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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 COUNTY OF SONOMA

16 NICOLE CHETTERO, individually and on  
17 behalf of all others similarly situated,

18 Plaintiff,

19 v.  
20

21  
22 AURORA BEHAVIORAL  
HEALTHCARE-SANTA ROSA, LLC,  
23 d/b/a AURORA SANTA ROSA  
HOSPITAL; SIGNATURE  
24 HEALTHCARE SERVICES, LLC; and  
DOES 1-20, inclusive,  
25

26 Defendants.  
27  
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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SONOMA

DEC -7 2023

BY   
Deputy Clerk

Case No. SCV-268610

ASSIGNED FOR ALL PURPOSES TO HON.  
PATRICK M. BRODERICK

DEPARTMENT 16

~~PROPOSED~~ ORDER GRANTING  
PLAINTIFF'S MOTION FOR CLASS  
CERTIFICATION

Date: TBD 11/08/2023 12-06-23  
Time: TBD 3:00 PM

Complaint Filed: June 14, 2021  
Trial Date: February 2, 2024

1 Plaintiff Nicole Chettero's motion for class certification came on for hearing on  
2 12-06-2023. Plaintiff has moved for certification of a class defined as:

3 All former and current registered nurses ("RNs"), licensed vocational  
4 nurses and psychiatric technicians ("LVNs" or "LPTs"), and mental  
5 health workers and technicians ("MHWs" or "MHTs") who worked at  
6 least one shift in the Nursing Department at Aurora Santa Rosa Hospital  
(also known as Santa Rosa Behavioral Healthcare Hospital) from July  
21, 2016 through the date of class notice.

7 After considering the papers and pleadings on file, and argument presented by counsel  
8 for Plaintiff and Defendants, the Court makes the following FINDINGS and ORDERS:

9 1. The proposed class is ascertainable from Defendants' employment records.  
10 Those records identify at least 582 class members. The Court thus finds that the proposed class  
11 is sufficiently numerous such that joinder of each class member would be impracticable.

12 2. There is a well-defined community of interest among class members. Plaintiff  
13 has presented deposition testimony from Defendants' corporate representatives, managers, and  
14 former Chief Nursing Officer, documentary evidence and declarations from over 30 class  
15 members, and the declaration of David Breshears, a licensed certified public accountant who is  
16 certified in financial forensics and who analyzed the payroll and timekeeping data that  
17 Defendants produced in this case. This evidence collectively describes Defendants' policies and  
18 practices that have applied generally to the members of the proposed class.

19 3. In particular, this evidence supports Plaintiff's theory of liability that Defendants  
20 have failed to provide lawful meal and rest periods due to Defendants' (a) purposeful and  
21 chronic understaffing of class member positions; (b) requirement that patient safety be the  
22 number one priority, which demands that class members forego lawful breaks in service of  
23 patient safety; and (c) requirement that class members remain on duty, unless and until they are  
24 relieved or their patient care work is covered by others. These policies are reinforced by the  
25 nurses' code of ethics, which requires that a nurse's primary commitment be to the patient.  
26 Deficient care by either licensed nurses or unlicensed MHWs threatens Aurora's and the nurses'  
27 licenses. Defendants' understaffing, coupled with hospital mandates to put patients first, make

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1 missed, late, and short breaks commonplace. (See *Alberts v. Aurora Behavioral Health Care*  
2 (2015) 241 Cal.App.4th 388, 409.)

3 4. Plaintiff's expert's analysis of Defendants' timekeeping and payroll records  
4 further supports Plaintiff's theory of liability and presents a method for calculating classwide  
5 damages for the meal break claim and derivative waiting time, wage statement, and unfair  
6 competition claims. Mr. Breshears' analysis reveals that 62 percent of the shifts in the data  
7 exhibit evidence of unlawful meal periods and that Defendants did not pay any meal period  
8 premiums in 97 percent of the noncomplying shifts. Defendants' timekeeping and payroll  
9 records are the type of common evidence susceptible to classwide analysis. (See *Donahue v.*  
10 *AMN Services, LLC* (2021) 11 Cal.5th 58, 61, 76 [holding that a rebuttable presumption arises  
11 that an employer has failed to provide compliant meal periods when the employer's time  
12 records show that employees routinely take late or short meal periods]; *Garcia v. Central Coast*  
13 *Restaurants, Inc.* (N.D. Cal., Mar. 4, 2022, No. 18-CV-02370) 2022 WL 657972, at \*8 ["For  
14 the meal period claims . . . , the presumption under *Donohue* . . . means that common issues will  
15 predominate over individual ones."].)

16 5. Plaintiff's evidence also suggests that Defendants had no reliable method for  
17 ensuring that they paid employees for non-compliant meal breaks. The lack of a systematic  
18 method for identifying and remedying violations creates predominant issues of law and fact  
19 suitable for class treatment. (See *Safeway, Inc. v. Super. Ct.* (2015) 238 Cal.App.4th 1138,  
20 1158–1162.)

21 6. Plaintiff's rest break claim also presents common factual and legal questions.  
22 Plaintiff contends, and the evidence supports, that the same common policies that led to  
23 unlawful meal breaks resulted in rest break violations, that Defendants lacked any method for  
24 employees to record missed rest breaks, and that Defendants' records reflect the absence of  
25 premium payments for rest breaks. (See *Alberts, supra*, 241 Cal.App.4th at p. 417 [reversing  
26 certification denial where defendants' hospitals had no mechanism for employees to report  
27 missed rest breaks, corporate employee testified that she had never seen a request for a missed  
28

1 rest break premium, and there was “no evidence of any instance in which a putative class  
2 member was paid for a missed rest break”].)

3 7. Plaintiff has proposed a classwide method of calculating damages for the rest  
4 break claim under which her expert will determine the statistically significant average and  
5 aggregate number of noncompliant rest periods per week across the class and the concomitant  
6 amount of premium wages owed.

7 8. Considering these common generally applicable policies and practices, common  
8 questions of law and fact will predominate in this case including:

- 9 (a) whether Defendants failed to provide Plaintiff and members of the class  
10 lawful meal periods or otherwise paid them premium wages;
- 11 (b) whether Defendants failed to provide Plaintiff and members of the class  
12 lawful rest periods or otherwise paid them premium wages;
- 13 (c) whether Defendants paid Plaintiff and members of the class all wages due  
14 upon the end of their employment;
- 15 (d) whether Defendants provided Plaintiff and members of the class accurate  
16 wage statements showing all wages earned;
- 17 (e) whether Defendants have acted willfully and/or have a good faith defense  
18 to liability where Defendants have been sued previously for the same and  
19 similar violations, Defendants were aware of breaks violations, and  
20 Defendants were cited by public health authorities for overstaffing, but  
21 Defendants still maintained their staffing ratios and did not take effective  
22 steps to ensure class members had a reasonable opportunity to take their  
23 meal and rest breaks;
- 24 (f) whether Defendants engaged in unfair competition proscribed by the  
25 Business and Professions Code by engaging in the conduct described  
26 herein as to members of the class;
- 27 (g) the calculation of classwide damages based on Defendants’ payroll and  
28 timekeeping records for the meal break claim and derivative claims;

- 1 (h) the appropriate method for calculating classwide damages for the rest  
2 break claim in the absence of payroll and timekeeping records;  
3 (i) the calculation of civil penalties owed; and  
4 (j) the scope and type of injunctive relief necessary to prevent the wage and  
5 hour violations described herein.

6 9. The claims of the proposed class representative, Nicole Chettero, are typical of  
7 the claims of the class. A representative plaintiff's claims are typical if they arise from the same  
8 event, practice, or course of conduct that gives rise to the claims of the other class members and  
9 if her claims are based on the same legal theory. (*Classen v. Weller* (1983) 145 Cal.App.3d 27,  
10 46-47.) The named plaintiff and proposed class representative here is a former employee who  
11 has been confronted with the same set of policies and practices as the class members. The  
12 named plaintiff's claims are the same as the claims of the class members.

13 10. Plaintiff is also an adequate class representative. Plaintiff has demonstrated that  
14 she understands her obligations as a class representative, that she does not have any interests  
15 antagonistic to the class, and that she is committed to representing the interests of the members  
16 of the class. In this connection, Plaintiff's attorneys at the law firms, Valerian Law, P.C. and  
17 Olivier & Schreiber LLP, are experienced class action attorneys and adequate class counsel.

18 11. The Court therefore finds that Plaintiff has satisfied the requirements for class  
19 certification under California Code of Civil Procedure section 382. (*See, e.g., Sav-On Drug*  
20 *Stores, Inc. v. Super. Ct.* (2004) 34 Cal.4th 319.)

21 12. Plaintiff Nicole Chettero is appointed representative of the class defined above.

22 13. Xinying Valerian and Dan L. Gildor of Valerian Law, P.C. and Christian  
23 Schreiber and Rachel Bien of Olivier & Schreiber LLP are appointed as class counsel.

24 14. The Court approves Plaintiff's proposed notice plan.

25 15. Atticus Administration, LLC shall serve as the notice administrator and shall  
26 administer the notice process set forth below.

27 16. Defendants shall provide the notice administrator the last known contact  
28 information for the members of the class in a manner acceptable to the notice administrator

1 within ten (10) business days of entry of this order. The contact information shall include each  
2 class member's last known address, mobile telephone number or other last known telephone  
3 number, and social security number. The notice administrator shall keep such information  
4 confidential.

5 17. The notice administrator shall deliver the notice attached hereto as Exhibit A to  
6 each class member via first-class mail within ten (10) business days of receiving the contact  
7 information from Defendants. Prior to delivering the notices, the notice administrator shall  
8 update the contact information for each class member using the National Change of Address  
9 database.

10 18. The notice administrator shall establish a website for the case. That website shall  
11 at a minimum allow members of the class to obtain copies of Plaintiff's complaint, this order,  
12 and the class notice attached hereto as Exhibit B. The address for the website shall be inserted in  
13 the final class notices.

14 19. Finally, the notice administrator shall provide notice to class members via text  
15 message. The text to be sent shall be substantially in the following form:

16 A class action lawsuit regarding Aurora Santa Rosa Hospital may affect  
17 your rights. Go to [website] to review your options. A court has ordered  
18 this notice.

19 20. The deadline for post-marking requests for exclusion, which shall be inserted in  
20 the text of the notices, shall be 30 days after the date of the mailing of the notices.

21 21. The notice administrator shall promptly forward any notices returned with a  
22 forwarding address. The notice administrator shall also skip-trace any notices returned without  
23 any forwarding address and redeliver the notice to any new address found. The notice  
24 administrator shall provide a report to counsel for Plaintiff and Defendants at the conclusion of  
25 the exclusion period reporting who has requested exclusion and which notices were  
26 undeliverable.

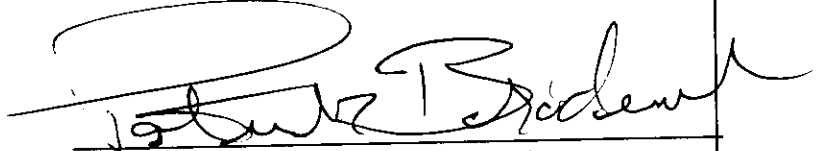
27 22. Plaintiff will advance the costs of giving notice including the costs associated  
28 with translation, mailing, and other administrative costs incurred by the notice administrator,

1 reserving her right to apply for recovery of such costs if she is the prevailing party at the  
2 conclusion of the litigation.

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IT IS SO ORDERED

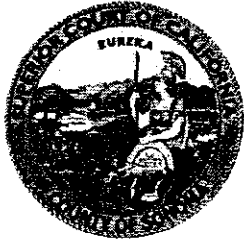
Dated: 12-07, 2023



Hon. Patrick Broderick  
Judge of the Superior Court

# EXHIBIT A





Superior Court of California in and for Sonoma County  
*Nicole Chettero v. Aurora Behavioral Healthcare-Santa Rosa, LLC, et al*  
Case No. SCV-268610

## Class Action Notice

*Authorized by the Superior Court in and for Sonoma County*

### Why did I get this notice?

This notice is to tell you about the class certification in a class action lawsuit entitled Nicole Chettero v. Aurora Behavioral Healthcare-Santa Rosa, LLC, et al., brought on behalf of current and former registered nurses, licensed vocational nurses, licensed psychiatric technicians, and mental health workers who worked at least one shift in the Nursing Department at Aurora Santa Rosa Hospital (also known as Santa Rosa Behavioral Healthcare Hospital) since July 21, 2016, to the present. You received this notice because you may be a member of the group of people affected, called the "class." This notice tells you how to get more information about the case.

### What are my choices?

<b>Opt Out</b>	Leave the lawsuit. Allows you to bring another lawsuit against Aurora Behavioral Healthcare Santa-Rosa, LLC about the same issues.
<b>Do Nothing</b>	If you take no action, you will be bound by the case, and your rights will be affected.

You can learn more at [website address] or scan the QR code below.

### What is a class certification?

The court has decided that this case can go forward on behalf of everyone potentially affected in the same way. In this case, the court has defined the class as brought on behalf of current and former registered nurses, licensed vocational nurses and psychiatric technicians, and mental health workers and technicians who worked at least one shift in the Nursing Department at Aurora Santa Rosa Hospital (also known as Santa Rosa Behavioral Healthcare Hospital) since July 21, 2016.

### Key things to know:

- This is an important legal document.
- If you take no action, you will still be bound by the case, and your rights will be affected.
- If you have questions or need assistance, please call 1-800-#.



# EXHIBIT B



Superior Court of California in and for Sonoma County  
*Nicole Chettero v. Aurora Behavioral Healthcare-Santa Rosa, LLC, et al*  
Case No. SCV-268610

## Class Action Notice

*Authorized by the Superior Court in and for Sonoma County*

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**Have you worked as a registered nurse, licensed vocational nurse/psychiatric technician, or mental health worker/technician in the Nursing Department at Aurora Santa Rosa / Santa Rosa Behavioral Healthcare Hospital since July 21, 2016?**

**There is a class action lawsuit and you may be a class member.**

- 1. If you want to be part of the class action, you do not need to do anything.**
- 2. If not, you need to opt out by [ ] .**

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Important things to know:

- If you take no action, you will be bound by the case, and your rights will be affected.
- If you want to opt out, you must do so by [date].

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# About This Notice

## 1. Why did I get this notice?

This notice is to tell you about a class action lawsuit, *Nicole Chettero v. v. Aurora Behavioral Healthcare-Santa Rosa, LLC, et al.*, brought on behalf of current and former registered nurses, licensed vocational nurses and psychiatric technicians, and mental health workers and technicians who worked at least one shift in the Nursing Department at Aurora Santa Rosa Hospital (also known as Santa Rosa Behavioral Healthcare Hospital) since July 21, 2016.

**You received this notice because you may be a member of the group of people affected, called the "class."**

This notice gives you information about the case and tells you how to opt out if you don't want to be part of it. It is an important legal document, and we recommend that you read all of it. If you have questions or need assistance, please go to [website] or call [1-800 #].

## 2. What do I do next?

Read this notice to understand the case and to determine if you are a class member. Then, decide if you want to stay in the case or opt out.

## 3. What is the deadline to opt out?

The deadline to be excluded from the case is [date]

## 4. What is class certification?

The court overseeing this case has decided that it can go forward on behalf of everyone potentially affected in the same way.

## 5. Who is in the class?

All current and former registered nurses ("RNs"), licensed vocational nurses and psychiatric technicians ("LVNs" or "LPTs"), and mental health workers and technicians ("MHWs" or "MHTs") who worked at least one shift in the Nursing

Department at Aurora Santa Rosa Hospital (also known as Santa Rosa Behavioral Healthcare Hospital) from July 21, 2016, to the date of this notice.

## 6. Do I have a lawyer in this lawsuit?

In a class action, the court appoints class representatives and lawyers (called Class Counsel) to work on the case and defend the interests of all the class members. For this case, the Court has appointed the following individuals and lawyers.

**Class Representatives:** Nicole Chettero

**Class Counsel:** Valerian Law P.C. and Olivier & Schreiber LLP. These law firms are bringing this case on your behalf. **You will not be charged for their services.**

If you want to be represented by your own counsel, you may hire one at your own expense.

## Learning About the Lawsuit

### 7. What is this lawsuit about?

Nicole Chettero filed a lawsuit in 2021 claiming that Aurora Behavioral Healthcare-Santa Rosa, LLC violated California wage and hour laws by failed to provide members of the class with complaint meal and rest periods and accurate wage statements and failed to pay all wages due at termination.

Aurora Behavioral Healthcare-Santa Rosa, LLC and the other defendants deny that they did anything wrong.

#### Where can I learn more?

You can get a complete copy of the key documents in this lawsuit by visiting:

[REDACTED]

### 8. What happens next in this lawsuit?

The parties will continue to pursue legal action and prepare the case for trial, unless the parties decide to settle for the class.

### 9. Is there any money available now?

No money or benefits is available now because the Court has not yet decided whether Defendants did anything wrong, and the two sides have not settled the case.

## Deciding What You Want to Do

### 10. How do I weigh my options?

You have two options. You can stay in the case, or you can opt out of the case. This chart shows the effects of each option:

	<i>do nothing</i>	<i>opt out</i>
Am I bound by the terms of this lawsuit if I . . .	YES	NO
Can I pursue my own case if I . . .	NO	YES
Will I have legal representation if I . . .	YES	NO

## Doing Nothing and Staying in the Case

### 11. What are the consequences of doing nothing?

If you do nothing, you will be part of the case and your rights will be affected by the outcome. You won't be able to start, continue, or be part of any other lawsuit against Aurora Behavioral Healthcare-Santa Rosa and the other defendants about the issues in this case. If the employee that brought the class action lawsuit wins or settles, the class may be entitled to compensation. If the companies win, the class will receive nothing.

## Opting Out

### 12. What if I don't want to be part of this case?

You can opt out.

You may request to opt out of the case by sending a request stating that you wish to opt out from *Nicole Chettero v. Aurora Behavioral Healthcare-Santa Rosa, LLC, et al.*, Case No. SCV-268610.

Your request must include your name, address, telephone number, signature, and date and be postmarked by \_\_\_\_\_, 2023.

[opt out address]

Your request must be mailed to the address in the box to the right.

Be sure to include your name, address, telephone number, and signature.

## Key Resources

### 14. How do I get more information?

This notice summarizes the certification decision. There are more details in the case documents. To get a copy of the case documents or get answers to your questions:

- contact Class Counsel (information below)
- visit the case website at [website]
- access the [Court's Odyssey Portal](#) online or by visiting the Clerk's office of the Court at 3055 Cleveland Avenue, Santa Rosa, CA 95403

<b>Case website</b>	[website]	
<b>Class Administrator</b>	Class Administrator Main Avenue, Suite 1 City, ST 00000-0000 1-800-000-00000	
<b>Class Counsel</b>	<u>Valerian Law P.C.</u> admin@valerian.law 1530 Solano Ave Albany, CA 94707 (888) 686-1918	<u>Olivier &amp; Schreiber LLP</u> info@os-legal.com 475 14th St. Suite 250 Oakland, CA 94612 (415) 484-0980