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12 Attorneys for Plaintiffs  
13 SERVICE EMPLOYEES INTERNATIONAL UNION –  
14 UNITED HEALTHCARE WORKERS WEST

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 IN AND FOR THE COUNTY OF RIVERSIDE

17 SERVICE EMPLOYEES INTERNATIONAL  
18 UNION – UNITED HEALTHCARE  
19 WORKERS WEST; VANESSA  
20 MONDRAGON; GLADYS REYES; RAY  
21 VALDIVIA; VANESSA CAMPOS  
22 VILLALOBOS,

23 Plaintiffs,

24 v.

25 HCA HEALTHCARE; SAMUEL N.  
26 HAZEN, CEO OF HCA HEALTHCARE;  
27 RIVERSIDE HEALTHCARE SYSTEM L.P.  
28 d/b/a RIVERSIDE COMMUNITY  
HOSPITAL; JACKIE DeSOUZA-VAN  
BLARICUM, CEO OF RIVERSIDE  
COMMUNITY HOSPITAL,

Defendants.

Case No.

**COMPLAINT FOR DAMAGES**

1. **PUBLIC NUISANCE;**
2. **UNFAIR AND UNLAWFUL BUSINESS PRACTICES;**
3. **NEGLIGENCE;**
4. **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS; AND**
5. **DECLARATORY JUDGMENT**

Jury Trial Demanded

1 **INTRODUCTION**

2 1. Plaintiff Service Employees International Union – United Healthcare Workers  
3 West (“SEIU-UHW” or “Union”), acting on behalf of its members, and Plaintiffs Vanessa  
4 Mondragon, Gladys Reyes, Ray Valdivia, and Vanessa Campos Villalobos (collectively,  
5 “Plaintiffs”) bring this action against HCA Healthcare (“HCA”), HCA’s Chief Executive Officer,  
6 Samuel N. Hazen, Riverside Healthcare System L.P. d/b/a Riverside Community Hospital  
7 (“RCH”), and RCH’s Chief Executive Officer Jackie DeSouza-Van Blaricum (collectively,  
8 “Defendants”) for public nuisance, negligence, and related claims under state law. Defendants,  
9 through knowing and reckless acts and omissions, have failed to take reasonable and necessary  
10 precautions to protect their employees, patients, visitors, and the community from the harmful  
11 effects of COVID-19, thereby facilitating the spread of the virus and putting the surrounding  
12 community at an unnecessarily heightened risk of infection.

13 2. COVID-19 is a highly contagious infectious respiratory disease, caused by a novel  
14 (or new) coronavirus that has not previously been seen in humans. Symptoms of COVID-19  
15 include, but are not limited to, fever or chills; cough; shortness of breath; fatigue; muscle or body  
16 aches; headache; loss of taste or smell; sore throat; and congestion or runny nose. More severe  
17 symptoms include trouble breathing; persistent pain or pressure in the chest; confusion; inability  
18 to wake or stay awake; and even death. COVID-19 can also cause severe long-term  
19 complications, including damage to the heart, lungs, kidneys, and/or brain. (See  
20 <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#Basics>;  
21 <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>.)

22 3. The risk of contracting COVID-19 is particularly high in a hospital environment,  
23 where employees (including three of the individual Plaintiffs) work in close proximity to patients  
24 suffering from COVID-19. While all health care workers understand that some degree of risk is  
25 inherent in their work, Defendants, through various actions and omissions, have created an  
26 unnecessarily dangerous work environment for RCH employees during the COVID-19 pandemic,  
27 which in turn has created dangerous conditions for patients, visitors, the community, and those  
28 who live in the same household as HCA healthcare workers. These actions include, but are not

1 limited to, forcing employees to work without adequate personal protective equipment (“PPE”),  
2 including masks, gowns, hairnets, gloves, and facial shields; forcing sick employees to work  
3 despite being symptomatic and highly contagious; and pressuring employees not to take  
4 reasonable and necessary precautions against exposure to COVID-19—such as frequent or  
5 effective sanitization of commonly used medical tools and commonly touched surfaces—if such  
6 precautions would harm efficiency and/or productivity.

7 4. As stated above, this is an action for public nuisance, negligence, and other related  
8 claims. Plaintiffs include three (3) individuals who have contracted and suffered symptoms of  
9 COVID-19, and one individual whose mother tragically and unnecessarily died after battling the  
10 disease for several weeks. These individuals also believe they unknowingly spread the disease to  
11 family members or others in the community. Three of the Plaintiffs, as well as the mother of  
12 Plaintiff Vanessa Campos Villalobos, became sick while working at Riverside Community  
13 Hospital, owned and operated by HCA Healthcare. These individuals are members of SEIU-  
14 UHW and work in various job classifications at the Hospital, including Lab Assistant/  
15 Phlebotomist and Patient Safety Observer. Each of the individual Plaintiffs is a member of a  
16 racial minority group, making them statistically more likely to contract COVID-19, and more  
17 likely to suffer serious symptoms, including death.

18 5. Plaintiffs seek declaratory and compensatory relief to remedy Defendants’ unsafe  
19 and unjustifiable treatment of RCH employees during the COVID-19 pandemic, as well as the  
20 effect of Defendants’ actions and omissions on the greater community. In open disregard of the  
21 impacts of the virus on RCH employees, their family members, and those in the community with  
22 whom those employees and family members interacted, Defendants, in clear contradiction of their  
23 mandate and mission as an acute care hospital, facilitated the spread of COVID-19 among  
24 Plaintiffs and others in the community. Defendants’ policies and practices, including the acts and  
25 omissions alleged herein, thereby created or substantially assisted in the creation of an actionable  
26 public nuisance under California Civil Code § 3480. This public nuisance caused substantial,  
27 life-threatening harms to the health and safety of Plaintiffs and others in the community. The  
28

1 nuisance created by Defendants' policies and practices also led to the death of a worker from  
2 COVID-19, depriving her family of future economic and non-economic benefits.

3 6. These same actions and/or omissions also constitute negligence in violation of  
4 California Civil Code § 1714 with respect to Plaintiff Vanessa Campos Villalobos.

5 7. Since mid-May 2020, numerous workers at Riverside Community Hospital,  
6 including Plaintiffs Vanessa Mondragon, Gladys Reyes, and Ray Valdivia, as well as many  
7 family members of these individuals, have tested positive for COVID-19 or have exhibited  
8 symptoms consistent with the disease. Another employee of RCH, Sally Lara, the mother of  
9 Plaintiff Vanessa Campos Villalobos, died of COVID-19 after contracting the disease while  
10 working at RCH. Plaintiff Ray Valdivia, a Patient Safety Observer, was forced to work a shift at  
11 RCH while clearly exhibiting COVID-19 symptoms. Mr. Valdivia was pressured into working  
12 by hospital management despite explaining and demonstrating his persistent symptoms to the  
13 RCH Employee Health Department and his own supervisor. Mr. Valdivia tested positive for  
14 COVID-19 hours after finishing this shift and has been on medical leave ever since. Defendants'  
15 decision to force Mr. Valdivia to work, while clearly exhibiting symptoms of COVID-19, put  
16 countless employees, patients, visitors, and the community at unnecessary risk.

17 8. As of August 12, 2020, the California Department of Public Health reported  
18 27,493 confirmed positive cases of COVID-19 and 142 confirmed deaths among healthcare  
19 workers statewide. (See <https://www.cdph.ca.gov/Programs/OPA/Pages/NR20-194.aspx>.)  
20 Supervisors and hospital management have a duty to mitigate the risks faced by their workers on  
21 a day-to-day basis, and not, as at RCH, facilitate the spread of the virus and place workers at  
22 additional, unnecessary risks.

23 9. The spread of COVID-19 among Plaintiffs, their families, and local community  
24 members is directly attributable to Defendants' failure to abide by public health  
25 recommendations. Defendants' specific actions include, but are not limited to: (1) instructing  
26 certain workers with COVID-19 symptoms to continue working even when obviously  
27 symptomatic and highly contagious; (2) failing to provide employees with sufficient and adequate  
28 personal protective equipment ("PPE") such as face masks, gowns, face shields, and gloves; (3)

1 failing to provide PPE to certain other employees, namely Environmental Services (“EVS”)  
2 workers, despite these workers being tasked with cleaning the rooms and beds of patients  
3 suffering from COVID-19; (4) pressuring certain employees to ignore necessary safety  
4 precautions, such as sanitizing and cleaning commonly used equipment and commonly touched  
5 surfaces, for the sake of meeting artificial job-related “quotas”; (5) failing to instruct symptomatic  
6 workers and co-workers who came into prolonged close contact with workers and/or patients  
7 suffering from COVID-19 to self-quarantine for at least 14 days; and (6) when workers have  
8 actually tested positive for COVID-19, failing to conduct basic contact tracing or providing  
9 timely or adequate notifications to co-workers who were in close contact and are thus at  
10 heightened risk of contracting COVID-19 and transmitting it to others.

11 10. Defendant HCA HEALTHCARE is an American for-profit operator of healthcare  
12 facilities with revenues of over \$51 billion in 2019. Thus far during the COVID-19 pandemic,  
13 HCA has received \$1.7 billion dollars in grants under the CARES Act.<sup>1</sup> HCA has also received  
14 an additional \$4.3 billion dollars in loans from Medicare Accelerated and advance Payments.  
15 (See <https://www.beckershospitalreview.com/finance/1-7b-in-cares-act-cash-went-to-hca.html>,  
16 [https://www.wsj.com/articles/hca-healthcare-profit-rises-on-federal-aid-returning-patients-  
17 11595446152](https://www.wsj.com/articles/hca-healthcare-profit-rises-on-federal-aid-returning-patients-11595446152); [https://www.reuters.com/article/us-health-coronavirus-hospital-billions/billions-in-  
18 covid-relief-go-to-biggest-hospital-chains-as-smaller-rivals-await-aid-idUSKBN23G1GI](https://www.reuters.com/article/us-health-coronavirus-hospital-billions/billions-in-covid-relief-go-to-biggest-hospital-chains-as-smaller-rivals-await-aid-idUSKBN23G1GI).) The  
19 company has over 280,000 employees throughout the United States and United Kingdom. HCA  
20 Healthcare operates Riverside Community Hospital.

21 11. Defendant SAMUEL N. HAZEN is the Chief Executive Officer of HCA,  
22 overseeing 186 hospitals, plus more than 2,000 sites that include surgery centers, freestanding  
23 emergency rooms, urgent care centers, and physician clinics. Mr. Hazen became the CEO of  
24 HCA Healthcare on January 1, 2019, and was paid \$26,788,251 million dollars in 2019.

25 12. Defendant RIVERSIDE HEALTHCARE SYSTEM L.P. d/b/a RIVERSIDE  
26 COMMUNITY HOSPITAL (“RCH”) is a full-service acute care hospital and emergency room

27 <sup>1</sup> The bipartisan CARES Act and the Paycheck Protection Program and Health Care Enhancement  
28 Act provided \$175 billion in relief funds to hospitals and other healthcare providers on the front  
lines of the coronavirus response.

1 located at 4445 Magnolia Ave, Riverside, California, owned and operated by HCA Healthcare.  
2 RCH has thus far received \$13.5 million in grants under the CARES Act. (*See*  
3 [https://data.cdc.gov/Administrative/Provider-Relief-Fund-COVID-19-High-Impact-](https://data.cdc.gov/Administrative/Provider-Relief-Fund-COVID-19-High-Impact-Payments/b58h-s9zx)  
4 [Payments/b58h-s9zx.](https://data.cdc.gov/Administrative/Provider-Relief-Fund-COVID-19-High-Impact-Payments/b58h-s9zx))

5 13. Defendant JACKIE DESOUZA-VAN BLARICUM is the Chief Executive Officer  
6 of RCH.

7 14. Plaintiffs seek declaratory, compensatory, and other statutorily available relief to  
8 protect them—and their family and community members—from further undue and unnecessary  
9 exposures to the COVID-19 virus and to compensate them for the harms they suffered and are  
10 continuing to suffer.

#### 11 **JURISDICTION AND VENUE**

12 15. The Superior Court of the State of California has jurisdiction in this matter because  
13 Defendants HCA and RCH regularly conduct business in California. No federal question is at  
14 issue in this lawsuit. Plaintiffs' claims are solely based upon California law.

15 16. Venue is proper in this judicial district and the County of Riverside, California  
16 because Plaintiffs Vanessa Mondragon, Gladys Reyes, Ray Valdivia, and Vanessa Campos-  
17 Villalobos each reside, performed work, or continue to perform work in the County of Riverside;  
18 because Defendant HCA and RCH maintains offices and facilities and transacts business in the  
19 County of Riverside; and because Defendants' wrongful conduct that is the subject of this action  
20 for public nuisance affects Plaintiffs and other persons similarly situated in the County of  
21 Riverside.

#### 22 **PARTIES**

23 17. Sally Lara, the mother of Plaintiff Vanessa Campos Villalobos, was employed by  
24 Defendant HCA at RCH as a part-time Lab Assistant/Phlebotomist when the COVID-19  
25 pandemic first began infecting residents of Riverside County. Ms. Lara, who after becoming  
26 aware of the pandemic rarely left her house except to go to work, was exposed to COVID-19  
27 during a work shift at RCH on approximately May 9, 2020. Not at this time or at any other time  
28 did Defendants, or any employee or agent of Defendants, warn Ms. Lara—in writing or by other

1 means—of potential exposure. During this shift and many previous shifts, Ms. Lara worked in  
2 close proximity to patients suffering from COVID-19, and came into prolonged contact with  
3 fellow employees who had been exposed to the virus. Ms. Lara thereafter tested positive for  
4 COVID-19 and began suffering severe symptoms, including difficulty breathing. She was placed  
5 on a ventilator for two weeks, and ultimately died on June 8, 2020.

6 18. This is a picture of Ms. Lara taken before she contracted COVID-19 and died from  
7 the disease:



15 19. Plaintiff Vanessa Campos Villalobos is the daughter of Sally Lara. Ms. Campos  
16 Villalobos lived with her mother at the time Ms. Lara contracted COVID-19, and was herself  
17 unnecessarily exposed to the virus. Ms. Campos Villalobos therefore developed a reasonable fear  
18 of suffering COVID-19-related symptoms. Additionally, because of her mother’s death, Ms.  
19 Campos Villalobos will lose out on future financial and emotional support.

20 20. Plaintiff Vanessa Mondragon is currently employed by Defendants as a Lab  
21 Assistant/ Phlebotomist at RCH. Ms. Mondragon was exposed to COVID-19 while working a  
22 shift at RCH in late June or early July 2020 when she came into prolonged contact with patients  
23 and fellow employees who were suffering from COVID-19. Not at this time or at any other time  
24 did Defendant HCA, or any employee or agent of Defendant HCA, warn Ms. Mondragon, in  
25 writing or by other means, of this exposure. Ms. Mondragon began experiencing symptoms of  
26 COVID-19 on July 2 or 3, while at work. She took a COVID-19 test on July 6, and received a  
27 positive result on July 13. Ms. Mondragon lives with her boyfriend, who has also suffered  
28 COVID-19 symptoms, including loss of sense of taste and smell. Ms. Mondragon’s boyfriend

1 began experiencing symptoms immediately after Ms. Mondragon became sick herself. As of  
2 August 10, 2020, Ms. Mondragon is still sick.

3 21. Plaintiff Raymond Valdivia is currently employed by Defendants as a Patient  
4 Safety Observer at RCH. Mr. Valdivia was exposed to COVID-19 at RCH during a work shift in  
5 May 2020, when he came into in close proximity with coworkers and patients who had contracted  
6 the disease. Not at this time or at any other time did Defendants, or any employee or agent of  
7 Defendants, warn Mr. Valdivia, in writing or by other means, of this exposure. On May 19, 2020,  
8 Mr. Valdivia began experiencing COVID-19 symptoms, primarily a cough, headache, and  
9 shortness of breath. On May 22, Mr. Valdivia took a COVID-19 test. The result was positive.  
10 On June 29, Mr. Valdivia was directed to return to work at RCH, despite still experiencing  
11 shortness of breath and other symptoms consistent with COVID-19. He explained and  
12 demonstrated these symptoms to the RCH Employee Health Department and his supervisor, but  
13 was told he had to work unless he tested positive for COVID-19 again. Mr. Valdivia took this  
14 second test, but the result did not come back until after his June 29 shift, which he ended up  
15 working. The result came back soon after his shift ended. It was again positive. Mr. Valdivia  
16 lives with his wife, who also tested positive for COVID-19. She began experiencing symptoms  
17 approximately three days after Mr. Valdivia.

18 22. Plaintiff Gladys Reyes is currently employed by Defendants as a Lab Assistant/  
19 Phlebotomist at RCH. Ms. Reyes worked in close proximity to many coworkers and patients who  
20 tested positive for COVID-19. Her primary assignment was to draw blood from patients located  
21 in RCH's three "COVID floors." Ms. Reyes herself began feeling symptoms of COVID-19 in  
22 June 2020, and tested positive on June 24, 2020. At no time did Defendant HCA, or any  
23 employee of Defendant HCA, warn Ms. Reyes, in writing or by other means, of the possibility  
24 that she had been exposed to COVID-19. Ms. Reyes' son, who was her sole caretaker while she  
25 suffered from the symptoms of COVID-19, lost his job because he had to stay home and take care  
26 of her.

27 23. Plaintiff Service Employees International Union – United Healthcare Workers  
28 West ("SEIU-UHW" or "the Union") is a labor organization within the meaning of 2(5) of the



1 National Labor Relations Act (“NLRA”), as amended, 29 U.S.C. Section 152(5), with its  
2 principal place of business in Alameda County, California. SEIU-UHW is the sole representative  
3 of a bargaining unit of employees working at RCH which includes three of the aforementioned  
4 Plaintiffs, and brings this action on behalf of its members. The Union has associational standing  
5 to represent its individual members’ interests. (*See, e.g., United Food and Commercial Workers*  
6 *Local 571 v. Brown Group, Inc.* (1996) 517 U.S. 544, 551–53; *Hunt v. Washington State Apple*  
7 *Advertising Comm’n* (1977) 432 U. S. 333, 343; *Brotherhood of Teamsters & Auto Truck Drivers*  
8 *v. Unemployment Ins. Appeals Bd.* (1987) 190 Cal.App.3d 1515, 1521–22 [236 Cal. Rptr. 78].)

9 24. Plaintiffs are informed and believe, and thereon allege, that Defendant HCA is a  
10 Delaware corporation with its principal place of business in Tennessee whose primary business is  
11 to operate healthcare facilities, including in the State of California and the County of Riverside.

12 Plaintiffs are informed and believe, and thereon allege, that Defendant operates in California and  
13 Riverside County, including at RCH. At all relevant times, Defendant HCA has done business in  
14 California and committed the unlawful acts and omissions alleged in this complaint in California.

15 25. Plaintiffs are informed and believe, and thereon allege, that Defendant RCH is a  
16 limited partnership with its principal place of business in California whose primary business is to  
17 operate healthcare facilities in the State of California and the County of Riverside. Plaintiffs are  
18 informed and believe, and thereon allege, that Defendant operates in California and Riverside  
19 County. At all relevant times, Defendant RCH has done business in California and committed the  
20 unlawful acts and omissions alleged in this complaint in California.

21 26. The true names and capacities of DOES 1 through 100, inclusive, are unknown to  
22 Plaintiffs at this time, and Plaintiffs therefore sue such DOE Defendants under fictitious names.  
23 Plaintiffs are informed and believe, and thereon allege, that each Defendant designated as a DOE  
24 is in some manner responsible for the occurrences alleged herein, and that Plaintiffs’ injuries and  
25 damages, as alleged herein, were proximately caused by the conduct of such DOE Defendants.  
26 Plaintiffs will seek leave of the Court to amend this complaint to allege the true names and  
27 capacities of such DOE Defendants when ascertained.

28



1           32.     As of August 8, 2020, Latinx people represented 58.7% of COVID-19 cases in  
2 California and 46.9% of deaths, despite making up only 38.9% of the state’s population. In  
3 Riverside County, Latinx residents have higher COVID-19 case rates and fatality rates than white  
4 residents. Out of every 10,000 Latinx people in the County, approximately 110 have contracted  
5 COVID-19, compared to only 44 out of every 10,000 white residents. (See  
6 <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Race-Ethnicity.aspx>.;  
7 <https://www.rivcoph.org/coronavirus>.)

8           33.     Healthcare workers face the brunt of this racial disparity. According to a recent  
9 study, “[h]ealth care workers of color were more likely to care for patients with suspected or  
10 confirmed COVID-19, more likely to report using inadequate or reused protective gear, and  
11 nearly twice as likely as white colleagues to test positive for the coronavirus.” While health care  
12 workers as a whole are at least three times more likely than the general public to report a positive  
13 COVID test, health care workers of color are five times more likely than the general population to  
14 test positive. Ultimately, 62% of the health care workers who have died of COVID-19 have been  
15 members of racial minority groups. (See [https://khn.org/news/health-care-workers-of-color-  
16 nearly-twice-as-likely-as-whites-to-get-covid-19/](https://khn.org/news/health-care-workers-of-color-nearly-twice-as-likely-as-whites-to-get-covid-19/);  
17 [https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667\(20\)30164-X/fulltext](https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667(20)30164-X/fulltext).)

18           34.     COVID-19 is a highly contagious disease. The easiest way for COVID-19 to  
19 spread is through “prolonged exposure” to an infected person, especially without adequate  
20 covering of the eyes, nose, or mouth. The risk of infection through spread increases dramatically  
21 when individuals are in close physical proximity, particularly indoors and for extended periods of  
22 time, and when individuals come into contact with infected persons who sneeze or cough. (See  
23 <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html>.)

24           35.     On March 4, 2020, California Governor Gavin Newsom declared a state of  
25 emergency and deployed resources to prevent the spread of COVID-19. On March 11, 2020, the  
26 World Health Organization (“WHO”) declared COVID-19 to be a global pandemic.

27           36.     On March 12, 2020, Riverside County Public Health Officer Dr. Cameron Kaiser  
28 ordered “large events” to be canceled in response to the COVID-19 pandemic. On March 25,

1 2020, Riverside County received an emergency federal medical station from the U.S. Department  
2 of Health and Human Services for the purpose of providing 250 additional hospital beds for the  
3 treatment of those suffering from COVID-19. (See [https://countyof-  
4 riverside.us/NewsHighlights/TabId/96/ArtMID/487/ArticleID/444/Riverside-County-receives-  
5 federal-medical-station-to-increase-hospital-capacity.aspx#gsc.tab=0](https://countyof-riverside.us/NewsHighlights/TabId/96/ArtMID/487/ArticleID/444/Riverside-County-receives-federal-medical-station-to-increase-hospital-capacity.aspx#gsc.tab=0).)

6 37. On March 13, 2020, the President of the United States declared a national state of  
7 emergency in this country as a result of the disease and its rapid spread. On the same day, Dr.  
8 Kaiser ordered all schools closed in Riverside County. On March 19, 2020, Governor Gavin  
9 Newsom issued a statewide shelter in place order, directing all California residents to stay home  
10 unless they worked for an “essential business” such as a hospital.

11 38. Several additional local orders followed, including the closure of all golf courses  
12 on April 3, and a mandatory county-wide mask and stay-at-home order on April 4. The April 4  
13 order was issued in response to the “rapidly rising number of COVID-19 cases” in Riverside  
14 County, and provided that “no gatherings of any number of people may take place outside of  
15 family members residing in the same home” and that “everyone [must] wear a face covering  
16 when leaving home, including essential workers.” (See [https://countyofriverside.us/News-  
17 Highlights/TabId/96/ArtMID/487/ArticleID/451/Riverside-County-Public-Health-Officer-orders-  
18 public-to-stay-home-and-cover-face-when-leaving.aspx#gsc.tab=0](https://countyofriverside.us/News-Highlights/TabId/96/ArtMID/487/ArticleID/451/Riverside-County-Public-Health-Officer-orders-public-to-stay-home-and-cover-face-when-leaving.aspx#gsc.tab=0).)

19 39. On May 1, Riverside County rescinded its mandatory mask and stay-at-home  
20 orders and reverted to the State of California stay-at-home order. On May 8, Riverside County  
21 entered “Phase 2” of Governor Newsom’s reopening plan, which calls for “[g]radually opening  
22 some lower risk workplaces with adaptations at a pace designed to protect public health and  
23 safety.” (See <https://covid19.ca.gov/roadmap/>.) On May 22, Riverside County accelerated into  
24 “expanded Phase 2” of the Governor’s plan, which allowed for the reopening of certain “Dine-in”  
25 restaurants; Wineries and tasting rooms; Movie theaters; Family entertainment centers; Zoos and  
26 museums; [and] Cardrooms.” However, due to a spike in COVID-19 cases, bars throughout  
27 Riverside County were ordered closed again on June 29, and indoor dining and other select  
28 indoor venues were ordered closed again on July 1. (See

1 [https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/June/News/Bars\\_to\\_close\\_in\\_Rivco](https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/June/News/Bars_to_close_in_Rivco)  
2 [062920.pdf?ver=2020-06-29-145922-447&timestamp=1593467977717;](https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/June/News/Bars_to_close_in_Rivco)

3 [https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/July/News/7.1.20\\_moving\\_outdoors](https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/July/News/7.1.20_moving_outdoors)  
4 [order.pdf?ver=2020-07-01-163235-267&timestamp=1593646371386.](https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/July/News/7.1.20_moving_outdoors))

5 40. The CDC advises that limiting human-to-human contact via physical distancing, to  
6 the extent possible in an acute care hospital setting, is the only way to limit COVID-19 infections  
7 among healthcare workers and slow the spread of the disease. Preventative measures such as the  
8 use of PPE and frequent handwashing and sanitization of commonly touched physical objects are  
9 also recommended. (See [https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-](https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html)  
10 [recommendations.html.](https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html))

11 41. The CDC has recognized the heightened risks facing health care personnel  
12 (“HCP”),<sup>2</sup> and has released safety guidance for employers operating healthcare facilities to  
13 prevent the transmission of COVID-19, including “Interim U.S. Guidance for Risk Assessment  
14 and Work Restrictions for Healthcare Personnel with Potential Exposure to COVID-19.” (See  
15 [https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html.](https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html)) This is in  
16 addition to general guidance that the CDC has issued for all businesses open during the pandemic,  
17 such as “Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus  
18 Disease 2019 (COVID-19).” (See [https://www.cdc.gov/coronavirus/2019-](https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html)  
19 [ncov/community/guidance-business-response.html.](https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html))

20 42. According to these guidelines, because HCP regularly come into “extensive and  
21 close contact with vulnerable individuals,” “a conservative approach to HCP monitoring and  
22 applying work restrictions is recommended to prevent transmission from potentially contagious  
23 HCP to patients, other HCP, and visitors.” The CDC recommends contact tracing and work  
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25 <sup>2</sup> The CDC defines HCP as “all paid and unpaid persons serving in healthcare settings who have the potential for  
26 direct or indirect exposure to patients or infectious materials, including body substances (e.g., blood, tissue, and  
27 specific body fluids); contaminated medical supplies, devices, and equipment; contaminated environmental surfaces;  
28 or contaminated air.” HCP include, but are not limited to, “emergency medical service personnel, nurses, nursing  
assistants, physicians, technicians, therapists, phlebotomists, pharmacists, students and trainees, contractual staff not  
employed by the healthcare facility, and persons not directly involved in patient care, but who could be exposed to  
infectious agents that can be transmitted in the healthcare setting (e.g., clerical, dietary, environmental services,  
laundry, security, engineering and facilities management, administrative, billing, and volunteer personnel).”

1 restrictions for any HCP with “prolonged [a time period of 15 or more minutes] exposure to  
2 patients with COVID-19 when HCP’s eyes, nose, or mouth are not covered,” or any exposure that  
3 “occurs during performance of an aerosol-generating procedure,” such as those involving  
4 “anatomic regions where viral loads might be higher (e.g., nose and throat, oropharynx,  
5 respiratory tract).” The CDC also recognizes that “other exposures not included as higher risk,  
6 including having body contact with the patient (e.g., rolling the patient) without gown or gloves  
7 ... may impart some risk for transmission.”

8 43. The CDC provides guidance for the health and safety of HCP in healthcare  
9 facilities, including “Interim Infection Prevention and Control Recommendations for Healthcare  
10 Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic.” This guidance  
11 includes the following instructions for hospital employees and employers: (1) wear a facemask at  
12 all times while in the healthcare facility, including in breakrooms or other spaces; (2) universal  
13 use of PPE; (3) create a process to respond to COVID-19 exposures among HCP and others; (4)  
14 create a plan for how exposures in a healthcare facility will be investigated and managed and how  
15 contact tracing will be performed. (See [https://www.cdc.gov/coronavirus/2019-  
16 ncov/hcp/infection-control-recommendations.html](https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html).)

17 44. The CDC guidelines also provide “recommended infection prevention and control  
18 practices when caring for a patient with suspected or confirmed SARS-CoV-2 infection,”  
19 including the following: (1) personnel entering the room of a patient suffering from COVID-19  
20 should use PPE, in the form of a respirator or facemask, eye protection, gloves, and gowns; (2)  
21 once a COVID-19 patient has been discharged, “HCP, including environmental services  
22 personnel, should refrain from entering the vacated room until sufficient time has elapsed for  
23 enough air changes to remove potentially infectious particles”; (3) hospital management should  
24 communicate information about patients with suspected or confirmed infection to appropriate  
25 personnel before transferring them to other departments in the facility; and (4) HCP should  
26 conduct routine cleaning and disinfection procedures. (See  
27 <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html>.)  
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1           45.     Additional guidance from the CDC includes “Interim U.S. Guidance for Risk  
2 Assessment and Work Restrictions for Healthcare Personnel with Potential Exposure to COVID-  
3 19,” which is intended to “assist with assessment of risk and application of work restrictions for  
4 asymptomatic healthcare personnel (HCP) with potential exposure to patients, visitors, or other  
5 HCP with confirmed COVID-19.” The CDC recommends that any worker who comes into  
6 prolonged (at least 15 minutes) close (within 6 feet) contact with a patient, visitor, or coworker  
7 who has a confirmed case of COVID-19, and who is not wearing adequate PPE (including a mask  
8 and eye protection), should be excluded from work for 14 days and monitor themselves for  
9 symptoms. (See [https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assessment-  
10 hcp.html](https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assessment-hcp.html).) Meanwhile, any other HCP who develop fever or symptoms consistent with COVID-  
11 19 should immediately self-isolate and contact their established point of contact. (*Ibid.*)

12           46.     For healthcare workers who have tested positive for COVID-19, the CDC provides  
13 “Return to Work Criteria for HCP with SARS-CoV-2 Infection.” The CDC recommends a  
14 “symptom-based strategy for determining when HCP can return to work” and instructs HCP to  
15 return only when “at least 10 days have passed since symptoms first appeared; at least 24 hours  
16 have passed since last fever ... and; symptoms (e.g., cough, shortness of breath) have improved.”  
17 (See [https://www.cdc.gov/coronavirus/2019-ncov/hcp/return-to-  
18 work.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-  
19 ncov%2Fhealthcare-facilities%2Fhcp-return-work.html](https://www.cdc.gov/coronavirus/2019-ncov/hcp/return-to-work.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhealthcare-facilities%2Fhcp-return-work.html).)

20           47.     The CDC has set out the following guidance for general industry employers when  
21 their workers have been exposed to COVID-19: (1) “Actively encourage sick employees to stay  
22 home”; (2) “Separate sick employees ... Employees who appear to have symptoms upon arrival  
23 at work or who become sick during the day should immediately be separated from other  
24 employees, customers, and visitors, and sent home”; (3) “Take action if an employee is suspected  
25 or confirmed to have COVID-19 infection ... inform employees of their possible exposure to  
26 COVID-19 in the workplace.” (See [https://www.cdc.gov/coronavirus/2019-  
27 ncov/community/guidance-business-response.html](https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html).)

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1           48. Defendants have justified their actions as detailed throughout this Complaint by  
2 claiming that they have adhered to applicable CDC guidelines. For example, an RCH manager  
3 told Sally Lara, the mother of Plaintiff Vanessa Campos Villalobos, that the hospital was meeting  
4 its CDC obligations when Ms. Lara complained that that the hospital was providing adequate PPE  
5 only to doctors and nurses, not the rest of the hospital staff. The CDC, however, recommends  
6 that PPE should be used “universally” by all HCP in a healthcare facility.

7           49. In short, Defendants HCA and RCH fell far short of the CDC recommendations.  
8 Defendants denied PPE to certain employees—namely EVS workers, one of whom was denied an  
9 N95 mask after being ordered to clean the room of a patient suffering from COVID-19. Other  
10 EVS workers in the Union’s bargaining unit have been verbally abused by RCH supervisors in  
11 response to requests for masks and face shields. Defendants have also denied the requests of EVS  
12 workers for gowns and hairnets. Sally Lara, mother of Plaintiff Vanessa Campos Villalobos, had  
13 to purchase her own masks, gowns, face shields, and booties, and had to do so repeatedly as each  
14 item she purchased became ineffective through continuous use. Plaintiff Ray Valdivia requested  
15 an N95 or equivalent mask to replace his “Level 1” cloth mask, but his request was denied.  
16 Workers in the hospital’s Pharmacy Department, also members of the Union’s bargaining unit,  
17 were denied masks and told to use disposable boot covers as masks.

18           50. Defendants failed to promptly inform employees such as Sally Lara and Plaintiffs  
19 Ray Valdivia, Vanessa Mondragon, and Gladys Reyes of possible exposure to COVID-19,  
20 leading these individuals to unknowingly expose their family and members of the community to  
21 the disease. When representatives of the Union requested during a labor-management meeting  
22 that Defendants explain or produce their protocol for informing employees of potential COVID-  
23 19 exposures, the Union received no response.

24           51. RCH managers pressured Lab Assistants such as Plaintiffs Vanessa Mondragon  
25 and Gladys Reyes to ignore common sense safety precautions—such as the sanitization of  
26 equipment required for drawing blood—in the course of their duties, even though such  
27 precautions are included in the CDC recommendations and were relayed to these employees by  
28 Defendants in training sessions.



1           52.     HCA failed to carry out adequate contact tracing of workers who had exposure to  
2 COVID-19 or even tested positive for the disease.

3           53.     With Defendants' knowledge and approval, Plaintiff Ray Valdivia worked a shift  
4 at RCH on or around June 29, 2020 after he had tested positive for COVID-19 the prior month  
5 and while he still was suffering from symptoms consistent with COVID-19. Mr. Valdivia came  
6 in close contact with co-workers, patients, and visitors during this shift. At that time, Defendants  
7 were fully aware that the COVID-19 pandemic was raging through Riverside County and the  
8 hospital itself, but still decided that it was safe and prudent for Mr. Valdivia to work. This action  
9 clearly contravenes the CDC guidelines and common sense.

10          54.     Plaintiff Vanessa Mondragon began feeling symptoms consistent with COVID-19  
11 on July 2 or 3, 2020, tested positive for COVID-19 on July 13, 2020, and was still feeling  
12 symptoms as of July 29, 2020. Despite this, Ms. Mondragon was instructed to return to work for  
13 her scheduled shift on July 18, 2020. Defendants informed Ms. Mondragon that she need not take  
14 a second COVID-19 test before returning to work. The CDC recommends that all employees,  
15 including HCP, not return to work if they are still feeling symptoms.

16          55.     Plaintiff Gladys Reyes, who tested positive for COVID-19 on June 24, 2020, was  
17 instructed to return to work for her scheduled shift on July 21, 2020, despite Ms. Reyes still  
18 suffering from symptoms consistent with COVID-19. Defendants informed Ms. Reyes that she  
19 need not take a second COVID-19 test before returning to work. Ms. Reyes took a second test  
20 anyway, and the result was positive.

21          56.     Defendants are and at all times have been aware of employees working with  
22 COVID-19 symptoms and testing positive for COVID-19. Despite this knowledge, Defendants  
23 encouraged and instructed employees with COVID-19 symptoms to come to work and failed to  
24 warn co-workers or institute additional precautionary measures.

25          57.     Defendants are and at all times have been aware of which employees have worked  
26 in close contact with co-workers who were exposed to COVID-19, who displayed COVID-19  
27 symptoms and/or who tested positive for COVID-19. Despite this knowledge, Defendants waited  
28

1 as long as a week after learning of such exposures before telling co-workers who worked or  
2 socialized in close proximity with these employees.

3 58. In one instance, Plaintiff Vanessa Mondragon was never told that she had been  
4 exposed to COVID-19, despite working for prolonged periods in close proximity to a coworker  
5 who was exposed to the disease, and who had received notice of possible exposure from  
6 Defendant RCH. When Ms. Mondragon asked her supervisor about this incident and the  
7 disparate treatment between her and her coworker, she was told that it was not “conclusive” that  
8 she had been exposed. This action, in the context of Ms. Mondragon’s prolonged exposure to her  
9 coworker, directly contravenes CDC recommendations.

10 59. Plaintiffs Vanessa Mondragon and Gladys Reyes have been repeatedly assigned to  
11 draw blood from patients located in the three “COVID floors” at RCH. At times, there has been  
12 only one Lab Assistant/Phlebotomist covering all three of these floors. The Lab Department held  
13 team meetings where RCH managers instructed employees to take certain precautions when  
14 drawing blood from COVID-positive patients. These precautions included handwashing,  
15 cleaning of PPE, including face shields and gowns, and sanitizing all required equipment after  
16 drawing each patient. When workers follow all of these precautions, however, the number of  
17 blood draws they can take per hour decreases from approximately six (6) patients per hour to  
18 approximately two (2) patients per hour. RCH supervisors told Ms. Mondragon and Ms. Reyes  
19 that this decrease in efficiency was unacceptable, and that they need not sanitize all of their  
20 equipment if they could not meet the prior quota of six blood draws per hour.

21 60. Plaintiffs Ray Valdivia and Gladys Reyes were placed into prolonged close  
22 proximity with patients who they later found out were suffering from COVID-19. At the time,  
23 Mr. Valdivia and Ms. Reyes were unaware of these patients’ COVID-positive status, and were in  
24 fact under the impression that these patients had been “ruled out” as COVID-negative. On at  
25 least one occasion, Plaintiff Vanessa Mondragon found out that a patient she had treated was  
26 suffering from COVID-19 after she had already drawn blood from a subsequent patient without  
27 first taking recommended precautions, including sanitizing her equipment and acquiring a new  
28 surgical gown. Ms. Mondragon has drawn blood from patients without knowing they were

1 COVID-positive on multiple occasions. Sally Lara, the mother of Plaintiff Vanessa Campos  
2 Villalobos, was often instructed to draw blood from COVID and non-COVID patients in quick  
3 succession, without an opportunity to take recommended safety precautions between treatments.

4 61. Despite Defendants' knowledge of the COVID-19 outbreak, Defendants failed to  
5 take measures to prevent the spread of the virus among RCH employees. When the pandemic  
6 began, Defendants provided PPE only to workers in certain patient-facing job classifications,  
7 such as physicians and nurses. After workers complained about this disparate treatment,  
8 Defendants began providing masks, gowns, face shields, and gloves to most employees, but  
9 required that the equipment be used for multiple days, instructing employees re-use masks and  
10 gowns for two or three days at a time, causing the masks to loosen and collect moisture, and  
11 causing the gowns to lose elasticity and fall apart. For many EVS workers, Defendants have  
12 never and still do not provide adequate PPE, despite these workers being tasked with cleaning  
13 rooms occupied by COVID-19 patients.

14 62. While Defendants were aware that employees had tested positive for COVID-19,  
15 and that employees such as Plaintiff Ray Valdivia had even worked while suffering symptoms,  
16 Defendants did not make any effort to provide adequate PPE to all employees, to provide prompt  
17 warnings to co-workers, patients, or visitors with whom sick employees interacted, to perform  
18 contact tracing of sick employees, or otherwise to take the reasonably necessary precautions that  
19 Defendants knew and should have known at the time were critical to minimize the risk of  
20 community spread resulting from their illness and return to work.

21 63. Workers such as Sally Lara and Plaintiffs Ray Valdivia and Vanessa Mondragon  
22 brought repeated complaints to their respective supervisors regarding insufficient PPE, a lack of  
23 contact tracing, pressure to ignore recommended workplace safety precautions, and the lack of  
24 prompt notice of exposure. The repeated refrain from management in response to these  
25 complaints has been that Defendants are following CDC guidelines.

26 64. As of each employee Plaintiffs' most recent day of work at RCH, Defendants'  
27 workplace conditions and practices continued to be inadequate and to pose an ongoing,  
28 unreasonably dangerous risk and hazard to the health and safety of those Plaintiffs and all those

1 who live with Plaintiffs and come into contact with Plaintiffs. Those conditions and practices  
2 include but are not limited to Defendants’ knowing: (1) failure to regularly provide adequate PPE  
3 to all employees, including adequate masks, gloves, and other protective gear; (2) failure to  
4 provide any PPE, including N95 masks, to EVS workers; (3) instruction to certain employees  
5 tasked with treating patients suffering from COVID-19 that they should ignore common sense  
6 precautions, including sanitization of equipment, workstations, and other physical spaces; (4)  
7 failure to conduct appropriate contact tracing of all persons known or suspected to have been  
8 infected with the COVID-19 virus, including employees; (5) failure to provide adequate warnings  
9 and instruction to persons known or suspected to have come in contact with infected employees;  
10 and (6) instruction to certain employees who have tested positive, even those still clearly  
11 suffering from COVID-19 symptoms, that they should return to work.

12 65. Plaintiffs are informed and believe, and thereon allege, that Defendant HCA  
13 operates various other healthcare facilities in the state of California, and that the unreasonably  
14 dangerous practices and conditions at RCH also exist at each of those other facilities and thus  
15 threaten the health and safety of the public at or near those facilities and the surrounding  
16 communities throughout the State of California.

17 66. Pursuant to Article 33.1 of the collective bargaining agreement (“CBA”) between  
18 Plaintiff SEIU-UHW and Defendants HCA and RCH, “the Hospitals will take reasonable steps to  
19 provide a safe, secure, clean and therapeutic environment for patients, guests and employees ...  
20 [and] continue to maintain safety, conduct and workplace violence prevention policies, practices  
21 and procedures designed to achieve these goals.” Article 33.2 provides that “[n]o employee shall  
22 be required to work under conditions that would be hazardous to the employee’s physical safety  
23 in violation of state or federal safety laws.” Article 33.4 of the CBA states that “[d]isputes  
24 concerning the conditions of health and safety within the Hospital shall not be subject to the  
25 grievance and arbitration procedures of this Agreement.”

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1 **FIRST CAUSE OF ACTION**

2 **Public Nuisance – Assisting in the Creation of Substantial and Unreasonable Harm**  
3 **to Public Health and Safety that Affects an Entire Community or Considerable Number of**  
4 **Persons**

5 **[Cal. Civil Code §§ 3479, 3480, 3491, 3493; C.C.P. § 731]**  
6 **(Brought by All Plaintiffs Against All Defendants)**

7 67. Plaintiffs incorporate herein by specific reference, as though fully set forth, the  
8 allegations in paragraphs 1 through 66.

9 68. California Civil Code § 3479 defines “nuisance” as “[a]nything which is injurious  
10 to health, . . . or is indecent or offensive to the senses, . . . so as to interfere with the comfortable  
11 enjoyment of life or property.”

12 69. California Civil Code § 3480 defines “public nuisance” as any nuisance that  
13 “affects at the same time an entire community or neighborhood, or any considerable number of  
14 persons, although the extent of the annoyance or damage inflicted upon individuals may be  
15 unequal.”

16 70. To constitute a “public nuisance,” the offense against, or interference with the  
17 exercise of rights common to the public must be substantial and unreasonable. (*People ex rel.*  
18 *Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1103, 1105.)

19 71. The acts and omissions of Defendants alleged herein, which caused a considerable  
20 number of persons to suffer increased exposures and risks of exposures to the COVID-19 virus,  
21 including, but not limited to, employees, patients, and visitors of RCH, family members of those  
22 employees, patients, and visitors, persons with whom those individuals resided, and the persons  
23 with whom those individuals came into contact, substantially and unreasonably created and  
24 substantially assisted in the creation of a grave risk to public health and safety, and wrongfully  
25 and unduly interfered with Plaintiffs’ comfortable enjoyment of their lives and property. (*See*  
26 *County of Santa Clara v. Atlantic Richfield Co.* (2006) 137 Cal.App.4th 292, 305–06.)

27 72. The acts and omissions of Defendants alleged herein substantially and  
28 unreasonably created or assisted in the creation of the spread and transmission of grave, life-  
threatening disease and infection, the risk of spread and transmission of grave, life-threatening  
disease and infection, and the actual and real fear and anxiety of the spread and transmission of

1 grave, life-threatening disease and infection, all of which constitutes an actionable public  
2 nuisance. (*See, e.g.*, Restatement (Second) of Torts § 821B & cmt. g [“[T]he threat of  
3 communication of smallpox to a single person may be enough to constitute a public nuisance  
4 because of the possibility of an epidemic; and a fire hazard to one adjoining landowner may be a  
5 public nuisance because of the danger of a conflagration.”]; *Birke v. Oakwood Worldwide* (2009)  
6 169 Cal.App.4th 1540, 1546; *County of Santa Clara v. Atlantic Richfield Co.* (2006) 137  
7 Cal.App.4th 292, 306.)

8 73. The public nuisance caused by Defendants as alleged herein has caused and will  
9 continue to cause special injury to Plaintiffs within the meaning of Civil Code § 3493, due to the  
10 infections suffered by three of the five Plaintiffs, the heightened risk of exposures they faced, the  
11 lost income they suffered as a result of having to stay home from work, the increased anxiety and  
12 fear caused by their need to separate themselves from fellow workers and close family members  
13 to minimize the risk of further community spread, and, in the case of Ms. Campos Villalobos, the  
14 tragic death of her mother and related financial and emotional losses. Those harms are different  
15 from the types of harms suffered by members of the general public who did not work or have  
16 direct contact with employees who worked at RCH where multiple employees contracted  
17 COVID-19.

18 74. California Code of Civil Procedure § 731 and California Civil Code §§ 3491,  
19 3493, and 3495 authorize Plaintiffs to bring this action for damages.

20 75. Defendants’ failure to comply with minimum health and safety standards has  
21 caused, and is reasonably certain to cause, community spread of the COVID-19 infection. Such  
22 community spread has not been, and will not be, limited to the physical location of the hospital or  
23 to the employees, patients, and visitors of the hospital, as infected workers have gone home and  
24 will go home to interact with their family members, neighbors, and others with whom they must  
25 necessarily interact as they undertake essential daily activities such as shopping, medical visits,  
26 and childcare. This community spread has resulted in increased disease and will continue to  
27 result in increased disease.

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1           76. Defendants' conduct as alleged herein unreasonably interferes with the common  
2 public right to public health and safety.

3           77. Administrative and governmental remedies have proven inadequate to protect  
4 Plaintiffs from the harms alleged in this complaint and the wrongful conduct by Defendants  
5 alleged in this complaint. OSHA and Cal/OSHA, the principal government agencies tasked with  
6 ensuring workplace safety, have deprioritized inspections and enforcement. The CDC, while able  
7 to issue recommendations, does not have or exercise enforcement authority against employers  
8 that fail to follow those recommendations. Workers in similar situations to Plaintiffs have  
9 submitted complaints to public authorities about the public nuisance and public health and safety  
10 dangers resulting from their employers' acts and omissions, but have been unable to obtain  
11 adequate relief.

12           78. All Defendants are a substantial contributor to the public nuisance alleged herein.

13           79. All Defendants' past and ongoing conduct is a direct and proximate cause of the  
14 Plaintiffs' injuries and threatened injuries.

15           80. All Defendants know and should have known that their conduct as alleged herein  
16 would be the direct and proximate cause of the injuries alleged herein to Plaintiffs.

17           81. Defendants' conduct as alleged herein constitutes a substantial and unreasonable  
18 interference with and obstruction of public rights and property, including the public rights to  
19 health, safety and welfare of the Plaintiffs, and those who come in contact with them, whose  
20 safety and lives are at risk due to Defendants' failure to adopt and implement proper procedures  
21 for protecting workers, patients, visitors, and others from exposure to the COVID-19 virus.

22           82. Defendants have committed and continue to commit the acts alleged herein  
23 knowingly and willfully.

24           83. As a proximate result of Defendants' unlawful actions and omissions, Plaintiffs  
25 have been damaged in an amount according to proof at trial.

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1 **SECOND CAUSE OF ACTION**

2 **Unfair and Unlawful Business Practices**  
3 **[Cal. Bus. & Prof. Code §§ 17200 et seq.]**  
4 **(Brought by All Plaintiffs Against All Defendants)**

5 84. Plaintiffs incorporate herein by specific reference, as though fully set forth, the  
6 allegations in paragraphs 1 through 83.

7 85. Defendants' acts and omissions constituting a public nuisance as alleged herein  
8 also constitute unfair and unlawful business practices under California Business and Professions  
9 Code §§ 17200 et seq.

10 86. Defendants' aforementioned acts and omissions constitute business practices in  
11 that Defendants have engaged in them repeatedly over a significant period of time and in a  
12 systematic manner, to the detriment of the three individual Plaintiffs who are currently employees  
13 of Defendants and to Defendants' economic benefit.

14 87. Defendants' aforementioned acts and omissions have caused economic injury to  
15 the three individual Plaintiffs who are employees of Defendant, including but not limited to  
16 medical expenses and cost of health care supplies and PPE.

17 88. Defendants' acts and omissions also violated CDC recommendations. Defendants  
18 failed to provide adequate and appropriate PPE to all employees; failed to prohibit employees  
19 from entering the hospital if they had COVID-19 symptoms; allowed employees who were sick  
20 or symptomatic, or who had been in close prolonged contact with others who were sick or  
21 symptomatic to report for work, as opposed to remaining at home and monitoring for COVID-19  
22 symptoms; and directed employees tasked with the treatment of employees suffering from  
23 COVID-19 to ignore common sense precautions, such as thoroughly and regularly cleaning and  
24 disinfecting commonly used surfaces and areas and cleaning and sanitizing all shared equipment  
25 and touchable surfaces between uses.

26 89. Defendants' actions also constitute "unfair" business practices because they have  
27 caused employees of RCH, as well as those employees' family members and other members of  
28 the community, to contract COVID-19 infections that could have been avoided through  
reasonably safe practices.



1 workers, or their clothing and/or personal effects, will act as vectors carrying an infectious  
2 disease from the workplace to the worker's home, employers have a duty to reasonably care to  
3 prevent this means of transmission. This duty extends to all members of the worker's household.  
4 (*See Kesner v. Superior Court* (2016) 1 Cal. 5th 1132.)

5 96. Defendants breached their respective duties owed individually to Plaintiff Vanessa  
6 Campos and collectively to all members of Sally Lara's household by: (1) failing to provide Ms.  
7 Lara with sufficient and/or adequate PPE, forcing Ms. Lara to purchase her own PPE, including a  
8 mask and gown, and re-use this equipment past the point to which it was effective; (2) instructing  
9 Ms. Lara to treat patients suffering from COVID-19 without informing Ms. Lara ahead of time of  
10 these patients' COVID-19 status; (3) instructing Ms. Lara to treat COVID-19 patients  
11 immediately after she treated non-COVID-19 patients, without giving Ms. Lara sufficient time to  
12 take CDC-recommended precautions; and (4) failing to promptly inform Ms. Lara of incidents  
13 where she may have been exposed to COVID-19.

14 97. As a direct and legal result of Defendants' actions and/or omissions, Plaintiff  
15 Vanessa Campos Villalobos was injured in her health, strength, and/or activity in an amount  
16 according to proof at trial. Additionally and/or alternatively, Ms. Campos Villalobos, along with  
17 all other members of Sally Lara's household, suffered a reasonable fear of contracting COVID-19  
18 and experiencing COVID-19 related symptoms. (*See, e.g., Potter v. Firestone Tire & Rubber Co.*  
19 (1993) 6 Cal.4th 965; *Kerins v. Hartley* (1994) 27 Cal. App. 4th 1062 [reasonable fear of  
20 contracting a disease is a compensable injury].)

21 98. As a further direct and legal result of Defendants' actions and/or omissions,  
22 Plaintiff Vanessa Campos Villalobos has suffered and/or continues to suffer great mental pain and  
23 suffering, including worry, emotional distress, anguish, anxiety, and/or nervousness in an amount  
24 according to proof at trial.

25 99. The potential harm to Plaintiff Vanessa Campos Villalobos and other members of  
26 Sally Lara's household as a result of Ms. Lara's exposure to COVID-19 was reasonably  
27 foreseeable to Defendants. It is widely known that COVID-19 is an extremely contagious disease  
28

1 that spreads especially easily among those living in the same household. Moreover, Defendants  
2 have specific medical knowledge beyond that of the general public.

3 100. As set forth above and will be shown by proof, there is a high degree of certainty  
4 that Plaintiff Vanessa Campos Villalobos has suffered those injuries and damages, and that there  
5 is an extremely close connection between those injuries and damages and Defendants' negligent  
6 conduct. The case law cited above as well as the public policy of preventing future harms  
7 justifies both the recognition of the existence of a duty of care owed by Defendants to all  
8 members of Sally Lara's household, including Plaintiff Vanessa Campos Villalobos, and the  
9 imposition of the damages described above.

10 **FOURTH CAUSE OF ACTION**

11 **Negligent Infliction of Emotional Distress**  
12 **(Brought by Plaintiffs Vanessa Campos Villalobos against All Defendants)**

13 101. Plaintiffs incorporate herein by specific reference as through fully set forth the  
14 allegations in Paragraphs 1 through 100.

15 102. As set forth above, the suffering and eventual death of Sally Lara from COVID-19  
16 was a direct and legal result of the negligence, carelessness, recklessness, and/or unlawfulness of  
17 Defendants, and/or each of them.

18 103. As a result of the wrongful acts and/or omissions of Defendants, Plaintiff Vanessa  
19 Campos Villalobos suffered serious emotional distress. Defendants owed a duty to all members  
20 of Sally Lara's household, including Ms. Campos Villalobos, to take reasonable care to prevent  
21 transmission of COVID-19, and knew or should have known that Ms. Villalobos would suffer  
22 such distress during and as a result of her mother's illness and death. Defendants' wrongful acts  
23 and/or omissions were thus a substantial factor in causing Ms. Villalobos' serious emotional  
24 distress. (*See, e.g., Marlene F. v. Affiliated Psychiatric Medical Clinic, Inc.* (1989) 48 Cal.3d  
25 583, 590.)

26 104. Additionally and/or alternatively, after the wrongful acts and/or omissions of  
27 Defendants resulted in Sally Lara's contraction of COVID-19, Plaintiff Vanessa Campos  
28 Villalobos had to go through the horrific and traumatic experience of watching Ms. Lara spend  
two weeks on a ventilator and then tragically die. Defendants' wrongful acts and/or omissions

1 were thus a substantial factor in causing Ms. Campos Villalobos' emotional distress. (*See, e.g.,*  
2 *Thing v. La Chusa* (1989) 48 Cal.3d 644.)

3 105. As a direct and legal result of the wrongful acts and/or omissions of Defendants,  
4 Plaintiff Vanessa Campos Villalobos has suffered and will continue to suffer great mental pain  
5 and suffering, including emotional suffering, anguish, nervousness, grief, anxiety, worry, shock,  
6 and/or other emotional distress in an amount according to proof at trial.

7 **FIFTH CAUSE OF ACTION**

8 **Declaratory Judgment**

9 **[Cal. C.C.P. §1060 et seq.]**

10 **(Brought by All Plaintiffs Against All Defendants)**

11 106. Plaintiffs incorporate herein by specific reference as though fully set forth the  
12 allegations in paragraphs 1 through 105.

13 107. An actual controversy has arisen and now exists between the parties relating to the  
14 legal rights and duties of the parties as set forth above, for which Plaintiffs desire a declaration of  
15 rights and other relief available pursuant to the California Declaratory Judgment Act, C.C.P. §  
16 1060 et seq.

17 108. A declaratory judgment is necessary and proper in that Plaintiffs contend that  
18 Defendants have committed and continues to commit the violations set forth above and  
19 Defendants, on information and belief, will deny that they have done so and/or that they will  
20 continue to do so.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs, individually and on behalf of all other persons similarly  
23 situated, respectfully pray for relief against Defendants and DOES 1 through 100, inclusive, and  
24 each of them, as follows:

25 1. For a declaration that Defendants have committed a public nuisance and unfair  
26 business practices by the wrongful acts, omissions, and practices alleged herein whose  
27 commission and omission constitute a public nuisance and unfair business practices;

28 2. For compensatory damages in an amount to be ascertained at trial;

- 1           3.       For restitution of all monies due to Plaintiffs as well as disgorged profits from the
- 2 unfair and unlawful business practices of Defendants;
- 3           4.       For penalties available under the law;
- 4           5.       For reasonable attorneys' fees and costs pursuant to California Code of Civil
- 5 Procedure § 1021.5, and/or any other applicable provisions providing for attorneys' fees and
- 6 costs; and
- 7           6.       For such further relief that the Court may deem just and proper.

8       Dated: August 19, 2020

WEINBERG, ROGER & ROSENFELD  
A Professional Corporation

*Bruce A. Harland*

By:       Bruce A. Harland  
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