IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

Sharon McRee, *individually and on behalf of a class of similarly situated individuals,* Plaintiff, vs. CarePartners HHA, LLLP, CarePartners Rehab Hospital, LLC, MH Angel Medical Center, LLLP, MH Asheville Specialty Hospital, LLC, MH Blue Ridge Medical Center, LLLP, MH Eckerd Living Center, LLLP, MH Highlands-Cashiers Medical Center, LLLP, MH Hospital Manager, LLC, MH Mission Hospital McDowell, LLLP, MH Mission Hospital, LLLP, MH Mission Imaging, LLLP, MH Transylvania Regional Hospital, LLLP, Mission Health Community Multispecialty Providers, LLC, and Mission Health Partners, LLC, Defendants.	**SECOND AMENDED CLASS AND COLLECTIVE ACTION COMPLAINT** JURY TRIAL DEMANDED Civil Action No.: 1:24-cv-128

Plaintiff Sharon McRee, *individually on behalf of herself and all others similarly situated*, by and through counsel, upon personal knowledge as to herself, and upon information and belief as to other matters, alleges as follows:

INTRODUCTION

1. This action seeks to recover unpaid compensation and overtime compensation, as well as liquidated damages, penalties, interest, reasonable attorneys' fees, costs, declaratory and injunctive relief, and any other appropriate relief, under the Fair Labor Standards Act ("FLSA"), on behalf of Plaintiff and similarly situated current and former employees employed in by Defendants CarePartners HHA, LLLP, CarePartners Rehab Hospital, LLC, MH Angel Medical Center, LLLP, MH Asheville Specialty Hospital, LLC, MH Blue Ridge Medical Center, LLLP,

MH Eckerd Living Center, LLLP, MH Highlands-Cashiers Medical Center, LLLP, MH Hospital Manager, LLC, MH Mission Hospital McDowell, LLLP, MH Mission Hospital, LLLP, MH Mission Imaging, LLLP, MH Transylvania Regional Hospital, LLLP, Mission Health Community Multispecialty Providers, LLC, and Mission Health Partners, LLC (hereinafter referred to as "Defendants") and who elect to opt into this action pursuant to 29 U.S.C. § 216(b) (the "FLSA Collective," as hereinafter more fully defined).

2. This action also seeks to recover unpaid compensation, as well as interest, costs, and any other appropriate relief, under the North Carolina Wage and Hour Act ("NCWHA"), N.C. Gen. Stat. Ann. §§ 95-25.1, *et seq.,* and state common law unjust enrichment and quantum meruit, on behalf of Plaintiff and similarly situated current and former employees employed by Defendants (the "State Law Class," as hereinafter more fully defined).

JURISDICTION AND VENUE

3. This Court has jurisdiction over Plaintiff's FLSA claims pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216(b).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because Defendants do business in this district and a substantial part of the events or omissions giving rise to Plaintiff's claims occurred here.

5. This Court has supplemental jurisdiction over Plaintiff's state law claims because the North Carolina state law claims arise out of the exact same nucleus of facts and are so related to the FLSA claims as to form part of the same case or controversy. 28 U.S.C. § 1367.

PARTIES

6. Plaintiff Sharon McRee is an individual and a resident of the State of North Carolina. Plaintiff McRee has completed an "Opt-In Consent Form" which is filed as Exhibit A to this Second Amended Complaint and is incorporated by reference herein.

7. Defendants are CarePartners HHA, LLLP, CarePartners Rehab Hospital, LLC, MH Angel Medical Center, LLLP, MH Asheville Specialty Hospital, LLC, MH Blue Ridge Medical Center, LLLP, MH Eckerd Living Center, LLLP, MH Highlands-Cashiers Medical Center, LLLP, MH Hospital Manager, LLC, MH Mission Hospital McDowell, LLLP, MH Mission Hospital, LLLP, MH Mission Imaging, LLLP, MH Transylvania Regional Hospital, LLLP, Mission Health Community Multispecialty Providers, LLC, and Mission Health Partners, LLC. All individual Defendants are entities operating in North Carolina as subsidiaries to HCA Healthcare (a Delaware corporation).

FACTUAL ALLEGATIONS

Defendants' Business and Defendants' Status as Employers

8. Defendants are "employers" of Plaintiff and other members of the FLSA Collective within the meaning of the FLSA.

9. At all times relevant, Defendants were employers covered by North Carolina laws relative to compensation, including the NCWHA, N.C. Gen. Stat. Ann. §§ 95-25.1, *et seq.,* and unjust enrichment and quantum meruit.

10. Defendants utilize non-exempt employees, including Plaintiff and other members of the FLSA Collective and State Law Class, in furtherance of its business purpose.

11. At all times relevant, Defendants were an enterprise within the meaning of 29 U.S.C. § 203(r).

12. At all times relevant, Defendants were an enterprise engaged in commerce or in the production of goods for commerce within the meaning of 29 U.S.C. § 203(s)(1).

13. Defendants operate and control an enterprise engaged in commerce, with annual gross volume of business exceeding $500,000.00.

14. Defendants were an employer of Plaintiff and other members of the FLSA Collective and State Law Class as Defendants exercised the power to hire or fire employees; supervised and controlled the employees' work or conditions of employment; determined employees' rates and methods of payment; and maintained or was required to maintain records, including employment records.

Plaintiff's and the FLSA Collective's
Non-Exempt Employment Statuses with Defendants

15. Plaintiff McRee was employed by Defendant Mission Hospital for approximately twenty years, from approximately July 2002 to July 2022, as a nonexempt, hourly respiratory therapist in Asheville, North Carolina.

16. Plaintiff McRee was primarily a med-surg and neuro-trauma intensive care unit ("ICU") therapist, but also worked occasionally as a floor respiratory therapist.

17. Defendants classified and paid Plaintiff, as well as other members of the FLSA Collective, as nonexempt employees.

18. At all times relevant, Plaintiff and other members of the FLSA Collective were employees within the meaning of 29 U.S.C. § 203(e).

19. At all times relevant, Plaintiff and other members of the FLSA Collective were employees engaged in commerce or in the production of goods for commerce within the meaning of 29 U.S.C. § 207.

Defendants' Failure to Pay for All Hours Worked

20. Plaintiff McRee and other members of the FLSA Collective and State Law Class are expected to clock in and out at the beginning and end of their shifts at Defendants' locations.

21. Accordingly, at the beginning of their workdays, Plaintiff and the members of the FLSA Collective and State Law Class clocked in as required and performed the principal activities of their jobs, but Defendants generally did not pay them for all of their time worked. Similarly, Plaintiff McRee and the members of the FLSA Collective and State Law Class regularly worked, stopped working, and clocked out at the end of their workdays, but Defendants generally did not pay them for all of their time worked. Instead, Defendants paid them based on post-edited, rounded, modified, and inaccurate and/or incomplete records which do not include all compensable work required by, performed for, and to the benefit of Defendants. Defendants willfully manipulated both the beginning and end of shift time records of Plaintiff and the members of the FLSA Collective and State Law Class to reflect less time worked when Defendants submitted these employees' records to payroll, resulting in less time paid than time worked.

22. Although Defendants suffered and permitted Plaintiff and the members of the FLSA Collective and State Law Class to work more than forty (40) hours per workweek, Defendants failed to pay Plaintiff and the members of the FLSA Collective and State Law Class overtime at a rate of one and one-half times the regular rate of pay for all hours worked over forty (40) in a workweek. *See* 29 C.F.R. §§ 785.11, 785.13. Though Plaintiff and the members of the FLSA Collective and State Law Class regularly complete tasks that are required by Defendants, are performed for Defendants' benefit, and constitute part of their principal activities and/or are integral and indispensable to their principal activities before their shift starting times (and after shift ending times), these workers are not paid for the time spent performing these

tasks because Defendants unilaterally deducted this time worked, and Defendants accepted the benefits of this work without compensating them for this work, regardless of the fact that compensable work was completed. *See* 29 C.F.R. §§ 785.11, 785.13. As a result, Plaintiff and the members of the FLSA Collective and State Law Class were not properly paid for many of their hours worked as required by the FLSA and North Carolina law, including the NCWHA, N.C. Gen. Stat. Ann. §§ 95-25.1, *et seq.,* and unjust enrichment and quantum meruit.

23. Plaintiff and the members of the FLSA Collective and State Law Class reasonably expected to be paid for all hourly work completed at the hourly rates they agreed to be paid.

24. At all times relevant, Defendants agreed to pay the members of the State Law Class set hourly wages for the hours that they worked, and Plaintiff and the members of the State Law Class performed work for Defendants with the expectation that they would be paid for all their time worked, but they were not. Defendants have benefited from Plaintiff's and the State Law Class members' work, thereby both unjustly enriching itself at the expense of Plaintiff and the other State Law Class members and rendering its retention of those benefits unjust under the circumstances and violating North Carolina law as to payment of wages, overtime, and prompt payment.

25. Plaintiff McRee, only by way of example, was generally permitted to clock in and start working at 6:23 a.m., and generally did clock in at approximately 6:23 a.m. or shortly thereafter, and began working, performing the principal duties of her healthcare occupation for which Defendants employed her, immediately after clocking in. However, Defendants did not pay Plaintiff until 6:30 a.m. Plaintiff (and the members of the FLSA Collective and State Law Class) was permitted to clock in and begin working up to seven (7) minutes before her shift time, in this example, 6:30 a.m.

26. Plaintiff generally ended her shift around 7:00 p.m. or shortly thereafter, but ending times varied and sometimes Plaintiff was required to work after 7:00 p.m. Plaintiff worked until clocking out. Upon information and belief, to the extent that Plaintiff's shift extended up to seven (7) minutes after the shift ending time, Plaintiff (and the members of the FLSA Collective and State Law Class) would only be paid until 7:00 p.m., as any post-shift work time would be rounded back to the shift ending time.

27. Plaintiff was also routinely not provided an uninterrupted, *bona fide* meal break, despite Defendants automatically deducting thirty (30) minutes from Plaintiff's paycheck each workday for a supposed meal break. However, Plaintiff and others never, or rarely, received an actual break, as they were performing their healthcare and related jobs during the supposed "breaks" that were automatically deducted. Plaintiff almost always worked through what was supposed to be her meal break. Accordingly, this is additional time that Plaintiff and members of the FLSA Collective and State Law Class are performing work required by, performed for, and to the benefit of Defendants without required compensation.

28. Despite Plaintiff and members of the FLSA Collective and State Law Class never, or infrequently, receiving a *bona fide* meal break, Defendants nevertheless automatically deducted thirty (30) minutes from Plaintiff's, the FLSA Collective's, and State Law Class's paychecks even though they were not given a *bona fide* meal period. Moreover, Plaintiff and the members of the FLSA Collective and State Law Class were not trained as to what constituted, and what did not constitute, a *bona fide* meal break, including the FLSA's requirement that "[t]he employee is not relieved if he is required to perform any duties, whether active or inactive, while eating," 29 C.F.R. § 785.19.

29. Defendants' rounding/editing and time manipulation policies have violated and continue to violate Department of Labor regulations which require both that employees' time be rounded "to the nearest 5 minutes, or to the nearest one-tenth or quarter of an hour" and that the method "will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked." 29 C.F.R. § 785.48(b).

30. To that end, Defendants utilize an attendance and/or disciplinary policy to alter the seemingly neutral rounding system in a manner which transforms Defendants' rounding system into a system that is substantially rigged in Defendants' favor. As a result, Plaintiff McRee and other members of the FLSA Collective and State Law Class have not been able to benefit from Defendants' rounding system; instead, the rounding system has resulted in, over a period of time, the failure to pay Plaintiff McRee and other members of the FLSA Collective and State Law Class for all hours worked, in violation of the FLSA, 29 C.F.R. § 785.48(b), and state law.

31. Defendants' intentional pay deprivation and on-the-clock but time deducted deprivation policies/practices are the result of systematic and company-wide policies/practices originating at the corporate level.

32. The additional pre-shift worktime and thirty (30) minute break time work was compensable as overtime or straight time hours worked because the work was required by Defendants and the work was performed for Defendants' benefit and constituted part of employees' principal activities, and/or was a necessary, integral, and indispensable part of their principal activities. Despite this, it was not fully paid on a straight time regular rate basis, nor was overtime for it paid at the rate of one and one-half times the regular rate for the hours worked in excess of forty (40), as required by the FLSA and state law.

Defendants' Record Keeping Violations

33. The FLSA required Defendants to maintain accurate and complete records of employees' time worked and amounts earned and paid. 29 U.S.C. § 211(c); 29 C.F.R. §§ 516.2, 516.5, 516.6, 516.7.

34. Specifically, federal regulations require employers to make and keep payroll records showing information and data such as the employee's name, occupation, time of day and day of week which the workweek begins, regular hourly rate of pay for any week in which overtime compensation is due, hours worked each workday and total hours worked each workweek, total daily or weekly straight time earnings, total premium pay for overtime hours, total wages paid each pay period and date of payment and pay period covered by the payment. 29 C.F.R. § 516.2.

35. Defendants kept records of hours worked by Plaintiff and members of the FLSA Collective and State Law Class. However, at the time that the hours worked by Plaintiff and members of the FLSA Collective and State Law Class were transmitted to payroll for compensation purposes, Defendants willfully and intentionally transmitted post-edited, rounded, modified, and inaccurate and/or incomplete records which do not include pre- and post-shift and/or break time compensable work required by, performed for, and to the benefit of Defendants which had the direct effect of reducing Defendants' labor costs to the detriment of Plaintiff and members of the FLSA Collective and State Law Class. Thus, Defendants willfully and intentionally did not properly record and pay all hours worked in violation of the FLSA's record keeping requirements.

The Willfulness of Defendants' Violations

36. By denying Plaintiff and members of the FLSA Collective overtime compensation and/or the other pay to which they were entitled, as has been discussed above, Defendants' acts were not based upon good faith.

37. Defendants are a large and highly sophisticated employer, fully aware of the requirements of federal and state law with respect to payment of wages. Through legal counsel as well as its in-house legal resources and industry experience and custom, Defendants possessed ample access to the regulations and statutory provisions requiring the proper and prompt payment of overtime compensation under federal laws recited in this Second Amended Complaint, but either failed to seek out such information and guidance or did seek out the information and guidance but failed to adhere to the principles of compliance as required. Defendants therefore knew about the overtime compensation requirements of federal law or acted in reckless disregard as to Defendants' obligations under these laws.

38. Accordingly, Defendants' actions were deliberate and willful, meaning reckless, within the meaning of the FLSA.

39. Defendants' failure to compensate Plaintiff McRee and other members of the FLSA Collective for hours worked more than forty (40) hours per week at "one and one-half times" the employees' "regular rate[s]" of pay constitutes a willful violation of the FLSA, 29 U.S.C. § 207. Plaintiff and members of the FLSA Collective are therefore entitled to liquidated damages equal to the amount of all unpaid compensation, pursuant to 29 U.S.C. § 260, as well as all other statutory and other damages obtainable under the FLSA.

FLSA COLLECTIVE OVERTIME ALLEGATIONS
(As to COUNT ONE)

40. Plaintiff incorporates by reference the forgoing allegations as if fully rewritten herein.

41. Plaintiff brings this case on behalf of a group of employees of Defendants (the "FLSA Collective") who assert claims under the overtime provisions of the FLSA in this case by filing consents to join this action from this group of individuals:

> all current and former hourly, non-exempt employees employed by the following entities in North Carolina from April 25, 2021, through July 27, 2025: CarePartners HHA, LLLP, CarePartners Rehab Hospital, LLC, MH Angel Medical Center, LLLP, MH Asheville Specialty Hospital, LLC, MH Blue Ridge Medical Center, LLLP, MH Eckerd Living Center, LLLP, MH Highlands-Cashiers Medical Center, LLLP, MH Hospital Manager, LLC, MH Mission Hospital McDowell, LLLP, MH Mission Hospital, LLLP, MH Mission Imaging, LLLP, MH Transylvania Regional Hospital, LLLP, Mission Health Community Multispecialty Providers, LLC, and Mission Health Partners, LLC.[1]

42. Such persons are "similarly situated" with respect to Defendants' FLSA violations, in that all were non-exempt employees of Defendants, all were subjected to and injured by Defendants' unlawful practice of failing to pay overtime compensation for all hours worked in excess of forty (40) per workweek, all were subjected to Defendants' unlawful rounding/editing and time manipulation policies, and/or missed, non-taken, or uninterrupted meal break time deduction policies, and all have the same claims against Defendants for unpaid overtime compensation as well as for liquidated damages, attorneys' fees, and costs.

43. Plaintiff McRee and other members of the FLSA Collective are similarly situated because, among other reasons, they are owed overtime from working hours for Defendants and for Defendants' benefit for which they were not paid overtime compensation as a result of

[1] Plaintiff reserves the right to amend and refine the definition of the FLSA Collective members upon whom she seeks to have the Court serve notice based upon further investigation and discovery.

Defendants' time rounding and/or editing policies, and/or *non-bona fide* meal break time deduction policies, and time manipulation practices in conformity with these policies, that lead to less time paid than time worked. Plaintiff McRee will prosecute this action vigorously on their behalf.

44. Plaintiff McRee and other members of the FLSA Collective have been damaged by Defendants' willful refusal to pay at least the federal overtime wage for all overtime hours worked. As a result of Defendants' willful FLSA violations, Plaintiff McRee and other members of the FLSA Collective are similarly situated in that each is entitled to damages, including, but not limited to, unpaid wages, liquidated damages, costs, and attorneys' fees.

45. Plaintiff is entitled to send notice to all potential FLSA Collective members pursuant to Section 216(b) of the FLSA. Upon information and belief, the precise size and identity of the group of potential FLSA Collective members are readily ascertainable from the payroll records, timekeeping records, and/or employee and personnel records of Defendants that Defendants were required to maintain, pursuant to the FLSA. Plaintiff cannot yet state the exact number of similarly-situated persons but avers, upon information and belief, that the group of potential FLSA Collective members consist of approximately one thousand or more persons.

CLASS ACTION ALLEGATIONS
(As to COUNTS TWO AND THREE)

46. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 39, as if fully rewritten herein.

47. Plaintiff also brings this case as a class action pursuant to Fed. R. Civ. P. 23 on behalf of herself and a group of employees of Defendants who assert state law and common law claims (referred to herein as the "State Law Class"), defined as:

> all current and former hourly, non-exempt employees employed by the following entities in North Carolina from April 25, 2021, through July 27, 2025: CarePartners HHA, LLLP, CarePartners Rehab Hospital, LLC, MH Angel Medical Center, LLLP, MH Asheville Specialty Hospital, LLC, MH Blue Ridge Medical Center, LLLP, MH Eckerd Living Center, LLLP, MH Highlands-Cashiers Medical Center, LLLP, MH Hospital Manager, LLC, MH Mission Hospital McDowell, LLLP, MH Mission Hospital, LLLP, MH Mission Imaging, LLLP, MH Transylvania Regional Hospital, LLLP, Mission Health Community Multispecialty Providers, LLC, and Mission Health Partners, LLC.

48. There are questions of law or fact common to the State Law Class, including but not limited to:

(a) Whether Defendants maintained common policies or practices that denied Plaintiff and State Law Class members overtime and non-overtime compensation;

(b) Whether Defendants denied Plaintiff and other members of the State Law Class earned and owed compensation where, among other things, these employees were not paid wages for all of their hours worked to the benefit of Defendant;

(c) Whether Defendants' retention of the wages earned by Plaintiff and other members of the State Law Class results in inequity;

(d) Whether Defendants' denial of Plaintiff's and other members of the State Law Class's earned and owed compensation enriched Defendant;

(e) What amount of monetary relief will compensate Plaintiff and other members of the State Law Class for Defendants' failure to pay all earned and owed overtime and non-overtime compensation when the wages were required to be paid, including but not limited to compensatory damages, liquidated damages (as applicable), attorneys' fees and costs, and interest for violating North Carolina state law.

49. Plaintiff's claims are typical of the claims of other members of the State Law Class. Plaintiff's claims arise out of the same uniform course of conduct by Defendants, and are based on the same legal theories, as the claims of other State Law Class members.

50. The State Law Class, outlined above, is so numerous that joinder of all class members is impracticable. Plaintiff cannot yet state the exact number of class members but avers, upon information and belief, that the State Law Class consists of approximately one thousand or more persons. The number of class members, as well as their identities, are ascertainable from the payroll and personnel records Defendants have maintained, and was required to maintain, pursuant to the FLSA, as set forth above.

51. Plaintiff will fairly and adequately protect the interests of the State Law Class. Plaintiff's interests are not antagonistic to, but rather are in unison with, the interests of other class members. Plaintiff's counsel have broad experience in handling class action litigation, including wage-and-hour litigation, and are fully qualified to prosecute the claims of the State Law Class in this case.

52. The questions of law or fact that are common to the State Law Class predominate over any questions affecting only individual members. The primary questions that will determine Defendants' liability to the State Law Class, listed above, are common to the State Law Class as a whole, and predominate over any questions affecting only individual class members.

53. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Requiring class members to pursue their claims individually would entail a host of separate suits, with concomitant duplication of costs, attorneys' fees, and demands on court resources. Many class members' claims are sufficiently small that they would be reluctant to incur the substantial cost, expense, and risk of pursuing their claims individually. Certification of this case as a class action pursuant to Fed. R. Civ. P. 23 will enable the issues to be adjudicated for all class members with the efficiencies of class litigation.

COUNT ONE
(FLSA Overtime Violations)

On Behalf of Plaintiff McRee and the FLSA Collective

54. Plaintiff incorporates by reference the foregoing allegations of paragraphs 1 through 45, as if fully rewritten herein.

55. At all relevant times, Defendants have been, and continue to be, employers engaged in interstate commerce or the production of goods for commerce, within the meaning of the FLSA, 29 U.S.C. §§ 206(a) and 207(a).

56. Defendants have engaged in a pattern and practice of violating the FLSA, as described in this Second Amended Complaint.

57. Plaintiff has consented in writing to be party to this action, pursuant to 29 U.S.C. § 216(b).

58. The overtime wage provisions set forth in 29 U.S.C. § 201, *et seq.*, apply to Defendants.

59. At all relevant times and continuing to the present, Defendants have had a policy and practice of refusing to pay full and required premium overtime compensation to Plaintiff and members of the FLSA Collective for hours worked in excess of forty (40) hours per workweek.

60. As a result of Defendants' willful failure to compensate its employees, including Plaintiff and the FLSA Collective members, at a rate not less than one and one-half times the regular rate of pay for work performed in excess of forty (40) hours in a workweek, Defendants have violated and, continue to violate, the FLSA, 29 U.S.C. § 201, *et seq.*, including 29 U.S.C. §§ 207(a)(1) and 215(a).

61. As a result of Defendants' willful failure to record, report, credit, and compensate its employees, including Plaintiff and the FLSA Collective members, Defendants have failed to make, keep, and preserve records with respect to each of its employees sufficient to determine

the wages, hours and other conditions and practices of employment in violation of the FLSA, 29 U.S.C. § 201, *et seq.*, including 29 U.S.C. §§ 211(c) and 215(a).

62. As a result of Defendants' policy and practice of rounding and editing time records, as well as Defendants' policy and practice of failing to pay for missed, non-taken, or uninterrupted meal breaks, in order to pay payroll at a rate less than what is owed to its employees, Defendants knew or recklessly disregarded the fact that Plaintiff and the FLSA Collective members were entitled to proper overtime pay and acted with and/or showed reckless disregard that its conduct was prohibited by the FLSA. 29 U.S.C. § 255(a).

63. As a result of Defendants' FLSA violations, Plaintiff, on behalf of herself and the FLSA Collective members, is entitled to (a) recover from Defendants unpaid wages for all of the hours worked, as premium overtime compensation; (b) recover an additional, equal amount as liquidated damages for Defendants' willful violations of the FLSA; and, (c) recover unreasonably delayed payment of wages, reasonable attorneys' fees, and costs and disbursements of this action, pursuant to 29 U.S.C. § 216(b).

64. Defendants' violations of the FLSA have been willful within the meaning of that statute, and thus a three-year statute of limitations applies, pursuant to 29 U.S.C. § 255.

COUNT TWO
(State Law Claims for Violations of the North Carolina Wage and Hour Act)
On Behalf of Plaintiff McRee and the State Law Class

65. Plaintiff incorporates by reference the foregoing allegations of paragraphs 1 through 39, and paragraphs 46 through 53, as if fully rewritten herein.

66. Plaintiff brings this claim on behalf of herself and the members of the State Law Class as a result of Defendants' suffering to permit her and the State Law Class members to work for its benefit and for not paying them wages for all the time that they worked due to the

beginning and end of shift time deletion/editing/rounding, and failure to pay for missed, non-taken, or uninterrupted non-*bona fide* meal breaks, wrongful practices and/or policies as set forth above, which resulted in wage violations of the NCWHA, N.C. Gen. Stat. §§ 95-25.1, *et seq.*, as further described below.

67. Defendants are an "employer" pursuant to the NCWHA, and Plaintiff and the State Law Class are "employee[s]" of Defendants within the meaning of the NCWHA, N.C. Gen. Stat. § 95-25.2.

68. Plaintiff and the State Law Class are not exempt from the wage payment requirements of the NCWHA.

69. Under the NCWHA, N.C. Gen. Stat. § 95-25.6, "[e]very employer shall pay every employee all wages and tips accruing to the employee on the regular payday."

70. As hereinabove alleged, the beginning and end of shift time deletion/editing/rounding, and failure to pay for missed, non-taken, or uninterrupted non-*bona fide* meal breaks, wrongful practices and/or policies as set forth above, resulted in Defendants' failure to pay its employees "all wages accruing" to its employees on "the regular payday." Consequently, Plaintiff and the State Law Class have been illegally deprived of payment of all wages in violation of the NCWHA, N.C. Gen. Stat. § 95-25.6.

71. Defendants' failure to pay Plaintiff and the State Law Class all wages due, despite that Defendants knew or should have known about its obligations under the NCWHA, entitles Plaintiff and the State Law Class to liquidated damages equal to the amount of unpaid wages, pursuant to the NCWHA, N.C. Gen. Stat. § 95-25.22 (a1).

72. For the reasons stated in the foregoing, Plaintiff and the State Law Class are entitled to their unpaid wages, liquidated damages, pre-judgment interest, and attorneys' fees and costs, pursuant to NCWHA, N.C. Gen. Stat. §§ 95-25.6, 95.25.22(a), (a1), and (d).

COUNT THREE
(State Law Claims for Unjust Enrichment / Quantum Meruit)
On Behalf of Plaintiff McRee and the State Law Class

73. Plaintiff incorporates by reference the foregoing allegations of paragraphs 1 through 39, and paragraphs 46 through 53, as if fully rewritten herein.

74. Plaintiff brings this claim on behalf of herself and the members of the State Law Class as a result of Defendants' suffering to permit her and the State Law Class members to work for its benefit and for not paying them wages for all the time that they worked due to the beginning and end of shift time deletion/editing/rounding, and failure to pay for missed, non-taken, or uninterrupted non-*bona fide* meal breaks, wrongful practices and/or policies as set forth above.

75. As hereinabove alleged, the terms of compensation established by Defendants promised employees they would be paid wages for the hours they worked at the promised hourly rate, and all of the work Plaintiff and other members of the State Law Class performed during their employments was performed under, and in return for, those terms of compensation. However, Plaintiff and other members of the State Law Class were not paid the hourly rates they agreed to be paid for all hourly work completed but were instead paid less than agreed as a result of Defendants' time editing, rounding, on-the-clock but time deducted, and other time deduction practices and/or policies.

76. Defendants have been unjustly enriched at the expense of Plaintiff and other members of the State Law Class. Defendants were unjustly enriched by the retention of promised

hourly wages that were earned and that rightfully belong to Plaintiff and other members of the State Law Class. Defendants were unjustly enriched in that it induced Plaintiff and other members of the State Law Class to perform work for the benefit of Defendants and retained the benefit of this work without having paid for the same.

77. Allowing Defendants to retain the benefits provided by Plaintiff and other members of the State Law Class – free, unpaid labor – under the circumstances presented as outlined above, is demonstrably unjust. Defendants have retained the benefit of Plaintiff's and other members of the State Law Class's services without compensating them as promised, under circumstances in which it would be unjust and unconscionable to permit Defendants to do so.

78. As a direct and proximate result of Defendants' unjust enrichment and quantum meruit described herein, Plaintiff and other members of the State Law Class have been damaged in an amount to be determined at trial, including but not limited to all time worked by Plaintiff and other members of the State Law Class but not paid by Defendants.

79. Having injured Plaintiff and other members of the State Law Class, Defendants are liable to Plaintiff and other members of the State Law Class in the full amount of regular wages that remain unpaid, exemplary or punitive damages as applicable, pre- and post-judgment interest as applicable, costs and reasonable attorney's fees as may be allowed by the Court, an award of damages representing Defendants' employers' share of FICA, FUTA, state employment insurance, and any other required employment taxes, and such other and further relief as provided under law.

JURY DEMAND

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and other members of the FLSA Collective and State Law Class, as applicable, prays that this Honorable Court:

A. Promptly order Defendants to provide all relevant policies and procedures regarding timekeeping and compensation, as well as all payroll, timekeeping, time rounding, time editing, and other relevant records, necessary to determine similarly situated individuals;

B. Promptly order Defendants to provide all contact information, including but not limited to names, dates of employment, addresses, telephone numbers, and email addresses, of similarly situated individuals;

C. Conditionally certify the putative FLSA Collective and provide Court-approved notice to similarly-situated persons informing them of this action and their ability to opt-in and become part of the FLSA Collective and enabling them to opt in;

D. Toll the statute of limitations for all members of the FLSA Collective, from the date that this matter was initially filed until the date on which they file consents to join;

E. Certify this case as a class action pursuant to Fed. R. Civ. P. 23 on behalf of Plaintiff and other members of the State Law Class;

F. Enter judgment against Defendants, jointly and severally, and in favor of Plaintiff and the FLSA Collective and State Law Class, declaring that Defendants' activities, as alleged herein, violate the FLSA and state law and enjoining Defendants from continuing to violate the FLSA and state law, as well as awarding the relief set forth immediately below;

G. Award compensatory damages to Plaintiff and the FLSA Collective and State Law Class pursuant to 29 U.S.C. § 216(b) and the NCWHA, as applicable, in the amount of their unpaid overtime wages, as well as liquidated damages in an equal amount, in addition to penalty damages;

H. Award Plaintiff and other members of the State Law Class all damages allowed by law;

I. Designate Plaintiff as representative of the Fed. R. Civ. P. 23 State Law Class, and counsel of record as Class Counsel for the State Law Class;

J. Award Plaintiff, and members of the FLSA Collective and the State Law Class, prejudgment interest, post-judgment interest, costs, and attorneys' fees incurred in prosecuting this action, expert fees, as well as statutory and/or punitive damages and an award of damages representing Defendants' employers' share of FICA, FUTA, state unemployment insurance, and any other required employment taxes; and

K. Enter such other and further relief as this Court deems equitable, just, and proper.

Respectfully submitted, this 28th day of October 2025,

*/s/ Seth R. Lesser*__________________
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* Proceeding *Pro Hac Vice*