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*Attorneys for Plaintiffs*

**MONTANA FOURTH JUDICIAL DISTRICT COURT  
MISSOULA COUNTY**

|                                                                                                                                                                                                                                                                                                                           |                                                                                                                                 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| <p>Cheyenne Hamilton-Stuart and Natalie Scott, on behalf of themselves and all others similarly situated,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">-vs-</p> <p>CMC MISSOULA, INC., d/b/a<br/>COMMUNITY MEDICAL CENTER,<br/>INC.,</p> <p style="text-align: right;">Defendant.</p> | <p>Dept. No.:<br/>Cause No.:</p> <p style="text-align: center;"><b>CLASS ACTION COMPLAINT<br/>AND DEMAND FOR JURY TRIAL</b></p> |
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**PRELIMINARY STATEMENT**

1. State law requires the prompt, accurate payment of wages earned by employees. Defendant CMC Missoula Inc. d/b/a Community Medical Center (“CMC”) has willfully and knowingly issued inaccurate paychecks for months. Since December 2021, CMC has failed to pay over one hundred thousand dollars in wages to its employees. Accordingly, on behalf of themselves and other nurses similarly situated, Plaintiffs Cheyanne Hamilton-Stuart and Natalie Scott bring the following claims under Montana’s wage collection statutes.

### **PARTIES**

2. Plaintiff Cheyanne Hamilton-Stuart is a surgical tech at CMC and resides in Missoula, Montana.

3. Plaintiff Natalie Scott is a nurse at CMC and resides in Missoula, Montana.

4. Defendant CMC is a hospital conducting business in Missoula County, Montana.

### **GENERAL ALLEGATIONS**

5. Plaintiffs are currently employed by CMC.

6. CMC employs at least 1,000 people.

7. CMC pays its employees pursuant to its Employee Handbook, which states, “You will be paid on a bi-weekly basis, which totals a minimum of 26 pay

periods annually. Paychecks are issued within one week after the end of each pay period.”

8. CMC’s internal policies also provide that “It is the Company’s policy to comply with federal and state wage and hour laws.”

9. CMC’s internal policies also provide that “Employees earn PAL (Personal Allowable Leave) for each pay period” according to schedules established by CMC.

10. On or about December 11, 2021, CMC advised some or all of its employees to begin keeping track of their time manually.

11. Plaintiffs and other employees followed CMC’s instructions and kept track of their time manually, filling out and submitting paper timecards supplied by CMC.

12. CMC did not use Plaintiffs’ and other employees’ timecards to determine the amount of employee paychecks.

13. Instead, CMC made the decision to issue employees, including Plaintiffs, their paychecks in the amount of their last paycheck before December 12, 2021.

14. Plaintiffs and other employees at CMC have varying shifts, various hours of work, different kinds of incentive pay; these, and a variety of other factors, determine the amount of pay earned in any given pay period. For example,

an employee might have worked eight hours in the pay period before December 12, 2021, and 42 hours including overtime and incentive pay in the shift that followed.

15. Plaintiffs and other employees regularly earn pay over and above regular hourly rates, including but not limited to higher rates for night differentials, shift differentials, charge nurse shifts, certification pay, low census shifts, on-call shifts, critical shifts, overtime, and other incentivized hourly rates.

16. Paychecks issued by CMC after December 12, 2021, do not accurately reflect the number of hours Plaintiffs and other employees worked or the other variations that determined the pay they were owed. As a result, CMC has underpaid hundreds of employees since December 12, 2021.

17. Since December 12, 2021, CMC has issued paychecks to the Plaintiffs that are inaccurate and underpay Plaintiffs based on the number of hours they worked since then.

18. CMC has had reason to believe that, since December 12, 2021, a large number of its employees' paychecks were inaccurate and did not comply with state law.

19. Since December 12, 2021, CMC has incorrectly computed Plaintiffs' personal allowable leave ("PAL").

20. Since December 12, 2021, CMC has known that a large number of its employees' PAL was incorrectly computed. Since December 12, 2021, CMC has continued to apply its PAL policies improperly, including deducting PAL time when such time was not used by CMC employees.

21. On information and belief, CMC had the means to calculate the Plaintiffs' and all other employees' paychecks accurately and pay them timely, as state law requires.

22. CMC communicated to the Plaintiffs and other employees that it would issue inaccurate, untimely paychecks.

23. CMC's own executives described CMC's payroll situation as "a dumpster fire."

24. CMC continues to improperly account for PAL earned by Plaintiffs and other employees.

25. Plaintiffs are each individually owed hundreds, or thousands, of dollars in unpaid wages.

26. A large number of CMC employees are individually owed hundreds or thousands of dollars in unpaid wages.

### **COUNT ONE**

### **VIOLATION OF THE WAGE PROTECTION ACT**

27. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as if fully set forth herein.

28. Under the provisions of § 39-3-204(1), MCA, of Montana's Wage Protection Act, CMC has a duty to pay statutory or agreed-upon wages within 10 days after the wages are due and payable.

29. CMC breached its duty, under the provisions of § 39-3-204(1), MCA, of Montana's Wage Protection Act, to pay Plaintiffs the wages to which they are contractually and statutorily entitled.

30. CMC's breach is continuous and ongoing.

31. CMC's failure to calculate and pay Plaintiffs' wages at the correct and required hourly rate when such wages were due constitutes a willful breach of CMC's duties under Montana law, and entitles Plaintiffs to recover penalties for non-payment pursuant to the provisions of § 39-3-206, MCA.

32. Plaintiffs have incurred and will incur attorney fees and costs as a result of the prosecution of this action, and are entitled to recover their attorney fees and costs incurred herein.

33. WHEREFORE, the Plaintiffs pray for relief as more fully set forth in the Prayer for Relief.

## **COUNT TWO**

### **CLASS ACTION**

34. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as if fully set forth herein.

35. Plaintiffs bring this action pursuant to the provisions of Rules 23(a) and 23(b)(2) and/or 23(b)(3) of the Montana Rules of Civil Procedure as a class action for themselves and as representatives of and on behalf of all other persons similarly situated, to wit: all employees who work or worked for CMC, since December 11, 2021, and who have failed to receive from CMC all of the wages and benefits to which they are statutorily entitled.

36. This class action satisfies the prerequisites set forth in Rule 23(a) for maintaining a class action:

(a) The class is so numerous that joinder of all members is impracticable.

(b) There are questions of law and fact common to the class, to wit:

whether CMC failed to pay the full amount of all contractual and statutory wages and benefits to which the members of the class have been entitled since December 12, 2021. These common questions of law or fact include:

- 1) Whether CMC paid the class for all hours worked at the appropriate rate;
- 2) Whether CMC has accurately accounted for benefits owed the class;
- 3) Whether Defendant paid the class timely.

(c) The Plaintiffs' claims in Count One are typical of the class, to wit: Plaintiffs are or were employees of CMC, and they have not been paid the wages to which they are entitled.

(d) The Plaintiffs will fairly and adequately protect the interests of the class, because they have no interest in conflict with members of the class, and class counsel is experienced and competent to handle this litigation.

37. In addition, CMC has acted or refused to act on grounds generally applicable to the class.

38. Further, the questions of law or fact common to the members of the class predominate over any questions affecting individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

39. WHEREFORE, the Plaintiffs pray for relief as more fully set forth in the Prayer for Relief.

### **COUNT THREE**

#### **COMMON FUND**

40. Plaintiffs re-allege and incorporate by reference the preceding paragraphs as if fully set forth herein.

41. As a result of the class action brought herein, a common fund will be created in which all members of the class will benefit, and all members of the class

should be responsible for the pro rata costs and attorney's fees incurred in the litigation for which the CMC is not otherwise responsible.

42. WHEREFORE, the Plaintiffs pray for relief as more fully set forth in the Prayer for Relief.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for relief as follows:

1. As to Count One, judgement against CMC with a full award of unpaid wages, benefits, compensatory damages, penalties, attorney fees and costs.

2. As to Count Two,

(a) Certification of this matter as a class action, naming Cheyanne Hamilton-Stuart and Natalie Scott as representatives of the class, wherein the class is defined as all employees who work or worked for CMC, since December 11, 2021, and who have failed to receive from CMC the full amount of all of the wages and benefits to which they are statutorily entitled, and

(b) for judgment against CMC requiring it to properly calculate and pay all members of the class wages they are owed but have not been paid, and

(c) to account for and provide all benefits owed to members of the class, and

(d) for each member of the class an award of the statutory penalty, and

(e) for an award of attorney fees and costs.

3. As to Count Three, an award of attorney fees, and costs incurred herein, and to assess a pro rata share of attorney fees and costs against persons who have benefited by this litigation.

4. And for other and further relief as this Court deems just.

**DEMAND FOR JURY TRIAL**

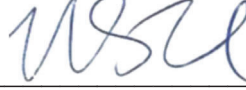
Plaintiff demands a trial by jury of all issues so triable.

Dated this 16th day of February 2022.

GRAYBILL LAW FIRM, PC

A handwritten signature in black ink, appearing to be "J. Graybill", written over a horizontal line.

MCCONNELL LAW OFFICES, PLLC

By:   
Nate S. McConnell