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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN JOAQUIN**

ROSA MARIA GARCIA, as an individual  
and on behalf of all others similarly  
situated,

Plaintiffs,

vs.

THE PERMANENTE MEDICAL  
GROUP, INC., a California corporation;  
and DOES 1 through 50, inclusive,

Defendants.

Case No.:

**CLASS AND REPRESENTATIVE ACTION  
COMPLAINT FOR DAMAGES FOR:**

- (1) VIOLATION OF CAL. LABOR CODE §  
226(a);
- (2) VIOLATION OF CAL. LABOR CODE §§  
2698, *ET SEQ.*;

**DEMAND OVER \$25,000.00**

STK-CV UDE -2019- 10008

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ROSA JUNQUEIRO, CLERK  
BY *[Signature]* DEPUTY

# 1435-00 / 452894

1 Plaintiff Rosa Maria Garcia ("Plaintiff") hereby submits this Class and Representative  
2 Action Complaint ("Complaint") against Defendant The Permanente Medical Group, Inc.  
3 ("Defendant") and Does 1 through 50 (hereinafter collectively referred to as "Defendants"), on  
4 behalf of herself and a class of all other similarly situated current and former employees of  
5 Defendants for civil and statutory penalties under the California Labor Code as follows:

### 6 INTRODUCTION

7 1. This class and representative action is within the Court's jurisdiction under  
8 California Labor Code sections 226 and 2698 *et seq.*

9 2. This Complaint challenges systemic illegal employment practices resulting in  
10 violations of the California Labor Code against individuals who worked for Defendants.

11 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,  
12 jointly and severally, have acted intentionally and with deliberate indifference and conscious  
13 disregard to the rights of all employees in Defendants' failure to provide accurate itemized wage  
14 statements to Plaintiff and Class Members.

15 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants  
16 have engaged in, among other things a system of willful violations of the California Labor Code  
17 by creating and maintaining policies, practices and customs that knowingly deny employees the  
18 above stated rights and benefits.

### 19 JURISDICTION AND VENUE

20 5. This Court has jurisdiction over the violations of California Labor Code sections  
21 226 and 2698 *et seq.*, and the UCL.

22 6. Venue is proper in San Joaquin County because Defendant provides services in  
23 San Joaquin County, and Plaintiff is currently employed by Defendant in San Joaquin County.

### 24 PARTIES

25 7. Plaintiff began working for Defendant as a Medical Assistant on or about January  
26 4, 2005. Throughout her employment with Defendant, Plaintiff has been a non-exempt, hourly  
27 employee.

28 8. Plaintiff was and is the victim of the policies, practices, and customs of Defendant

1 complained of in this action in ways that have deprived her of the rights guaranteed by California  
2 Labor Code sections 226 and 2698 *et seq.*

3 9. Plaintiff is informed and believes, and based thereon alleges, that The Permanente  
4 Medical Group, Inc. is a California corporation that provides services throughout Northern and  
5 Central California, including locations in Stockton, California.

6 10. Plaintiff is informed and believes, and based thereon alleges, that at all times  
7 herein mentioned Defendants are and were business entities, individuals, and partnerships,  
8 licensed to do business and actually doing business in the State of California. As such, and based  
9 upon all the facts and circumstances incident to Defendants' business, Defendants are subject to  
10 the California Labor Code.

11 11. Plaintiff does not know the true names or capacities, whether individual, partner  
12 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,  
13 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this  
14 complaint when the true names and capacities are known. Plaintiff is informed and believes and  
15 based thereon alleges that each of said fictitious defendants was responsible in some way for the  
16 matters alleged herein and proximately caused Plaintiff and members of the general public and  
17 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

18 12. At all times herein mentioned, each of said Defendants participated in the doing  
19 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the  
20 Defendants, and each of them, were the agents, servants and employees of each of the other  
21 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were  
22 acting within the course and scope of said agency and employment.

23 13. Plaintiff is informed and believes, and based thereon alleges, that at all times  
24 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or  
25 joint venturer of, or working in concert with each of the other co-Defendants and was acting  
26 within the course and scope of such agency, employment, joint venture, or concerted activity. To  
27 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the  
28 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting

1 Defendants.

2 14. At all times herein mentioned, Defendants, and each of them, were members of,  
3 and engaged in, a joint venture, partnership and common enterprise, and acting within the course  
4 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

5 15. At all times herein mentioned, the acts and omissions of various Defendants, and  
6 each of them, concurred and contributed to the various acts and omissions of each and all of the  
7 other Defendants in proximately causing the injuries and damages as herein alleged. At all times  
8 herein mentioned, Defendants, and each of them, ratified each and every act or omission  
9 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and  
10 abetted the acts and omissions of each and all of the other Defendants in proximately causing the  
11 damages as herein alleged.

12 **CLASS ACTION ALLEGATIONS**

13 16. **Definition:** The named individual Plaintiff seeks class certification, pursuant to  
14 California Code of Civil Procedure section 382. Plaintiff proposes the following class: all current  
15 and former non-exempt employees of Defendant in the State of California who were paid  
16 overtime adjustment wages at any time between August 1, 2018, through the present (the  
17 "Class").

18 17. **Numerosity:** The members of the Class are so numerous that joinder of all  
19 members would be impractical, if not impossible. The identity of the members of the Class is  
20 readily ascertainable by review of Defendant's records, including payroll records. Plaintiff is  
21 informed and believes, and based thereon alleges, that Defendant failed to provide accurate  
22 itemized wage statements to employees in violation of Labor Code section 226.

23 18. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all  
24 necessary steps to represent fairly and adequately the interests of the Class defined above.  
25 Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the Class and  
26 Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past  
27 and currently have a number of wage-and-hour class actions pending in California state and  
28 federal courts.

1           19. Defendant uniformly administered a corporate policy, practice of failing to  
2 provide accurate itemized wage statements to Plaintiff and the Class in violation of Labor Code  
3 section 226.

4           20. **Common Question of Law and Fact:** There are predominant common questions  
5 of law and fact and a community of interest amongst Plaintiff and the claims of the Class  
6 concerning Defendant's policy and practice of failing to provide proper wage statements to  
7 Plaintiff and the Class in violation of Labor Code section 226.

8           21. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the  
9 Class in that Plaintiff suffered the harm alleged in this Complaint in a similar and typical manner  
10 as the Class Members. As with other California non-exempt employees, Plaintiff was not  
11 provided proper and accurate itemized wage statements, in violation of Labor Code section  
12 226(a). Specifically, whenever overtime adjustment wages (which is an overtime wage payment)  
13 were paid, the corresponding wage statements did not identify the rates of pay and applicable  
14 number of hours worked. Accordingly, Plaintiff is a victim of Defendant's violation of California  
15 Labor Code section 226.

16           22. The California Labor Code section upon which Plaintiff bases these claims is  
17 broadly remedial in nature. These laws and labor standards serve an important public interest in  
18 establishing minimum working conditions and standards in California. These laws and labor  
19 standards protect the average working employee from exploitation by employers who may seek  
20 to take advantage of superior economic and bargaining power in setting onerous terms and  
21 conditions of employment.

22           23. The nature of this action and the format of laws available to Plaintiff and  
23 members of the Class identified herein make the class action format a particularly efficient and  
24 appropriate procedure to redress the wrongs alleged herein. If each employee were required to  
25 file an individual lawsuit, the corporate defendants would necessarily gain an unconscionable  
26 advantage since it would be able to exploit and overwhelm the limited resources of each  
27 individual plaintiff with their vastly superior financial and legal resources. Requiring each Class  
28 Member to pursue an individual remedy would also discourage the assertion of lawful claims by

1 employees who would be disinclined to file an action against their former and/or current  
2 employer for real and justifiable fear of retaliation and permanent damage to their careers at  
3 subsequent employment.

4 24. The prosecution of separate actions by the individual Class Members, even if  
5 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect  
6 to individual Class Members against Defendants and which would establish potentially  
7 incompatible standards of conduct for Defendants, and/or (b) adjudications with respect to  
8 individual Class Members which would, as a practical matter, be dispositive of the interest of the  
9 other Class Members not parties to the adjudications or which would substantially impair or  
10 impede the ability of the Class Members to protect their interests. Further, the claims of the  
11 individual members of the Class are not sufficiently large to warrant vigorous individual  
12 prosecution considering all of the concomitant costs and expenses.

13 25. Such a pattern, practice and uniform administration of corporate policy regarding  
14 illegal payroll practices described herein is unlawful and creates an entitlement to recovery by  
15 Plaintiff and the Class identified herein, in a civil action, for applicable penalties, reasonable  
16 attorneys' fees, and costs of suit according to the mandate of California Labor Code section 226  
17 and Code of Civil Procedure section 1021.5.

18 26. Proof of a common business practice or factual pattern, which the named Plaintiff  
19 experienced and is representative of, will establish the right of each of the members of the  
20 Plaintiff Class to recovery on the causes of action alleged herein.

21 **FIRST CAUSE OF ACTION**

22 **VIOLATION OF LABOR CODE § 226**

23 **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

24 27. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 26 as  
25 though fully set forth herein.

26 28. Defendant failed in its affirmative obligation to provide accurate itemized wage  
27 statements. Defendant, as a matter of policy and practice, did not provide accurate records in  
28 violation of Labor Code section 226(a).

1        29. Plaintiff and Class Members were paid on an hourly basis. As such, the wage  
2 statements provided to them should have reflected all applicable hourly rates in effect during the  
3 pay period and the corresponding number of hours worked at each hourly rate. The wage  
4 statements provided to Plaintiff and the Class failed to accurately identify such information.  
5 More specifically, whenever overtime adjustment wages (which is an overtime wage payment)  
6 were paid to Class Members, the corresponding wage statement did not identify the applicable  
7 rate of pay or number of hours worked for those wages.

8        30. Such a pattern, practice and uniform administration of corporate policy as  
9 described herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class  
10 identified herein in a civil action, for all penalties pursuant to Labor Code section 226, including  
11 interest thereon, attorneys' fees, and costs of suit according to the mandate of California Labor  
12 Code section 226.

13                    **SECOND CAUSE OF ACTION**

14                    **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

15                    **(BY PLAINTIFF, ON BEHALF OF THE STATE AND AGGRIEVED EMPLOYEES,**  
16                    **AGAINST ALL DEFENDANTS)**

17        31. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 30 as  
18 though fully set forth herein.

19        32. Plaintiff brings this cause of action as a proxy for the State of California and in  
20 this capacity, seeks penalties on behalf of all Aggrieved Employees from July 15, 2018, through  
21 the present, for Defendant's policy and practice of failing to provide proper wage statements in  
22 violation of Labor Code section 226(a).

23        33. On or about July 15, 2019, Plaintiff sent written notice to the California Labor &  
24 Workforce Development Agency ("LWDA") of Defendant's violations of Labor Code section  
25 226(a), pursuant to Labor Code section 2698, *et seq.*, the Private Attorney General Act  
26 ("PAGA"). To date, the LWDA has not responded to Plaintiff's written notice.

27        34. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any  
28 and all applicable civil penalties for Defendant's violation of Labor Code section 226(a) for the

1 time period described above, on behalf of herself and other Aggrieved Employees.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf  
4 this suit is brought against Defendants, jointly and severally, as follows:

- 5 1. For an order certifying the proposed Class;
- 6 2. For an order appointing Plaintiff as the representative of the Class;
- 7 3. For an order appointing counsel for Plaintiff as Class Counsel;
- 8 4. Upon the First Cause of Action, for penalties pursuant to California Labor Code  
9 section 226, and for costs and attorneys' fees;
- 10 5. Upon the Second Cause of Action, for civil penalties according to proof pursuant  
11 to Labor Code section 2698, *et seq.*, and for costs and attorneys' fees;
- 12 6. On all causes of action for attorneys' fees and costs as provided by California  
13 Labor Code sections 226 and 2699, and Code of Civil Procedure section 1021.5; and
- 14 7. For such other and further relief the Court may deem just and proper.

15  
16 DATED: August 1, 2019

DIVERSITY LAW GROUP, P.C.

17  
18 By: 

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Attorneys for Plaintiff and the Class