Plaintiffs are informed and believe that Defendant Kaiser Foundation
20 Health Plan, Inc. ("KFHP") and Defendant Kaiser Foundation Hospitals ("KFH") are
21 corporations organized and existing under the laws of California, with their principal
22 place of business located at 1 Kaiser Plaza, Oakland, California.

23 8. Plaintiffs are informed and believe that Defendant Southern California
24 Permanente Medical Group ("SCPMG") is organized as a partnership under the laws of
25 California, with its principal place of business located in Los Angeles County at 393 East
26 Walnut Street, Pasadena, California.

27 9. Defendants KFHP, KFH and SCPMG, if not separately noted are
28 hereinafter collectively referred to as "Defendants."

1 17. Plaintiff Kemp started as a Timekeeping Coordinator in approximately July
2 of 2015.

3 18. Defendants misclassified Plaintiffs and all other Timekeeping Coordinators
4 as exempt employees not entitled to overtime pay.

5 19. Timekeeping Coordinators are not required to have any college degree
6 (neither Plaintiff Gretler nor Plaintiff Carmona have a college degree), professional
7 certificates or licenses, and they do not manage or supervise other employees.

8 20. Plaintiffs and the other Timekeeping Coordinators were micromanaged
9 employees who do not spend the majority of their working time exercising discretion or
10 independent judgment in performing their duties.

11 21. Plaintiffs and the other Timekeeping Coordinators engage in routine and
12 repetitive tasks that do not involve any significant time being spent on a comparison and
13 evaluation of possible courses of conduct and acting or making a decision after the
14 various possibilities have been considered.

15 22. As detailed below, the job duties of Plaintiffs and the other Timekeeping
16 Coordinators consist mainly of: (1) answering a high volume of calls and providing set
17 responses during their scheduled hours at work; (2) repetitive data entry related to
18 processing standardized payroll forms; and (3) repetitive processing of pay period
19 adjustments.

20 23. In total, Plaintiffs and other Timekeeping Coordinators work approximately
21 15-30 hours a week of overtime (hours in excess of eight (8) hours a day or forty (40)
22 hours a week) and are not compensated for overtime due to their misclassification as
23 exempt employees.

24 24. In order to work from home, Defendants provides Plaintiffs and other
25 Timekeeping Coordinators with a laptop that is taken home with the employee, and
26 brought back to work for their scheduled call center hours (the same computer is used at
27 work through a docking station at the call center).

28

1 25. With regard to answering a high volume of calls and generally providing
2 set responses, Plaintiffs and other Timekeeping Coordinators generally spend over 80-
3 90% of the hours they are scheduled to work at the Corona call center answering calls.

4 26. Plaintiffs and the other Timekeeping Coordinators, answer calls from
5 Defendants' managers and the managers from Defendants' affiliated/controlled
6 companies or organizations who are considered "timekeepers" or "approvers" of
7 employees' timecards. These managers include timekeepers or approvers from
8 Defendants' affiliated Kaiser entities.

9 27. Plaintiffs and the other Timekeeping Coordinators generally answer
10 approximately 400 or more calls a month (ranging from 20-40 calls a day). In addition,
11 Timekeeping Coordinators can also email their questions and Plaintiffs and the other
12 Timekeeping Coordinators largely respond with template email responses (5-10 emails a
13 day with similar questions that can be asked over the phone).

14 28. There is a thirty (30) second rest period between calls to finalize any notes
15 or send out a template email to the manager who called. Thereafter, Plaintiffs and the
16 other Timekeeping Coordinators are marked as "available" to receive another call.

17 29. If Plaintiffs or the other Timekeeping Coordinators are not ready for a call
18 they must electronically designate themselves as not ready for a call. In the event
19 Plaintiffs or the other Timekeeping Coordinators electronically designate themselves as
20 not ready for a call for any period other than their designated lunch time, a supervisor
21 will see why they are not ready.

22 30. Even the times when Plaintiffs and the other Timekeeping Coordinators are
23 permitted to have a meal is micromanaged by management in order to ensure they are
24 answering repetitive and routine calls.

25 31. Defendants tracks how many seconds it takes Plaintiffs and the other
26 Timekeeping Coordinators to answer the phone (speed to answer) and track the number
27 of calls received and number of calls answered. If a Timekeeping Coordinator is below
28

1 the average or quota set for the number of calls, they are reprimanded and face
2 termination.

3 32. Plaintiffs and the other Timekeeping Coordinators are required to be at
4 their desk at all times during their scheduled shifts. If Plaintiffs are not on calls during
5 their scheduled hours for more than ten to fifteen (10-15) minutes, a manager will “ping”
6 the employee (through Skype) to determine why they are not on the phone.

7 33. Calls will generally last for five (5) minutes and if a call lasts fifteen (15)
8 minutes, a manager will “ping” the employee to inquire why the call has not been
9 completed because the answers provided are generally very routine and should not take
10 any significant amount of time to ascertain.

11 34. A very large portion of the calls from managers are responded to with
12 simple, form responses either verbally or through template emails. For example, the
13 following are routine calls generally received by Plaintiffs and other Timekeeping
14 Coordinators that are responded to with standard responses either verbally or through
15 template emails:

- 16 a. Can you walk me through how to do a pay period adjustment?
- 17 b. Can you remove the HK60 error message?
- 18 c. How do I code holiday on a timecard?
- 19 d. I can't clock in for work, I'm getting an error.
- 20 e. Can you reset my password?
- 21 f. My computer is frozen, what do I do?
- 22 g. Can you tell me how to review my time card?
- 23 h. How do I approve my employees' timecards?
- 24 i. I sent a Form 3646 form yesterday. Do you know when it will be
25 processed?
- 26 j. Is an employee eligible for a shift differential if the employee is
27 scheduled for night shifts but works days?

28 35. When a manager/timekeeper has a question related to a specific employee
or an employee calls with a question (such as if they are eligible for a specific holiday),
Plaintiffs and other Timekeeping Coordinators enter the employee's ID number and the
database called “My HR” directs them to the applicable collective bargaining agreement

1 and pay practice policy for the specific employee to obtain the answer. This function
2 does not require anything more than the use of skill in applying well-established
3 techniques, procedures and specific standards described in manuals or other sources that
4 Plaintiffs and other Timekeeping Coordinators are directed to for any specific employee.

5 36. Plaintiffs and other Timekeeping Coordinators cannot make changes to
6 timecards without manager/timekeeper approval.

7 37. Plaintiffs are informed and believe that Defendants operate another call
8 center where non-exempt hourly employees (National Payroll Coordinators) provide a
9 similar function related to questions and issues pertaining to employees' rate of pay or
10 whether the employee was underpaid or overpaid based on their rates of pay.

11 38. With regard to the repetitive data entry related to processing standardized
12 payroll forms (generally done during the thirty (30) minute period they are permitted to
13 be off the phone for lunch and from home after the employees' scheduled call center
14 hours), Plaintiffs and other Timekeeping Coordinators would generally spend ten (10)
15 hours a week in addition to their scheduled call center hours performing data entry. This
16 data entry is for Forms 3644 and 3646. On average, Plaintiffs and other Timekeeping
17 Coordinators complete the data entry for approximately 350 forms a month.

18 39. Form 3644 is a form completed by an employee who requests to view their
19 own time card. The employee fills out the form then the Timekeeping Coordinators view
20 the form on "Case Manager" (a program that is part of My HR) before entering the
21 information from the Form 3644 into "Mainframe" (the centralized time system used by
22 Defendants).

23 40. Form 3646 is a form used to add a new employee or if an employee
24 transfers. This form is filled out by the newly hired or recently transferred employee's
25 manager. A manager/ timekeeper fills out the form then the Timekeeping Coordinators
26 view the form on "Case Manager" (a program that is part of My HR) before entering the
27 information from the Form 3646 into "Mainframe" (the centralized time system used by
28 Defendants).

1 41. Plaintiffs are informed and believe that Defendants utilize non-exempt
2 hourly employee to conduct the similar data entry related to Form 3645 (a form used to
3 change a primary approver or adding an alternate approver).

4 42. With regard to the repetitive processing of pay period adjustments
5 (generally done during the thirty (30) minute period they are permitted to be off the
6 phone for lunch and from home after the employees' scheduled call center hours),
7 Plaintiffs and other Timekeeping Coordinators generally spend another five (5) hours a
8 week in addition to their scheduled call center hours processing pay period adjustments.
9 On average, Plaintiffs and other Timekeeping Coordinators process approximately 525
10 pay period adjustments a month.

11 43. A pay period adjustment is needed when a manager/timekeeper incorrectly
12 codes time (such as inputting overtime when it was not overtime) or when an employee
13 forgets to punch in or punch out. The pay period adjustment is submitted by the
14 manager/timekeeper through Mainframe. Plaintiffs and other Timekeeping Coordinators
15 merely see if the adjustment is positive (resulting in increased money to the employee).
16 If the adjustment is positive, Timekeeping Coordinators select approve and the
17 information is sent to Defendants' payroll for processing. If the adjustment is negative
18 (resulting in decreased money to the employee), Timekeeping Coordinators send a
19 template email to the manager/timekeeper to have a form authorization signed by the
20 employee, obtains the authorization once it is returned, and transmits the authorization to
21 payroll for processing.

22 **CLASS ACTION ALLEGATIONS**

23 44. This class action is filed under the provisions of Code of Civil Procedure
24 section 382, which provides that a class action may be brought when the question is one
25 of common interest to many persons, or when the number of persons is numerous and it
26 is impractical to bring them all before the court. This action is properly maintained as a
27 class action as set forth below.

1 45. Plaintiffs brings this action on behalf of themselves and all others similarly
2 situated in the “Class”, as follows:

3 **All persons within California who worked for any of the Defendants as**
4 **in the position of “National Timekeeping Coordinator,” “Time Systems**
5 **Coordinator,” or persons with similar titles and/or similar job duties at**
6 **any time on or after March 13, 2014.**

7 46. Plaintiffs reserve the right to amend the class definition to seek recovery on
8 behalf of additional persons as warranted as facts are learned through further
9 investigation and discovery.

10 47. Numerosity: Plaintiffs do not know the number of members in the
11 proposed class, but believe, based on Defendants’ number of Timekeeping Coordinators,
12 turnover of employees during the statutory period, and investigation of counsel, that the
13 number is approximately 150 employees, if not substantially higher. Thus, joinder of all
14 members of the Class is impractical due to the number of members and relatively small
15 value of each member’s claim.

16 48. Typicality: Plaintiffs’ claims are typical of the claims of each member of
17 the Class because Plaintiffs work and/or worked for Defendants as Timekeeping
18 Coordinators, were improperly classified as exempt employees, worked more than eight
19 (8) hours in a day and/or forty (40) hours in a week during their employment, did not
20 receive any overtime compensation, and did not receive meal and rest periods in
21 compliance with the requirements of California law.

22 49. Commonality: The members of the Class share a well-defined community
23 of interest regarding questions of law and fact, which predominate over questions that
24 may affect individual members of the Class. These common questions of law and fact
25 include (but are not limited to):

26 (a) Whether Defendants can meet their burden of proving that it
27 properly classified Timekeeping Coordinators as exempt;

1 (b) Whether Defendants paid Plaintiffs and members of the Class for all
2 hours Defendants suffered and/or permitted them to work;

3 (c) Whether Defendants required Plaintiffs and members of the Class to
4 work over eight (8) hours per day and/or over forty (40) hours per week, and failed
5 to pay the legally required overtime compensation;

6 (d) Whether Defendants required Plaintiffs and members of the Class to
7 work over twelve (12) hours per day and/or over forty (40) hours per week, and
8 failed to pay the legally required overtime compensation;

9 (e) Whether Defendants falsely informed Plaintiffs and members of the
10 Class that they were exempt employees not entitled to overtime compensation;

11 (f) Whether Defendants provided Plaintiffs and members of the Class
12 with laptops and remote access so that they could continue to work from home late
13 into the night or during the weekends;

14 (g) Whether Defendants and its management regularly witnessed
15 Plaintiffs and members of the Class leaving the office after much longer than eight
16 (8) hours of work;

17 (h) Whether Defendants knew or should have known that Plaintiffs and
18 members of the Class were entitled to receive certain wages for overtime
19 compensation;

20 (i) Whether Defendants failed to timely pay all wages due to Plaintiffs
21 and members of the Class during their employment;

22 (j) Whether Defendants engaged in unfair business practices in
23 violation of California Business & Professions Code sections 17200, et seq.;

24 (k) Whether Plaintiffs and the class are entitled to compensatory
25 damages pursuant to the California Labor Code; and

26 (l) The appropriate amount of damages, restitution, and/or monetary
27 penalties resulting from Defendants' violations of California law.
28

1 50. Predominance: The questions that are common to all class members
2 predominate over any questions that are unique to individual class members because the
3 answers to these questions will determine Defendants' liability to all class members and
4 any remaining individual questions with respect to amounts of relief may be resolved by
5 reference to Defendants' payroll records or a damages phase of the case.

6 51. Superiority: A class action is vastly superior to other available means for
7 the fair and efficient adjudication of class members' claims. Because this case involves
8 large numbers of employees, most, if not all, of whom have relatively small individual
9 claims, it would be beneficial to the parties and this Court to allow them to
10 simultaneously and efficiently prosecute their common claims in a single forum without
11 the unnecessary duplication of effort and expense that numerous individual actions would
12 entail. Additionally, because the monetary amounts due to many individual class
13 members are likely to be relatively small, it would make it difficult, if not impossible, for
14 individual class members to both seek and obtain relief. Moreover, a class action will
15 serve an important public interest by permitting class members to effectively pursue the
16 recovery of moneys owed to them. Further, a class action will prevent the potential for
17 inconsistent or contradictory judgments inherent in individual litigation.

18 52. Ascertainable Classes: The members of the Class can be easily ascertained
19 from Defendants' payroll records and other records maintained by Defendants.

20 53. Adequacy Of Class Representatives: Plaintiffs will fairly and adequately
21 represent and protect the interests of the Class in that Plaintiffs have no interests
22 antagonistic to any member of the Class. There are no material conflicts between the
23 claims of Plaintiffs and the members of the Class that would make class certification
24 inappropriate.

25 54. Adequacy Of Class Counsel: Plaintiffs have retained counsel experienced
26 in handling class action claims and wage & hour claims.

FIRST CAUSE OF ACTION

**FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CALIFORNIA
LABOR CODE §§ 510, 1194(A), 1198, 1199 AND WAGE ORDER 4-2001
(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)**

55. Plaintiffs incorporate by this reference all the preceding and subsequent paragraphs.

56. At all relevant times, the California Industrial Wage Orders and California Code of Regulations were in effect and binding on Defendants.

57. Subdivision 3 of Wage Order 4-2001 provides that:

(A) Daily Overtime – General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1 ½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek.; and

(b) Double the employee’s regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in

1 excess of eight (8) hours on the seventh (7th) consecutive day of
2 work in a workweek.

3 (c) The overtime rate of compensation required to be paid to a
4 nonexempt full-time salaried employee shall be computed by
5 using the employee's regular hourly salary as one fortieth (1/40)
6 of the employee's weekly salary.

7 58. At all relevant times, Labor Code § 510 was in effect and binding on
8 Defendants. The pertinent part of Labor Code § 510 provides that:

9 (a) Eight hours of labor constitutes a day's work. Any work in excess of
10 eight hours in one workday and any work in excess of 40 hours in any
11 one workweek and the first eight hours worked on the seventh day of
12 work in any one workweek shall be compensated at the rate of no less
13 than one and one-half times the regular rate of pay for an employee.
14 Any work in excess of 12 hours in one day shall be compensated at the
15 rate of no less than twice the regular rate of pay for an employee. In
16 addition, any work in excess of eight hours on any seventh day of a
17 workweek shall be compensated at the rate of no less than twice the
18 regular rate of pay of an employee.

19 59. At all relevant times, California Labor § 1194 was in effect and binding on
20 Defendants. Labor Code § 1194 provides in relevant part:

21 (a) Notwithstanding any agreement to work for a lesser wage, any
22 employee receiving less than the legal minimum wage or the legal overtime
23 compensation applicable to the employee is entitled to recover in a civil
24 action the unpaid balance of the full amount of this minimum wage or
25 overtime compensation, including interest thereon, reasonable attorney's,
26 and costs of suit.

27 60. At all relevant times, California Labor § 218.5 was in effect and binding on
28 Defendants. Labor Code § 218.5 provides in relevant part:

1 In any action brought for the nonpayment of wages, fringe benefits, or
2 health and welfare or pension fund contributions, the court shall award
3 reasonable attorney's fees and costs to the prevailing party if any party to
4 the action requests attorney's fees and costs upon the initiation of the
5 action.

6 61. At all relevant times, Plaintiffs and members of the Class were
7 misclassified as exempt employees.

8 62. At all relevant times, Plaintiffs and members of the Class were subject to
9 the overtime provisions of the California Industrial Welfare Commission's Wage Orders.

10 63. Throughout their employment, Plaintiffs and members of the Class
11 regularly and with Defendants' knowledge worked more than eight (8) hours in working
12 day. Plaintiffs allege that they sometimes even worked more than 12 hours in a working
13 day.

14 64. Plaintiffs allege that Defendants did not pay 1 ½ times the legal minimum
15 hourly wage rate for all the hours worked over eight (8) hours in a work day and/or 40
16 hours in a work week. Plaintiffs allege that Defendants did not pay two times the legal
17 minimum hourly rate for all the hours worked over 12 hours in a work day.

18 65. During the relevant time period, Defendants intentionally and willfully
19 failed to pay for all hours Defendants suffered and/or permitted Plaintiffs and members of
20 the Class to work, including for overtime hours.

21 66. Plaintiffs and members of the Class allege that wages are due to them for
22 all hours worked during which they were not paid proper overtime wages pursuant
23 California Labor Code §§ 510 and 1194 and all applicable laws, rules, orders,
24 requirements and regulations.

25 67. Plaintiffs and members of the Class demand all applicable reimbursements,
26 interest and penalties for her lost overtime wages. Plaintiffs and members of the Class
27 further demand reasonable attorneys' fees and costs of suit pursuant to California Labor
28 Code §§ 218.5, 1194, and any other applicable statute or regulation.

SECOND CAUSE OF ACTION

**VIOLATION OF CALIFORNIA LABOR CODE SECTIONS 226.7, 512 AND
WAGE ORDER 4-2001 (MEAL PERIODS)**

(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)

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4
5 68. Plaintiffs incorporate by this reference all preceding and subsequent
6 paragraphs.

7 69. California Labor Code section 512(a) states (in relevant part): “An
8 employer may not employ an employee for a work period of more than five (5) hours per
9 day without providing the employee with a meal period of not less than 30 minutes,
10 except that if the total work period per day of the employee is no more than six hours, the
11 meal period may be waived by mutual consent of both the employer and employee.”

12 70. Section 11(A) of the applicable Industrial Welfare Commission Wage
13 Orders provides (in relevant part): “No employer shall employ any person for a work
14 period of more than five (5) hours without a meal period of not less than 30 minutes,
15 except that when a work period of not more than six (6) hours will complete the day’s
16 work the meal period may be waived by mutual consent of the employer and the
17 employee.”

18 71. California Labor Code section 226.7(b) provides: “If an employer fails to
19 provide an employee a meal period or rest period in accordance with an applicable order
20 of the Industrial Welfare Commission, the employer shall pay the employee one
21 additional hour of pay at the employee’s regular rate of compensation for each work day
22 that the meal or rest period is not provided.”

23 72. Defendants worked Plaintiffs and members of the Class more than five (5)
24 hours per day without an off-duty, timely, and/or uninterrupted 30-minute meal period as
25 required by California Labor Code section 512 and section 11 of the applicable Industrial
26 Welfare Commission Wage Order.

27 73. Plaintiffs and members of the Class demand all applicable reimbursements,
28 interest, and penalties.

THIRD CAUSE OF ACTION

VIOLATION OF CALIFORNIA LABOR CODE § 226.7 AND WAGE ORDER 4-2001 (REST PERIODS)

(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)

74. Plaintiffs incorporate by this reference all preceding and subsequent paragraphs.

75. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California Industrial Welfare Commission.

76. At all relevant times, the applicable Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof unless the total daily work time is less than three and one-half (3 ½) hours.”

77. During the relevant time period, Defendants required Plaintiffs and members of the Class to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

78. During the relevant time period, Defendants willfully required Plaintiffs and members of the Class to work during rest periods and failed to pay the full rest period premium for work performed during rest periods.

79. During the relevant time period, Defendants failed to pay Plaintiffs and members of the Class the full rest period premium due pursuant to California Labor Code section 226.7. Defendants’ conduct violates applicable Wage Orders and California Labor Code section 226.7.

80. Pursuant to the applicable Industrial Welfare Commission Wage Order and California Labor Code section 226.7(b), Plaintiffs and members of the Class are entitled

1 to recover from Defendants one additional hour of pay at the employee's regularly hourly
2 rate of compensation for each work day that the rest period was not provided.

3 81. Plaintiffs and members of the Class demand all applicable reimbursements,
4 interest, and penalties.

5 **FOURTH CAUSE OF ACTION**

6 **VIOLATION OF CALIFORNIA LABOR CODE § 226(a)**

7 **(NON-COMPLIANT WAGE STATEMENTS)**

8 **(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)**

9 82. Plaintiffs incorporate by this reference all preceding and subsequent
10 paragraphs.

11 83. At all material times set forth herein, California Labor Code section 226(a)
12 provides that every employer shall furnish each of his employees an accurate itemized
13 statement in writing showing (1) gross wages earned, (2) total hours worked by the
14 employee, (3) the number of piece-rate units earned and any applicable piece rate if the
15 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions
16 made on written orders of the employee may be aggregated and shown as one item, (5)
17 net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7)
18 the name of the employee and his or her social security number, (8) the name and address
19 of the legal entity that is the employer, and (9) all applicable hourly rates in effect during
20 the pay period and the corresponding number of hours worked at each hourly rate by the
21 employee.

22 84. Due to their misclassification as an exempt employee, Defendants
23 intentionally and willfully failed to provide Plaintiffs and members of the Class with
24 complete and accurate wage statements. The deficiencies include, but are not limited to:
25 the failure to include total hours worked by the employee.

26 85. As a result, Plaintiffs and members of the Class have suffered injury and
27 damage to their statutory-protected rights.

28

1 86. Plaintiffs and members of the Class demand damages under California
2 Labor Code section 226 of an aggregate penalty not exceeding four thousand dollars per
3 employee.

4 **FIFTH CAUSE OF ACTION**

5 **FAILURE TO PAY ALL WAGES OWED UPON TERMINATION IN**
6 **VIOLATION OF CALIFORNIA LABOR CODE §§ 201-203**
7 **(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)**

8 87. Plaintiffs incorporate by this reference all preceding and subsequent
9 paragraphs.

10 88. At all relevant times, California Labor Code sections 201-203 provide that
11 if an employer discharges an employee, the wages earned and unpaid at the time of
12 discharge are due and payable immediately, and if an employee quits his or her
13 employment, his or her wages shall become due and payable not later than seventy-two
14 (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his
15 or her intention to quit, in which case the employee is entitled to his or her wages at the
16 time of quitting.

17 89. As Plaintiff and other members of the class were denied wages owed to
18 them (based on being misclassified as exempt employees), they were not paid all wages
19 owed to them at the time of their termination or resignation.

20 90. During the relevant time period, and as alleged above, Defendants
21 intentionally and willfully failed to pay Plaintiff and other members of the Class their
22 wages, earned and unpaid, within the required time period.

23 91. Plaintiffs are informed and believe that other members of the Class were
24 not paid their final wages immediately upon their termination or within seventy-two (72)
25 hours of their resignation, is in violation of California Labor Code sections 201 and 202.

26 92. On information and belief, Plaintiffs contends that Defendants' failure to
27 pay all wages earned upon termination in accordance with Labor Code section 201 was
28

1 willful. At all times relevant, Defendants had the ability to pay all earned and unpaid
2 wages in accordance with Labor Code section 201 but intentionally chose not to comply.

3 93. California Labor Code section 203 provides that if an employer willfully
4 fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the
5 employee shall continue as a penalty from the due date thereof at the same rate until paid
6 or until an action is commenced; but the wages shall not continue for more than thirty
7 (30) days.

8 94. Pursuant to Labor Code § 218.5, Plaintiff and members of the Final Wages
9 Class are entitled to recover the full amount of their unpaid wages, waiting time penalties,
10 reasonable attorneys' fees, and costs of suit. Plaintiff and the other members of the Final
11 Wages Class are entitled to recover interest on all due and unpaid wages and waiting time
12 penalties under Labor Code § 218.6 and/or Civil Code § 3287(a).

13 **SIXTH CAUSE OF ACTION**

14 **PRIVATE ATTORNEYS GENERAL ACT OF 2004, LABOR CODE SECTION**
15 **2698 ET SEQ.**

16 **(REPRESENTATIVE ACTION BY PLAINTIFFS AGAINST DEFENDANTS)**

17 95. Plaintiffs incorporate by this reference all preceding and subsequent
18 paragraphs.

19 96. Plaintiffs seek penalties pursuant to PAGA for based on Defendants'
20 following violation of the California Labor Code:

21 (a) California Labor Code sections 510, 1194, 1198, and Wage Order 4-
22 2001 (underpayment of overtime wages);

23 (b) California Labor Code sections 226.7, 512, and Wage Order 4-2001
24 (failure to authorize/provide meal and rest periods);

25 (c) California Labor Code section 226 (non-compliant wage
26 statements); and

27 (d) California Labor Code sections 201-203 (failure to pay all wages
28 upon resignation or termination).

1 97. Plaintiffs seek civil penalties due to Plaintiffs, other aggrieved employees,
2 and the State of California according to proof, pursuant to the California Labor Code,
3 including California Labor Code §§ 2699(a) and 2699(f), which provides for \$100 for
4 each initial violation and \$200 for each subsequent violation per employee pay period.

5 98. Plaintiffs were compelled to retain the services of counsel to file this action
6 to protect Plaintiffs' interests and the interests of other similarly aggrieved employees,
7 and to assess and collect the civil penalties owed by Defendants. Plaintiffs have thereby
8 incurred attorneys' fees and costs, which Plaintiffs are entitled to recover under
9 California Labor Code § 2699(g).

10 **SEVENTH CAUSE OF ACTION**

11 **VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200**
12 **(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)**

13 99. Plaintiffs incorporate by this reference all preceding and subsequent
14 paragraphs.

15 100. Business and Professions Code § 17200, et seq. ("UCL"), defines unfair
16 competition to include any "unfair," "unlawful," or "fraudulent" business practice.

17 101. At all times relevant herein the UCL was in full force and effect and
18 binding on Defendants.

19 102. The actions alleged herein by Defendants were "unlawful" under the UCL
20 based on the violations of each of the statutes and regulations alleged herein.

21 Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful
22 and harmful to Plaintiffs, members of the Class, the general public, and to Defendants'
23 competitors.

24 103. Plaintiffs and members of the Class have been personally injured by
25 Defendants' unlawful business acts and practices as alleged herein, including, but not
26 necessarily limited to, the loss of money and/or property.

27 104. Pursuant to California Business & Professions Code sections 17200, et seq.,
28 Plaintiffs and members of the Class are entitled to restitution of the wages withheld and

1 retained by Defendants, an injunction requiring Defendants to appropriate classify the
2 Class as non-exempt employees, and an injunction requiring Defendants to pay all
3 outstanding wages due to Plaintiffs and class members.

4 **EIGHTH CAUSE OF ACTION**

5 **FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF FAIR LABOR**
6 **STANDARDS ACT**

7 **(BY PLAINTIFF AND THE CLASS AGAINST DEFENDANTS)**

8 105. Plaintiffs bring this action under the Fair Labor Standards Act (“FLSA”),
9 29 U.S.C. §§ 201 et seq., on behalf of themselves and all similarly situated current and
10 former Time System Coordinators who elect to opt into this action pursuant to the
11 collective action provision of the FLSA, 29 U.S.C. § 216(b)

12 106. At all relevant times, Plaintiffs and other similarly situated current and
13 former Time System Coordinators were engaged in commerce and/or the production of
14 goods for commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

15 107. The overtime wage provisions set forth in §§ 201 et seq. of the FLSA apply
16 to Defendants.

17 108. Defendants were and are employers of Plaintiffs and other similarly
18 situated current and former Time System Coordinators and are engaged in commerce
19 and/or the production of goods for commerce within the meaning of 29 U.S.C. §§ 206(a)
20 and 207(a).

21 109. At all relevant times, Plaintiffs and other similarly situated current and
22 former Time System Coordinators were and are employees within the meaning of 29
23 U.S.C. §§ 203(e) and 207(a).

24 110. Defendants have failed to pay Plaintiffs and other similarly situated current
25 and former Time System Coordinators the wages to which they were entitled under the
26 FLSA.

27 111. Defendants’ violations of the FLSA, as alleged herein, have been willful
28 and intentional. Because Defendants’ violations of the FLSA have been willful, a three-

1 year statute of limitations applies, pursuant to 29 U.S.C. § 255, as it may be tolled or
2 extended by agreement, equity or operation of law.

3 112. As a result of Defendants' willful violations of the FLSA, Plaintiff and
4 other similarly situated current and former Time System Coordinators have suffered
5 damages by being denied wages in accordance with 29 U.S.C. §§ 201 et seq., in amounts
6 to be determined at trial or through undisputed record evidence, and are entitled to
7 recovery of such amounts, liquidated damages, prejudgment interest, attorneys' fees,
8 costs, and other compensation pursuant to 29 U.S.C. § 216(b).

9 **JURY TRIAL DEMANDED**

10 113. Plaintiffs demand a jury trial.

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PRAYER FOR RELIEF

114. WHEREFORE, Plaintiffs respectfully requests the Court grant Plaintiffs and the members of the Class the following relief against Defendants:

- (e) For an order certifying each of the Class under California Code of Civil Procedure section 382;
- (f) For appointment of Plaintiffs as representatives of the Class;
- (g) For general economic and non-economic damages according to proof;
- (h) For special damages according to proof;
- (i) For prejudgment interest pursuant to California Civil Code section 3287 and/or California Civil Code section 3288 and/or any other provision of law providing for prejudgment interest;
- (j) For attorneys' fees where allowed by law;
- (k) For costs of suit incurred herein; and
- (l) For such other and further relief as this Court deems just and proper.

Dated: October 2, 2018

Respectfully submitted,
AZADIAN LAW GROUP, PC



By: _____
George S. Azadian
Attorneys for Plaintiffs,
TIFFANY GRETHER, LAURA CARMONA,
SHELIA TAYLOR, SHALYSE KEMP, and
the Proposed Class

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PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I reside in the State of California. I am over the age of 18. My business address is 790 E. Colorado Blvd., 9th Floor, Pasadena, California 91101.

On October 2, 2018, I served the foregoing documents described as:

PLAINTIFF'S FIRST AMENDED CLASS ACTION COMPLAINT

on all interested parties in this action by placing a true and accurate copy thereof, enclosed in a sealed envelope, addressed as follows:

Christian J. Rowley
Kerry Friedrichs
Parnian Vafaenia
SEYFARTH SHAW LLP
360 Mission Street, 31st Floor
San Francisco, CA 94105

xxxx **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid in the ordinary course of business. 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.

xxxx **(STATE):** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 2, 2018, at Pasadena, California.



EDRIK MEHRABI

EXHIBIT D

EXHIBIT D



COPY

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

OCT - 9 2018

J. Marcial

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8 KAISER FOUNDATION HOSPITALS, AND
SOUTHERN CALIFORNIA PERMANENTE MEDICAL
9 GROUP

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF RIVERSIDE
13

14 TIFFANY GRETLER, an individual on behalf of
15 herself and all others similarly situated; LAURA
16 CARMONA, an individual on behalf of herself
and all others similarly situated; SHELIA
17 TAYLOR an individual on behalf of herself and
all others similarly situated; SHALYSE KEMP an
18 individual on behalf of herself and all others
similarly situated,

19 Plaintiffs,

20 v.

21 KAISER FOUNDATION HEALTH PLAN, INC.,
a corporation; KAISER FOUNDATION
22 HOSPITALS, a corporation; SOUTHERN
CALIFORNIA PERMANENTE MEDICAL
23 GROUP, a partnership; and DOES 1 through 10
inclusive,

24 Defendants.
25
26
27
28

Case No. RIC 1805047

**DEFENDANTS KAISER FOUNDATION
HEALTH PLAN, INC., KAISER
FOUNDATION HOSPITALS, AND
SOUTHERN CALIFORNIA
PERMANENTE MEDICAL GROUP'S
ANSWER TO PLAINTIFFS' FIRST
AMENDED CLASS ACTION
COMPLAINT**

1 KAISER FOUNDATION HEALTH PLAN, INC., KAISER FOUNDATION HOSPITALS, and
2 SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP (“Defendants”) answer the First
3 Amended Class Action Complaint (“Complaint”) filed by Plaintiffs TIFFANY GRETHER, LAURA
4 CARMONA, SHELIA TAYLOR, and SHALYSE KEMP (“Plaintiffs”) as follows:

5 **GENERAL DENIAL**

6 Under California Code of Civil Procedure section 431.30, Defendants generally deny each and
7 every allegation contained in Plaintiffs’ First Amended Complaint, and further deny that Plaintiffs have
8 been or will be injured or damaged in any amount or at all by reason of any act or omission of
9 Defendants.

10 **SEPARATE DEFENSES**

11 In further answer to the First Amended Complaint, Defendants allege the following affirmative
12 and other defenses. In asserting these defenses, Defendants do not assume the burden of proof as to
13 matters that, pursuant to law, are Plaintiffs’ burden to prove. Defendants reserve the right to amend their
14 answer and to assert any additional defenses as may become available or apparent during the course of
15 this litigation.

16 **FIRST SEPARATE DEFENSE**

17 (Failure to State a Claim for Relief — All Causes of Action)

18 1. Plaintiffs’ First Amended Complaint, and each and every purported cause of action
19 alleged therein, fails to state facts sufficient to constitute a cause of action or claim for relief.

20 **SECOND SEPARATE DEFENSE**

21 (Statute of Limitations — All Causes of Action)

22 2. Defendants are informed and believe that the causes of action alleged in Plaintiffs’ First
23 Amended Complaint are barred, in whole or in part, by the applicable statutes of limitation, including
24 but not limited to California Code of Civil Procedure sections 338 and 340, California Business and
25 Professions Code section 17208, and 29 U.S.C. § 255(a).

26 **THIRD SEPARATE DEFENSE**

27 (Laches, Waiver, Estoppel — All Causes of Action)

EIGHTH SEPARATE DEFENSE

(Computer/Software Exemption — All Causes of Action)

8. The claims of Plaintiffs, and/or of those persons they seek to represent, are barred in whole or in part to the extent that they were exempt from the overtime requirements of the Fair Labor Standards Act, California Labor Code and the Industrial Welfare Commission Wage Orders pursuant to the Computer/Software exemptions of the Fair Labor Standards Act, California Labor Code and applicable wage order.

NINTH SEPARATE DEFENSE

(Failure to Perform Expected Duties — All Causes of Action)

9. This First Amended Complaint, and each purported cause of action alleged therein, is barred because Plaintiffs and/or members of the alleged putative group they purport to represent failed to perform those duties which Defendants realistically expected them to perform.

TENTH SEPARATE DEFENSE

(Labor Code § 2856 — All Causes of Action)

10. This First Amended Complaint is barred by Labor Code section 2856 to the extent that Plaintiffs or any individuals they seek to represent failed to comply with all the directions of their employer, and such failure proximately caused the alleged losses for which Plaintiffs or those individuals seek relief.

ELEVENTH SEPARATE DEFENSE

(No Knowledge — All Causes of Action)

11. Plaintiffs' claims, and the claims of those persons they purport to represent, are barred to the extent that Defendants did not have actual or constructive knowledge of any timely meal and rest breaks allegedly denied to, or any overtime hours worked by Plaintiffs or any person they purport to represent.

TWELFTH SEPARATE DEFENSE

(DLSE Exemption Permits — Second Through Seventh Causes of Action)

12. Plaintiffs' claims, and the claims of those persons they purport to represent, are barred because in each calendar year during the time period relevant to Plaintiffs' First Amended Complaint,

1 the California Department of Industrial Relations, Division of Labor Standards Enforcement, issued one
2 or more exemption permits to Defendants partially exempting Defendants from Section 12 of Industrial
3 Welfare Commission Order No. 5-2001 and related provisions of statute and case law.

4 **THIRTEENTH SEPARATE DEFENSE**

5 (Failure to take Meal Periods or Rest Breaks — Second Through Seventh Causes of Action)

6 13. Plaintiffs' claims, and the claims of those persons they seek to represent, for failure to
7 provide meal and rest periods, are barred to the extent Plaintiffs and/or putative class members took
8 meal and rest periods, or voluntarily chose not to take such periods provided.

9 **FOURTEENTH SEPARATE DEFENSE**

10 (No Injury: Labor Code § 226(e) — Fourth and Seventh Causes of Action)

11 14. Plaintiffs, and those individuals they seek to represent, are not entitled to recover any
12 penalties for allegedly non-compliant wage statements to the extent that they did not suffer any injury
13 within the meaning of Labor Code section 226(e).

14 **FIFTEENTH SEPARATE DEFENSE**

15 (No Knowing and Intentional Violation: Labor Code § 226(e) — Fourth and Seventh Causes of Action)

16 15. Plaintiffs, and those individuals they seek to represent, are not entitled to recover any
17 penalties for allegedly non-compliant wage statements because no knowing and intentional violation of
18 Labor Code section 226 occurred.

19 **SIXTEENTH SEPARATE DEFENSE**

20 (Not Hours Worked — All Causes of Action)

21 16. Plaintiffs' causes of action are barred because the hours Plaintiffs allege were worked are
22 not "hours worked" within the meaning of applicable law.

23 **SEVENTEENTH SEPARATE DEFENSE**

24 (Good Faith Dispute: Labor Code § 203 — Fifth and Sixth Causes of Action)

25 17. Plaintiffs and those individuals they seek to represent are not entitled to Labor Code
26 section 203 penalties because a good faith dispute existed as to the monies allegedly owed at the time of
27 the alleged termination, such that Defendants cannot be held to have willfully failed to comply with the
28 requirements of the applicable Labor Code sections.

EIGHTEENTH SEPARATE DEFENSE

(PAGA Unconstitutional—Sixth Cause of Action)

18. Defendants are informed and believe that Plaintiffs may not bring a representative action under the Private Attorneys General Act (“PAGA”) because PAGA violates Defendants’ right to due process.

NINETEENTH SEPARATE DEFENSE

(Failure to Exhaust All Administrative Prerequisites—Sixth Cause of Action)

19. Plaintiff’s claims, and the claims of those persons she purports to represent, are barred for failure to exhaust all administrative prerequisites.

TWENTIETH SEPARATE DEFENSE

(No Section 17200 Standing — Seventh Cause of Action)

20. Plaintiffs, and the those persons they seek to represent, lack standing to sue pursuant to California Business & Professions Code section 17200, *et seq.*, because Plaintiffs and/or those they seek to represent have not suffered any injury in fact or lost money or property as a result of any alleged unfair competition, and/or penalties are unavailable under the statutes Plaintiffs sue upon.

TWENTY-FIRST SEPARATE DEFENSE

(No Unlawful, Unfair, or Fraudulent Business Practice — Seventh Cause of Action)

21. Without admitting the allegations in the First Amended Complaint, Plaintiffs’ cause of action pursuant to California Business & Professions Code section 17200, *et seq.* fails because the alleged practices of Defendants are not unfair, unlawful, or fraudulent, and are not likely to deceive the public. In addition, Defendants gained no competitive advantage by such practices, and the benefits of the alleged practices outweigh any harm or other impact they may cause.

TWENTY-SECOND SEPARATE DEFENSE

(No Recovery Under UCL — Seventh Cause of Action)

22. Plaintiffs’ cause of action pursuant to California Business & Professions Code section 17200, *et seq.* fails to the extent that it seeks anything but restitution for alleged violations of the Labor Code that form the basis of the claim under the UCL.

1 could have been asserted including, but not limited to, any prior class action, collective action, Private
2 Attorney General Act action, claim before the Division of Labor Standards Enforcement, or individual
3 case relating to Plaintiffs' employment or the employment of any persons they seek to represent.
4 Plaintiffs' claims are further barred to the extent that the relief they seek in this action, or any claim on
5 an issue relevant to this action, was decided against Plaintiffs, against any individuals Plaintiffs seek to
6 represent, or against any individuals with similar interest in litigating the matter, in a prior judicial or
7 agency action.

8 **TWENTY-EIGHTH SEPARATE DEFENSE**

9 (Adequate Remedy at Law — All Causes of Action)

10 28. Plaintiffs' request for injunctive and/or other equitable relief fails because Plaintiffs, and
11 those persons they seek to represent, have an adequate remedy at law.

12 **TWENTY-NINTH SEPARATE DEFENSE**

13 (Excessive Penalties Unconstitutional — Second, Third, Fourth, and Sixth Causes of Action)

14 29. Plaintiffs' claims for penalties pursuant to the California Labor Code are barred because
15 Plaintiffs seek penalties which are excessive, unjust, arbitrary, confiscatory, duplicative, and/or
16 capricious and/or bear no rational relationship to any actual harm allegedly suffered by Plaintiffs or
17 those they seek to represent. *See* U.S. Const. amends. V and XIV; see also Cal. Const. art. I, § 7.

18 **THIRTIETH SEPARATE DEFENSE**

19 (Lack of Standing — All Causes of Action)

20 30. Plaintiffs or any of them do not have standing to pursue some or all of the claims they
21 purport to assert on behalf of others on a representative or class basis.

22 **THIRTY-FIRST SEPARATE DEFENSE**

23 (Class Conflicts — All Causes of Action)

24 31. Plaintiffs' class claims are barred because class certification would be inappropriate due
25 to conflicts of interest between Plaintiffs or any of them and the proposed class members.
26
27
28

1 **THIRTY-SECOND SEPARATE DEFENSE**

2 (No Certifiable Class — All Causes of Action)

3 32. Plaintiffs' First Amended Complaint fails to allege facts sufficient to warrant class
4 certification and/or an award of class damages, pursuant to California Code of Civil Procedure section
5 382.

6 **THIRTY-THIRD SEPARATE DEFENSE**

7 (Class Action: Due Process — All Causes of Action)

8 33. Without admitting the allegations in the First Amended Complaint, Plaintiffs' action may
9 not be maintained as a class action because a determination of liability and/or damages, if any, to each
10 member of the proposed class may not be determined by a factfinder on a group-wide basis, and
11 therefore allowing this action to proceed as a class action would violate Defendant's rights to due
12 process and trial by jury.

13 **THIRTY-FOURTH SEPARATE DEFENSE**

14 (Incorporation by Reference to Individual Claims — All Causes of Action)

15 34. In the event that a class should be certified in this matter, Defendants incorporate by
16 reference and re-alleges all of its defenses to Plaintiffs' individual claims in response to Plaintiffs'
17 claims on behalf of the class and each putative class member.

18 **ADDITIONAL DEFENSES**

19 Defendants presently have insufficient knowledge or information upon which to form a belief
20 whether there may be additional, as yet unstated, defenses and reserves the right to assert additional
21 defenses in the event that discovery indicates that such defenses are appropriate.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Defendants pray for judgment as follows:

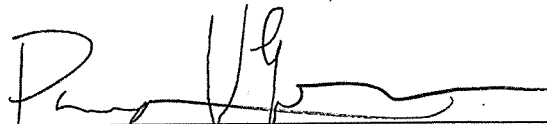
- 24 1. That Plaintiffs take nothing by their First Amended Complaint on file herein;
25 2. That judgment be entered in favor of Defendants and against Plaintiffs and those they
26 seek to represent on all causes of action;
27 3. That the Court enter an order denying any proceeding in any class or representative
28 capacity;

- 1 4. That Defendants be awarded reasonable attorneys' fees according to proof;
- 2 5. That Defendants be awarded the costs of suit incurred herein; and
- 3 6. That Defendants be awarded such other and further relief as the Court may deem
- 4 appropriate.

5 DATED: October 9, 2018

Respectfully submitted,

SEYFARTH SHAW LLP

7
8 By: 

9 Christian J. Rowley
10 Kerry Friedrichs
11 Parnian Vafaenia
12 Attorneys for Defendants
13 KAISER FOUNDATION HEALTH PLAN, INC.,
14 KAISER FOUNDATION HOSPITALS, and
15 SOUTHERN CALIFORNIA PERMANENTE
16 MEDICAL GROUP

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 560 Mission Street, 31st Floor, San Francisco, California 94105. On October 9, 2018, I served the within document(s):

DEFENDANTS KAISER FOUNDATION HEALTH PLAN, INC., KAISER FOUNDATION HOSPITALS, AND SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP'S ANSWER TO PLAINTIFFS' FIRST AMENDED CLASS ACTION COMPLAINT

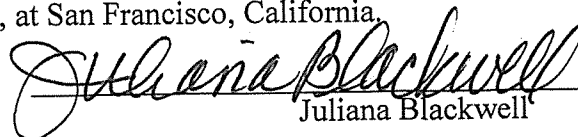
- I sent such document from facsimile machines (415) 397-8549 on 10/9/18. I certify that said transmission was completed and that all pages were received and that a report was generated by said facsimile machine which confirms said transmission and receipt. I, thereafter, mailed a copy to the interested party(ies) in this action by placing a true copy thereof enclosed in sealed envelope(s) addressed to the parties listed below.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California, addressed as set forth below.
- by placing the document(s) listed above, together with an unsigned copy of this declaration, in a sealed envelope or package provided by an overnight delivery carrier with postage paid on account and deposited for collection with the overnight carrier at San Francisco, California, addressed as set forth below.
- by transmitting the document(s) listed above, electronically, via the e-mail addresses set forth below.

Azadian Law Group, PC
 George S. Azadian
 Ani Azadian
 Edrik Mehrabi
 790 E. Colorado Blvd., 9th Floor
 Pasadena, California 91101
 Tel: (626) 449-4944
 Fax: (626) 628-1722

Attorneys for Plaintiffs
 Tiffany Gretler, Laura Carmona, Shelia
 Taylor, Shalyse Kemp

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. 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.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on October 9, 2018, at San Francisco, California.



 Juliana Blackwell

EXHIBIT E

EXHIBIT E

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

CASE TITLE: Gretler v. Kaiser Foundation Health Plan, Inc.	Department 5	FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE MAR 15 2018 S. Salazar <i>CSJ</i> AMC
CASE NO.: RIC1805047		
DATE: March 14, 2018		
PROCEEDING: Class Action Case Management Order #1		

Unless and until ordered otherwise, this Case Management Order (“CMO”) shall govern the management of this case.

A. CASE MANAGEMENT

1. The Court finds that this is a complex case. (Cal. Rules of Court, rules 3.400(c)(6) and 3.403(b).) The clerk shall impose fees accordingly. The court will entertain objections to this designation at the next Case Management Conference or status conference.
2. This case has been assigned to Department 5 for all purposes, including case management, law and motion, and trial.
3. The plaintiff shall serve a copy of this CMO on any defendants who have not yet appeared, and shall file proof of service promptly thereafter.
4. Any party who has appeared in the action at the time this CMO is entered has 15 days from the service of the CMO in which to object to the CMO. Any party appearing after the entry of the CMO shall have 15 days from that initial appearance in which to object to the CMO. Any such objections shall be in writing and shall be presented to the Court in the form of a noticed motion to amend the CMO. Any party that fails to file such a motion within those 15 days forfeits its objections to the CMO.
5. If the Court issues an order to show cause why the Court should not take some specified action:
 - a. The party to whom the OSC is directed shall respond with a written declaration filed no later than four court days before the hearing on the OSC. (RSC Local Rule 3116.) The Court may deem the failure to file a timely declaration, by itself, to constitute an admission by the responding party that good cause to avoid the threatened sanction or other action does not exist. (RSC Local Rule 3116.)
 - b. If the order to show cause threatens the imposition of monetary or other sanctions for the violation of a court order or rule, then counsel for the party to whom the OSC is directed must not only file a timely declaration, but must also personally appear in court at the date set for the return of the OSC. (Cal. Rules of Court, rule 3.670(e)(2)(A).)

MAR 19 2018

6. Not later than four court days in advance of the first Case Management Conference after all parties have appeared, the parties shall file the joint statement required by RSC Local Rule 3160 instead of Judicial Council form CM-110 [case management statement]. In addition to the items listed in that rule, the statement shall advise the Court whether any of the parties or their counsel are aware of any other class action, putative class action, or other type of representative or collective action in this or any other jurisdiction that asserts claims similar to those here on behalf of a class, putative class, or other group of individuals that in any way overlaps with the putative class alleged here.
7. Not later than four court days before any subsequent Case Management Conference or status conference, the parties shall file a joint statement that:
 - a. Describes the status of the case, including the parties' discovery plan, the degree to which that plan has been implemented, and mediation efforts; and
 - b. Identifies any issues or concerns that either party wishes to discuss with the Court.
8. Because the Court intends to conduct portions of the Case Management Conference and status conferences informally, in chambers, the lead counsel shall personally appear. Appearance via Court Call is not permitted.

B. SERVICE AND RESPONSIVE PLEADINGS

1. All defendants named at the time of the filing of this CMO shall be served, and proofs of service filed, prior to the case management conference.
2. Any defendant named after the filing of this CMO shall be served, and proof of service shall be filed, within 60 days of the filing of the pleading, amendment, or amended pleading naming that defendant. (Modifying Cal. Rules of Court, rule 3.110(b).)
3. The power of the plaintiff to grant extensions of time in which to file responsive pleadings is subject to the limits in California Rules of Court, rule 3.110(d), except that the maximum extension by counsel is extended to 30 days.
4. If a defendant fails to file an answer or any other responsive pleading within 30 days of service, or within any extension granted by the plaintiff or the Court, the plaintiff must request entry of default not later than 30 days after the time for service of the responsive pleading has elapsed. (Modifying Cal. Rules of Court, rule 3.110(g).)
5. The plaintiff shall serve a copy of this CMO simultaneously with any summons and complaint served after the date of entry of this order.
6. The Court should not be asked to evaluate the sufficiency of a pleading until the pleader has stated his or her case or defense as strongly as possible. Therefore, if a party is considering either an amendment of a pleading or a challenge to an opponent's pleading:
 - a. The parties shall strictly comply with Code of Civil Procedure sections 430.41, 435.5, and 439. Before filing a demurrer, motion to strike, or motion for judgment on the pleadings, the parties shall meet and confer to determine whether the

challenge to the pleading is arguably meritorious and, if so, whether the parties will stipulate to leave to amend being granted to allow the pleading to be amended in an attempt to cure the asserted defect.

- b. Any party who believes that his or her pleading needs to be amended shall meet and confer with the opposing party to discuss whether the amendment is arguably necessary and whether the opposing party will stipulate to the filing of the amended pleading. Consent to such an amendment shall not be unreasonably withheld.
- c. The parties “shall meet and confer in person or by telephone” (§§ 430.41, subd. (a), 435.5, subd. (a), & 439, subd. (a)) to discuss any arguable defects in the pleadings, and whether those potential defects can be resolved or diminished by amendment. Merely sending a letter or email to opposing counsel does not constitute a meeting, and thus does not comply with this order. Counsel for the moving or demurring party must follow up on any such written communication with an oral request either by telephone or in person.
- d. Any challenge to a pleading, and any motion for leave to amend a pleading, must be accompanied by a declaration describing those meet-and-confer efforts, including the date of the meeting, whether it was in person or by telephone, the persons involved, and the issues discussed. The declaration shall also describe any offer to amend and any response to that offer.
- e. In the absence of evidence of such an effort to meet and confer, the Court may overrule the demurrer, deny the motion, or continue the hearing until such an effort has been made.

C. REQUESTS FOR DISMISSAL OF CLASS CLAIMS

If the plaintiff seeks to dismiss either the entire action, any cause of action asserted on behalf of the putative class, or any defendant against whom any cause of action is asserted on behalf of the class, or to otherwise abandon any claim alleged on behalf of the class:

1. Because any such dismissal requires court approval, the plaintiff shall not use the preprinted Request for Dismissal, Judicial Council form CIV-110. Instead, the request shall be made by the submission to the court of (a) a declaration from plaintiff’s counsel, (b) a declaration from each named plaintiff, and (c) a proposed order of dismissal.
2. The declarations must comply with California Rules of Court, rule 3.770(a), pertaining to any consideration being paid for the dismissal. Because the purpose of the requirement is to avoid collusion between the parties to the detriment of the potential class members, the showing must be made by declaration rather than by stipulation.
3. Because the Court must also decide whether notice should be given to actual or potential class members (Cal. Rules of Court, rule 3.770(c)), the declarations shall also state (a) whether either the plaintiff or plaintiff’s counsel has ever informed any of the putative class members – whether formally or informally, orally or in writing, individually or as a

group – of the preparation, filing, or pendency of the action, and (b) if so, the nature and extent of that information, and whether the declarant knows the name and mailing address of the putative class member or members to whom that information was communicated.

4. Any request shall explain why the putative class members will not be prejudiced by the requested dismissal.
5. If the dismissal is in exchange for any consideration, the application shall explain each of the following:
 - a. What is the form and value of the consideration, and to whom is it to be paid?
 - b. If the consideration is in the form of one or more monetary payments, how were the payments calculated?
 - c. How is the retention of that consideration either by the plaintiff or the plaintiff's attorney consistent with their respective fiduciary duties to the class?
 - d. If the plaintiff is to give a release in addition to a dismissal, what is the scope of that release?

D. DISCOVERY

1. Counsel are encouraged to engage in informal discovery rather than relying on formal discovery. The Court does not stay or otherwise limit informal discovery.
2. All formal discovery concerning solely the merits of the plaintiff's claims (as opposed to whether a class should be certified to prosecute those claims) is stayed until a motion regarding class certification has been granted.
3. All formal discovery concerning class-certification issues is stayed pending further order of the court. The stay will be lifted upon a showing (a) that the parties have met and conferred concerning the scope and sources of information needed to support or oppose such a motion, and (b) have been unable to reach an agreement to informally exchange that information.
4. Any formal or informal discovery request propounded by the plaintiff to the defendant that seeks the names of and contact information concerning the putative class members shall be accompanied by a proposed *Belair West* notice and the name of a proposed third-party administrator.
5. Requests for leave to propound formal discovery concerning class-certification issues may be made either by submitting a declaration and proposed order or by making an oral request at status conferences or informal conferences with the Court, in accordance with paragraph 5 below. The Court will grant such a request if the applicant demonstrates:
 - a. That the parties have met and conferred to discuss both (i) the scope and sources of the information needed either to permit a meaningful mediation or to support or

- oppose a class-certification motion and (ii) whether the parties would agree to exchange that information informally;
 - b. That the parties were unable to reach an agreement; and
 - c. The discovery is reasonably necessary either (i) to permit a meaningful mediation or (ii) to make or oppose a certification motion.
6. No discovery motions may be filed without leave of court. If a discovery dispute arises:
 - a. The parties shall meet and confer either in person or by telephone in a good-faith effort to resolve the dispute. If, despite that effort, the parties are unable to resolve the dispute, then counsel shall contact the clerk of this department to schedule an informal conference at which the court will discuss the dispute with counsel and, if not resolved to the parties' satisfaction, will consider any request for leave to file a formal motion.
 - b. The conference may be conducted by telephone or in person, as counsel prefer. Prior to the conference, the party seeking relief shall provide the clerk of this department with a brief (two-to-three sentence) description in writing of the reason for the conference. If the conference is to be by telephone, counsel shall also provide the clerk with the call-in telephone number and passcode.
 - c. If the opposing side will not agree to participate in the informal conference, then the moving party shall bring an ex parte application for leave to file a discovery motion.

E. MEDIATION

The court expects the parties to engage in private mediation at the earliest practicable time, i.e., as soon as all parties have obtained, through informal means, sufficient information from the opposing party(s) to enable them to engage in meaningful mediation.

F. MOTIONS & APPLICATIONS GENERALLY

1. A party making an ex parte application must, inter alia, “[a]ttempt to determine whether the opposing party will appear to oppose the application.” (Cal. Rules of Court, rule 3.1204(a)(2).) That attempt shall be made by telephone. Written notice asking the opposing party to inform the moving party of the opposing party’s intentions is not sufficient.
2. A party desiring an order shortening time for notice of a motion shall not bring an ex parte application for such an order until that party has first (a) reserved the earliest available hearing date for the motion and (b) filed the motion. The Court will not deem the ex parte application as constituting the motion to be heard.
3. Any request for relief from a forfeiture of the right to a jury trial must be brought in the form of a noticed motion to be heard not later than the Trial Readiness Conference, or if no TRC is set, then not later than 21 days before the date first set for trial.

4. Any party who obtains an order as a result of any motion, application, stipulation or recommendation filed by that party shall promptly (a) serve a copy of that order on all parties and (b) file a proof of that service with the Court.
5. Any motion or application for relief shall describe any prior motion or application in this case for the same or similar relief, including the name of the party who brought the prior motion or application, the date of the ruling on that motion or application, and the nature of that ruling.
6. Any request to continue a hearing, a case management conference, or a status conference must be (a) labelled as being a request for such relief, (b) supported by a declaration or stipulation establishing the facts that demonstrate good cause for that relief, and (c) accompanied by a proposed order.
7. If the court is asked to take judicial notice of some document already filed with the Riverside Superior Court to support or oppose some motion or application, the request shall state (a) the name and case number of the case in which the document is filed, (b) the full name of the document, and (c) the date on which the document was filed. (Cal. Rules of Court, rule 3.1306(c)(1).) A second copy of the document shall not be attached to the request.
8. Counsel shall not lodge copies of out-of-state authorities to which they have cited unless that authority is not available on Lexis and Westlaw.

G. SETTLEMENTS IN GENERAL

1. Regardless of the terms of the proposed settlement, and whether the settlement provides for the dismissal the class claims, no Notice of Settlement of Entire Case (Judicial Council form CM-200) shall be filed unless and until the Court approves the settlement and any dismissal.
2. If plaintiff's counsel intends to ask to recover attorney's fees incurred in prosecuting this action, plaintiff's counsel should maintain contemporaneous time records for this case from this date forward, in time increments of no more than a tenth of an hour.
3. Plaintiff's counsel shall consider registering with the clerk's office for fax filing. The Court is unlikely to reimburse counsel for any expenses incurred for a courier to deliver documents to the court for filing that exceed the cost of fax filing, which is currently \$150 per year for unlimited filings.

H. MOTIONS FOR PRELIMINARY APPROVAL OF SETTLEMENT

If the matter is settled and a motion for preliminary approval of the settlement is filed:

In General

1. The motion shall be supported by a declaration from the plaintiff's attorney that, inter alia:

- a. Sets forth the attorney's estimate of the number of individuals in the class.
 - b. Sets forth the attorney's estimate of the total amount of damages, monetary penalties or other relief that the class would be awarded if the action were successful at trial on all of its claims.
 - c. Sets forth the attorney's estimate of the total amount of damages, monetary penalties or other relief that the class could reasonably expect to be awarded at trial, taking into account the likelihood of prevailing and other attendant risks. To support that estimate, states the number of trials that the attorney has conducted concerning class or individual actions alleging similar claims.
 - d. Sets forth the attorney's estimate of the recovery by the average class member if the settlement were approved. If the recovery by different class members will vary, the attorney shall also estimate the range (high and low) of possible recoveries.
 - e. Describes in detail the formal and informal discovery exchanged and other factual investigation conducted to determine the size of the class and the strength of the class claims.
 - f. States (i) whether the attorney is aware of any class, representative or other collective action in any other court in this or any other jurisdiction that asserts claims similar to those asserted in this action on behalf of a class or group of individuals who would also be members of the class defined in this action and, if so, (ii) the name and case number of any such case, the nature of the claims asserted, the definition of the class or other parties on whose behalf the action is brought, and the procedural status of that case. Before making that declaration, the attorney shall make reasonable inquiry of the plaintiff and of other members of the attorney's law firm and any associated law firm to determine whether those individuals are aware of any such similar actions.
 - g. States whether there is a fee-splitting agreement between plaintiff's counsel and any other attorney or law firm. If so, the declaration shall identify the other attorney or law firm, shall describe the terms of that agreement, and shall state whether the named plaintiff has approved that agreement in writing.
2. The motion shall be supported by a declaration from the defendant's attorney that states (a) whether the attorney is aware of any class, representative or other collective action in any other court in this or any other jurisdiction that asserts claims similar to those asserted in this action on behalf of a class or group of individuals who would also be members of the class defined in this action and, if so, (b) the name and case number of any such case, the nature of the claims asserted, the definition of the class or other parties on whose behalf the action is brought, and the procedural status of that case. Before making that declaration, the attorney shall make reasonable inquiry of the defendant and of other members of the attorney's law firm and any associated law firm to determine whether the defendant or those individuals are aware of any such similar actions.

3. The settlement agreement shall describe how the value of any uncashed checks, unpaid cash residue, or other unclaimed or abandoned funds will be distributed.
 - a. In a wage-and-hour case or any other case seeking relief on behalf of a class of employees, the Court believes that distribution of any unclaimed funds to the Industrial Relations Unpaid Wage Fund (Lab. Code, §§ 96.6 & 96.7) in the name of the employee will usually better serve the public interest and the interest of the class than distribution in the manner otherwise prescribed by Code of Civil Procedure section 384, subdivision (b). If one or more the parties disagree, then the motion shall be supported by a declaration from that party or that party's counsel, explaining the factual basis for that disagreement.
 - b. In any other type of case, the motion shall describe the intended distribution of unclaimed funds in accordance with Code of Civil Procedure section 384 subdivision (b).
 - c. If the parties agree to distribute any portion of the funds to any recipient described in the first sentence of Code of Civil Procedure section 384, subdivision (b)(3)(C):
 - i. The motion shall be supported by a declaration from a knowledgeable person from the proposed recipient. The declaration shall:
 - A. Establish that the recipient is a nonprofit organization or foundation of the type described in that sentence.
 - B. Describe the history of the recipient, the types of projects that it has conducted or supported over the last five years, and any particular use to which it would intend to devote the unpaid residue if received.
 - ii. The declarations of the attorneys for the plaintiff and for the defendant shall describe any relationship between the proposed recipient and (A) any class representative or other party, (B) any officer, director, or manager of any party, or (C) any attorney or law firm for any party.
4. If notice is not to be given by first class mail to addresses believed to be current, the motion shall discuss the proposed method of giving notice, the alternative methods considered, and the reasons that the proposed method is the one most likely to give actual notice to the greatest number of class members. If the identities of the class members are not known, the parties shall consider publication of notice in print, on the web, and through social media.
5. If the settlement requires any of the class members to submit claims:
 - a. The motion shall explain why a claim process is reasonably necessary. If the defendant knows (i) the identity of the class members, (ii) their addresses or former addresses, and (iii) the facts necessary to calculate the recovery of each class member, the Court will require a strong showing of necessity for a claims process.

- b. The motion shall explain the anticipated claims rate, and the basis for that prediction.
6. Any release to be given by the participating class members (other than the class representatives) shall be limited to:
 - a. The defendants named in the complaint, together with their officers, directors, employees and agents. If any other parties are sought to be released, the motion shall both (i) identify those other parties by name and (ii) explain the facts that justify their inclusion.
 - b. The claims stated in the complaint and those based solely upon the facts alleged in the complaint.
7. If the settlement contemplates the use of an administrator to implement the terms of the settlement, the motion shall be supported by a declaration from the administrator describing the administrator's experience, the fee to be charged by the administrator, and whether that fee is (a) fixed, (b) hourly, or (c) hourly with a cap. If the fee is fixed, the declaration shall explain how the price was calculated.
8. If the settlement includes compensation for unpaid wages, the settlement agreement shall describe how the employer's share of any applicable payroll taxes will be handled. The Court suggests that the employer's share not be paid out of the gross settlement fund. The Court is not likely to include the amount of those payments when calculating the plaintiff's counsel's percentage attorney's fee.
9. The settlement agreement shall not include a provision that the class members shall be deemed to have agreed not to sue on any released claims, or any other provision that may expose the class members to potential liability for either breach of contract or misrepresentation.
10. The documents that will be read by or used by the class members – the proposed notice, objection form, exclusion form, and any claim form – shall be drafted in a manner that is likely to be readily understood by the members of the class. To assist the Court in determining whether those documents comply with that directive, the motion shall be supported by a declaration on personal knowledge concerning the likely age, education, and experience of the class members, and of their ability to read and comprehend English.

The Order

11. The motion shall be accompanied by a separate proposed order which shall include, as attachments to the order, the proposed notice (Cal. Rules of Court, rule 3.769(e)), proposed exclusion form, proposed objection form, any proposed claim form, and any other form that is proposed to accompany the notice. The Court is likely to modify those proposed forms. Therefore, the Court will not issue an order that merely incorporates by reference the forms attached to the settlement agreement. The settlement agreement must be filed, but should not also be attached to the proposed order.

12. Counsel shall carefully review both the terms and the terminology of the proposed order and accompanying forms (proposed notice, objection form, exclusion form, and any claim form) to confirm that the various documents are internally consistent, consistent with each other, and consistent with the settlement agreement.
13. The proposed order shall state the name of any settlement administrator, and shall describe the nature of the services that the administrator will be required to perform, either directly or by reference to the settlement agreement.
14. The proposed order shall provide that the notice shall be accompanied by an exclusion form that the class members may use. The order shall provide that any exclusion form shall be submitted to the settlement administrator rather than filed with the court. The order shall not require the class member to send copies of the exclusion form to counsel, but may require the settlement administrator to do so. The order shall provide that the settlement administrator shall file a declaration concurrently with the filing of any motion for final approval, authenticating a copy of every exclusion form received by the administrator.
15. The proposed order shall provide that the notice shall be accompanied by an objection form that the class members may use. The order shall provide that any objection shall be submitted to the settlement administrator rather than filed with the court. The order shall not require the class member to send copies of the objection form to counsel, but may require the settlement administrator to do so. The order shall provide that the settlement administrator shall file a declaration concurrently with the filing of any motion for final approval, authenticating a copy of every objection form received by the administrator.
16. Neither the order, the notice, nor the objection form shall require an objecting party to do either of the following, either personally or through counsel:
 - a. To appear at the hearing on the motion for final approval for that party's objection to be considered.
 - b. To file or serve, or to state in the objection, a notice of intention to appear at the hearing on the motion for final approval.
17. The order shall require that either counsel or the administrator give notice to any objecting party of any continuance of the hearing of the motion for final approval.
18. If the proposed order includes a provision enjoining the class members from filing any actions or administrative claims or proceedings pending the final hearing on the settlement, or for any other period, the motion shall include citations to authority for the issuance of such an injunction without notice to or opportunity to be heard by the individuals to be enjoined.
19. If notice is to be given by mail, and if the class members will be required to submit a claim form, the order shall provide:
 - a. That the notice be accompanied by a stamped envelope addressed to the claims administrator; and

- b. That the claims administrator be required to send a reminder notice to every class member from whom no claim or exclusion request is received within 30 days of mailing the notice.

Notice

20. Unless the notice describes the approximate recovery by the individual class member to whom the notice is sent, the notice shall include an estimate of the likely recovery by the average class member. If the recovery by different members will vary, the notice shall also include an estimate of the range of possible recoveries.
21. To avoid discouraging any dissenting class members from objecting to the proposed settlement, the notice shall clearly indicate that the Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final hearing.
22. The notice shall advise the class members of where they can find the settlement agreement, by describing (a) the full title and filing date either of the settlement agreement or of the declaration or other document to which the agreement was attached when filed with the Court, (b) the address of the courthouse to which the case is assigned, and (c) the address of the court's website at which the case file can be viewed on-line.

Claim Form

23. The information required to be provided by the class member on any claim form shall not exceed the minimum information necessary to process the claim.

Objection Form

24. The objection form shall (a) instruct the objecting class member that the objection must be mailed to the settlement administrator, (b) state the name and address of the settlement administrator, and (c) state the date by which the objection must be mailed.
25. The information required to be provided by an objecting class member on the objection form shall not exceed the minimum information necessary to (a) identify the objector as a person entitled to object to the settlement and (b) to describe the nature of and basis for the objection.
26. If a claim must be submitted to participate in the settlement, the objection form shall remind the objector that, to participate in the settlement in the event that the objection is overruled, the objector must also submit a claim.

Exclusion Form

27. The exclusion form shall (a) instruct the class member seeking exclusion that the exclusion form must be mailed to the settlement administrator, (b) state the name and address of the settlement administrator, and (c) state the date by which the exclusion form must be mailed.

PAGA Penalties

28. If the action includes a claim for statutory penalties under the Labor Code Private Attorney General Act of 2004 (“PAGA”), the motion shall explain the terms of any settlement of that claim.
29. If the settlement provides for the payment of penalties under PAGA, the motion shall be accompanied by a declaration describing how the penalties were calculated and otherwise establishing facts sufficient to allow the Court to review and approve those penalties as required by Labor Code section 2699, subdivision (I). In particular, the declaration shall explain:
 - a. The nature of the alleged violations.
 - b. The number of alleged individual violations, including both the length of the relevant employment period and the number of employees allegedly employed during that period.
 - c. The total amount of penalties for which the defendant is potentially liable were those allegations to be proven.
30. If the agreed-upon amount of PAGA penalties is less than the statutory maximum, the declaration shall explain why greater penalties would be unjust, arbitrary and oppressive, or confiscatory. (Lab. Code, § 2699, subd. (e)(2); *Amaral vs. Cintax Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1213-1214.) In particular, the declaration shall explain:
 - a. The extent to which the alleged violations would be likely to be found true at trial, considering the weight of the evidence, the clarity of the applicable law, and the strength of any factual or legal defense likely to be asserted by the defendant.
 - b. The nature and extent of the discovery or other investigation undertaken by the plaintiff to estimate the likelihood of proving those allegations at trial.
 - c. The likelihood that any violations would be proven to have been knowing and intentional.
 - d. The total amount of penalties for which the defendant would be likely to be found liable at trial.
 - e. Any facts that tend to suggest that the imposition of the total amount of statutory penalties for which the defendant would be likely to be found liable at trial would be unjust, arbitrary and oppressive, or confiscatory.
 - f. How the amount of the agreed-upon penalties was calculated or otherwise arrived at.
 - g. Whether the parties utilized the services of any neutral party to mediate this dispute.
 - h. Any other factors that are material to a determination that the amount of the agreed-upon penalties is fair.

Revised Documents

31. If the Court either denies the motion or continues the hearing on the motion, and if the plaintiff thereafter files any amended stipulation, proposed order, or other document in support of either that motion or a renewed motion, the plaintiff shall file a declaration authenticating a “red-lined” version of the amended document, showing how the earlier version was modified.

I. MOTIONS FOR FINAL APPROVAL OF A SETTLEMENT

If the matter is settled and a motion for final approval of the settlement is filed:

1. The order granting preliminary approval will set the date for the hearing on the plaintiff’s motion for final approval. Promptly after the entry of that order, the plaintiff shall reserve a law and motion hearing on the date set in the order.
2. Any request for a “service,” “enhancement,” or “incentive” payment to a named class representative shall be supported by a declaration from the proposed recipient in which the declarant:
 - a. Describes the services performed by the declarant to further the prosecution of the action;
 - b. Estimates the time incurred by the declarant in performing those services;
 - c. Describes any risks assumed by the declarant in prosecuting the action;
 - d. Describes any adverse consequences actually suffered by the declarant as a result of prosecuting the action;
 - e. Describes any benefits received by the declarant as a result of prosecuting the action;
 - f. Describes the nature and amount of any expenses incurred by the declarant to further the prosecution of this action;
 - g. Describes the nature and value of any related individual claims being released by the declarant; and
 - h. States whether the declarant is or was a named class representative in any other case, pending or closed, and if so, identifies any such case.
3. Any request for compensation for attorney’s fees in a case that does not result in the creation of a common fund shall be supported by a lodestar analysis. Any request for an attorney-fee award measured as a percentage of a common fund shall be supported by a lodestar analysis as a cross-check for the reasonableness of such a percentage award. In either case, the lodestar analysis shall be supported by a declaration that:
 - a. Authenticates copies of the contemporaneous time records maintained by the plaintiff’s attorneys for the services performed in this case. If no contemporaneous time records were maintained, then the declaration shall state that fact, and shall (i) explain why no such records were kept, (ii) state the date on which legal services

- were provided, (iii) describe in detail the nature of those services, (iv) estimate the time incurred in performing those services, and (v) describe the basis for that estimate.
- b. Describes both (i) the hourly rate or rates customarily charged by each attorney for that attorney's time during the period in which those services were performed, and (ii) the attorney's experience and expertise that justify such a rate. The declaration shall state whether the attorney has clients that pay that rate, and if so, the percentage of the attorney's clients that do so. If the attorney works exclusively on a contingency basis, the declaration shall explain the basis for the hourly rate assigned to that attorney's work.
4. Any request for compensation for expenses incurred by the plaintiff's attorneys shall be supported by a detailed declaration or other evidence describing the date, nature, and amount of each expense incurred. In particular:
 - a. Any travel expenses shall identify the mode of travel (e.g., by car, taxi, airplane, etc.), the starting point, the destination, and the number of persons making the trip.
 - b. Any expenses for overnight accommodations shall explain the necessity for staying overnight and the number of persons doing so.
 - c. Any request for filing fees shall distinguish between court filing fees and fees for a courier or attorney's service to deliver the documents to be filed to the court.
 5. The motion shall be accompanied by a declaration from the settlement administrator. That declaration shall:
 - a. Describe both (i) the administrator's distribution of the notice, objection form, exclusion form, and any claim form, and (ii) the results thereof. The declaration shall clearly distinguish between valid forms and any forms that are untimely, incomplete, or otherwise invalid.
 - b. Attach and authenticate (i) a copy of the final version of the notice and of all forms enclosed with it, including the objection form, the exclusion form, and any claim form, (ii) a copy of every objection form received, and (iii) a copy of every exclusion form received. If the reasons stated on any objection form are in a language other than English, the administrator shall include a translation into English.
 - c. Describe (i) the services performed by the administrator to the date of the declaration, (ii) the time incurred to perform those services, and (iii) either the fee charged for those the services or the agreed-upon flat fee.
 - d. Describe (i) the services to be performed by the administrator after the date of the declaration, (ii) the estimated time needed to perform those services, and (iii) either the estimated fee for those the services or the agreed-upon flat fee.

6. If the settlement includes compensation for unpaid wages, and if the employer's share of the payroll taxes is to be paid out of the settlement funds, the motion shall be supported by a declaration estimating the amount of those taxes.
7. The judgment shall not expose the class members to a potential contempt charge by barring or otherwise enjoining the class members from prosecuting the released claims. Nor shall the judgment include a provision that the class members shall be deemed to have agreed not to sue on any released claims, or any other provision that may expose the class members to potential liability for either breach of contract or misrepresentation.
8. Neither the proposed order nor the proposed judgment shall provide for the dismissal of the action. (Cal. Rules of Court, rule 3.769(h).)
9. If the Court either denies the motion for final approval or continues the hearing on the motion, and if the plaintiff thereafter files any amended stipulation, proposed order or judgment, or other document in support of either that motion or a renewed motion, the plaintiff shall file a declaration authenticating a "red-lined" version of the amended document, showing how the earlier version was modified.

J. MOTIONS FOR CLASS CERTIFICATION

1. No motion for class certification or to deny class certification shall be filed without leave of court. Before leave to file such a motion is requested, the Court expects the parties to have exhausted efforts to mediate a resolution of the case.
2. At the time that the Court grants leave of court to file either a motion for class certification or a motion denying class certification, the Court will also establish a briefing schedule and will set a status conference on a date after the reply brief is due. At the status conference, the Court will determine the date on which the motion will be heard. The hearing date may be far enough in the future to allow for further mediation. If the Court fails to set such a status conference, the hearing date reserved by the moving party shall be far enough in the future to extend the briefing schedule prescribed by California Rules of Court, rule 3.764(c)(1) by 3 calendar days; i.e., the motion shall be filed and served at least 31 calendar days before the hearing date, the opposition at least 17 calendar days before, and reply at least 8 calendar days before.
3. If certification is sought of one or more subclasses, the motion shall address the issues of definition, ascertainability and numerosity separately as to each subclass.
4. If multiple class representatives are proposed, the motion shall address the issues of typicality and adequacy of representation separately as to each representative.
5. If multiple class claims are alleged, the motion shall expressly identify each claim the plaintiff seeks to certify as a class claim. The motion shall address the issue of whether common questions of law and fact predominate separately as to each such claim.

6. If the plaintiff intends to rely upon statistical evidence to prove any class claims at trial, the motion shall include a trial plan that describes that evidence and how it will be used to promote manageability.
7. If the defendant has raised any affirmative defenses that rely upon individual evidence, the motion must be accompanied by a trial plan that explains how those defenses can be litigated.

K. JUDGMENTS

Whether issued after trial or after final approval of a settlement, any judgment shall comply with the following:

1. The judgment shall describe both the text of the notice of entry of judgment to be given to the class members (Cal. Rules of Court, rule 3.771(b)), the party or person required to give that notice, and the manner in which that notice is to be given.
2. If the judgment provides for payments to class members:
 - a. The judgment shall describe the intended disposition of any uncashed checks or other cash residue.
 - b. The judgment shall set a deadline for the filing of a report concerning uncashed checks or other cash residue and shall identify the party or person responsible for filing that report. That deadline shall be after the deadline for the class members to negotiate their checks. The report shall be in the form of a declaration from the settlement administrator or other declarant with personal knowledge of the facts, and shall describe (i) the date the checks were mailed, (ii) the total number of checks mailed to class members, (iii) the average amount of those checks, (iv) the number of checks that remain uncashed, (v) the total value of those uncashed checks, (vi) the average amount of the uncashed checks, and (vii) the nature and date of the disposition of those unclaimed funds.

L. FAILURE TO COMPLY

1. If it appears that any attorney or party has violated any provision of this order, the Court may issue an order to show cause why monetary sanctions should not be imposed upon that attorney or party in an amount not to exceed \$1,500. (Code Civ. Proc., § 177.5; Cal. Rules of Court, rule 2.30(b).)
2. If the plaintiff's counsel fails to comply with the provisions of this order concerning motions for preliminary approval or final approval of a proposed settlement, with the result that final approval of the settlement is unnecessarily delayed, then the Court may reduce the attorney's-fee award to plaintiff's counsel to compensate the class members for the interest lost during the delay and to deny compensation to the attorney for that deficiency in the attorney's services.

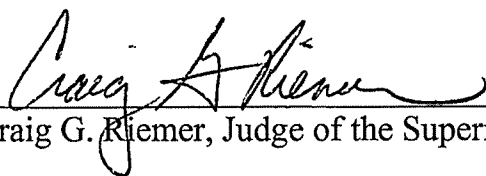
L. OTHER

___ The Case Management Conference currently scheduled for ___, 2018, is advanced or continued to _____, 2018, at 8:30 A.M.

___ The status conference currently set for ___, 2017, is vacated.

___ This CMO #2 entirely supersedes CMO #1, filed ___.

___ The ___ having failed to pay the jury fees required by Code of Civil Procedure section 631, subdivision (b), within the time required by subdivision (c), that party has forfeited its right to a jury trial.



Craig G. Riemer, Judge of the Superior Court

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

CLERK'S CERTIFICATE OF MAILING

TIFFANY GRETHER

vs.

CASE NO. RIC1805047

KAISER FOUNDATION HEALTH PLAN INC

TO:

I certify that I am currently employed by the Superior Court of California, County of Riverside and I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the attached Class Action Case Management Order #1; on this date, by depositing said copy as stated above.

Court Executive Officer/Clerk

Dated: 03/15/18

by: 
SUSAN M SALAZAR, Deputy Clerk

Notice 'CCMN' has been printed for the following Attorneys/Firms
or Parties for Case Number RIC1805047 on 3/15/18:

AZADIAN LAW GROUP PC
790 E COLORADO BLVD
9TH FLOOR
PASADENA, CA 91101

EXHIBIT F

EXHIBIT F

ORIGINAL

AZADIAN LAW GROUP, PC
GEORGE S. AZADIAN (SBN 253342)
ANI AZADIAN (SBN 284007)
EDRIK MEHRABI (SBN 299120)
790 E. Colorado Blvd., 9th Floor
Pasadena, California 91101
Ph.: (626) 449-4944
Fax: (626) 628-1722
Email: George@azadianlawgroup.com

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

APR 25 2018

L. Fajardo

APR 26 2018

Attorneys for Plaintiffs,
TIFFANY GRETHER, LAURA CARMONA, SHELIA TAYLOR, SHALYSE KEMP,
and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

TIFFANY GRETHER, an individual on
behalf of herself and all others similarly
situated; LAURA CARMONA, an
individual on behalf of herself and all
others similarly situated; SHELIA
TAYLOR an individual on behalf of
herself and all others similarly situated;
SHALYSE KEMP an individual on
behalf of herself and all others similarly
situated

CASE NO. RIC1805047

PROOF OF SERVICE

Plaintiffs,

v.

KAISER FOUNDATION HEALTH
PLAN, INC., a corporation; and DOES 1
through 10 inclusive,

Defendants.

FILED
24
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PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I reside in the State of California. I am over the age of 18. My business address is 790 E. Colorado Blvd., 9th Floor, Pasadena, California 91101.

On April 25, 2018, I served the foregoing documents described as:

CLASS ACTION CASE MANAGEMENT ORDER #1

on all interested parties in this action by placing a true and accurate copy thereof, enclosed in a sealed envelope, addressed as follows:

Christian J. Rowley
Kerry Friedrichs
Elizabeth J. MacGregor
SEYFARTH SHAW LLP
560 Mission Street, 31st Floor
San Francisco, California 94105

XXXX **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid in the ordinary course of business. 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.

XXXX **(STATE):** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 25, 2018, at Pasadena, California.



EDRIK MEHRABI

EXHIBIT G

EXHIBIT G

1 SEYFARTH SHAW LLP
Christian J. Rowley (SBN 187293)
2 crowley@seyfarth.com
Kerry Friedrichs (SBN 198143)
3 kfriedrichs@seyfarth.com
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5 San Francisco, California 94105
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7 Attorneys for Defendant
KAISER FOUNDATION HEALTH PLAN, INC.

8 AZADIAN LAW GROUP, PC
9 George S. Azadian (SBN 253342)
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Attorneys for Plaintiffs
15 TIFFANY GRETLER, LAURA CARMONA, SHELIA
16 TAYLOR, SHALYSE KEMP, and THE CLASS

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 COUNTY OF RIVERSIDE

19 TIFFANY GRETLER, an individual on behalf of
herself and all others similarly situated; LAURA
20 CARMONA, an individual on behalf of herself
and all others similarly situated; SHELIA
21 TAYLOR an individual on behalf of herself and
all others similarly situated; SHALYSE KEMP an
22 individual on behalf of herself and all others
similarly situated,

23 Plaintiffs,

24 v.

25 KAISER FOUNDATION HEALTH PLAN, INC.,
26 a corporation; and DOES 1 through 10 inclusive,,

27 Defendants.
28

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

MAY 16 2018

L. Fajardo

MAY 18 2018

BY FAX

Case No. RIC 1805047

[Assigned for all purposes to the Hon. Craig G. Riemer, Dept. 5]

**INITIAL JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

Date: May 21, 2018
Time: 8:30 a.m.
Dept.: 5

Complaint Filed: March 13, 2018
Trial Date: None

1 Plaintiffs Tiffany Gretler, Laura Carmona, Shelia Taylor, and Shalyse Kemp (collectively,
2 “Plaintiffs”) and Defendant KAISER FOUNDATION HEALTH PLAN, INC. (“Defendant”)
3 (collectively, the “Parties”) hereby submit the following Initial Joint Case Management Conference
4 Statement (“Joint Statement”).

5 **I. SUMMARY OF THE CASE**

6 This is a putative wage and hour class action filed by Plaintiffs on March 13, 2018. Plaintiffs
7 each work for Defendant in the position of “Timekeeping Coordinator.” Plaintiffs allege that Defendant
8 misclassified Plaintiffs and all other Timekeeping Coordinators as exempt employees not entitled to
9 overtime pay. Based on the foregoing, Plaintiffs’ assert claims for (1) failure to pay overtime
10 compensation (Cal. Lab. Code §§ 510, 1194, 1198, 1199, and Wage Order 4-2001); (2) failure to
11 provide compliant meal breaks (Cal. Lab. §§ 226.7 and 512 and Wage Order 4-2001); (3) failure to
12 provide compliant rest periods (Cal. Lab. § 226.7 and Wage Order 4-2001); (4) failure to provide
13 accurate itemized wage statements (Cal. Lab. (§ 226(a)); and (5) Unfair Competition (Bus. & Prof. Code
14 § 17200).

15 Plaintiffs have asserted these cause of action on their own behalf and on behalf of the following
16 putative class: “All persons within California who worked for Defendant as in the position of “National
17 Timekeeping Coordinator,” “Time Systems Coordinator,” or persons with similar titles and/or similar
18 job duties at any time on or after the date that is four (4) years prior to the filing of this lawsuit.”

19 On April 19, 2018, Defendant filed an Answer consisting of a general denial and thirty-one (31)
20 affirmative defenses. Defendant denies the allegations in Plaintiffs’ Complaint, and further denies that
21 Plaintiffs’ claims may be maintained as a class action.

22 Counsel for Defendant has informally shared with counsel for Plaintiffs that the putative class
23 consists of approximately thirty-five (35) employees. There are no other actions with overlapping class
24 actions or collective actions that assert similar claims for misclassification of Time Keeping
25 Coordinators or similar positions against Defendant.

26 //

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1 **II. SUBJECTS FOR CONSIDERATION AT THE INITIAL STATUS CONFERENCE**
2 **PURSUANT TO CRC 3.750**

3 **1. Appearance of All Named Parties:**

4 All parties named in the Complaint have appeared in the action.

5 **2. Prospect of Additional Parties or Amended Pleadings:**

6 The Parties do not anticipate adding any additional parties or amending the pleadings at this
7 time, but reserve the right to do so.

8 **3. Deadline for Filing Remaining Pleading and Service of Parties:**

9 Not applicable. Defendant has been served, and filed its Answer on April 19, 2018.

10 **4. Whether Severance, Consolidation, or Coordination is Desirable:**

11 Not at the present time.

12 **5. The Schedule for Discovery Proceedings and Stay of Discovery:**

13 **a. Schedule for Discovery**

14 The Parties propose the stay on class discovery be lifted at the Case Management Conference.

15 **b. The Parties' Anticipated Discovery**

16 Plaintiffs plan to serve written discovery and take the depositions of a Person Most Qualified for
17 Defendant and supervisors of putative class members. Plaintiffs intend to focus class discovery on what
18 exemption Defendant contends applies to Plaintiffs and the putative class, Defendant's policies as they
19 pertain to classifying employees as exempt, the actual work duties performed by Plaintiffs and the
20 putative class as needed for a motion for class certification. Plaintiffs wish to proceed with written
21 discovery (requests for production, interrogatories, and requests for admissions) relating to the number
22 of employees in the putative class, the specific exemption(s) Defendant contends applies to Plaintiffs
23 and the putative class, job requirements for the position, and the main work duties of the putative class,
24 including duties that Plaintiffs allege include: (1) answering a high volume of calls and providing set
25 responses during their scheduled hours at work; (2) repetitive data entry related to processing
26 standardized payroll forms; (3) repetitive processing of pay period adjustments; and (4) work schedules
27 and policies related to Plaintiffs and the putative class. Following an initial round of written discovery,
28

1 Plaintiffs propose meeting and conferring regarding depositions of the depositions of a Person Most
2 Qualified for Defendant, supervisors of putative class members, and any other depositions.

3 Defendant plans to serve written discovery, take the Plaintiffs' depositions, and then assess the
4 need for further discovery.

5 **c. Putative Class Contact Information**

6 Defendant is amenable to producing a list with the names and personal contact information for
7 the putative class, provided the Court enters an appropriate protective order and the Parties follow a
8 *Belaire-West* privacy notice to the putative class members giving them 30 days to object on privacy
9 grounds to having their names and personal contact information disclosed.

10 **6. Schedule for Settlement Conferences or Alternative Dispute Resolution:**

11 The Parties have tentatively agreed to private mediation of this matter in the late summer or early
12 fall, after the Parties have engaged in initial discovery.

13 **7. Appointment of Liaison or Lead Counsel:**

14 The Parties do not believe it will be necessary to appoint Liaison or Lead Counsel, as each of the
15 Parties is represented by a single firm.

16 **8. Date for Filing any Dispositive Motions:**

17 The Parties propose that the court set a deadline of January 30, 2019 for Plaintiffs to file their
18 motion for class certification, and a deadline of July 30, 2019 for the parties to file dispositive motions.

19 **9. Creation of List of Persons to be Deposed:**

20 Plaintiffs intend to depose a Person Most Qualified for Defendant, and possibly supervisors of
21 putative class members identified during discovery. Defendant intends to depose Plaintiffs and possibly
22 other class members prior to briefing on class certification. The Parties agree to meet-and-confer over
23 the timing and schedule of depositions following an initial round of written discovery.

24 **10. Exchange of Documents and Electronic Document Depository:**

25 The Parties do not anticipate the need at this time for an electronic document depository, but will
26 meet and confer if that becomes necessary or appropriate.

27 **11. The Appointment of a Special Master:**

28 The Parties do not believe there is a need to appoint a Special Master.

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12. The Establishment of a Case-Based Web Site:

The Parties do not believe the establishment of a case-based web site is necessary.

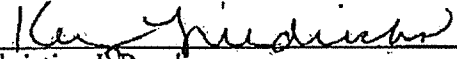
13. The Schedule for Further Case Management Conference:

The Parties propose that a further conference be scheduled in approximately 150-180 days to allow them time to engage in further discovery and investigation of the claims alleged herein and participate in private mediation.

DATED: May 5, 2018

Respectfully submitted,

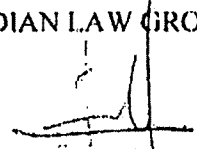
SEYFARTH SHAW LLP

By: 
Christian J. Rowley
Kerry Friedrichs
Parnian Vafaenia
Attorneys for Defendant
KAISER FOUNDATION HEALTH PLAN, INC.

DATED: May 15, 2018

Respectfully submitted,

AZADIAN LAW GROUP, PC

By: 
George S. Azadian
Ani Azadian
Edrik Mehrabi
Attorneys for Plaintiffs
TIFFANY GRETHER, LAURA CARMONA,
SHELIA TAYLOR, SHALYSE KEMP, and the
Class

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 560 Mission Street, 31st Floor, San Francisco, California 94105. On May 16, 2018, I served the within document(s):

INITIAL JOINT CASE MANAGEMENT CONFERENCE STATEMENT

I sent such document from facsimile machines (415) 397-8549 on 5/16/18. I certify that said transmission was completed and that all pages were received and that a report was generated by said facsimile machine which confirms said transmission and receipt. I, thereafter, mailed a copy to the interested party(ies) in this action by placing a true copy thereof enclosed in sealed envelope(s) addressed to the parties listed below.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California, addressed as set forth below.

by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

by placing the document(s) listed above, together with an unsigned copy of this declaration, in a sealed envelope or package provided by an overnight delivery carrier with postage paid on account and deposited for collection with the overnight carrier at San Francisco, California, addressed as set forth below.

by transmitting the document(s) listed above, electronically, via the e-mail addresses set forth below.

Azadian Law Group, PC
George S. Azadian
Ani Azadian

Tel: (626) 449-4944
Fax: (626) 628-1722

Edrik Mehrabi
790 E. Colorado Blvd., 9th Floor
Pasadena, California 91101

Attorneys for Plaintiffs
Tiffany Gretler, Laura Carmona, Shelia Taylor, Shalyse Kemp

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. 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.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 16, 2018, at San Francisco, California.

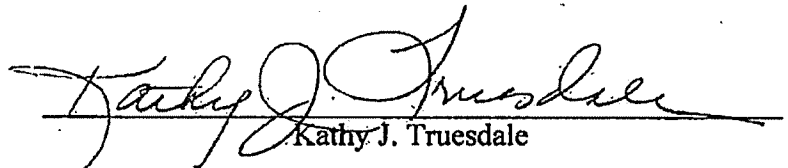

Kathy J. Truesdale

EXHIBIT H

EXHIBIT H

ORIGINAL

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

MAY 18 2018

S. VOTRUBA

AZADIAN LAW GROUP, PC
GEORGE S. AZADIAN (SBN 253342)
EDRIK MEHRABI (SBN 299120)
790 E. Colorado Blvd., 9th Floor
Pasadena, California 91101
Ph.: (626) 449-4944
Fax: (626) 628-1722
Email: George@azadianlawgroup.com

Attorneys for Plaintiffs,
TIFFANY GRETHER, LAURA CARMONA, SHELIA TAYLOR, SHALYSE KEMP,
and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

TIFFANY GRETHER, an individual on
behalf of herself and all others similarly
situated; LAURA CARMONA, an
individual on behalf of herself and all
others similarly situated; SHELIA
TAYLOR an individual on behalf of
herself and all others similarly situated;
SHALYSE KEMP an individual on
behalf of herself and all others similarly
situated,

Plaintiffs,

v.

KAISER FOUNDATION HEALTH
PLAN, INC., a corporation; and DOES 1
through 10 inclusive,

Defendants.

CASE NO. RIC1805047

**PLAINTIFFS' NOTICE OF POSTING
JURY FEES**

Case Management Conference

Date: May 21, 2018
Time: 8:30 a.m.
Dept.: 5

Trial Date: Not Set
Action Filed: March 13, 2018

59
MAY 21 2018
051

FILED

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT Plaintiffs Tiffany Gretler, Laura Carmoa, Shelia
3 Taylor, Shalyse Kemp, and the Class, by and through her attorneys of record, hereby
4 posts jury fees in the amount of One Hundred Fifty Dollars (\$150.00).

5
6
7 Dated: May 17, 2018

Respectfully submitted,
AZADIAN LAW GROUP, PC

8
9 

10 By: _____

11 George S. Azadian
12 Attorneys for Plaintiffs,
13 TIFFANY GRETLER, LAURA CARMOA,
14 SHELIA TAYLOR, SHALYSE KEMP, and
15 the CLASS
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PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I reside in the State of California. I am over the age of 18. My business address is 790 E. Colorado Blvd., 9th Floor, Pasadena, California 91101.

On May 17, 2018, I served the foregoing documents described as:

PLAINTIFFS' NOTICE OF POSTING JURY FEES

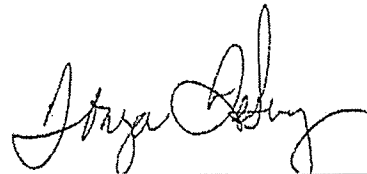
on all interested parties in this action by placing a true and accurate copy thereof, enclosed in a sealed envelope, addressed as follows:

Christian J. Rowley
Kerry Friedrichs
Elizabeth J. MacGregor
SEYFARTH SHAW LLP
560 Mission Street, 31st Floor
San Francisco, California 94105

xxxx **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid in the ordinary course of business. 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.

xxxx **(STATE):** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 17, 2018, at Pasadena, California.



TONYA DEGRUY

EXHIBIT I

EXHIBIT I

ORIGINAL

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

MAY 21 2018

B. VOTRUBA

SG
MAY 23 2018
RB

FILED

1 SEYFARTH SHAW LLP
Christian J. Rowley (SBN 187293)
2 crowley@seyfarth.com
Kerry Friedrichs (SBN 198143)
3 kfriedrichs@seyfarth.com
Parnian Vafaenia (SBN 316736)
4 pvafaenia@seyfarth.com
560 Mission Street, 31st Floor
5 San Francisco, California 94105
Telephone: (415) 397-2823
6 Facsimile: (415) 397-8549

7 Attorneys for Defendant
KAISER FOUNDATION HEALTH PLAN, INC.

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF RIVERSIDE

11 TIFFANY GRETLER, an individual on behalf of
12 herself and all others similarly situated; LAURA
13 CARMONA, an individual on behalf of herself
and all others similarly situated; SHELIA
14 TAYLOR an individual on behalf of herself and
all others similarly situated; SHALYSE KEMP an
15 individual on behalf of herself and all others
similarly situated,

16 Plaintiffs,

17 v.

18 KAISER FOUNDATION HEALTH PLAN, INC.,
19 a corporation; and DOES 1 through 10 inclusive,

20 Defendants.

Case No. RIC 1805047

[Assigned for all purposes to the Hon. Craig G. Riemer, Dept. 5]

**DEFENDANT'S NOTICE OF POSTING
JURY FEES**

Complaint Filed: March 13, 2018

Trial Date: None

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that Defendant Kaiser Foundation Health Plan, Inc. hereby posts jury
3 fees in the amount of \$150.00 in the above-captioned matter, pursuant to California Code of Civil
4 Procedure § 631.

5 DATED: May 21, 2018

SEYFARTH SHAW LLP

6
7 By: 

8 Christian J. Rowley
9 Kerry Friedrichs
10 Parnian Vafaenia
11 Attorneys for Defendant
12 KAISER FOUNDATION HEALTH PLAN, INC.
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PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 560 Mission Street, 31st Floor, San Francisco, California 94105. On May 21, 2018, I served the within document(s):

DEFENDANT'S NOTICE OF POSTING JURY FEES

- I sent such document from facsimile machines (415) 397-8549 on 5/21/18. I certify that said transmission was completed and that all pages were received and that a report was generated by said facsimile machine which confirms said transmission and receipt. I, thereafter, mailed a copy to the interested party(ies) in this action by placing a true copy thereof enclosed in sealed envelope(s) addressed to the parties listed below.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California, addressed as set forth below.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- by placing the document(s) listed above, together with an unsigned copy of this declaration, in a sealed envelope or package provided by an overnight delivery carrier with postage paid on account and deposited for collection with the overnight carrier at San Francisco, California, addressed as set forth below.
- by transmitting the document(s) listed above, electronically, via the e-mail addresses set forth below.

Azadian Law Group, PC
 George S. Azadian
 Ani Azadian
 Edrik Mehrabi
 790 E. Colorado Blvd., 9th Floor
 Pasadena, California 91101
 Tel: (626) 449-4944
 Fax: (626) 628-1722

Attorneys for Plaintiffs
 Tiffany Gretler, Laura Carmona, Shelia Taylor, Shalyse Kemp

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. 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.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 21, 2018, at San Francisco, California.

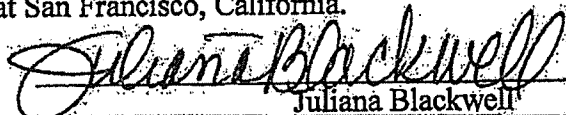

 Juliana Blackwell

EXHIBIT J

EXHIBIT J

ORIGINAL

AZADIAN LAW GROUP, PC
GEORGE S. AZADIAN (SBN 253342)
ANI AZADIAN (SBN 284007)
EDRIK MEHRABI (SBN 299120)
790 E. Colorado Blvd., 9th Floor
Pasadena, California 91101
Ph.: (626) 449-4944
Fax: (626) 628-1722
Email: George@azadianlawgroup.com

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

AUG 14 2018

J. Marcial

KKK

AUG 16 2018

Attorneys for Plaintiffs,
TIFFANY GRETLER, LAURA CARMONA, SHELIA TAYLOR, SHALYSE KEMP,
and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

TIFFANY GRETLER, an individual on behalf of herself and all others similarly situated; LAURA CARMONA, an individual on behalf of herself and all others similarly situated; SHELIA TAYLOR an individual on behalf of herself and all others similarly situated; SHALYSE KEMP an individual on behalf of herself and all others similarly situated,

Plaintiffs,

v.

KAISER FOUNDATION HEALTH PLAN, INC., a corporation; and DOES 1 through 10 inclusive,

Defendants.

CASE NO. RIC1805047

DECLARATION OF GEORGE S. AZADIAN SEEKING TO CONTINUE FURTHER STATUS CONFERENCE UNTIL AFTER COMPLETION OF SCHEDULED MEDIATION; [PROPOSED] ORDER THEREON

Further Status Conference

Date: August 17, 2018
Time: 8:30 a.m.
Dept.: 5

Trial Date: Not Set
Action Filed: March 13, 2018

FAXED

DECLARATION OF GEORGE S. AZADIAN SEEKING TO CONTINUE FURTHER STATUS CONFERENCE UNTIL AFTER COMPLETION OF SCHEDULED MEDIATION; [PROPOSED] ORDER

1 I, George S. Azadian, do hereby declare as follows:

2 1. I am over the age of eighteen years old and am a resident of the State of
3 California. I am an attorney at law duly licensed to practice before all of the courts of
4 the State of California, and I am the Principal of the Azadian Law Group, PC, attorneys
5 of record for Plaintiffs Tiffany Gretler, Laura Carmona, Shelia Taylor, Shalyse Kemp
6 (together, "Plaintiffs") and the putative class in the above-captioned action against
7 Defendant Kaiser Foundation Health Plan, Inc. ("Defendant").

8 2. On May 21, 2018, at the initial status conference in this action, the Court
9 informed counsel for the Plaintiff and Defendant (together, the "Parties") that if a
10 mediation date was scheduled, counsel may submit a declaration and proposed order
11 continuing the further status conference until after the mediation was completed.

12 3. The Parties have scheduled a mediation with David Rotman for September
13 12, 2018.

14 4. Accordingly, the Parties respectfully request that the Court continue the
15 further status conference (currently scheduled for August 17, 2018) to a date convenient
16 for the Court on October of 2018.

17 5. Counsel for Defendant has been provided with this declaration and
18 proposed order and agrees with foregoing.

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct. Executed this 14th day of August, 2018 in Pasadena,
21 California.

22 

23 _____
24 GEORGE S. AZADIAN

[PROPOSED] ORDER

1
2 Based on the foregoing declaration of counsel, and for good cause shown, IT IS
3 HEREBY ORDERED:

- 4 1. The further status conference scheduled for August 17, 2018 is hereby
5 continued to October __, 2018 at _____ in Department 5.
6 2. The Parties are to file a joint post-mediation status report no later than
7 _____
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9 Dated: _____, 2018

10 HON. CRAIG G. RIEMER
11 JUDGE OF THE SUPERIOR COURT
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PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I reside in the State of California. I am over the age of 18. My business address is 790 E. Colorado Blvd., 9th Floor, Pasadena, California 91101.

On August 14, 2018, I served the foregoing documents described as:

PLAINTIFFS' NOTICE OF POSTING JURY FEES

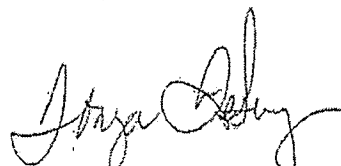
on all interested parties in this action by placing a true and accurate copy thereof, enclosed in a sealed envelope, addressed as follows:

Christian J. Rowley
Kerry Friedrichs
Elizabeth J. MacGregor
SEYFARTH SHAW LLP
560 Mission Street, 31st Floor
San Francisco, California 94105

xxxx **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid in the ordinary course of business. 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.

xxxx **(STATE):** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 14, 2018, at Pasadena, California.



TONYA DEGRUY

EXHIBIT K

EXHIBIT K

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

Plaintiff: TIFFANY GRETLER vs Defendant: KAISER FOUNDATION	<p style="text-align: center;">FOR COURT USE ONLY</p> <p style="text-align: center;">FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE</p> <p style="text-align: center;">AUG 16 2018 <u>S. Salazar</u> <i>SS</i></p> <p>CASE NUMBER: RIC1805047</p>
DOCUMENT COVERSHEET	

AMC
AUG 17 2018

Full Document Title Order re Declaration of George S. Azadian Seeking to Continue Further Status Conference;
Honorable Judge Craig G. Riemer

(If the document is not officially titled, provide the description of what is being filed.)

Other File Clerk Notes: _____

AZADIAN LAW GROUP, PC
GEORGE S AZADIAN (SBN 253342)
ANI AZADIAN (SBN 284007)
EDRIK MEHRABI (SBN 299120)
790 E. Colorado Blvd., 9th Floor
Pasadena, California 91101
Ph. (626) 449-4944
Fax: (626) 628-1722
Email: George@azadianlawgroup.com

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

AUG 16 2018

S. Salazar *SS*

Attorneys for Plaintiffs,
TIFFANY GRETHER, LAURA CARMONA, SHELIA TAYLOR, SHALYSE KEMP,
and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

TIFFANY GRETHER, an individual on behalf of herself and all others similarly situated, LAURA CARMONA, an individual on behalf of herself and all others similarly situated; SHELIA TAYLOR an individual on behalf of herself and all others similarly situated; SHALYSE KEMP an individual on behalf of herself and all others similarly situated,

Plaintiffs,

v

KAISER FOUNDATION HEALTH PLAN, INC., a corporation, and DOES 1 through 10 inclusive,

Defendants.

CASE NO. RIC1805047

DECLARATION OF GEORGE S. AZADIAN SEEKING TO CONTINUE FURTHER STATUS CONFERENCE UNTIL AFTER COMPLETION OF SCHEDULED MEDIATION; [PROPOSED] ORDER THEREON

Further Status Conference

Date: August 17, 2018
Time: 8:30 a.m.
Dept.: 5

Trial Date: Not Set
Action Filed: March 13, 2018

DECLARATION OF GEORGE S. AZADIAN SEEKING TO CONTINUE FURTHER STATUS CONFERENCE UNTIL AFTER COMPLETION OF SCHEDULED MEDIATION; [PROPOSED] ORDER

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I, George S Azadian, do hereby declare as follows:

1. I am over the age of eighteen years old and am a resident of the State of California. I am an attorney at law duly licensed to practice before all of the courts of the State of California, and I am the Principal of the Azadian Law Group, PC, attorneys of record for Plaintiffs Tiffany Gretler, Laura Carmona, Shelia Taylor, Shalyse Kemp (together, "Plaintiffs") and the putative class in the above-captioned action against Defendant Kaiser Foundation Health Plan, Inc. ("Defendant").


2. On May 21, 2018, at the initial status conference in this action, the Court informed counsel for the Plaintiff and Defendant (together, the "Parties") that if a mediation date was scheduled, counsel may submit a declaration and proposed order continuing the further status conference until after the mediation was completed.

3. The Parties have scheduled a mediation with David Rotman for September 12, 2018.

4 Accordingly, the Parties respectfully request that the Court continue the further status conference (currently scheduled for August 17, 2018) to a date convenient for the Court on October of 2018

5 Counsel for Defendant has been provided with this declaration and proposed order and agrees with foregoing.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14th day of August, 2018 in Pasadena, California.



GEORGE S. AZADIAN

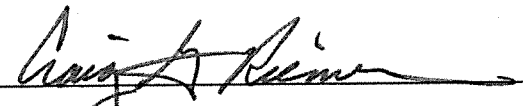
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[PROPOSED] ORDER

Based on the foregoing declaration of counsel, and for good cause shown, IT IS
HEREBY ORDERED:

1. The further status conference scheduled for August 17, 2018 is hereby continued to October 11, 2018 at 8:30 in Department 5.
2. The Parties are to file a joint post-mediation status report no later than 10-4-18.

Dated: August 16, 2018


 HON. CRAIG G. RIEMER
 JUDGE OF THE SUPERIOR COURT

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I reside in the State of California. I am over the age of 18. My business address is 790 E. Colorado Blvd., 9th Floor, Pasadena, California 91101.

On August 14, 2018, I served the foregoing documents described as:

PLAINTIFFS' NOTICE OF POSTING JURY FEES

on all interested parties in this action by placing a true and accurate copy thereof, enclosed in a sealed envelope, addressed as follows.

Christian J. Rowley
Kerry Friedrichs
Elizabeth J. MacGregor
SEYFARTH SHAW LLP
560 Mission Street, 31st Floor
San Francisco, California 94105

XXXX **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid in the ordinary course of business. 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.

XXXX **(STATE):** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 14, 2018, at Pasadena, California.



TONYA DEGRUY

Substantive

AZADIAN LAW GROUP, PC
GEORGE S. AZADIAN (SBN 253342)
ANI AZADIAN (SBN 284007)
EDRIK MEHRABI (SBN 299120)
790 E. Colorado Blvd., 9th Floor
Pasadena, California 91101
Ph.: (626) 449-4944
Fax: (626) 628-1722
Email: George@azadianlawgroup.com

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

OCT 01 2018

S. Salazar *SS*

BA
OCT 04 2018
R

Attorneys for Plaintiffs,
TIFFANY GRETLER, LAURA CARMONA, SHELIA TAYLOR, SHALYSE KEMP,
and the Class

SEYFARTH SHAW LLP
Christian J. Rowley (SBN 187293)
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Kerry Friedrichs (SBN 198143)
kfriedrichs@seyfarth.com
Parnian Vafaenia (SBN 316736)
pvafaenia@seyfarth.com
560 Mission Street, 31st Floor
San Francisco, California 94105
Telephone: (415) 397-2823
Facsimile: (415) 397-8549

Attorneys for Defendant
KAISER FOUNDATION HEALTH PLAN, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

TIFFANY GRETLER, an individual on
behalf of herself and all others similarly
situated; LAURA CARMONA, an
individual on behalf of herself and all
others similarly situated; SHELIA
TAYLOR an individual on behalf of
herself and all others similarly situated;
SHALYSE KEMP an individual on
behalf of herself and all others similarly
situated

CASE NO. RIC1805047

[Assigned for all purposes to the Hon. Craig
G. Riemer, Dept. 5]

**STIPULATION FOR LEAVE TO FILE
FIRST AMENDED COMPLAINT [Cal.
Code. Civ. Proc. § 472]; AND
[PROPOSED] ORDER**

Plaintiffs,

v.

KAISER FOUNDATION HEALTH
PLAN, INC., a corporation; and DOES 1
through 10 inclusive,

Defendants.

STIPULATION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT [Cal. Code. Civ. Proc. § 472];
AND [PROPOSED] ORDER

FAXED

1 Pursuant to section 472 of the California Code of Civil Procedure, Plaintiffs
2 Tiffany Gretler, Laura Carmona, Shelia Taylor, and Shalyse Kemp (collectively,
3 "Plaintiffs") and Defendant KAISER FOUNDATION HEALTH PLAN, INC.
4 ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties")
5 through their counsel of record, hereby submit this Stipulation for Leave to File a First
6 Amended Complaint. The First Amended Complaint attached hereto as Exhibit A.

7 RECITALS

8 WHEREAS, Plaintiffs filed this lawsuit in the Riverside County Superior Court on
9 March 13, 2018.

10 WHEREAS, counsel for the Parties have met and conferred over amending the
11 complaint to: (1) add claims under California Labor Code section 201-203 (failure to pay
12 all wages owed upon termination/resignation) now that one of the Plaintiffs is no longer
13 employed by Defendant; (2) to add claims under the Private Attorney General Act
14 ("PAGA"); (3) to add claims under the Fair Labor Standards Act ("FLSA"); and (4) to
15 add additional parties as Defendants.


STIPULATION

NOW, THEREFORE, Plaintiffs and Defendant, by and through their undersigned counsel of record, hereby agree and stipulate that:

- 1. Plaintiffs may file the First Amended Complaint, attached hereto as Exhibit A.
- 2. Counsel for Defendant shall accept service of the First Amended Complaint on behalf of all Defendants.
- 3. The allegations in the First Amended Complaint are controverted by Defendants.
- 4. Defendants shall respond to the First Amended Complaint within fourteen (14) days of the Court entering an Order granting this stipulation.

DATED: September 27 2018


AZADIAN LAW GROUP PC
GEORGE S. AZADIAN
ANI AZADIAN
EDRIK MEHRABI

By: 

GEORGE S. AZADIAN
Attorneys for Plaintiffs TIFFANY GRETLER,
LAURA CARMONA, SHELIA TAYLOR,
SHALYSE KEMP, and the Class

DATED: September 27, 2018

SEYFARTH SHAW LLP
CHRISTIAN J. ROWLEY
KERRY FRIEDRICHS
PARNIAN VAFAEENIA

By: 

PARNIAN VAFAEENIA
Attorneys for Defendant Kaiser Foundation
Health Plan, Inc.

[PROPOSED] ORDER

1
2 Based on the foregoing Stipulation, and for good cause shown, IT IS HEREBY
3 ORDERED:

- 4 1. Plaintiff is granted leave to file the First Amended Complaint, attached as
 5 Exhibit A to the Stipulation reached by the parties. *Plaintiff shall do so*
 6 *forthwith.*
- 7 2. The allegations in the First Amended Complaint are controverted by
 8 Defendants. *shall*
- 9 3. Counsel for Defendant *will* accept service of the First Amended Complaint
 10 and Defendants shall respond within fourteen (14) days of the receipt of the
 11 ~~notice of entry of this Order.~~ *service of the summons &*
 12 *complaint.*

12 Dated: September 28, 2018

Craig G. Riemer

 HON. CRAIG G. RIEMER
 JUDGE OF THE SUPERIOR COURT

EXHIBIT A

EXHIBIT A

AZADIAN LAW GROUP, PC
GEORGE S. AZADIAN (SBN 253342)
ANI AZADIAN (SBN 284007)
EDRIK MEHRABI (SBN 299120)
790 E. Colorado Blvd., 9th Floor
Pasadena, California 91101
Ph.: (626) 449-4944
Fax: (626) 628-1722
Email: George@azadianlawgroup.com

Attorneys for Plaintiffs,
TIFFANY GRETHER, LAURA CARMONA, SHELIA TAYLOR, SHALYSE KEMP,
and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

TIFFANY GRETHER, an individual on
behalf of herself and all others similarly
situated; LAURA CARMONA, an
individual on behalf of herself and all
others similarly situated; SHELIA
TAYLOR an individual on behalf of
herself and all others similarly situated;
SHALYSE KEMP an individual on
behalf of herself and all others similarly
situated

Plaintiffs,

v.

KAISER FOUNDATION HEALTH
PLAN, INC., a corporation; ; KAISER
FOUNDATION HOSPITALS, a
corporation; SOUTHERN
CALIFORNIA PERMANENTE
MEDICAL GROUP, a partnership; and
DOES 1 through 10 inclusive,

Defendants.

CASE NO. RIC1805047

[Assigned for all purposes to the Hon. Craig
G. Riemer, Dept. 5]

**PLAINTIFFS' [PROPOSED] FIRST
AMENDED CLASS ACTION
COMPLAINT FOR:**

1. **FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CALIFORNIA LABOR CODE §§ 510, 1194, 1198, 1199 AND WAGE ORDER 4-2001**
2. **VIOLATION OF CALIFORNIA LABOR CODE §§ 226.7 AND 512 AND WAGE ORDER 4-2001 (MEAL PERIODS)**
3. **VIOLATION OF CALIFORNIA LABOR CODE § 226.7 AND WAGE ORDER 4-2001 (REST PERIODS)**
4. **VIOLATION OF CALIFORNIA LABOR CODE § 226(a) (NON-COMPLIANT WAGE STATEMENTS)**
5. **FAILURE TO PAY ALL WAGES OWED UPON TERMINATION IN VIOLATION OF CALIFORNIA LABOR CODE §§ 201-203**
6. **VIOLATIONS OF CALIFORNIA LABOR CODE SECTION 2698 ET SEQ. - THE PRIVATE ATTORNEYS GENERAL ACT OF 2004**
7. **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200**
8. **VIOLATIONS OF THE FLSA**

JURY TRIAL DEMANDED

1 Plaintiffs Tiffany Gretler, Laura Carmona, Shelia Taylor, and Shalyse Kemp
2 (together, "Plaintiffs") allege as follows on knowledge as to their own acts/interactions,
3 and on information and belief as to all other matters:

4 **JURISDICTION AND VENUE**

5 1. This Court has personal jurisdiction over Defendants because they each
6 conduct business in the State of California.

7 2. Under California Code of Civil Procedure section 395(a), venue is proper in
8 this County because Defendants do business in this County and the harm to Plaintiffs
9 occurred in this County.

10 **PARTIES**

11 3. Plaintiff Tiffany Gretler ("Plaintiff Gretler") at all times relevant hereto,
12 was and is a resident of the State of California.

13 4. Plaintiff Laura Carmona ("Plaintiff Carmona") at all times relevant hereto,
14 was and is a resident of the State of California.

15 5. Plaintiff Shelia Taylor ("Plaintiff Taylor") at all times relevant hereto, was
16 and is a resident of the State of California.

17 6. Plaintiff Shalyse Kemp ("Plaintiff Kemp") at all times relevant hereto, was
18 and is a resident of the State of California.

19 7. Plaintiffs are informed and believe that Defendant Kaiser Foundation
20 Health Plan, Inc. ("KFHP") and Defendant Kaiser Foundation Hospitals ("KFH") are
21 corporations organized and existing under the laws of California, with their principal
22 place of business located at 1 Kaiser Plaza, Oakland, California.

23 8. Plaintiffs are informed and believe that Defendant Southern California
24 Permanente Medical Group ("SCPMG") is organized as a partnership under the laws of
25 California, with its principal place of business located in Los Angeles County at 393 East
26 Walnut Street, Pasadena, California.

27 9. Defendants KFHP, KFH and SCPMG, if not separately noted are
28 hereinafter collectively referred to as "Defendants."

1 17. Plaintiff Kemp started as a Timekeeping Coordinator in approximately July
2 of 2015.

3 18. Defendants misclassified Plaintiffs and all other Timekeeping Coordinators
4 as exempt employees not entitled to overtime pay.

5 19. Timekeeping Coordinators are not required to have any college degree
6 (neither Plaintiff Gretler nor Plaintiff Carmona have a college degree), professional
7 certificates or licenses, and they do not manage or supervise other employees.

8 20. Plaintiffs and the other Timekeeping Coordinators were micromanaged
9 employees who do not spend the majority of their working time exercising discretion or
10 independent judgment in performing their duties.

11 21. Plaintiffs and the other Timekeeping Coordinators engage in routine and
12 repetitive tasks that do not involve any significant time being spent on a comparison and
13 evaluation of possible courses of conduct and acting or making a decision after the
14 various possibilities have been considered.

15 22. As detailed below, the job duties of Plaintiffs and the other Timekeeping
16 Coordinators consist mainly of: (1) answering a high volume of calls and providing set
17 responses during their scheduled hours at work; (2) repetitive data entry related to
18 processing standardized payroll forms; and (3) repetitive processing of pay period
19 adjustments.

20 23. In total, Plaintiffs and other Timekeeping Coordinators work approximately
21 15-30 hours a week of overtime (hours in excess of eight (8) hours a day or forty (40)
22 hours a week) and are not compensated for overtime due to their misclassification as
23 exempt employees.

24 24. In order to work from home, Defendants provides Plaintiffs and other
25 Timekeeping Coordinators with a laptop that is taken home with the employee, and
26 brought back to work for their scheduled call center hours (the same computer is used at
27 work through a docking station at the call center).

1 25. With regard to answering a high volume of calls and generally providing
2 set responses, Plaintiffs and other Timekeeping Coordinators generally spend over 80-
3 90% of the hours they are scheduled to work at the Corona call center answering calls.

4 26. Plaintiffs and the other Timekeeping Coordinators, answer calls from
5 Defendants' managers and the managers from Defendants' affiliated/controlled
6 companies or organizations who are considered "timekeepers" or "approvers" of
7 employees' timecards. These managers include timekeepers or approvers from
8 Defendants' affiliated Kaiser entities.

9 27. Plaintiffs and the other Timekeeping Coordinators generally answer
10 approximately 400 or more calls a month (ranging from 20-40 calls a day). In addition,
11 Timekeeping Coordinators can also email their questions and Plaintiffs and the other
12 Timekeeping Coordinators largely respond with template email responses (5-10 emails a
13 day with similar questions that can be asked over the phone).

14 28. There is a thirty (30) second rest period between calls to finalize any notes
15 or send out a template email to the manager who called. Thereafter, Plaintiffs and the
16 other Timekeeping Coordinators are marked as "available" to receive another call.

17 29. If Plaintiffs or the other Timekeeping Coordinators are not ready for a call
18 they must electronically designate themselves as not ready for a call. In the event
19 Plaintiffs or the other Timekeeping Coordinators electronically designate themselves as
20 not ready for a call for any period other than their designated lunch time, a supervisor
21 will see why they are not ready.

22 30. Even the times when Plaintiffs and the other Timekeeping Coordinators are
23 permitted to have a meal is micromanaged by management in order to ensure they are
24 answering repetitive and routine calls.

25 31. Defendants tracks how many seconds it takes Plaintiffs and the other
26 Timekeeping Coordinators to answer the phone (speed to answer) and track the number
27 of calls received and number of calls answered. If a Timekeeping Coordinator is below
28

1 the average or quota set for the number of calls, they are reprimanded and face
2 termination.

3 32. Plaintiffs and the other Timekeeping Coordinators are required to be at
4 their desk at all times during their scheduled shifts. If Plaintiffs are not on calls during
5 their scheduled hours for more than ten to fifteen (10-15) minutes, a manager will “ping”
6 the employee (through Skype) to determine why they are not on the phone.

7 33. Calls will generally last for five (5) minutes and if a call lasts fifteen (15)
8 minutes, a manager will “ping” the employee to inquire why the call has not been
9 completed because the answers provided are generally very routine and should not take
10 any significant amount of time to ascertain.

11 34. A very large portion of the calls from managers are responded to with
12 simple, form responses either verbally or through template emails. For example, the
13 following are routine calls generally received by Plaintiffs and other Timekeeping
14 Coordinators that are responded to with standard responses either verbally or through
15 template emails:

- 16 a. Can you walk me through how to do a pay period adjustment?
17 b. Can you remove the HK60 error message?
18 c. How do I code holiday on a timecard?
19 d. I can't clock in for work, I'm getting an error.
20 e. Can you reset my password?
21 f. My computer is frozen, what do I do?
22 g. Can you tell me how to review my time card?
23 h. How do I approve my employees' timecards?
24 i. I sent a Form 3646 form yesterday. Do you know when it will be
25 processed?
26 j. Is an employee eligible for a shift differential if the employee is
27 scheduled for night shifts but works days?
28

35. When a manager/timekeeper has a question related to a specific employee
or an employee calls with a question (such as if they are eligible for a specific holiday),
Plaintiffs and other Timekeeping Coordinators enter the employee's ID number and the
database called “My HR” directs them to the applicable collective bargaining agreement

1 and pay practice policy for the specific employee to obtain the answer. This function
2 does not require anything more than the use of skill in applying well-established
3 techniques, procedures and specific standards described in manuals or other sources that
4 Plaintiffs and other Timekeeping Coordinators are directed to for any specific employee.

5 36. Plaintiffs and other Timekeeping Coordinators cannot make changes to
6 timecards without manager/timekeeper approval.

7 37. Plaintiffs are informed and believe that Defendants operate another call
8 center where non-exempt hourly employees (National Payroll Coordinators) provide a
9 similar function related to questions and issues pertaining to employees' rate of pay or
10 whether the employee was underpaid or overpaid based on their rates of pay.

11 38. With regard to the repetitive data entry related to processing standardized
12 payroll forms (generally done during the thirty (30) minute period they are permitted to
13 be off the phone for lunch and from home after the employees' scheduled call center
14 hours), Plaintiffs and other Timekeeping Coordinators would generally spend ten (10)
15 hours a week in addition to their scheduled call center hours performing data entry. This
16 data entry is for Forms 3644 and 3646. On average, Plaintiffs and other Timekeeping
17 Coordinators complete the data entry for approximately 350 forms a month.

18 39. Form 3644 is a form completed by an employee who requests to view their
19 own time card. The employee fills out the form then the Timekeeping Coordinators view
20 the form on "Case Manager" (a program that is part of My HR) before entering the
21 information from the Form 3644 into "Mainframe" (the centralized time system used by
22 Defendants).

23 40. Form 3646 is a form used to add a new employee or if an employee
24 transfers. This form is filled out by the newly hired or recently transferred employee's
25 manager. A manager/ timekeeper fills out the form then the Timekeeping Coordinators
26 view the form on "Case Manager" (a program that is part of My HR) before entering the
27 information from the Form 3646 into "Mainframe" (the centralized time system used by
28 Defendants).

1 41. Plaintiffs are informed and believe that Defendants utilize non-exempt
2 hourly employee to conduct the similar data entry related to Form 3645 (a form used to
3 change a primary approver or adding an alternate approver).

4 42. With regard to the repetitive processing of pay period adjustments
5 (generally done during the thirty (30) minute period they are permitted to be off the
6 phone for lunch and from home after the employees' scheduled call center hours),
7 Plaintiffs and other Timekeeping Coordinators generally spend another five (5) hours a
8 week in addition to their scheduled call center hours processing pay period adjustments.
9 On average, Plaintiffs and other Timekeeping Coordinators process approximately 525
10 pay period adjustments a month.

11 43. A pay period adjustment is needed when a manager/timekeeper incorrectly
12 codes time (such as inputting overtime when it was not overtime) or when an employee
13 forgets to punch in or punch out. The pay period adjustment is submitted by the
14 manager/timekeeper through Mainframe. Plaintiffs and other Timekeeping Coordinators
15 merely see if the adjustment is positive (resulting in increased money to the employee).
16 If the adjustment is positive, Timekeeping Coordinators select approve and the
17 information is sent to Defendants' payroll for processing. If the adjustment is negative
18 (resulting in decreased money to the employee), Timekeeping Coordinators send a
19 template email to the manager/timekeeper to have a form authorization signed by the
20 employee, obtains the authorization once it is returned, and transmits the authorization to
21 payroll for processing.

22 **CLASS ACTION ALLEGATIONS**

23 44. This class action is filed under the provisions of Code of Civil Procedure
24 section 382, which provides that a class action may be brought when the question is one
25 of common interest to many persons, or when the number of persons is numerous and it
26 is impractical to bring them all before the court. This action is properly maintained as a
27 class action as set forth below.

1 45. Plaintiffs brings this action on behalf of themselves and all others similarly
2 situated in the “Class”, as follows:

3 **All persons within California who worked for any of the Defendants as**
4 **in the position of “National Timekeeping Coordinator,” “Time Systems**
5 **Coordinator,” or persons with similar titles and/or similar job duties at**
6 **any time on or after March 13, 2014.**

7 46. Plaintiffs reserve the right to amend the class definition to seek recovery on
8 behalf of additional persons as warranted as facts are learned through further
9 investigation and discovery.

10 47. Numerosity: Plaintiffs do not know the number of members in the
11 proposed class, but believe, based on Defendants’ number of Timekeeping Coordinators,
12 turnover of employees during the statutory period, and investigation of counsel, that the
13 number is approximately 150 employees, if not substantially higher. Thus, joinder of all
14 members of the Class is impractical due to the number of members and relatively small
15 value of each member’s claim.

16 48. Typicality: Plaintiffs’ claims are typical of the claims of each member of
17 the Class because Plaintiffs work and/or worked for Defendants as Timekeeping
18 Coordinators, were improperly classified as exempt employees, worked more than eight
19 (8) hours in a day and/or forty (40) hours in a week during their employment, did not
20 receive any overtime compensation, and did not receive meal and rest periods in
21 compliance with the requirements of California law.

22 49. Commonality: The members of the Class share a well-defined community
23 of interest regarding questions of law and fact, which predominate over questions that
24 may affect individual members of the Class. These common questions of law and fact
25 include (but are not limited to):

26 (a) Whether Defendants can meet their burden of proving that it
27 properly classified Timekeeping Coordinators as exempt;

1 (b) Whether Defendants paid Plaintiffs and members of the Class for all
2 hours Defendants suffered and/or permitted them to work;

3 (c) Whether Defendants required Plaintiffs and members of the Class to
4 work over eight (8) hours per day and/or over forty (40) hours per week, and failed
5 to pay the legally required overtime compensation;

6 (d) Whether Defendants required Plaintiffs and members of the Class to
7 work over twelve (12) hours per day and/or over forty (40) hours per week, and
8 failed to pay the legally required overtime compensation;

9 (e) Whether Defendants falsely informed Plaintiffs and members of the
10 Class that they were exempt employees not entitled to overtime compensation;

11 (f) Whether Defendants provided Plaintiffs and members of the Class
12 with laptops and remote access so that they could continue to work from home late
13 into the night or during the weekends;

14 (g) Whether Defendants and its management regularly witnessed
15 Plaintiffs and members of the Class leaving the office after much longer than eight
16 (8) hours of work;

17 (h) Whether Defendants knew or should have known that Plaintiffs and
18 members of the Class were entitled to receive certain wages for overtime
19 compensation;

20 (i) Whether Defendants failed to timely pay all wages due to Plaintiffs
21 and members of the Class during their employment;

22 (j) Whether Defendants engaged in unfair business practices in
23 violation of California Business & Professions Code sections 17200, et seq.;

24 (k) Whether Plaintiffs and the class are entitled to compensatory
25 damages pursuant to the California Labor Code; and

26 (l) The appropriate amount of damages, restitution, and/or monetary
27 penalties resulting from Defendants' violations of California law.

28

1 50. Predominance: The questions that are common to all class members
2 predominate over any questions that are unique to individual class members because the
3 answers to these questions will determine Defendants' liability to all class members and
4 any remaining individual questions with respect to amounts of relief may be resolved by
5 reference to Defendants' payroll records or a damages phase of the case.

6 51. Superiority: A class action is vastly superior to other available means for
7 the fair and efficient adjudication of class members' claims. Because this case involves
8 large numbers of employees, most, if not all, of whom have relatively small individual
9 claims, it would be beneficial to the parties and this Court to allow them to
10 simultaneously and efficiently prosecute their common claims in a single forum without
11 the unnecessary duplication of effort and expense that numerous individual actions would
12 entail. Additionally, because the monetary amounts due to many individual class
13 members are likely to be relatively small, it would make it difficult, if not impossible, for
14 individual class members to both seek and obtain relief. Moreover, a class action will
15 serve an important public interest by permitting class members to effectively pursue the
16 recovery of moneys owed to them. Further, a class action will prevent the potential for
17 inconsistent or contradictory judgments inherent in individual litigation.

18 52. Ascertainable Classes: The members of the Class can be easily ascertained
19 from Defendants' payroll records and other records maintained by Defendants.

20 53. Adequacy Of Class Representatives: Plaintiffs will fairly and adequately
21 represent and protect the interests of the Class in that Plaintiffs have no interests
22 antagonistic to any member of the Class. There are no material conflicts between the
23 claims of Plaintiffs and the members of the Class that would make class certification
24 inappropriate.

25 54. Adequacy Of Class Counsel: Plaintiffs have retained counsel experienced
26 in handling class action claims and wage & hour claims.

FIRST CAUSE OF ACTION

**FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CALIFORNIA
LABOR CODE §§ 510, 1194(A), 1198, 1199 AND WAGE ORDER 4-2001
(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)**

55. Plaintiffs incorporate by this reference all the preceding and subsequent paragraphs.

56. At all relevant times, the California Industrial Wage Orders and California Code of Regulations were in effect and binding on Defendants.

57. Subdivision 3 of Wage Order 4-2001 provides that:

(A) Daily Overtime – General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek.; and

(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in

1 excess of eight (8) hours on the seventh (7th) consecutive day of
2 work in a workweek.

3 (c) The overtime rate of compensation required to be paid to a
4 nonexempt full-time salaried employee shall be computed by
5 using the employee's regular hourly salary as one fortieth (1/40)
6 of the employee's weekly salary.

7 58. At all relevant times, Labor Code § 510 was in effect and binding on
8 Defendants. The pertinent part of Labor Code § 510 provides that:

9 (a) Eight hours of labor constitutes a day's work. Any work in excess of
10 eight hours in one workday and any work in excess of 40 hours in any
11 one workweek and the first eight hours worked on the seventh day of
12 work in any one workweek shall be compensated at the rate of no less
13 than one and one-half times the regular rate of pay for an employee.
14 Any work in excess of 12 hours in one day shall be compensated at the
15 rate of no less than twice the regular rate of pay for an employee. In
16 addition, any work in excess of eight hours on any seventh day of a
17 workweek shall be compensated at the rate of no less than twice the
18 regular rate of pay of an employee.

19 59. At all relevant times, California Labor § 1194 was in effect and binding on
20 Defendants. Labor Code § 1194 provides in relevant part:

21 (a) Notwithstanding any agreement to work for a lesser wage, any
22 employee receiving less than the legal minimum wage or the legal overtime
23 compensation applicable to the employee is entitled to recover in a civil
24 action the unpaid balance of the full amount of this minimum wage or
25 overtime compensation, including interest thereon, reasonable attorney's,
26 and costs of suit.

27 60. At all relevant times, California Labor § 218.5 was in effect and binding on
28 Defendants. Labor Code § 218.5 provides in relevant part:

1 In any action brought for the nonpayment of wages, fringe benefits, or
2 health and welfare or pension fund contributions, the court shall award
3 reasonable attorney's fees and costs to the prevailing party if any party to
4 the action requests attorney's fees and costs upon the initiation of the
5 action.

6 61. At all relevant times, Plaintiffs and members of the Class were
7 misclassified as exempt employees.

8 62. At all relevant times, Plaintiffs and members of the Class were subject to
9 the overtime provisions of the California Industrial Welfare Commission's Wage Orders.

10 63. Throughout their employment, Plaintiffs and members of the Class
11 regularly and with Defendants' knowledge worked more than eight (8) hours in working
12 day. Plaintiffs allege that they sometimes even worked more than 12 hours in a working
13 day.

14 64. Plaintiffs allege that Defendants did not pay 1 ½ times the legal minimum
15 hourly wage rate for all the hours worked over eight (8) hours in a work day and/or 40
16 hours in a work week. Plaintiffs allege that Defendants did not pay two times the legal
17 minimum hourly rate for all the hours worked over 12 hours in a work day.

18 65. During the relevant time period, Defendants intentionally and willfully
19 failed to pay for all hours Defendants suffered and/or permitted Plaintiffs and members of
20 the Class to work, including for overtime hours.

21 66. Plaintiffs and members of the Class allege that wages are due to them for
22 all hours worked during which they were not paid proper overtime wages pursuant
23 California Labor Code §§ 510 and 1194 and all applicable laws, rules, orders,
24 requirements and regulations.

25 67. Plaintiffs and members of the Class demand all applicable reimbursements,
26 interest and penalties for her lost overtime wages. Plaintiffs and members of the Class
27 further demand reasonable attorneys' fees and costs of suit pursuant to California Labor
28 Code §§ 218.5, 1194, and any other applicable statute or regulation.

SECOND CAUSE OF ACTION

**VIOLATION OF CALIFORNIA LABOR CODE SECTIONS 226.7, 512 AND
WAGE ORDER 4-2001 (MEAL PERIODS)**

(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)

68. Plaintiffs incorporate by this reference all preceding and subsequent paragraphs.

69. California Labor Code section 512(a) states (in relevant part): “An employer may not employ an employee for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee.”

70. Section 11(A) of the applicable Industrial Welfare Commission Wage Orders provides (in relevant part): “No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and the employee.”

71. California Labor Code section 226.7(b) provides: “If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each work day that the meal or rest period is not provided.”

72. Defendants worked Plaintiffs and members of the Class more than five (5) hours per day without an off-duty, timely, and/or uninterrupted 30-minute meal period as required by California Labor Code section 512 and section 11 of the applicable Industrial Welfare Commission Wage Order.

73. Plaintiffs and members of the Class demand all applicable reimbursements, interest, and penalties.

THIRD CAUSE OF ACTION

VIOLATION OF CALIFORNIA LABOR CODE § 226.7 AND WAGE ORDER 4-2001 (REST PERIODS)

(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)

74. Plaintiffs incorporate by this reference all preceding and subsequent paragraphs.

75. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California Industrial Welfare Commission.

76. At all relevant times, the applicable Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof unless the total daily work time is less than three and one-half (3 ½) hours.”

77. During the relevant time period, Defendants required Plaintiffs and members of the Class to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

78. During the relevant time period, Defendants willfully required Plaintiffs and members of the Class to work during rest periods and failed to pay the full rest period premium for work performed during rest periods.

79. During the relevant time period, Defendants failed to pay Plaintiffs and members of the Class the full rest period premium due pursuant to California Labor Code section 226.7. Defendants’ conduct violates applicable Wage Orders and California Labor Code section 226.7.

80. Pursuant to the applicable Industrial Welfare Commission Wage Order and California Labor Code section 226.7(b), Plaintiffs and members of the Class are entitled

1 to recover from Defendants one additional hour of pay at the employee's regularly hourly
2 rate of compensation for each work day that the rest period was not provided.

3 81. Plaintiffs and members of the Class demand all applicable reimbursements,
4 interest, and penalties.

5 **FOURTH CAUSE OF ACTION**

6 **VIOLATION OF CALIFORNIA LABOR CODE § 226(a)**

7 **(NON-COMPLIANT WAGE STATEMENTS)**

8 **(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)**

9 82. Plaintiffs incorporate by this reference all preceding and subsequent
10 paragraphs.

11 83. At all material times set forth herein, California Labor Code section 226(a)
12 provides that every employer shall furnish each of his employees an accurate itemized
13 statement in writing showing (1) gross wages earned, (2) total hours worked by the
14 employee, (3) the number of piece-rate units earned and any applicable piece rate if the
15 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions
16 made on written orders of the employee may be aggregated and shown as one item, (5)
17 net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7)
18 the name of the employee and his or her social security number, (8) the name and address
19 of the legal entity that is the employer, and (9) all applicable hourly rates in effect during
20 the pay period and the corresponding number of hours worked at each hourly rate by the
21 employee.

22 84. Due to their misclassification as an exempt employee, Defendants
23 intentionally and willfully failed to provide Plaintiffs and members of the Class with
24 complete and accurate wage statements. The deficiencies include, but are not limited to:
25 the failure to include total hours worked by the employee.

26 85. As a result, Plaintiffs and members of the Class have suffered injury and
27 damage to their statutory-protected rights.

1 86. Plaintiffs and members of the Class demand damages under California
2 Labor Code section 226 of an aggregate penalty not exceeding four thousand dollars per
3 employee.

4 **FIFTH CAUSE OF ACTION**

5 **FAILURE TO PAY ALL WAGES OWED UPON TERMINATION IN**
6 **VIOLATION OF CALIFORNIA LABOR CODE §§ 201-203**
7 **(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)**

8 87. Plaintiffs incorporate by this reference all preceding and subsequent
9 paragraphs.

10 88. At all relevant times, California Labor Code sections 201-203 provide that
11 if an employer discharges an employee, the wages earned and unpaid at the time of
12 discharge are due and payable immediately, and if an employee quits his or her
13 employment, his or her wages shall become due and payable not later than seventy-two
14 (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his
15 or her intention to quit, in which case the employee is entitled to his or her wages at the
16 time of quitting.

17 89. As Plaintiff and other members of the class were denied wages owed to
18 them (based on being misclassified as exempt employees), they were not paid all wages
19 owed to them at the time of their termination or resignation.

20 90. During the relevant time period, and as alleged above, Defendants
21 intentionally and willfully failed to pay Plaintiff and other members of the Class their
22 wages, earned and unpaid, within the required time period.

23 91. Plaintiffs are informed and believe that other members of the Class were
24 not paid their final wages immediately upon their termination or within seventy-two (72)
25 hours of their resignation, is in violation of California Labor Code sections 201 and 202.

26 92. On information and belief, Plaintiffs contends that Defendants' failure to
27 pay all wages earned upon termination in accordance with Labor Code section 201 was
28

1 willful. At all times relevant, Defendants had the ability to pay all earned and unpaid
2 wages in accordance with Labor Code section 201 but intentionally chose not to comply.

3 93. California Labor Code section 203 provides that if an employer willfully
4 fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the
5 employee shall continue as a penalty from the due date thereof at the same rate until paid
6 or until an action is commenced; but the wages shall not continue for more than thirty
7 (30) days.

8 94. Pursuant to Labor Code § 218.5, Plaintiff and members of the Final Wages
9 Class are entitled to recover the full amount of their unpaid wages, waiting time penalties,
10 reasonable attorneys' fees, and costs of suit. Plaintiff and the other members of the Final
11 Wages Class are entitled to recover interest on all due and unpaid wages and waiting time
12 penalties under Labor Code § 218.6 and/or Civil Code § 3287(a).

13 **SIXTH CAUSE OF ACTION**

14 **PRIVATE ATTORNEYS GENERAL ACT OF 2004, LABOR CODE SECTION**
15 **2698 ET SEQ.**

16 **(REPRESENTATIVE ACTION BY PLAINTIFFS AGAINST DEFENDANTS)**

17 95. Plaintiffs incorporate by this reference all preceding and subsequent
18 paragraphs.

19 96. Plaintiffs seek penalties pursuant to PAGA for based on Defendants'
20 following violation of the California Labor Code:

- 21 (a) California Labor Code sections 510, 1194, 1198, and Wage Order 4-
22 2001 (underpayment of overtime wages);
23 (b) California Labor Code sections 226.7, 512, and Wage Order 4-2001
24 (failure to authorize/provide meal and rest periods);
25 (c) California Labor Code section 226 (non-compliant wage
26 statements); and
27 (d) California Labor Code sections 201-203 (failure to pay all wages
28 upon resignation or termination).

1 97. Plaintiffs seek civil penalties due to Plaintiffs, other aggrieved employees,
2 and the State of California according to proof, pursuant to the California Labor Code,
3 including California Labor Code §§ 2699(a) and 2699(f), which provides for \$100 for
4 each initial violation and \$200 for each subsequent violation per employee pay period.

5 98. Plaintiffs were compelled to retain the services of counsel to file this action
6 to protect Plaintiffs' interests and the interests of other similarly aggrieved employees,
7 and to assess and collect the civil penalties owed by Defendants. Plaintiffs have thereby
8 incurred attorneys' fees and costs, which Plaintiffs are entitled to recover under
9 California Labor Code § 2699(g).

10 **SEVENTH CAUSE OF ACTION**

11 **VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200**
12 **(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)**

13 99. Plaintiffs incorporate by this reference all preceding and subsequent
14 paragraphs.

15 100. Business and Professions Code § 17200, et seq. ("UCL"), defines unfair
16 competition to include any "unfair," "unlawful," or "fraudulent" business practice.

17 101. At all times relevant herein the UCL was in full force and effect and
18 binding on Defendants.

19 102. The actions alleged herein by Defendants were "unlawful" under the UCL
20 based on the violations of each of the statutes and regulations alleged herein.
21 Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful
22 and harmful to Plaintiffs, members of the Class, the general public, and to Defendants'
23 competitors.

24 103. Plaintiffs and members of the Class have been personally injured by
25 Defendants' unlawful business acts and practices as alleged herein, including, but not
26 necessarily limited to, the loss of money and/or property.

27 104. Pursuant to California Business & Professions Code sections 17200, et seq.,
28 Plaintiffs and members of the Class are entitled to restitution of the wages withheld and

1 retained by Defendants, an injunction requiring Defendants to appropriate classify the
2 Class as non-exempt employees, and an injunction requiring Defendants to pay all
3 outstanding wages due to Plaintiffs and class members.

4 **EIGHTH CAUSE OF ACTION**

5 **FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF FAIR LABOR**
6 **STANDARDS ACT**

7 **(BY PLAINTIFF AND THE CLASS AGAINST DEFENDANTS)**

8 105. Plaintiffs bring this action under the Fair Labor Standards Act (“FLSA”),
9 29 U.S.C. §§ 201 et seq., on behalf of themselves and all similarly situated current and
10 former Time System Coordinators who elect to opt into this action pursuant to the
11 collective action provision of the FLSA, 29 U.S.C. § 216(b)

12 106. At all relevant times, Plaintiffs and other similarly situated current and
13 former Time System Coordinators were engaged in commerce and/or the production of
14 goods for commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

15 107. The overtime wage provisions set forth in §§ 201 et seq. of the FLSA apply
16 to Defendants.

17 108. Defendants were and are employers of Plaintiffs and other similarly
18 situated current and former Time System Coordinators and are engaged in commerce
19 and/or the production of goods for commerce within the meaning of 29 U.S.C. §§ 206(a)
20 and 207(a).

21 109. At all relevant times, Plaintiffs and other similarly situated current and
22 former Time System Coordinators were and are employees within the meaning of 29
23 U.S.C. §§ 203(e) and 207(a).

24 110. Defendants have failed to pay Plaintiffs and other similarly situated current
25 and former Time System Coordinators the wages to which they were entitled under the
26 FLSA.

27 111. Defendants’ violations of the FLSA, as alleged herein, have been willful
28 and intentional. Because Defendants’ violations of the FLSA have been willful, a three-

1 year statute of limitations applies, pursuant to 29 U.S.C. § 255, as it may be tolled or
2 extended by agreement, equity or operation of law.

3 112. As a result of Defendants' willful violations of the FLSA, Plaintiff and
4 other similarly situated current and former Time System Coordinators have suffered
5 damages by being denied wages in accordance with 29 U.S.C. §§ 201 et seq., in amounts
6 to be determined at trial or through undisputed record evidence, and are entitled to
7 recovery of such amounts, liquidated damages, prejudgment interest, attorneys' fees,
8 costs, and other compensation pursuant to 29 U.S.C. § 216(b).

9 **JURY TRIAL DEMANDED**

10 113. Plaintiffs demand a jury trial.

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PRAYER FOR RELIEF

114. WHEREFORE, Plaintiffs respectfully requests the Court grant Plaintiffs and the members of the Class the following relief against Defendants:

- (e) For an order certifying each of the Class under California Code of Civil Procedure section 382;
- (f) For appointment of Plaintiffs as representatives of the Class;
- (g) For general economic and non-economic damages according to proof;
- (h) For special damages according to proof;
- (i) For prejudgment interest pursuant to California Civil Code section 3287 and/or California Civil Code section 3288 and/or any other provision of law providing for prejudgment interest;
- (j) For attorneys' fees where allowed by law;
- (k) For costs of suit incurred herein; and
- (l) For such other and further relief as this Court deems just and proper.

Dated: September 27, 2018

Respectfully submitted,
AZADIAN LAW GROUP, PC



By: _____
George S. Azadian
Attorneys for Plaintiffs,
TIFFANY GRETHER, LAURA CARMONA,
SHELIA TAYLOR, SHALYSE KEMP, and
the Proposed Class

EXHIBIT L

EXHIBIT L

Substantive

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

OCT 01 2018

S. Salazar *[Signature]*

SA
ULI 04 2018 12

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Attorneys for Defendant
KAISER FOUNDATION HEALTH PLAN, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

TIFFANY GRETHER, an individual on
behalf of herself and all others similarly
situated; LAURA CARMONA, an
individual on behalf of herself and all
others similarly situated; SHELIA
TAYLOR an individual on behalf of
herself and all others similarly situated;
SHALYSE KEMP an individual on
behalf of herself and all others similarly
situated

CASE NO. RIC1805047

[Assigned for all purposes to the Hon. Craig
G. Riemer, Dept. 5]

**STIPULATION FOR LEAVE TO FILE
FIRST AMENDED COMPLAINT [Cal.
Code. Civ. Proc. § 472]; AND
[PROPOSED] ORDER**

Plaintiffs,

v.

KAISER FOUNDATION HEALTH
PLAN, INC., a corporation; and DOES 1
through 10 inclusive,

Defendants.

STIPULATION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT [Cal. Code. Civ. Proc. § 472];
AND [PROPOSED] ORDER

FILED

1 Pursuant to section 472 of the California Code of Civil Procedure, Plaintiffs
2 Tiffany Gretler, Laura Carmona, Shelia Taylor, and Shalyse Kemp (collectively,
3 "Plaintiffs") and Defendant KAISER FOUNDATION HEALTH PLAN, INC.
4 ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties")
5 through their counsel of record, hereby submit this Stipulation for Leave to File a First
6 Amended Complaint. The First Amended Complaint attached hereto as Exhibit A.

7 **RECITALS**

8 WHEREAS, Plaintiffs filed this lawsuit in the Riverside County Superior Court on
9 March 13, 2018.

10 WHEREAS, counsel for the Parties have met and conferred over amending the
11 complaint to: (1) add claims under California Labor Code section 201-203 (failure to pay
12 all wages owed upon termination/resignation) now that one of the Plaintiffs is no longer
13 employed by Defendant; (2) to add claims under the Private Attorney General Act
14 ("PAGA"); (3) to add claims under the Fair Labor Standards Act ("FLSA"); and (4) to
15 add additional parties as Defendants.


STIPULATION

NOW, THEREFORE, Plaintiffs and Defendant, by and through their undersigned counsel of record, hereby agree and stipulate that:

- 1. Plaintiffs may file the First Amended Complaint, attached hereto as Exhibit A.
- 2. Counsel for Defendant shall accept service of the First Amended Complaint on behalf of all Defendants.
- 3. The allegations in the First Amended Complaint are controverted by Defendants.
- 4. Defendants shall respond to the First Amended Complaint within fourteen (14) days of the Court entering an Order granting this stipulation.

DATED: September 27, 2018

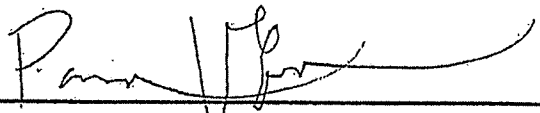
AZADIAN LAW GROUP PC
GEORGE S. AZADIAN
ANI AZADIAN
EDRIK MEHRABI

By: 

GEORGE S. AZADIAN
Attorneys for Plaintiffs TIFFANY GRETLER,
LAURA CARMONA, SHELIA TAYLOR,
SHALYSE KEMP, and the Class

DATED: September 27, 2018

SEYFARTH SHAW LLP
CHRISTIAN J. ROWLEY
KERRY FRIEDRICHS
PARNIAN VAFABENIA

By: 

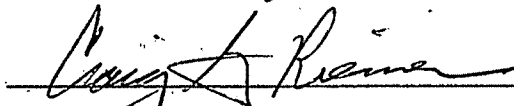
PARNIAN VAFABENIA
Attorneys for Defendant Kaiser Foundation
Health Plan, Inc.

[PROPOSED] ORDER

Based on the foregoing Stipulation, and for good cause shown, IT IS HEREBY ORDERED:

1. Plaintiff is granted leave to file the First Amended Complaint, attached as Exhibit A to the Stipulation reached by the parties. *Plaintiff shall do so forthwith.*
2. The allegations in the First Amended Complaint are controverted by Defendants. *shall*
3. Counsel for Defendant *will* accept service of the First Amended Complaint and Defendants shall respond within fourteen (14) days of the receipt of the notice of entry of this Order. *service of the summons + complaint.*

Dated: *September 29*, 2018



 HON. CRAIG G. RIEMER
 JUDGE OF THE SUPERIOR COURT

EXHIBIT A

EXHIBIT A

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6 Attorneys for Plaintiffs,
7 TIFFANY GRETHER, LAURA CARMONA, SHELIA TAYLOR, SHALYSE KEMP,
8 and the Class

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF RIVERSIDE

11 TIFFANY GRETHER, an individual on
12 behalf of herself and all others similarly
13 situated; LAURA CARMONA, an
14 individual on behalf of herself and all
others similarly situated; SHELIA
TAYLOR an individual on behalf of
herself and all others similarly situated;
SHALYSE KEMP an individual on
behalf of herself and all others similarly
situated

15 Plaintiffs,

16 v.

17 KAISER FOUNDATION HEALTH
18 PLAN, INC., a corporation; ; KAISER
19 FOUNDATION HOSPITALS, a
20 corporation; SOUTHERN
CALIFORNIA PERMANENTE
MEDICAL GROUP, a partnership; and
DOES 1 through 10 inclusive,

21 Defendants.

CASE NO. RIC1805047

[Assigned for all purposes to the Hon. Craig
G. Riemer, Dept. 5]

**PLAINTIFFS' [PROPOSED] FIRST
AMENDED CLASS ACTION
COMPLAINT FOR:**

1. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CALIFORNIA LABOR CODE §§ 510, 1194, 1198, 1199 AND WAGE ORDER 4-2001
2. VIOLATION OF CALIFORNIA LABOR CODE §§ 226.7 AND 512 AND WAGE ORDER 4-2001 (MEAL PERIODS)
3. VIOLATION OF CALIFORNIA LABOR CODE § 226.7 AND WAGE ORDER 4-2001 (REST PERIODS)
4. VIOLATION OF CALIFORNIA LABOR CODE § 226(a) (NON-COMPLIANT WAGE STATEMENTS)
5. FAILURE TO PAY ALL WAGES OWED UPON TERMINATION IN VIOLATION OF CALIFORNIA LABOR CODE §§ 201-203
6. VIOLATIONS OF CALIFORNIA LABOR CODE SECTION 2698 ET SEQ. - THE PRIVATE ATTORNEYS GENERAL ACT OF 2004
7. VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200
8. VIOLATIONS OF THE FLSA

JURY TRIAL DEMANDED

1 Plaintiffs Tiffany Gretler, Laura Carmona, Shelia Taylor, and Shalyse Kemp
2 (together, "Plaintiffs") allege as follows on knowledge as to their own acts/interactions,
3 and on information and belief as to all other matters:

4 **JURISDICTION AND VENUE**

5 1. This Court has personal jurisdiction over Defendants because they each
6 conduct business in the State of California.

7 2. Under California Code of Civil Procedure section 395(a), venue is proper in
8 this County because Defendants do business in this County and the harm to Plaintiffs
9 occurred in this County.

10 **PARTIES**

11 3. Plaintiff Tiffany Gretler ("Plaintiff Gretler") at all times relevant hereto,
12 was and is a resident of the State of California.

13 4. Plaintiff Laura Carmona ("Plaintiff Carmona") at all times relevant hereto,
14 was and is a resident of the State of California.

15 5. Plaintiff Shelia Taylor ("Plaintiff Taylor") at all times relevant hereto, was
16 and is a resident of the State of California.

17 6. Plaintiff Shalyse Kemp ("Plaintiff Kemp") at all times relevant hereto, was
18 and is a resident of the State of California.

19 7. Plaintiffs are informed and believe that Defendant Kaiser Foundation
20 Health Plan, Inc. ("KFHP") and Defendant Kaiser Foundation Hospitals ("KFH") are
21 corporations organized and existing under the laws of California, with their principal
22 place of business located at 1 Kaiser Plaza, Oakland, California.

23 8. Plaintiffs are informed and believe that Defendant Southern California
24 Permanente Medical Group ("SCPMG") is organized as a partnership under the laws of
25 California, with its principal place of business located in Los Angeles County at 393 East
26 Walnut Street, Pasadena, California.

27 9. Defendants KFHP, KFH and SCPMG, if not separately noted are
28 hereinafter collectively referred to as "Defendants."

1 10. The true names and capacities of the defendants named herein as Does 1
 2 through 10, inclusive, whether individual, corporate, associate or otherwise, are unknown
 3 to Plaintiffs who therefore sues such defendants by fictitious names pursuant to
 4 California Code of Civil Procedure section 474. Plaintiffs are informed and believe that
 5 all of the Doe defendants are California residents. Plaintiffs will amend this Complaint to
 6 show such true names and capacities when they have been determined.

7 11. Plaintiffs are informed and believe that at all times relevant herein, each
 8 defendant designated, including Does 1 through 10, was the agent, managing agent,
 9 principal, owner, partner, joint venture, representative, manager, servant, employee
 10 and/or co-conspirator of each of the other defendants, and was at all times mentioned
 11 herein acting within the course and scope of said agency and employment, and that all
 12 acts or omissions alleged herein were duly committed with the ratification, knowledge,
 13 permission, encouragement, authorization and consent of each defendant designated
 14 herein.

15 **PLAINTIFFS' FACTUAL ALLEGATIONS**

16 12. Plaintiffs are current and former employees of Defendants with the job title
 17 of "National Timekeeping Coordinator" also sometimes referred to as "Time System
 18 Coordinator."

19 13. Since approximately 2015, all Timekeeping Coordinators worked from a
 20 centralized location at a call center in Corona, California.

21 14. Plaintiff Gretler started as a Timekeeping Coordinator in approximately
 22 December of 2015.

23 15. Plaintiff Carmona started as a Timekeeping Coordinator in approximately
 24 August of 2017.

25 16. Plaintiff Taylor started as a Timekeeping Coordinator in approximately
 26 April of 2016 until she stopped working in that position and changed formal employers
 27 from Defendant KFHP to Defendant SCPMG in approximately May of 2018.
 28

1 17. Plaintiff Kemp started as a Timekeeping Coordinator in approximately July
2 of 2015.

3 18. Defendants misclassified Plaintiffs and all other Timekeeping Coordinators
4 as exempt employees not entitled to overtime pay.

5 19. Timekeeping Coordinators are not required to have any college degree
6 (neither Plaintiff Gretler nor Plaintiff Carmona have a college degree), professional
7 certificates or licenses, and they do not manage or supervise other employees.

8 20. Plaintiffs and the other Timekeeping Coordinators were micromanaged
9 employees who do not spend the majority of their working time exercising discretion or
10 independent judgment in performing their duties.

11 21. Plaintiffs and the other Timekeeping Coordinators engage in routine and
12 repetitive tasks that do not involve any significant time being spent on a comparison and
13 evaluation of possible courses of conduct and acting or making a decision after the
14 various possibilities have been considered.

15 22. As detailed below, the job duties of Plaintiffs and the other Timekeeping
16 Coordinators consist mainly of: (1) answering a high volume of calls and providing set
17 responses during their scheduled hours at work; (2) repetitive data entry related to
18 processing standardized payroll forms; and (3) repetitive processing of pay period
19 adjustments.

20 23. In total, Plaintiffs and other Timekeeping Coordinators work approximately
21 15-30 hours a week of overtime (hours in excess of eight (8) hours a day or forty (40)
22 hours a week) and are not compensated for overtime due to their misclassification as
23 exempt employees.

24 24. In order to work from home, Defendants provides Plaintiffs and other
25 Timekeeping Coordinators with a laptop that is taken home with the employee, and
26 brought back to work for their scheduled call center hours (the same computer is used at
27 work through a docking station at the call center).

28

1 25. With regard to answering a high volume of calls and generally providing
2 set responses, Plaintiffs and other Timekeeping Coordinators generally spend over 80-
3 90% of the hours they are scheduled to work at the Corona call center answering calls.

4 26. Plaintiffs and the other Timekeeping Coordinators, answer calls from
5 Defendants' managers and the managers from Defendants' affiliated/controlled
6 companies or organizations who are considered "timekeepers" or "approvers" of
7 employees' timecards. These managers include timekeepers or approvers from
8 Defendants' affiliated Kaiser entities.

9 27. Plaintiffs and the other Timekeeping Coordinators generally answer
10 approximately 400 or more calls a month (ranging from 20-40 calls a day). In addition,
11 Timekeeping Coordinators can also email their questions and Plaintiffs and the other
12 Timekeeping Coordinators largely respond with template email responses (5-10 emails a
13 day with similar questions that can be asked over the phone).

14 28. There is a thirty (30) second rest period between calls to finalize any notes
15 or send out a template email to the manager who called. Thereafter, Plaintiffs and the
16 other Timekeeping Coordinators are marked as "available" to receive another call.

17 29. If Plaintiffs or the other Timekeeping Coordinators are not ready for a call
18 they must electronically designate themselves as not ready for a call. In the event
19 Plaintiffs or the other Timekeeping Coordinators electronically designate themselves as
20 not ready for a call for any period other than their designated lunch time, a supervisor
21 will see why they are not ready.

22 30. Even the times when Plaintiffs and the other Timekeeping Coordinators are
23 permitted to have a meal is micromanaged by management in order to ensure they are
24 answering repetitive and routine calls.

25 31. Defendants tracks how many seconds it takes Plaintiffs and the other
26 Timekeeping Coordinators to answer the phone (speed to answer) and track the number
27 of calls received and number of calls answered. If a Timekeeping Coordinator is below
28

1 the average or quota set for the number of calls, they are reprimanded and face
2 termination.

3 32. Plaintiffs and the other Timekeeping Coordinators are required to be at
4 their desk at all times during their scheduled shifts. If Plaintiffs are not on calls during
5 their scheduled hours for more than ten to fifteen (10-15) minutes, a manager will “ping”
6 the employee (through Skype) to determine why they are not on the phone.

7 33. Calls will generally last for five (5) minutes and if a call lasts fifteen (15)
8 minutes, a manager will “ping” the employee to inquire why the call has not been
9 completed because the answers provided are generally very routine and should not take
10 any significant amount of time to ascertain.

11 34. A very large portion of the calls from managers are responded to with
12 simple, form responses either verbally or through template emails. For example, the
13 following are routine calls generally received by Plaintiffs and other Timekeeping
14 Coordinators that are responded to with standard responses either verbally or through
15 template emails:

- 16 a. Can you walk me through how to do a pay period adjustment?
17 b. Can you remove the HK60 error message?
18 c. How do I code holiday on a timecard?
19 d. I can't clock in for work, I'm getting an error.
20 e. Can you reset my password?
21 f. My computer is frozen, what do I do?
22 g. Can you tell me how to review my time card?
23 h. How do I approve my employees' timecards?
24 i. I sent a Form 3646 form yesterday. Do you know when it will be
25 processed?
26 j. Is an employee eligible for a shift differential if the employee is
27 scheduled for night shifts but works days?

28 35. When a manager/timekeeper has a question related to a specific employee
or an employee calls with a question (such as if they are eligible for a specific holiday),
Plaintiffs and other Timekeeping Coordinators enter the employee's ID number and the
database called “My HR” directs them to the applicable collective bargaining agreement

1 and pay practice policy for the specific employee to obtain the answer. This function
2 does not require anything more than the use of skill in applying well-established
3 techniques, procedures and specific standards described in manuals or other sources that
4 Plaintiffs and other Timekeeping Coordinators are directed to for any specific employee.

5 36. Plaintiffs and other Timekeeping Coordinators cannot make changes to
6 timecards without manager/timekeeper approval.

7 37. Plaintiffs are informed and believe that Defendants operate another call
8 center where non-exempt hourly employees (National Payroll Coordinators) provide a
9 similar function related to questions and issues pertaining to employees' rate of pay or
10 whether the employee was underpaid or overpaid based on their rates of pay.

11 38. With regard to the repetitive data entry related to processing standardized
12 payroll forms (generally done during the thirty (30) minute period they are permitted to
13 be off the phone for lunch and from home after the employees' scheduled call center
14 hours), Plaintiffs and other Timekeeping Coordinators would generally spend ten (10)
15 hours a week in addition to their scheduled call center hours performing data entry. This
16 data entry is for Forms 3644 and 3646. On average, Plaintiffs and other Timekeeping
17 Coordinators complete the data entry for approximately 350 forms a month.

18 39. Form 3644 is a form completed by an employee who requests to view their
19 own time card. The employee fills out the form then the Timekeeping Coordinators view
20 the form on "Case Manager" (a program that is part of My HR) before entering the
21 information from the Form 3644 into "Mainframe" (the centralized time system used by
22 Defendants).

23 40. Form 3646 is a form used to add a new employee or if an employee
24 transfers. This form is filled out by the newly hired or recently transferred employee's
25 manager. A manager/ timekeeper fills out the form then the Timekeeping Coordinators
26 view the form on "Case Manager" (a program that is part of My HR) before entering the
27 information from the Form 3646 into "Mainframe" (the centralized time system used by
28 Defendants).

1 41. Plaintiffs are informed and believe that Defendants utilize non-exempt
2 hourly employee to conduct the similar data entry related to Form 3645 (a form used to
3 change a primary approver or adding an alternate approver).

4 42. With regard to the repetitive processing of pay period adjustments
5 (generally done during the thirty (30) minute period they are permitted to be off the
6 phone for lunch and from home after the employees' scheduled call center hours),
7 Plaintiffs and other Timekeeping Coordinators generally spend another five (5) hours a
8 week in addition to their scheduled call center hours processing pay period adjustments.
9 On average, Plaintiffs and other Timekeeping Coordinators process approximately 525
10 pay period adjustments a month.

11 43. A pay period adjustment is needed when a manager/timekeeper incorrectly
12 codes time (such as inputting overtime when it was not overtime) or when an employee
13 forgets to punch in or punch out. The pay period adjustment is submitted by the
14 manager/timekeeper through Mainframe. Plaintiffs and other Timekeeping Coordinators
15 merely see if the adjustment is positive (resulting in increased money to the employee).
16 If the adjustment is positive, Timekeeping Coordinators select approve and the
17 information is sent to Defendants' payroll for processing. If the adjustment is negative
18 (resulting in decreased money to the employee), Timekeeping Coordinators send a
19 template email to the manager/timekeeper to have a form authorization signed by the
20 employee, obtains the authorization once it is returned, and transmits the authorization to
21 payroll for processing.

22 **CLASS ACTION ALLEGATIONS**

23 44. This class action is filed under the provisions of Code of Civil Procedure
24 section 382, which provides that a class action may be brought when the question is one
25 of common interest to many persons, or when the number of persons is numerous and it
26 is impractical to bring them all before the court. This action is properly maintained as a
27 class action as set forth below.

1 45. Plaintiffs brings this action on behalf of themselves and all others similarly
2 situated in the "Class", as follows:

3 **All persons within California who worked for any of the Defendants as**
4 **in the position of "National Timekeeping Coordinator," "Time Systems**
5 **Coordinator," or persons with similar titles and/or similar job duties at**
6 **any time on or after March 13, 2014.**

7 46. Plaintiffs reserve the right to amend the class definition to seek recovery on
8 behalf of additional persons as warranted as facts are learned through further
9 investigation and discovery.

10 47. Numerosity: Plaintiffs do not know the number of members in the
11 proposed class, but believe, based on Defendants' number of Timekeeping Coordinators,
12 turnover of employees during the statutory period, and investigation of counsel, that the
13 number is approximately 150 employees, if not substantially higher. Thus, joinder of all
14 members of the Class is impractical due to the number of members and relatively small
15 value of each member's claim.

16 48. Typicality: Plaintiffs' claims are typical of the claims of each member of
17 the Class because Plaintiffs work and/or worked for Defendants as Timekeeping
18 Coordinators, were improperly classified as exempt employees, worked more than eight
19 (8) hours in a day and/or forty (40) hours in a week during their employment, did not
20 receive any overtime compensation, and did not receive meal and rest periods in
21 compliance with the requirements of California law.

22 49. Commonality: The members of the Class share a well-defined community
23 of interest regarding questions of law and fact, which predominate over questions that
24 may affect individual members of the Class. These common questions of law and fact
25 include (but are not limited to):

26 (a) Whether Defendants can meet their burden of proving that it
27 properly classified Timekeeping Coordinators as exempt;

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(b) Whether Defendants paid Plaintiffs and members of the Class for all hours Defendants suffered and/or permitted them to work;

(c) Whether Defendants required Plaintiffs and members of the Class to work over eight (8) hours per day and/or over forty (40) hours per week, and failed to pay the legally required overtime compensation;

(d) Whether Defendants required Plaintiffs and members of the Class to work over twelve (12) hours per day and/or over forty (40) hours per week, and failed to pay the legally required overtime compensation;

(e) Whether Defendants falsely informed Plaintiffs and members of the Class that they were exempt employees not entitled to overtime compensation;

(f) Whether Defendants provided Plaintiffs and members of the Class with laptops and remote access so that they could continue to work from home late into the night or during the weekends;

(g) Whether Defendants and its management regularly witnessed Plaintiffs and members of the Class leaving the office after much longer than eight (8) hours of work;

(h) Whether Defendants knew or should have known that Plaintiffs and members of the Class were entitled to receive certain wages for overtime compensation;

(i) Whether Defendants failed to timely pay all wages due to Plaintiffs and members of the Class during their employment;

(j) Whether Defendants engaged in unfair business practices in violation of California Business & Professions Code sections 17200, et seq.;

(k) Whether Plaintiffs and the class are entitled to compensatory damages pursuant to the California Labor Code; and

(l) The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violations of California law.

1 50. Predominance: The questions that are common to all class members
2 predominate over any questions that are unique to individual class members because the
3 answers to these questions will determine Defendants' liability to all class members and
4 any remaining individual questions with respect to amounts of relief may be resolved by
5 reference to Defendants' payroll records or a damages phase of the case.

6 51. Superiority: A class action is vastly superior to other available means for
7 the fair and efficient adjudication of class members' claims. Because this case involves
8 large numbers of employees, most, if not all, of whom have relatively small individual
9 claims, it would be beneficial to the parties and this Court to allow them to
10 simultaneously and efficiently prosecute their common claims in a single forum without
11 the unnecessary duplication of effort and expense that numerous individual actions would
12 entail. Additionally, because the monetary amounts due to many individual class
13 members are likely to be relatively small, it would make it difficult, if not impossible, for
14 individual class members to both seek and obtain relief. Moreover, a class action will
15 serve an important public interest by permitting class members to effectively pursue the
16 recovery of moneys owed to them. Further, a class action will prevent the potential for
17 inconsistent or contradictory judgments inherent in individual litigation.

18 52. Ascertainable Classes: The members of the Class can be easily ascertained
19 from Defendants' payroll records and other records maintained by Defendants.

20 53. Adequacy Of Class Representatives: Plaintiffs will fairly and adequately
21 represent and protect the interests of the Class in that Plaintiffs have no interests
22 antagonistic to any member of the Class. There are no material conflicts between the
23 claims of Plaintiffs and the members of the Class that would make class certification
24 inappropriate.

25 54. Adequacy Of Class Counsel: Plaintiffs have retained counsel experienced
26 in handling class action claims and wage & hour claims.

FIRST CAUSE OF ACTION

**FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CALIFORNIA
LABOR CODE §§ 510, 1194(A), 1198, 1199 AND WAGE ORDER 4-2001
(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)**

55. Plaintiffs incorporate by this reference all the preceding and subsequent paragraphs.

56. At all relevant times, the California Industrial Wage Orders and California Code of Regulations were in effect and binding on Defendants.

57. Subdivision 3 of Wage Order 4-2001 provides that:

(A) Daily Overtime – General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1 ½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek.; and

(b) Double the employee’s regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in

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excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

(c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one fortieth (1/40) of the employee's weekly salary.

58. At all relevant times, Labor Code § 510 was in effect and binding on Defendants. The pertinent part of Labor Code § 510 provides that:

(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

59. At all relevant times, California Labor § 1194 was in effect and binding on Defendants. Labor Code § 1194 provides in relevant part:

(a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's, and costs of suit.

60. At all relevant times, California Labor § 218.5 was in effect and binding on Defendants. Labor Code § 218.5 provides in relevant part:

1 In any action brought for the nonpayment of wages, fringe benefits, or
2 health and welfare or pension fund contributions, the court shall award
3 reasonable attorney's fees and costs to the prevailing party if any party to
4 the action requests attorney's fees and costs upon the initiation of the
5 action.

6 61. At all relevant times, Plaintiffs and members of the Class were
7 misclassified as exempt employees.

8 62. At all relevant times, Plaintiffs and members of the Class were subject to
9 the overtime provisions of the California Industrial Welfare Commission's Wage Orders.

10 63. Throughout their employment, Plaintiffs and members of the Class
11 regularly and with Defendants' knowledge worked more than eight (8) hours in working
12 day. Plaintiffs allege that they sometimes even worked more than 12 hours in a working
13 day.

14 64. Plaintiffs allege that Defendants did not pay 1 1/2 times the legal minimum
15 hourly wage rate for all the hours worked over eight (8) hours in a work day and/or 40
16 hours in a work week. Plaintiffs allege that Defendants did not pay two times the legal
17 minimum hourly rate for all the hours worked over 12 hours in a work day.

18 65. During the relevant time period, Defendants intentionally and willfully
19 failed to pay for all hours Defendants suffered and/or permitted Plaintiffs and members of
20 the Class to work, including for overtime hours.

21 66. Plaintiffs and members of the Class allege that wages are due to them for
22 all hours worked during which they were not paid proper overtime wages pursuant
23 California Labor Code §§ 510 and 1194 and all applicable laws, rules, orders,
24 requirements and regulations.

25 67. Plaintiffs and members of the Class demand all applicable reimbursements,
26 interest and penalties for her lost overtime wages. Plaintiffs and members of the Class
27 further demand reasonable attorneys' fees and costs of suit pursuant to California Labor
28 Code §§ 218.5, 1194, and any other applicable statute or regulation.

SECOND CAUSE OF ACTION

**VIOLATION OF CALIFORNIA LABOR CODE SECTIONS 226.7, 512 AND
WAGE ORDER 4-2001 (MEAL PERIODS)**

(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)

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5 68. Plaintiffs incorporate by this reference all preceding and subsequent
6 paragraphs.

7 69. California Labor Code section 512(a) states (in relevant part): “An
8 employer may not employ an employee for a work period of more than five (5) hours per
9 day without providing the employee with a meal period of not less than 30 minutes,
10 except that if the total work period per day of the employee is no more than six hours, the
11 meal period may be waived by mutual consent of both the employer and employee.”

12 70. Section 11(A) of the applicable Industrial Welfare Commission Wage
13 Orders provides (in relevant part): “No employer shall employ any person for a work
14 period of more than five (5) hours without a meal period of not less than 30 minutes,
15 except that when a work period of not more than six (6) hours will complete the day’s
16 work the meal period may be waived by mutual consent of the employer and the
17 employee.”

18 71. California Labor Code section 226.7(b) provides: “If an employer fails to
19 provide an employee a meal period or rest period in accordance with an applicable order
20 of the Industrial Welfare Commission, the employer shall pay the employee one
21 additional hour of pay at the employee’s regular rate of compensation for each work day
22 that the meal or rest period is not provided.”

23 72. Defendants worked Plaintiffs and members of the Class more than five (5)
24 hours per day without an off-duty, timely, and/or uninterrupted 30-minute meal period as
25 required by California Labor Code section 512 and section 11 of the applicable Industrial
26 Welfare Commission Wage Order.

27 73. Plaintiffs and members of the Class demand all applicable reimbursements,
28 interest, and penalties.

THIRD CAUSE OF ACTION

VIOLATION OF CALIFORNIA LABOR CODE § 226.7 AND WAGE ORDER 4-2001 (REST PERIODS)

(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)

74. Plaintiffs incorporate by this reference all preceding and subsequent paragraphs.

75. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California Industrial Welfare Commission.

76. At all relevant times, the applicable Wage Order provides that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period” and that the “rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof unless the total daily work time is less than three and one-half (3 ½) hours.”

77. During the relevant time period, Defendants required Plaintiffs and members of the Class to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

78. During the relevant time period, Defendants willfully required Plaintiffs and members of the Class to work during rest periods and failed to pay the full rest period premium for work performed during rest periods.

79. During the relevant time period, Defendants failed to pay Plaintiffs and members of the Class the full rest period premium due pursuant to California Labor Code section 226.7. Defendants’ conduct violates applicable Wage Orders and California Labor Code section 226.7.

80. Pursuant to the applicable Industrial Welfare Commission Wage Order and California Labor Code section 226.7(b), Plaintiffs and members of the Class are entitled

1 to recover from Defendants one additional hour of pay at the employee's regularly hourly
2 rate of compensation for each work day that the rest period was not provided.

3 81. Plaintiffs and members of the Class demand all applicable reimbursements,
4 interest, and penalties.

5 **FOURTH CAUSE OF ACTION**

6 **VIOLATION OF CALIFORNIA LABOR CODE § 226(a)**

7 **(NON-COMPLIANT WAGE STATEMENTS)**

8 **(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)**

9 82. Plaintiffs incorporate by this reference all preceding and subsequent
10 paragraphs.

11 83. At all material times set forth herein, California Labor Code section 226(a)
12 provides that every employer shall furnish each of his employees an accurate itemized
13 statement in writing showing (1) gross wages earned, (2) total hours worked by the
14 employee, (3) the number of piece-rate units earned and any applicable piece rate if the
15 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions
16 made on written orders of the employee may be aggregated and shown as one item, (5)
17 net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7)
18 the name of the employee and his or her social security number, (8) the name and address
19 of the legal entity that is the employer, and (9) all applicable hourly rates in effect during
20 the pay period and the corresponding number of hours worked at each hourly rate by the
21 employee.

22 84. Due to their misclassification as an exempt employee, Defendants
23 intentionally and willfully failed to provide Plaintiffs and members of the Class with
24 complete and accurate wage statements. The deficiencies include, but are not limited to:
25 the failure to include total hours worked by the employee.

26 85. As a result, Plaintiffs and members of the Class have suffered injury and
27 damage to their statutory-protected rights.

1 86. Plaintiffs and members of the Class demand damages under California
2 Labor Code section 226 of an aggregate penalty not exceeding four thousand dollars per
3 employee.

4 **FIFTH CAUSE OF ACTION**

5 **FAILURE TO PAY ALL WAGES OWED UPON TERMINATION IN**
6 **VIOLATION OF CALIFORNIA LABOR CODE §§ 201-203**
7 **(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)**

8 87. Plaintiffs incorporate by this reference all preceding and subsequent
9 paragraphs.

10 88. At all relevant times, California Labor Code sections 201-203 provide that
11 if an employer discharges an employee, the wages earned and unpaid at the time of
12 discharge are due and payable immediately, and if an employee quits his or her
13 employment, his or her wages shall become due and payable not later than seventy-two
14 (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his
15 or her intention to quit, in which case the employee is entitled to his or her wages at the
16 time of quitting.

17 89. As Plaintiff and other members of the class were denied wages owed to
18 them (based on being misclassified as exempt employees), they were not paid all wages
19 owed to them at the time of their termination or resignation.

20 90. During the relevant time period, and as alleged above, Defendants
21 intentionally and willfully failed to pay Plaintiff and other members of the Class their
22 wages, earned and unpaid, within the required time period.

23 91. Plaintiffs are informed and believe that other members of the Class were
24 not paid their final wages immediately upon their termination or within seventy-two (72)
25 hours of their resignation, is in violation of California Labor Code sections 201 and 202.

26 92. On information and belief, Plaintiffs contends that Defendants' failure to
27 pay all wages earned upon termination in accordance with Labor Code section 201 was
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1 willful. At all times relevant, Defendants had the ability to pay all earned and unpaid
2 wages in accordance with Labor Code section 201 but intentionally chose not to comply.

3 93. California Labor Code section 203 provides that if an employer willfully
4 fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the
5 employee shall continue as a penalty from the due date thereof at the same rate until paid
6 or until an action is commenced; but the wages shall not continue for more than thirty
7 (30) days.

8 94. Pursuant to Labor Code § 218.5, Plaintiff and members of the Final Wages
9 Class are entitled to recover the full amount of their unpaid wages, waiting time penalties,
10 reasonable attorneys' fees, and costs of suit. Plaintiff and the other members of the Final
11 Wages Class are entitled to recover interest on all due and unpaid wages and waiting time
12 penalties under Labor Code § 218.6 and/or Civil Code § 3287(a).

13 **SIXTH CAUSE OF ACTION**

14 **PRIVATE ATTORNEYS GENERAL ACT OF 2004, LABOR CODE SECTION**
15 **2698 ET SEQ.**

16 **(REPRESENTATIVE ACTION BY PLAINTIFFS AGAINST DEFENDANTS)**

17 95. Plaintiffs incorporate by this reference all preceding and subsequent
18 paragraphs.

19 96. Plaintiffs seek penalties pursuant to PAGA for based on Defendants'
20 following violation of the California Labor Code:

- 21 (a) California Labor Code sections 510, 1194, 1198, and Wage Order 4-
- 22 2001 (underpayment of overtime wages);
- 23 (b) California Labor Code sections 226.7, 512, and Wage Order 4-2001
- 24 (failure to authorize/provide meal and rest periods);
- 25 (c) California Labor Code section 226 (non-compliant wage
- 26 statements); and
- 27 (d) California Labor Code sections 201-203 (failure to pay all wages
- 28 upon resignation or termination).

1 97. Plaintiffs seek civil penalties due to Plaintiffs, other aggrieved employees,
2 and the State of California according to proof, pursuant to the California Labor Code,
3 including California Labor Code §§ 2699(a) and 2699(f), which provides for \$100 for
4 each initial violation and \$200 for each subsequent violation per employee pay period.

5 98. Plaintiffs were compelled to retain the services of counsel to file this action
6 to protect Plaintiffs' interests and the interests of other similarly aggrieved employees,
7 and to assess and collect the civil penalties owed by Defendants. Plaintiffs have thereby
8 incurred attorneys' fees and costs, which Plaintiffs are entitled to recover under
9 California Labor Code § 2699(g).

10 **SEVENTH CAUSE OF ACTION**

11 **VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200**
12 **(BY PLAINTIFFS AND THE CLASS AGAINST DEFENDANTS)**

13 99. Plaintiffs incorporate by this reference all preceding and subsequent
14 paragraphs.

15 100. Business and Professions Code § 17200, et seq. ("UCL"), defines unfair
16 competition to include any "unfair," "unlawful," or "fraudulent" business practice.

17 101. At all times relevant herein the UCL was in full force and effect and
18 binding on Defendants.

19 102. The actions alleged herein by Defendants were "unlawful" under the UCL
20 based on the violations of each of the statutes and regulations alleged herein.

21 Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful
22 and harmful to Plaintiffs, members of the Class, the general public, and to Defendants'
23 competitors.

24 103. Plaintiffs and members of the Class have been personally injured by
25 Defendants' unlawful business acts and practices as alleged herein, including, but not
26 necessarily limited to, the loss of money and/or property.

27 104. Pursuant to California Business & Professions Code sections 17200, et seq.,
28 Plaintiffs and members of the Class are entitled to restitution of the wages withheld and

1 retained by Defendants, an injunction requiring Defendants to appropriate classify the
2 Class as non-exempt employees, and an injunction requiring Defendants to pay all
3 outstanding wages due to Plaintiffs and class members.

4 **EIGHTH CAUSE OF ACTION**

5 **FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF FAIR LABOR**
6 **STANDARDS ACT**

7 **(BY PLAINTIFF AND THE CLASS AGAINST DEFENDANTS)**

8 105. Plaintiffs bring this action under the Fair Labor Standards Act (“FLSA”),
9 29 U.S.C. §§ 201 et seq., on behalf of themselves and all similarly situated current and
10 former Time System Coordinators who elect to opt into this action pursuant to the
11 collective action provision of the FLSA, 29 U.S.C. § 216(b)

12 106. At all relevant times, Plaintiffs and other similarly situated current and
13 former Time System Coordinators were engaged in commerce and/or the production of
14 goods for commerce within the meaning of 29 U.S.C. §§ 206(a) and 207(a).

15 107. The overtime wage provisions set forth in §§ 201 et seq. of the FLSA apply
16 to Defendants.

17 108. Defendants were and are employers of Plaintiffs and other similarly
18 situated current and former Time System Coordinators and are engaged in commerce
19 and/or the production of goods for commerce within the meaning of 29 U.S.C. §§ 206(a)
20 and 207(a).

21 109. At all relevant times, Plaintiffs and other similarly situated current and
22 former Time System Coordinators were and are employees within the meaning of 29
23 U.S.C. §§ 203(e) and 207(a).

24 110. Defendants have failed to pay Plaintiffs and other similarly situated current
25 and former Time System Coordinators the wages to which they were entitled under the
26 FLSA.

27 111. Defendants’ violations of the FLSA, as alleged herein, have been willful
28 and intentional. Because Defendants’ violations of the FLSA have been willful, a three-

1 year statute of limitations applies, pursuant to 29 U.S.C. § 255, as it may be tolled or
2 extended by agreement, equity or operation of law.

3 .112. As a result of Defendants' willful violations of the FLSA, Plaintiff and
4 other similarly situated current and former Time System Coordinators have suffered
5 damages by being denied wages in accordance with 29 U.S.C. §§ 201 et seq., in amounts
6 to be determined at trial or through undisputed record evidence, and are entitled to
7 recovery of such amounts, liquidated damages, prejudgment interest, attorneys' fees,
8 costs, and other compensation pursuant to 29 U.S.C. § 216(b).

9 **JURY TRIAL DEMANDED**

10 113. Plaintiffs demand a jury trial.

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PRAYER FOR RELIEF

114. WHEREFORE, Plaintiffs respectfully requests the Court grant Plaintiffs and the members of the Class the following relief against Defendants:

- (e) For an order certifying each of the Class under California Code of Civil Procedure section 382;
- (f) For appointment of Plaintiffs as representatives of the Class;
- (g) For general economic and non-economic damages according to proof;
- (h) For special damages according to proof;
- (i) For prejudgment interest pursuant to California Civil Code section 3287 and/or California Civil Code section 3288 and/or any other provision of law providing for prejudgment interest;
- (j) For attorneys' fees where allowed by law;
- (k) For costs of suit incurred herein; and
- (l) For such other and further relief as this Court deems just and proper.

Dated: September 27, 2018

Respectfully submitted,
AZADIAN LAW GROUP, PC



By: _____
George S. Azadian
Attorneys for Plaintiffs,
TIFFANY GRETHER, LAURA CARMONA,
SHELIA TAYLOR, SHALYSE KEMP, and
the Proposed Class

EXHIBIT M

EXHIBIT M

George

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

OCT 02 2018

S. Salazar *SS*

BA 2

OCT 04 2018

AZADIAN LAW GROUP, PC
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Attorneys for Plaintiffs,
TIFFANY GRETLER, LAURA CARMONA, SHELIA TAYLOR, SHALYSE KEMP,
and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

TIFFANY GRETLER, an individual on behalf of herself and all others similarly situated; LAURA CARMONA, an individual on behalf of herself and all others similarly situated; SHELIA TAYLOR an individual on behalf of herself and all others similarly situated; SHALYSE KEMP an individual on behalf of herself and all others similarly situated

CASE NO. RIC1805047

PROOF OF SERVICE

Plaintiffs,

v.

KAISER FOUNDATION HEALTH PLAN, INC., a corporation; and DOES 1 through 10 inclusive,

Defendants.

FAXED

PROOF OF SERVICE

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I reside in the State of California. I am over the age of 18. My business address is 790 E. Colorado Blvd., 9th Floor, Pasadena, California 91101.

On September 27, 2018, I served the foregoing documents described as:

1. STIPULATION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT [Cal. Code. Civ. Proc. § 472]; AND [PROPOSED] ORDER

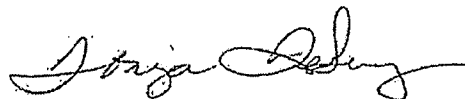
on all interested parties in this action by placing a true and accurate copy thereof, enclosed in a sealed envelope, addressed as follows:

Christian J. Rowley
Kerry Friedrichs
Elizabeth J. MacGregor
SEYFARTH SHAW LLP
560 Mission Street, 31st Floor
San Francisco, California 94105

xxxx **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid in the ordinary course of business. 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.

xxxx **(STATE):** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 27, 2018, at Pasadena, California.



TONYA DEGRUY

EXHIBIT N

EXHIBIT N

RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Minute Order

Case Name: GRETLER VS KAISER FOUNDATION	
Riverside Civil	Class Action-Complex Case (Riverside)
Case Number: RIC1805047	File Date: 3/13/2018
Action Date: 10/11/2018	Action Time: 8:30 AM
Department: 05	
Action Description: Status Conference	
Hearing Continued (Not Held) to 12/03/18 at 8:30 in Department 05.	
Reason for continuance: per minute order on 10/2/18	

RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Minute Order

Case Name: GRETLER VS KAISER FOUNDATION	
Riverside Civil	Class Action-Complex Case (Riverside)
Case Number: RIC1805047	File Date: 3/13/2018
Action Date: 10/9/2018	Action Time: 3:54 PM
Department: N/A	
Action Description: Answer to 1st Amended Complaint of GRETLER by KAISER FOUNDATION HEALTH PLAN INC, KAISER FOUNDATION HOSPITALS, SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROU P represented by SEYFARTH SHAW filed. (Over \$25,000.00)	
Receipt: 181009-0526 \$900.00	

RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Minute Order

Case Name: GRETLER VS KAISER FOUNDATION	
Riverside Civil	Class Action-Complex Case (Riverside)
Case Number: RIC1805047	File Date: 3/13/2018
Action Date: 10/9/2018	Action Time: 2:53 PM
Department: N/A	
Action Description: Returned Document: ANSWER submitted by KAISER FOUNDATION HEALTH PLAN INC.	
The court is unable to process the enclosed document(s) for the reason(s) indicated below: Other: KAISER FOUNDATION HEALTH PLAN INC IS THE ONLY PARTY LISTED ON THE COMPLAINT. REJECT NOTICE PRINTED	

RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Minute Order

Case Name: GRETLER VS KAISER FOUNDATION	
Riverside Civil	Class Action-Complex Case (Riverside)
Case Number: RIC1805047	File Date: 3/13/2018
Action Date: 10/3/2018	Action Time: 10:24 AM
Department: N/A	
Action Description: Returned Document: SUMMONS submitted by TIFFANY GRETLER.	
The court is unable to process the enclosed document(s) for the reason(s) indicated below: DOCUMENT DOES NOT STATE SUMMONS IS AS TO 1ST AMENDED COMPLAINT ISSUED. REJECT NOTICE PRINTED	

RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Minute Order

Case Name: GRETLEK VS KAISER FOUNDATION	
Riverside Civil	Class Action-Complex Case (Riverside)
Case Number: RIC1805047	File Date: 3/13/2018
Action Date: 10/2/2018	Action Time: 8:00 AM
Department: 05	
Action Description: Court on its Own Motion: Continues Status Conference	
<p>Honorable Judge Craig G. Riemer, Presiding</p> <p>Clerk: S. Salazar</p> <p>Court Reporter: None</p> <p>On Court's Own Motion:</p> <p>The Status Conference set for 10/11/18 is ordered continued to 12/03/18 at 8:30 in Department 05.</p> <p>Notice to be given by Clerk</p> <p>Minute entry completed.</p>	

RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Minute Order

Case Name: GRETLEK VS KAISER FOUNDATION	
Riverside Civil	Class Action-Complex Case (Riverside)
Case Number: RIC1805047	File Date: 3/13/2018
Action Date: 10/1/2018	Action Time: 3:51 PM
Department: N/A	
Action Description: Stipulation and Order for Leave to File First Amended Complaint is Granted ; Honorable Judge Craig G. Riemer.	
30 days Leave to Amend.	

RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Minute Order

Case Name: GRETLER VS KAISER FOUNDATION	
Riverside Civil	Class Action-Complex Case (Riverside)
Case Number: RIC1805047	File Date: 3/13/2018
Action Date: 9/27/2018	Action Time: 2:16 PM
Department: N/A	
Action Description: Stipulation and Order Fee Paid by TIFFANY GRETLER	
Receipt: 180927-0333 \$20.00	

RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Minute Order

Case Name: GRETLER VS KAISER FOUNDATION	
Riverside Civil	Class Action-Complex Case (Riverside)
Case Number: RIC1805047	File Date: 3/13/2018
Action Date: 9/26/2018	Action Time: 3:39 PM
Department: N/A	
Action Description: Returned Document: 1ST AMENDED COMPLAINT submitted by TIFFANY GRETLER.	
The court is unable to process the enclosed document(s) for the reason(s) indicated below: LEAVE OF COURT IS REQUIRED TO FILE A 1ST AMENDED COMPLAINT AS AN ANSWER IS ON FILE. REJECT NOTICE PRINTED	

RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Minute Order

Case Name: GRETLEK VS KAISER FOUNDATION	
Riverside Civil	Class Action-Complex Case (Riverside)
Case Number: RIC1805047	File Date: 3/13/2018
Action Date: 8/17/2018	Action Time: 8:30 AM
Department: 05	
Action Description: Status Conference	
Notice sent to AZADIAN LAW GROUP PC on 5/24/18	
Notice sent to SEYFARTH SHAW on 5/24/18	
Hearing Continued (Not Held) to 10/11/18 at 8:30 in Department 05.	
Reason for continuance: Pursuant to Order filed on 8/16/18	

RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Minute Order

Case Name: GRETLER VS KAISER FOUNDATION	
Riverside Civil	Class Action-Complex Case (Riverside)
Case Number: RIC1805047	File Date: 3/13/2018
Action Date: 5/21/2018	Action Time: 8:30 AM
Department: 05	
Action Description: Case Management Conference Hearing - Complex Case.	
<p>Notice sent to AZADIAN LAW GROUP PC on 3/19/18</p> <p>Honorable Judge Craig G. Riemer, Presiding</p> <p>Clerk: S. Salazar</p> <p>Court Reporter: S. Detwiler</p> <p>TIFFANY GRETLER, LAURA CARMONA, SHEILA TAYLOR, SHALYSE KEMP represented by AZADIAN LAW GROUP PC - George Azadian present.</p> <p>KAISER FOUNDATION HEALTH PLAN INC represented by SEYFARTH SHAW - Christian Rowley present.</p> <p>At 8:32, the following proceedings were held:</p> <p>Court has read and considered Joint Statement filed.</p> <p>Court makes the following orders:</p> <p>Discovery stay is ordered lifted.</p> <p>Status Conference Set: 08/17/18, @ 8:30 in Department 05</p> <p>Stat Count: Pretrial conference</p> <p>Hearing held: Pre-disposition hearing.</p> <p>Notice waived.</p> <p>Minute entry completed.</p>	

RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Minute Order

Case Name: GRETLEK VS KAISER FOUNDATION	
Riverside Civil	Class Action-Complex Case (Riverside)
Case Number: RIC1805047	File Date: 3/13/2018
Action Date: 4/19/2018	Action Time: 2:30 PM
Department: N/A	
Action Description: Answer to Complaint of GRETLEK by KAISER FOUNDATION HEALTH PLAN INC represented by SEYFARTH SHAW filed. (Over \$25,000.00)	
Receipt: 180419-0362 \$450.00	

RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Minute Order

Case Name: GRETLER VS KAISER FOUNDATION	
Riverside Civil	Class Action-Complex Case (Riverside)
Case Number: RIC1805047	File Date: 3/13/2018
Action Date: 3/15/2018	Action Time: 3:01 PM
Department: N/A	
Action Description: Class Action Case Management Order #1; Honorable Judge Craig G. Riemer	
Notice to be given by clerk.	
Notice sent to AZADIAN LAW GROUP PC on 3/15/18	

RIVERSIDE SUPERIOR COURT

PUBLIC ACCESS

Minute Order

Case Name: GRETLEK VS KAISER FOUNDATION	
Riverside Civil	Class Action-Complex Case (Riverside)
Case Number: RIC1805047	File Date: 3/13/2018
Action Date: 3/13/2018	Action Time: 3:41 PM
Department: N/A	
Action Description: Complaint Filed - Class Action. (Riverside)	
Receipt: 180313-0483 \$450.00	

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7 Attorneys for Defendants
KAISER FOUNDATION HEALTH PLAN, INC.,
8 KAISER FOUNDATION HOSPITALS, AND
SOUTHERN CALIFORNIA PERMANENTE
9 MEDICAL GROUP

10
11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13

14 TIFFANY GRETHER, an individual on
15 behalf of herself and all others similarly
situated; LAURA CARMONA, an
16 individual on behalf of herself and all others
similarly situated; SHELIA TAYLOR an
17 individual on behalf of herself and all others
similarly situated; SHALYSE KEMP an
18 individual on behalf of herself and all others
similarly situated,

19 Plaintiffs,

20 v.

21 KAISER FOUNDATION HEALTH PLAN,
22 INC., a corporation; KAISER
FOUNDATION HOSPITALS, a
23 corporation; SOUTHERN CALIFORNIA
PERMANENTE MEDICAL GROUP, a
24 partnership; and DOES 1 through 10
inclusive,

25 Defendants.
26

Case No.

PROOF OF SERVICE

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 560 Mission Street, 31st Floor, San Francisco, California 94105. On October 12, 2018, I served the within document(s):

DEFENDANTS KAISER FOUNDATION HEALTH PLAN, INC., KAISER FOUNDATION HOSPITALS, AND SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP'S NOTICE OF REMOVAL OF CIVIL ACTION

- I sent such document from facsimile machines (415) 397-8549 on October 12, 2018. I certify that said transmission was completed and that all pages were received and that a report was generated by said facsimile machine which confirms said transmission and receipt. I, thereafter, mailed a copy to the interested party(ies) in this action by placing a true copy thereof enclosed in sealed envelope(s) addressed to the parties listed below.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California, addressed as set forth below.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- by placing the document(s) listed above, together with an unsigned copy of this declaration, in a sealed envelope or package provided by an overnight delivery carrier with postage paid on account and deposited for collection with the overnight carrier at San Francisco, California, addressed as set forth below.
- by transmitting the document(s) listed above, electronically, via the e-mail addresses set forth below.
- electronically by using the Court's ECF/CM System.

George S. Azadian, Esq.
Ani Azadian, Esq.
Edrik Mehrabi, Esq.
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790 E. Colorado Boulevard, 9th Floor
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Attorneys for Plaintiffs
TIFFANY GRETHER, LAURA CARMONA,
SHELIA TAYLOR and SHALYSE KEMP

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. 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

1 for mailing in affidavit.

2 I declare under penalty of perjury under the laws of the State of California that the
3 above is true and correct. Executed on October 12, 2018, at San Francisco, California.

4 

5 _____
6 Jennifer Doctor

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Time System Coordinators Sue Over Allegedly Unpaid Wages](#)
