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BEFORE THE COMMISSIONER
OF THE BUREAU OF LABOR AND INDUSTRIES
OF THE STATE OF OREGON

In the Matter of:

Case No. 29-17

LEGACY EMANUEL HOSPITAL &
HEALTH CENTER dba LEGACY
EMANUEL MEDICAL CENTER

FINAL ORDER ON DEFAULT

Respondent.

10 TO: Legacy Emanuel Medical Center
11 2801 N. Gantenbein Avenue
12 Portland, OR 97227

13 Legacy Emanuel Hospital & Health Center
14 Attn: Robert E. Dewitt, Registered Agent
15 1919 NW Lovejoy St
16 Portland, OR 97209

17 On May 17, 2017, the Agency issued a Notice of Intent to Assess Civil Penalties
18 ("NOI") against the above named Respondent.

19 Said Notice of Intent provided Respondent with an opportunity to answer and
20 make written request for a hearing before the Commissioner of the Oregon Bureau of
21 Labor and Industries within twenty (20) days after service of the Notice of Intent. On
22 May 31, 2017, Respondent timely filed an answer and request for hearing. On October
23 3, 2017, Respondent filed a Notice of Withdrawal, withdrawing its request for hearing.
24 Pursuant to OAR 839-050-0330(1)(b), default occurs when a party withdraws a request
25 for hearing.

1 BASED UPON THE AGENCY'S RECORDS HEREIN, including the investigative
2 reports, papers, and documents, the Commissioner of the Oregon Bureau of Labor and
3 Industries finds that at all times material, the following violations occurred in the course
4 and scope of Respondent's business activities which were carried out within the State of
5 Oregon and forming the basis for the following.

6 THE BASES FOR ASSESSMENT OF CIVIL PENALTIES ARE THAT:

7 1.

8 Willful failure to provide appropriate meal periods. Respondent failed to
9 provide minimum meal periods on 4,428 occasions in violation of ORS 653.261(1) and
10 OAR 839-020-0050(2)(a) as follows:

11 Surgical Department from November 1, 2015 to January 31, 2016

Description:	Number of Occurrences:
Unpaid Meal Periods 27 to 29 minutes long	507
Paid Meal Periods 26 minutes or less	172
No Meal Period	664
TOTAL	1,343

12 Housekeeping Department from November 1, 2015 to January 31, 2016

Description:	Number of Occurrences:
Unpaid Meal Periods 27 to 29 minutes long	1923
Paid Meal Periods 26 minutes or less	462
No Meal Period	251
TOTAL	2,636

1 Family Birthing Center from July 24, 2016 to August 6, 2016

Description:	Number of Occurrences:
Unpaid Meal Periods 27 to 29 minutes long	57
Paid Meal Periods 26 minutes or less	32
No Meal Period	169
Late Meal Periods	191
TOTAL	449

8 Respondent's violations were willful because Respondent knew or should have
9 known about minimum meal period requirements and failed to comply with the law.
10 **CIVIL PENALTY of \$265,680.00.** Four thousand four hundred twenty eight (4,428)
11 violations at \$60.00 per violation. ORS 653.256(1), OAR 839-020-1000, OAR 839-020-
12 1010(1)(j) and OAR 839-020-1020(1).
13

14 2.

15 Willful failure to provide rest periods. Respondent failed to provide rest periods
16 to at least the following employees: Erica Brantley, Tinara M. Carter, Ramona Douglas,
17 Sandra M. Evangelista, Eric C. Fischer, Dennis Leithold, Natalia Mukha, Cynthia
18 Roraback, Mike B. Schults, Shannon R. Spencer and Bryan Voss, in violation of ORS
19 653.261(1) and OAR 839-020-0050(6)(a). Respondent's violations were willful because
20 Respondent knew or should have known about minimum rest period requirements and
21 failed to comply with those provisions of law. A civil penalty may be assessed for the
22 above violations not to exceed \$1,000. **CIVIL PENALTY of \$11,000.** Eleven (11)
23 violations at \$1,000 per violation. ORS 653.256(1), OAR 839-020-0100, OAR 839-020-
24 1010(1)(l), and OAR 839-020-1020(1).
25

1 3.

2 Aggravating Factors: The violations set forth above are attended by one or more
3 of the following aggravating circumstances, which have been considered pursuant to
4 OAR 839-020-1020(1) in determining the amount of the civil penalty: (a) In the past
5 nine years, the Agency has received multiple complaints regarding Respondent's failure
6 to provide rest and meal periods; (b) Respondent has failed to implement policies to
7 prevent further violations of rest and meal period provisions; (c) the seriousness and
8 magnitude of these violations is great because they impact several employees who
9 often worked in excess of 11 hours per day without meal and rest breaks; (d)
10 Respondent knew or should have known of the meal and rest period requirements; (e)
11 Respondent had the opportunity and it would not have been difficult to comply with the
12 law; and (5) Respondent's failure to comply with the law has resulted in the loss of
13 employees' substantive rights.
14

15 ORDER

16 PURSUANT TO ORS 653.370, RESPONDENT LEGACY EMANUEL HOSPITAL &
17 HEALTH CENTER dba LEGACY EMANUEL MEDICAL CENTER IS HEREBY
18 ORDERED TO DELIVER TO THE FISCAL SERVICES OFFICE OF THE BUREAU OF
19 LABOR AND INDUSTRIES A CERTIFIED CHECK, PAYABLE TO THE BUREAU OF
20 LABOR AND INDUSTRIES, IN THE AMOUNT OF \$276,680.00 REPRESENTING
21 CIVIL PENALTIES AS A RESULT OF THE VIOLATIONS FOUND HEREIN.
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1 Dated this 23rd day of October, 2017.

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3 Brad Avakian, Commissioner
4 BUREAU OF LABOR AND INDUSTRIES

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7 Gerhard Taeubel, Administrator
8 Wage and Hour Division

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2 Unless the Administrator grants relief from default, your Request will be referred
3 to an Administrative Law Judge for review. The Administrative Law Judge will either
4 grant relief from default or issue an order upholding the default, with a notice of judicial
5 review rights.

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7 **B. JUDICIAL REVIEW**

8 Whether you seek administrative relief from default as provided above and are
9 unsuccessful, or you do not seek such relief at all, you are entitled to judicial review of
10 this Final Order pursuant to ORS 183.482. If you do not seek administrative relief from
11 default, to obtain judicial review, you must file a Petition for Judicial Review with the
12 Court of Appeals in Salem, Oregon, within sixty (60) days of the service of this Final
13 Order. If you first seek administrative relief from default as provided above, and that
14 request for relief is denied, you will be notified in the order denying relief from default of
15 your right to judicial review within sixty (60) days of that order. In either event, if you file
16 a Petition for Judicial Review, YOU MUST ALSO SERVE A COPY OF THE PETITION
17 FOR JUDICIAL REVIEW ON THE BUREAU OF LABOR AND INDUSTRIES AND THE
18 DEPARTMENT OF JUSTICE – APPELLATE DIVISION AT THE FOLLOWING
19 ADDRESSES:

20
21 Judgment Unit
22 Wage and Hour Division
23 Bureau of Labor and Industries
24 800 NE Oregon Street, #1045
25 Portland, OR 97232

26 Department of Justice
27 Appellate Division
28 1162 Court Street NE
29 Salem, OR 97301

1 If you file a petition for Judicial review and if you wish to stay the enforcement of
2 this final order pending judicial review, you must file a request with the Bureau of Labor
3 and Industries, at the address listed above. Your request must contain the information
4 described in ORS 183.482(3) and OAR 137-003-0090 to 137-003-0092.

5
6 Certified to be a true and correct copy of the original and of the whole thereof.
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9
10 Diane Anicker
Contested Case Coordinator

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12 Bureau of Labor and Industries
1045 State Office Building
13 800 NE Oregon Street
14 Portland, OR 97232-2180
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BEFORE THE COMMISSIONER
OF THE BUREAU OF LABOR AND INDUSTRIES
OF THE STATE OF OREGON

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I SERVED A COPY OF THE ATTACHED:

FINAL ORDER ON DEFAULT

In the Matter of:

**LEGACY EMANUEL HOSPITAL & HEALTH CENTER dba LEGACY
EMANUEL MEDICAL CENTER**
HU#29-17

BY HAND DELIVERING OR PLACING IT IN INTERNAL STATE MAIL SERVICES TO EACH PERSON AT THE
ADDRESS LISTED BELOW:

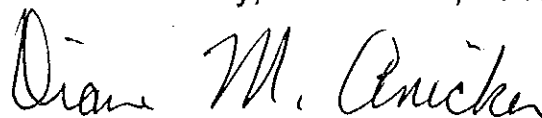
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Adriana Ortega Administrative Prosecutor Bureau of Labor and Industries 1045 State Office Building 800 NE Oregon Street Portland, OR 97232	Judgment Unit Bureau of Labor and Industries 1045 State Office Building 800 NE Oregon Street Portland, OR 97232	Gerhard Taeubel, Administrator Wage and Hour Division Bureau of Labor and Industries 1045 State Office Building 800 NE Oregon Street Portland, OR 97232
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AND BY PREPARING AND PLACING IT IN THE OUTGOING BUREAU OF LABOR AND
INDUSTRIES MAIL TO EACH PERSON OR ENTITY AT THE ADDRESSES LISTED BELOW:

Legacy Emanuel Medical Center 2801 N. Gantenbein Avenue Portland, OR 97227 via Regular & Certified Mail Receipt # 7017 0530 0001 1476 5944	Legacy Emanuel Hospital & Health Center Attn: Robert E. Dewitt, Registered Agent 1919 NW Lovejoy St Portland, OR 97209 via Regular & Certified Mail Receipt # 7017 0530 0001 1476 5937
Paula Barran Barran Liebman, LLP 601 SW 2 nd Ave., Ste 2300 Portland, OR 97204 via Regular & Certified Mail Receipt # 7017 0530 0001 1476 5920	

On Monday, October 23, 2017



Diane M. Anicker, Contested Case Coordinator, Bureau of Labor and Industries, 971-673-0865