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14 ATTORNEYS FOR PLAINTIFF  
15 AND THE PUTATIVE CLASS

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
17 **FOR THE COUNTY OF SAN FRANCISCO**

18 APRIL CLARK, on behalf of herself, all  
19 other similarly situated and typical  
20 individuals, and the general public,

21 Plaintiff,

22 vs.

23 DIGNITY HEALTH; COMMONSPIRIT  
24 HEALTH; and DOES 1 through 50,  
25 inclusive,

26 Defendants.

Case No. CGC-23-605244

**SECOND AMENDED CLASS AND  
REPRESENTATIVE ACTION  
COMPLAINT, CCP §382**

- 1) Failure to Reimburse Necessary Expenses in Violation of Labor Code § 2802;
- 2) Private Attorneys General Act Violations, Labor Code §§ 2698 et seq.; and
- 3) Unfair Business Practices in Violation of Business and Professions Code § 17200, et seq.

**JURY TRIAL DEMANDED**

27 Plaintiff APRIL CLARK, on behalf of herself and all other similarly situated and typical  
28 persons, and the general public, alleges the following:

All allegations in this Complaint are based upon information and belief except for those  
allegations that pertain to the Plaintiff named herein and her counsel. Each allegation in this

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco

**09/21/2023**  
Clerk of the Court  
BY: MADELLE MACADANGDANG  
Deputy Clerk

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1 Complaint either has evidentiary support or is likely to have evidentiary support after a reasonable  
2 opportunity for further investigation and discovery.

3 **JURISDICTION AND VENUE**

4 1. The Superior Court of the State of California, for the County of San Francisco, has  
5 original jurisdiction over the state law claims alleged herein pursuant to the California Constitution.

6 2. Venue is proper in this Court because one or more of the Defendants named herein  
7 maintains a principal place of business at 185 Berry Street, Suite 300, San Francisco, California,  
8 94107.

9 **PARTIES**

10 3. Plaintiff APRIL CLARK is a natural person who has been employed by Defendant  
11 as a non-exempt hourly-paid employee in Stockton, California, from on or about April 19, 2010  
12 to the present.

13 4. Defendant DIGNITY HEALTH is a domestic non-profit corporation with a  
14 principal place of business at 185 Berry Street, Suite 300, San Francisco, California, 94107.

15 5. Defendant COMMONSPIRIT HEALTH is a domestic non-profit corporation with  
16 a principal place of business at 444 W Lake Street, Suite 2500, Chicago, Illinois, 60606.  
17 Collectively, DIGNITY HEALTH and COMMONSPIRIT HEALTH are referred to as  
18 “Defendants.”

19 6. The identity of DOES 1-50 is unknown at this time, and this Complaint will be  
20 amended at such time when the identities are known to Plaintiff. Plaintiff is informed and believe  
21 that each of the Defendants sued herein as DOE is responsible in some manner for the acts,  
22 omissions, or representations alleged herein, and any reference to “Defendant” or “Defendants”  
23 herein shall mean “Defendants and each of them.”

24  
25 **FACTUAL ALLEGATIONS**

26 7. Defendants own and operate the St. Joseph’s Medical Center (“St. Joseph’s”) at  
27 1800 N. California Street, Stockton, California 95204. St. Joseph’s is a not-for-profit regional  
28 hospital with 355 beds, physician staff of nearly 900, and more than 2,300 employees. St.

1 Joseph’s specializes in cardiovascular care, comprehensive cancer services, and women’s and  
2 children’s services, including neonatal intensive care. It is the largest hospital and one of the  
3 largest private employers in San Joaquin County.

4 8. Plaintiff is employed by Defendants as a Patient Account Representative II and  
5 has been employed by Defendants in her current position throughout the relevant period. As a  
6 Patient Account Representative II, it is Plaintiff’s responsibility to process, validate, and edit  
7 medical claims so Defendants can receive reimbursement for the claims. Plaintiff works within  
8 Defendants’ Patient Financial Services (“PFS”) department.

9 ***Defendants Fail To Reimburse Remote PFS Employees For Employer-Related Expenses.***

10 9. Shortly after the start of the pandemic, in or around March 2020, Defendants  
11 directed Plaintiff and other employees within the PFS department to begin working remotely.  
12 Specifically, Defendants directed all PFS employees, with the exception of supervisors, cash  
13 postings employees, and two support clerks (with PFS employees directed to work remotely  
14 hereinafter collectively referred to as “Remote PFS Employees”), to work from home indefinitely.

15 10. While Defendants required Remote PFS workers to occasionally come into the  
16 office to complete discrete tasks (such as checking mail), and Defendants maintained a limited  
17 number of “floater” workstations for Remote PFS Employees who might occasionally need to  
18 come into the office to perform work, Defendants did not give these newly designated Remote  
19 PFS Employees the option to continue working full-time in Defendants’ physical locations—  
20 instead requiring these employees to perform the bulk of their work tasks remotely.

21 11. Plaintiff and other similarly situated employees within the PFS department have  
22 continued to work remotely since Defendants sent them home in March 2020, and, in or around  
23 October 2022, Defendants informed their Remote PFS Employees that their remote designation  
24 was no longer temporary and that they would be required to continue working remotely on a  
25 permanent basis.

26 12. The work performed by Plaintiff and all other Remote PFS Employees requires  
27 the use of internet and phone services to complete.

28

1           13. Defendants assign and supervise the performance of this work and are aware that  
2 the work requires the use of internet and phone services.

3           14. Despite knowing that their remote workers would necessarily incur expenses for  
4 internet and phone services performing remote work for Defendants, Defendants failed to  
5 reimburse Plaintiff and similarly situated employees within the Patient Financial Services  
6 department for these expenses.

7           15. In or around September 2021, Plaintiff first learned that Defendants maintained a  
8 company policy providing for limited reimbursement of expenses to remote workers under certain  
9 conditions. Specifically, Defendant’s policy allowed for reimbursement of cell phone and internet  
10 expenses up to a maximum of \$50.00 and \$75.00, respectively, per month.

11           16. Shortly following this revelation, Plaintiff submitted an expense report seeking the  
12 maximum amount authorized by Defendants of \$75 per month for internet expenses for each  
13 month that she had worked at home up to that date.

14           17. In support of her request for reimbursement, Plaintiff submitted detailed billing  
15 records with backup showing that she, in fact, spent more than \$75 on internet expenses for each  
16 month that she had worked remotely for Defendants.

17           18. Although Plaintiff had incurred monthly internet expenses in excess of \$75, Plaintiff  
18 was informed that, as a matter of company policy, Defendants would not reimburse amounts higher  
19 than the \$75 monthly limit for internet or \$50 monthly limit for cell phone service even if they had  
20 been incurred as necessary expenses for the performance of the work required by Defendants.

21           19. Defendants further informed Plaintiff that it was Defendants’ policy to only  
22 reimburse employees for expenses incurred within 30 days of the date that an employee submits  
23 a request for reimbursement.

24           20. Based on these policies, and despite the detailed records submitted by Plaintiff,  
25 Defendants refused to reimburse her for the vast majority of her expenses, instead reimbursing  
26 her only \$75 for a single month of internet expenses.

27           21. Plaintiff has continued to incur monthly expenses for internet and cell phone  
28 services that Defendants have continued to fail and refuse to reimburse.

1           22.     Even when Defendants have provided reimbursement, Defendants have artificially  
2 limited reimbursement amounts by refusing to pay the full amount of expenses incurred and by  
3 unilaterally imposing a 30-day limitation on reimbursement claims made by employees.

4           23.     Defendants’ systematic failure to reimburse internet and cell phone expenses  
5 violates California law with respect to employee reimbursement of employer-related expenses.

6           24.     All Remote PFS Employees had similar experiences to those of Plaintiff. They  
7 incurred similar internet and phone expenses and were subject to the same reimbursement policies.

8           25.     The fact that Defendants’ reimbursement policies were instituted and approved by  
9 company managers supports the conclusion that Defendants’ violations were willful. Defendants  
10 have thereby enjoyed ill-gained profits at the expense of their employees.

11                           **CLASS AND REPRESENTATIVE ACTION ALLEGATIONS**

12           26.     Plaintiff realleges and incorporates by this reference all the paragraphs above in  
13 this Complaint as though fully set forth herein.

14           27.     Plaintiff brings this action on behalf of herself and the following class of similarly  
15 situated and typical employees as a class action under Section 385 of the California Code of Civil  
16 Procedure (hereinafter “Class”): **All hourly-paid employees within the Patient Financial  
17 Services department of St. Joseph’s Medical Center who were required to work remotely  
18 for Defendants in the state of California at any time within 4 years from the date of filing  
19 this action until judgment.**

20           28.     Plaintiff reserves the right to amend or otherwise alter the class definition  
21 presented to the Court at the appropriate time, or to propose or eliminate sub-classes, in response  
22 to facts learned through discovery, legal arguments advanced by Defendants or otherwise.

23           29.     Class treatment is appropriate under Section 385’s class certification mechanism  
24 because:

25                 a.     The Class is Sufficiently Numerous: Upon information and belief,  
26 Defendants employ, and have employed, in excess of 60 Class Members within the  
27 applicable time period. Because Defendants are legally obligated to keep accurate payroll  
28

1 records, Plaintiff alleges that Defendants’ records will establish the members of the Class  
2 as well as its numerosity.

3 b. Plaintiff’s Claims are Typical to Those of Fellow Class Members: Each  
4 Class Member is and was subject to the same practices, plans, or policies as Plaintiff,  
5 which give rise to the shared claim that Defendants failed to adequately reimburse Plaintiff  
6 and members of the Class for their internet and phone expenses.

7 c. Common Questions of Law and Fact Exist: Common questions of law and  
8 and fact exist and predominate as to Plaintiff and the Class Members, including, without  
9 limitation: Whether Defendants’ reimbursement policies violate California’s  
10 reimbursement laws and whether Defendants’ failure to reimburse supports the derivative  
11 claims alleged herein.

12 d. Plaintiff is an Adequate Representative of the Class: Plaintiff will fairly and  
13 adequately represent the interests of the proposed Class because Plaintiff is a member of the  
14 Class, she has issues of law and fact in common with all members of the Class, and her  
15 interests are not antagonistic to Class. Plaintiff and her counsel are aware of their fiduciary  
16 responsibilities to Class Members and are determined to discharge those duties diligently  
17 by vigorously seeking the maximum possible recovery for Class Members.

18 e. Predominance/Superior Mechanism: Class claims predominate, and a class  
19 action is superior to other available means for the fair and efficient adjudication of this  
20 controversy. Each Class Member has been damaged and is entitled to recovery by reason  
21 of Defendants’ illegal policy and/or practice of failing to reimburse its employees in  
22 accordance with California wage and hour law. The prosecution of individual remedies  
23 by each Class Member will tend to establish inconsistent standards of conduct for  
24 Defendants and result in the impairment of Class Members’ rights and the disposition of  
25 their interest through actions to which they are not parties.

26 **FIRST CAUSE OF ACTION**

27 **Failure to Reimburse Necessary Expenses in Violation of Labor Code § 2802**

28 (On Behalf of Plaintiff and the Class Against Defendants)



1 failure to reimburse necessary expenses: California Labor Code § 2802 as well as the orders of  
2 the Industrial Wage Commission.

3 36. Each of these violations entitles Plaintiff, as a private attorney general, to recover  
4 the applicable statutory civil penalties on her own behalf, on behalf of all aggrieved employees,  
5 and on behalf of the general public.

6 37. California Labor Code §2699 (a), which is part of PAGA, provides in pertinent  
7 part:

8 notwithstanding any other provision of law, any provision of this  
9 code that provides for a civil penalty to be assessed and collected by  
10 the Labor and Workforce Development Agency or any of its  
11 departments, divisions, commissions, boards, agencies, or  
12 employees, for a violation of this code, may, as an alternative, be  
recovered through a civil action brought by an aggrieved employee  
on behalf of himself or herself and other current or former  
employees pursuant to the procedures specified in Section 2699.3.

13 38. California Labor Code § 2699 (F), which is part of PAGA, provides in pertinent  
14 part:

15 for all provisions of this code except for those for which a civil  
16 penalty is specifically provided, there is established a civil penalty  
17 for a violation of these provisions, as follows: ...

18 (2) If, at the time of the alleged violation, the person employs  
19 one or more employees, the civil penalty is one hundred dollars  
20 (\$100) for each aggrieved employee per pay period for the initial  
violation and two hundred (\$200) for each for each aggrieved  
employee per pay period for each subsequent violation.

21 39. Plaintiff and all aggrieved employees are entitled to civil penalties, to be paid by  
22 Defendants and allocated as PAGA requires, pursuant to California Labor Code § 2699(a) for  
23 Defendants' violations of the California Labor Code and IWC Wage Orders for which violations  
24 a civil penalty is already specifically provided by law; and Plaintiff is entitled to civil penalties,  
25 to be paid by Defendants and allocated as PAGA requires, pursuant to California Labor Code  
26 §2699 for Defendants' violations of the California Labor Code and IWC Wage Orders for which  
27 violations a civil penalty is not already specifically provided.  
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**THIRD CAUSE OF ACTION**

**Unfair Business Practices in Violation of Business and Professions Code § 17200, et seq.**

(On Behalf of Plaintiff and the Class Against Defendant)

40. Plaintiff realleges and incorporates by this reference all the paragraphs above in this Complaint as though fully set forth herein.

41. By the conduct described throughout this Complaint, Defendants have violated the provisions of the California Labor Code as specified and have engaged in unlawful, deceptive, and unfair business practices prohibited by California Business & Professions Code § 17200, et seq. Defendants' use of such practices resulted in greatly decreased labor costs and constitutes an unfair business practice, unfair competition, and provides an unfair advantage over Defendants' competitors who comply with California law and reimburse their employees for necessary expenses.

42. The unlawful and unfair business practices complained of herein are ongoing and present a threat and likelihood of continuing against Defendants' current employees as well as other members of the general public. Plaintiff and Class Members are therefore entitled to injunctive and other equitable relief against such unlawful practices in order to prevent future damage and to avoid a multiplicity of lawsuits. Accordingly, Plaintiff and the Class Members request a preliminary and permanent injunction prohibiting Defendants from the unfair practices complained of herein.

43. Defendants generated income as a direct result of the above-mentioned unlawful and unfair business practices. Plaintiff and the Class Members are therefore entitled to restitution of any and all monies withheld, acquired, and/or converted by Defendants by means of the unfair and unlawful practices complained of herein.

44. As a result, Plaintiff and Class Members seek restitution of their unreimbursed employment expenses, in addition to interest, attorneys' fees, and costs, as necessary and according to proof. Plaintiff seeks the appointment of a receiver, as necessary, to establish the total monetary relief sought from Defendants.

**JURY DEMAND**

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Plaintiff hereby respectfully demands a trial by jury on all issues so triable.

**PRAYER FOR RELIEF**

Wherefore Plaintiff, individually and on behalf of all Class Members and all others similarly situated and typical employees, and the general public, prays for relief as follows:

1. For an order certifying this action as a class action on behalf of the proposed Class;
2. For an order appointing Plaintiff as the Representative of the Class and for an order appointing their counsel as Class Counsel;
3. For reimbursement of all employment expenses incurred;
4. For statutory penalties;
5. For civil penalties;
6. For penalties pursuant to PAGA;
7. For interest as provided by law at the maximum legal rate;
8. For reasonable attorneys’ fees authorized by statute;
9. For costs of suit incurred herein;
10. For pre-judgment and post-judgment interest, as provided by law, and
11. For such other and further relief as the Court may deem just and proper.

DATED: September 21, 2023

THIERMAN BUCK LLP

s/ Joshua R. Hendrickson  
Mark R. Thierman  
Joshua D. Buck  
Joshua R. Hendrickson  
Leah L. Jones  
*Attorneys for Plaintiff*