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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

MARIA ALICIA ORTEGA, on behalf of herself
and all others similarly situated,

Plaintiff,

vs.

CASA COLINA HOSPITAL AND CENTERS
FOR HEALTHCARE, a California corporation;
CASA COLINA, INC., a California corporation;
and DOES 1 through 100,

Defendants.

Case No. 21STCV20670

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 558, 1194, 1198);**
- (2) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (3) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512);**
- (4) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516);**
- (5) **WAGE STATEMENT
VIOLATIONS (LABOR CODE §
226, *et seq.*);**
- (6) **WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);**
- (7) **FAILURE TO REIMBURSE
NECESSARY BUSINESS
EXPENSES (LABOR CODE §§
2802, 2804);**
- (8) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200, *et seq.*);**
- (9) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS
GENERAL ACT (LABOR CODE §
2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Maria Alicia Ortega (“Plaintiff”), on behalf of herself and all others similarly
2 situated, hereby bring this First Amended Class and Representative Action Complaint against
3 Casa Colina Hospital and Centers for Healthcare, a California corporation; Casa Colina, Inc., a
4 California corporation; and Does 1 through 100 (collectively, “Defendants”), and on information
5 and belief allege as follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this
8 class action for recovery of unpaid wages and penalties under Cal. Business & Professions Code
9 § 17200, *et. seq.*, Labor Code §§ 201-204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2,
10 1197, 1198, 2802, 2804, 2698 *et. seq.*, and Industrial Welfare Commission Wage Order 5 (“Wage
11 Order 5”), in addition to seeking declaratory relief and restitution. This class action is brought
12 pursuant to Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’
13 violations of the California Labor Code because the amount in controversy exceeds this Court’s
14 jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to California Code of Civil
17 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
18 occurred in Los Angeles County. Defendants own, maintain offices, transact business, have an
19 agent or agents within Los Angeles County, and/or otherwise are found within Los Angeles
20 County, and Defendants are within the jurisdiction of this Court for purposes of service of process.

21 **PARTIES**

22 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
23 Plaintiff was, and currently is, a California resident. During the four years immediately preceding
24 the filing of this action and within the statute of limitations periods applicable to each cause of
25 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff
26 was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money
27 and/or property, and has been deprived of the rights guaranteed by California Labor Code §§ 201-
28 204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, 2802, 2804, 2698 *et.*

1 *seq.*, Business & Professions Code § 17200, *et seq.* (Unfair Competition), and Wage Order 5,
2 which sets employment standards for the public housekeeping industry, including hospitals.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
4 years preceding the filing of this lawsuit and continuing to the present, Defendants did (and do)
5 business as in-patient and outpatient hospitals and other healthcare centers, and employed
6 Plaintiff and other similarly situated non-exempt employees within Los Angeles County and the
7 state of California and, therefore, were (and are) doing business in Los Angeles County and the
8 State of California.

9 5. Plaintiff does not know the true names or capacities, whether individual, partner,
10 or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said
11 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
12 further amend this Complaint when such true names and capacities are discovered. Plaintiff is
13 informed and believes, and thereon alleges, that each of said fictitious defendants, whether
14 individual, partners, or corporate, were responsible in some manner for the acts and omissions
15 alleged herein, and proximately caused Plaintiff and the Classes (as defined in Paragraph 17) to
16 be subject to the unlawful employment practices, wrongs, injuries, and damages complained of
17 herein.

18 6. Plaintiff is informed and believes, and based thereon alleges, that at all times
19 mentioned herein, Defendants were and are the employers of Plaintiff and all Class members.

20 7. At all times herein mentioned, each of said Defendants participated in the doing
21 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
22 Defendants, and each of them, were the agents, servants, and employees of each and every one of
23 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
24 were acting within the course and scope of said agency and employment. Defendants, and each
25 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
26 omissions complained of herein.

27 8. At all times mentioned herein, Defendants, and each of them, were members of
28 and engaged in a joint venture, partnership, and common enterprise, and acting within the course

1 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
2 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class
3 Members (as defined in Paragraph 17).

4 **GENERAL FACTUAL ALLEGATIONS**

5 9. Plaintiff was employed by Defendants as a non-exempt Housekeeper (or similar
6 job title) from approximately December 2016 until approximately July 2020. Plaintiff's job duties
7 included, but were not limited to, cleaning and maintenance of the surgical units, ICU, and other
8 departments at Defendants' Pomona facility.

9 10. During Plaintiff's employment with Defendants, Defendants maintained an
10 unlawful timekeeping policy/practice that failed to compensate Plaintiff and other non-exempt
11 employees for all hours actually worked, whether by rounding, time-shaving, or otherwise.
12 Specifically, during the relevant time period, although on information and belief, Defendants
13 recorded the hours worked by Plaintiff and other non-exempt employees to the minute,
14 Defendants regularly, systematically, and impermissibly rounded and/or truncated the hours
15 worked by Plaintiff and other non-exempt employees in a manner that was not even-handed and
16 which resulted, over a period of time, in Defendants' failure to properly compensate Plaintiff and
17 other non-exempt employees for all hours worked, and deprived them of all minimum and
18 overtime wages earned.

19 11. Defendants failed to provide Plaintiff and other non-exempt employees with all
20 legally compliant meal periods due to Defendants' meal period policies/practices which failed to
21 provide Plaintiff and other non-exempt employees with a duty-free, uninterrupted 30-minute meal
22 period before the end of the fifth hour of work, due to, among other things, the workload and
23 work demands imposed on them by Defendants. For example, Plaintiff was required by
24 Defendants to clean surgical rooms within tight timetables, and to finish cleaning the room before
25 taking lunch, in order that the room would be available for the next surgical patient. This often
26 caused Plaintiff's meal periods to be late (i.e., beginning after the end of the fifth hour of work)
27 and/or short (less than 30 minutes), or missed altogether, in order to perform her duties within the
28 time frames set by Defendants. Additionally, Defendants' policies/practices regularly failed to

1 relieve Plaintiff and other non-exempt employees from all of their work duties during their meal
2 periods, because upon information and belief, Defendants required them to remain accessible by
3 short-range radio phones (also known as “walkie-talkies”) and/or cellular phones at all times,
4 including during their meal periods and rest periods. Moreover, Plaintiff and other non-exempt
5 employees’ meal periods were often “short” because Defendants’ policies/practices often required
6 them to respond to work-related calls prior to the conclusion of their 30-minute meal periods. On
7 those occasions when Plaintiff and other non-exempt employees were not provided with all
8 legally-compliant meal periods to which they were entitled, Defendants failed to compensate
9 them with meal period premiums mandated by Labor Code § 226.7. Upon information and belief,
10 for at least a portion of the relevant time period, Defendants maintained no mechanism for the
11 payment of meal period premiums as required by Labor Code § 226.7.

12 12. Defendants also failed to authorize and permit Plaintiff and other non-exempt
13 employees to take legally compliant rest periods to which they were entitled. As with meal
14 periods, Plaintiff frequently was unable to take all of the rest periods to which she was entitled
15 because of the work load imposed on her by Defendants. In addition, and as noted above,
16 Defendants required Plaintiff and other non-exempt employees to remain accessible by walkie-
17 talkie and/or cellular phone at all times, including during their rest periods, and therefore failed
18 to relinquish all control over them during rest periods. Moreover, Plaintiff and other non-exempt
19 employees’ rest periods were sometimes “short” because Defendants required them to respond to
20 emergencies or perform other work duties prior to the conclusion of their 10-minute rest periods.
21 Despite failing to authorize and permit Plaintiff and other non-exempt employees to take all rest
22 periods to which they are entitled, Defendants failed to compensate them with rest period
23 premiums mandated by Labor Code § 226.7. Upon information and belief, for at least a portion
24 of the relevant time period, Defendants maintained no mechanism for the payment of rest period
25 premiums as required by Labor Code § 226.7.

26 13. Defendants also failed to reimburse or indemnify Plaintiff and other non-exempt
27 employees for necessary business expenses. Specifically, and as noted above, Plaintiff and other
28 non-exempt employees were required to remain accessible by walkie-talkie and/or cellular phone

at all times. While Defendants would sometimes provide a walkie-talkie or cellular phone for Plaintiff, at other times there would not be a functioning walkie talkie or company cellular phone available, or they would not be sufficiently charged such that they were not useable. On those occasions, Plaintiff would be required to be accessible via her personal cell phone, and answer work-related phone calls on her personal cell phone. Moreover, when Plaintiff worked in surgical rooms, her supervisor would contact her on her personal cell phone on a daily or nearly-daily basis with work-related calls. Despite requiring Plaintiff and other employees to use their personal cellular phones for work purposes, Defendants failed to reimburse Plaintiff and other non-exempt employees for this business expense.

14. As a result of Defendants' failure to pay all overtime and minimum wages, as well as failure to pay meal period and rest period premium wages, Defendants maintained inaccurate payroll records, and issued inaccurate wage statements to Plaintiff.

15. As a result of Defendants' failure to pay all overtime and minimum wages, as well as failure to pay all required meal period and rest period premium wages, Defendants failed to pay all wages due to Plaintiff and other formerly-employed non-exempt employees at the separation of their employment.

16. Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations of more than 180 days were suspended for 178 days, from April 6, 2020 through October 1, 2020. Accordingly, the relevant time period for each cause of action pled herein has been calculated to include an additional 178 days preceding the filing of this action.

CLASS ACTION ALLEGATIONS

17. Class Definitions: Plaintiff bring this action on behalf of herself and the following Classes pursuant to Section 382 of the Code of Civil Procedure:

a. The Overtime Class consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' time-rounding practices, during the four years plus 178 days immediately preceding the filing of this lawsuit through the present.

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1 b. The Minimum Wage Class consists of all of Defendants' current and former non-
2 exempt employees in California who were subject to Defendants' time-rounding practices
3 during the four years plus 178 days immediately preceding the filing of this lawsuit through
4 the present.

5 c. The Meal Period Class consists of all of Defendants' current and former non-
6 exempt employees in California who: (i) worked at least one shift in excess of 5.0 hours
7 without a 30-minute meal period beginning prior to the end of the fifth of work; and/or (ii)
8 were required by Defendants to carry a walkie talkie, cellular phone, or similar device
9 during their meal period, during the four years plus 178 days immediately preceding the
10 filing of this lawsuit through the present.

11 d. The Rest Period Class consists of all of Defendants' current and former non-
12 exempt employees in California who (i) worked at least one shift for Defendants of 3.5
13 hours or more; and/or (ii) were required by Defendants to carry a walkie talkie, cellular
14 phone, or similar device during their rest period, during the four years plus 178 days
15 immediately preceding the filing of this lawsuit through the present.

16 e. The Expense Reimbursement Class consists of all of Defendants' current and
17 former non-exempt employees who were not reimbursed by Defendants for the use of their
18 personal cellular phones for work purposes during the four years plus 178 days
19 immediately preceding the filing of this lawsuit through the present.

20 f. The Wage Statement Class consists of all members of the Overtime Class,
21 Minimum Wage Class, Meal Period Class, and Rest Period Class who were employed by
22 Defendants during the one year plus 178 days immediately preceding the filing of this
23 lawsuit through the present.

24 g. The Waiting Time Class consists of all members of the Overtime Class, Minimum
25 Wage Class, Meal Period Class, and/or Rest Period Class who are no longer employed by
26 Defendants and whose employment with Defendants during the three years plus 178 days
27 immediately preceding the filing of this lawsuit through the present.

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1 18. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
2 joinder of all members would be unfeasible and impracticable. The membership of the Classes
3 and subclasses is unknown to Plaintiff at this time; however, it is estimated that the Classes
4 number greater than one hundred (100) individuals in each Class. The identity of such
5 membership is readily ascertainable via Defendants' employment records.

6 19. **Common Questions of Law and Fact Predominate/Well Defined Community**
7 **of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly
8 situated employees, which predominate over questions affecting only individual members
9 including, without limitation to:

- 10 i. Whether Defendants' timekeeping and overtime practices violate the
11 applicable Labor Code provisions including, but not limited to, Sections
12 510 and 1194 by requiring overtime work and not paying the Overtime
13 Class for said work according to the overtime laws of the State of
14 California;
- 15 ii. Whether Plaintiff and members of the Minimum Wage Class were
16 compensated at least the legal minimum wage for all hours worked;
- 17 iii. Whether Defendants provided legally compliant meal periods to members
18 of the Meal Period Class;
- 19 iv. Whether Defendants authorized and permitted legally compliant rest
20 periods to members of the Rest Period Class;
- 21 v. Whether Defendants failed to reimburse members of the Expense
22 Reimbursement Class for necessary work expenses;
- 23 vi. Whether Defendants furnished legally compliant wage statements to
24 members of the Wage Statement Class pursuant to Labor Code § 226; and
- 25 vii. Whether Defendants' policies and/or practices for the timing and amount
26 of payment of final wages to members of the Waiting Time Class at the
27 time of separation were lawful.

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1 20. **Predominance of Common Questions:** Common questions of law and fact
2 predominate over questions that affect only individual Class members. The common questions
3 of law set forth above are numerous and substantial and stem from Defendants' policies and/or
4 practices applicable to each Class member, such as Defendants' timekeeping, meal period, rest
5 period, wage statement, expense reimbursement, and final wage policies and/or practices. As
6 such, common questions predominate over individual questions concerning each individual class
7 member's showing as to his/her eligibility for recovery or as to the amount of his/her damages.

8 21. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because
9 Plaintiff was employed by Defendants as non-exempt employee in California during the statute(s)
10 of limitation applicable to each cause of action pled in the Complaint in this action. As alleged
11 herein, Plaintiff, like the members of the Classes, was deprived of all earned overtime and
12 minimum wages, was subject to Defendants' uniform meal period and rest period
13 policies/practices, was subject to Defendants' uniform expense reimbursement policies/practices,
14 was furnished with inaccurate and incomplete wage statements, and/or was deprived of all final
15 wages upon her separation of employment from Defendants.

16 22. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary
17 steps to represent fairly and adequately the interests of the members of the Classes. Moreover,
18 Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of
19 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-
20 and-hour class actions in state and federal courts in the past and are committed to vigorously
21 prosecuting this action on behalf of the members of the Classes.

22 23. **Superiority:** The California Labor Code is broadly remedial in nature and serves
23 an important public interest in establishing minimum working conditions and standards in
24 California. These laws and labor standards protect the average working employee from
25 exploitation by employers who have the responsibility to follow the laws and who may seek to
26 take advantage of superior economic and bargaining power in setting onerous terms and
27 conditions of employment. The nature of this action and the format of laws available to Plaintiff
28 and members of the Classes make the class action format a particularly efficient and appropriate

1 procedure to redress the violations alleged herein. If each employee were required to file an
2 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
3 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
4 their vastly superior financial and legal resources. Moreover, requiring each member of the
5 Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by
6 employees who would be disinclined to file an action against their former and/or current employer
7 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
8 employment. Further, the prosecution of separate actions by the individual class members, even
9 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
10 with respect to the individual class members against Defendants herein; and which would
11 establish potentially incompatible standards of conduct for Defendants; and/or legal
12 determinations with respect to individual class members which would, as a practical matter, be
13 dispositive of the interest of the other class members not parties to adjudications or which would
14 substantially impair or impede the ability of the class members to protect their interests. Further,
15 the claims of the individual members of the classes are not sufficiently large to warrant vigorous
16 individual prosecution considering all of the concomitant costs and expenses attending thereto.
17 As such, the Classes identified in Paragraph 17 are maintainable under Code Civ. Proc. § 382 of
18 the Code of Civil Procedure.

19 **FIRST CAUSE OF ACTION**

20 **FAILURE TO PAY ALL OVERTIME WAGES**

21 **(AGAINST ALL DEFENDANTS)**

22 24. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

23 25. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
24 and 1198, which provide that non-exempt employees are entitled to overtime wages for all
25 overtime hours worked, and provide a private right of action for the failure to pay all overtime
26 compensation for overtime work performed.

27 26. At all times relevant herein, Defendants were required to properly compensate
28 Plaintiff and members of the Overtime Class for all overtime hours worked pursuant to California

1 Labor Code § 1194 and Wage Order 5. Wage Order 5, § 3 requires an employer to pay an
2 employee “one and one-half (1½) times [the] employee’s regular rate of pay” for work in excess
3 of 8 hours per work day, in excess of 40 hours in any workweek, and/or for the first 8 hours of
4 work on the seventh consecutive day of work in a workweek. Wage Order 5, § 3 also requires an
5 employer to pay an employee double the employee’s regular rate of pay for work in excess of 12
6 hours in a workday and/or in excess of 8 hours on the seventh consecutive day of work in the
7 workweek. Defendants caused Plaintiff and Overtime Class members to work overtime (and/or
8 double-time) hours, but did not compensate them at one and one-half times (or two times) their
9 regular rate of pay for such hours.

10 27. The foregoing policies and practices are unlawful and create entitlement to
11 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
12 premiums owing, including interest thereon, statutory penalties, and attorneys’ fees and costs of
13 suit according to California Labor Code §§ 204, 218.6, 510, 558, 1194, and 1198, Wage Order 5,
14 and Code of Civil Procedure § 1021.5.

15 **SECOND CAUSE OF ACTION**

16 **MINIMUM WAGE VIOLATIONS**

17 **(AGAINST ALL DEFENDANTS)**

18 28. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

19 29. Wage Order 5, § 4 and Cal. Labor Code §§ 1197 and 1182.12 establish the right
20 of employees to be paid minimum wages for all hours worked in amounts set by state law. Labor
21 Code §§ 1194(a) and 1194.2(a) provide an employee who has not been paid the legal minimum
22 wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys’
23 fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and
24 interest accrued thereon. At all relevant times, Defendants failed to conform their pay practices
25 to the requirements of the law by failing to pay Plaintiff and the Minimum Wage Class for all
26 hours worked including, but not limited to, all hours they were subject to the control of Defendants
27 and/or suffered or permitted to work under the California Labor Code and Wage Order 5.

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1 30. As a direct and proximate result of Defendants' unlawful conduct as alleged
2 herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including but
3 not limited to unpaid wages and lost interest, in an amount to be established at trial, and they are
4 entitled to recover economic and statutory damages and penalties and other appropriate relief as
5 a result of Defendants' violations of the California Labor Code and Wage Order 5.

6 31. Defendants' practice and uniform administration of company policy regarding
7 illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and
8 members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages,
9 liquidated damages, including interest thereon, statutory penalties, and attorneys' fees and costs
10 of suit according to California Labor Code §§ 204, 218.6, 558, 1194 *et seq.*, 1197, 1198, and Code
11 of Civil Procedure § 1021.5.

12 **THIRD CAUSE OF ACTION**

13 **MEAL PERIOD VIOLATIONS**

14 **(AGAINST ALL DEFENDANTS)**

15 32. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

16 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 failed in their affirmative obligation to provide all of their hourly non-exempt employees,
18 including Plaintiff and members of the Meal Period Class, with all required meal periods in
19 accordance with the mandates of the California Labor Code and Wage Order 5, for the reasons
20 set forth in this Complaint. Defendants also failed to compensate Plaintiff and members of the
21 Meal Period Class with one hour of premium pay, as required under Labor Code § 226.7, for each
22 workday on which they were not provided legally compliant meal periods to which they were
23 entitled.

24 34. As a result, Defendants are responsible for paying premium compensation for meal
25 period violations, including interest thereon, statutory penalties, and costs of suit pursuant to
26 Wage Order 5, Labor Code §§ 226.7 and 512, and Civil Code §§ 3287(b) and 3289.

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1 **FOURTH CAUSE OF ACTION**

2 **REST PERIOD VIOLATIONS**

3 **(AGAINST ALL DEFENDANTS)**

4 35. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 36. Labor Code §§ 226.7 and 516, and Wage Order 5, § 12 establish the right of
6 employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour
7 period worked, or major fraction thereof.

8 37. As alleged herein, Defendants failed to authorize and permit Plaintiff and members
9 of the Rest Period Class to take their legally entitled rest periods. Defendants also failed to
10 compensate Plaintiff and members of the Rest Period Class with one hour of premium pay, as
11 required under Labor Code § 226.7, for each workday on which they were not authorized and
12 permitted legally compliant rest periods to which they were entitled.

13 38. The foregoing violations create an entitlement to recovery by Plaintiff and
14 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
15 owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according
16 to Labor Code §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289.

17 **FIFTH CAUSE OF ACTION**

18 **WAGE STATEMENT VIOLATIONS**

19 **(AGAINST ALL DEFENDANTS)**

20 39. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

21 40. Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
23 and the Wage Statement Class with accurate and complete itemized wage statements that
24 included, among other requirements, all minimum, overtime, and meal and rest period premium
25 wages earned, in violation of Labor Code § 226.

26 41. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class
27 with complete and accurate itemized wage statements resulted in injury, as said failures led to,
28 among other things, the non-payment of all their overtime and minimum wages and meal and rest

1 period premium wages, and deprived them of the information necessary to identify the
2 discrepancies in Defendants' reported data.

3 42. Defendants' failures create an entitlement to recovery by Plaintiff and members of
4 the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor
5 Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs
6 of suit according to California Labor Code §§ 226 and 226.3.

7 **SIXTH CAUSE OF ACTION**

8 **WAITING TIME PENALTIES**

9 **(AGAINST ALL DEFENDANTS)**

10 43. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

11 44. This cause of action is brought pursuant to Cal. Labor Code §§ 201-203, which
12 require an employer to pay all wages immediately at the time of separation of employment in the
13 event the employer discharges the employee or the employee provides at least 72 hours of notice
14 of their intent to quit. In the event the employee provides less than 72 hours of notice of their
15 intent to quit, said employee's wages become due and payable not later than 72 hours upon said
16 employee's last date of employment.

17 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants
18 failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them
19 at their separation from employment, including (but not limited to) unpaid overtime and minimum
20 wages, unpaid meal premium wages, and unpaid rest period premium wages.

21 46. Further, Plaintiff is informed and believes, and based thereon alleges, that as a
22 matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members
23 of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant
24 to the requirements of Cal. Labor Code §§ 201-203.

25 47. Defendants' failure to pay all final wages is willful within the meaning of Labor
26 Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting
27 Time Class their earned wages upon separation from employment results in a continued payment
28 of daily wages up to thirty days from the time the wages were due. Plaintiff and members of the

1 Waiting Time Class are entitled to compensation pursuant to Labor Code § 203, plus reasonable
2 attorneys' fees and costs of suit.

3 **SEVENTH CAUSE OF ACTION**

4 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

5 **(AGAINST ALL DEFENDANTS)**

6 48. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

7 49. It was necessary for Plaintiff and members of the Expense Reimbursement Class
8 to use their personal cellular phones for work purposes. Although Plaintiff and members of the
9 Expense Reimbursement Class incurred these expenses in the direct discharge of their job duties,
10 Defendants did not reimburse these employees for such necessary work expenditures.

11 50. At all relevant times herein, Defendants were subject to Labor Code § 2802, which
12 states that "an employer shall indemnify his or her employees for all necessary expenditures or
13 losses incurred by the employee in direct consequence of the discharge of his or her duties, or of
14 his or her obedience to the directions of the employer."

15 51. At all relevant times herein, Defendants were subject to Labor Code § 2804, which
16 states, "any contract or agreement, express or implied, made by any employee to waive the
17 benefits of this article or any part thereof, is null and void, and this article shall not deprive any
18 employee or his personal representative of any right or remedy to which he is entitled under the
19 laws of this State."

20 52. As a proximate result of Defendants' policies and/or practices in violation of Labor
21 Code §§ 2802 and 2804, Plaintiff and members of the Employee Expense Class were damaged in
22 sums, which will be shown according to proof.

23 53. Plaintiff and members of the Expense Reimbursement Class are entitled to
24 attorneys' fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.
25 Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of necessary
26 expenditures carries interest at the same rate as judgments in civil actions. Thus, Plaintiff and
27 members of the Expense Reimbursement Class are entitled to interest, which shall accrue from
28 the date on which they incurred the initial necessary expenditure.

1 **EIGHTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION**

3 **(AGAINST ALL DEFENDANTS)**

4 54. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 55. Defendants have engaged, and continue to engage, in unfair and/or unlawful
6 business practices in violation of Business & Professions Code § 17200, *et seq.*, by failing to pay
7 Plaintiff and the Classes all overtime and minimum wages, failing to provide meal periods or pay
8 meal period premium wages, failing to authorize and permit rest periods or pay rest period
9 premium wages, failing to reimburse necessary business expenses, failing to furnish accurate and
10 complete itemized wage statements, and failing to pay all earned wages to former employees at
11 the time of their separation of employment.

12 56. Defendants' utilization of these unfair and/or unlawful business practices has
13 deprived Plaintiff and members of the Classes of compensation and/or reimbursements to which
14 they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair
15 advantage over Defendants' competitors who have been and/or are currently employing workers
16 and attempting to do so in honest compliance with applicable wage and hour laws.

17 57. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
18 herein, Plaintiff for herself, and on behalf of the members of the Classes, seek full restitution of
19 monies as necessary and according to proof, to restore any and all monies withheld, acquired,
20 and/or converted by Defendants pursuant to Business & Professions Code §§ 17203 and 17208.

21 58. The acts complained of herein occurred within the four years plus 178 days
22 immediately preceding the filing of this action.

23 59. Plaintiff was compelled to retain the services of counsel to file this court action to
24 protect her interests and those of the Classes, to obtain restitution and injunctive relief on behalf
25 of Defendants' current non-exempt employees, and to enforce important rights affecting the
26 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
27 which she is entitled to recover under Code of Civil Procedure § 1021.5.

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1 **NINTH CAUSE OF ACTION**

2 **PRIVATE ATTORNEY GENERAL ACT**

3 **(AGAINST ALL DEFENDANTS)**

4 60. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 61. Defendants have committed several Labor Code violations against Plaintiff,
6 members of the Classes, and other aggrieved employees. Plaintiff, an “aggrieved employee”
7 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of herself and other aggrieved
8 employees, brings this representative action against Defendants to recover the civil penalties due
9 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
10 according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited
11 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for
12 each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for
13 each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for
14 each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per
15 employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent
16 violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each
17 initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per
18 employee per pay period; and/or (5) \$100.00 for each initial violation and \$200.00 for each
19 subsequent violation per employee per pay period for those violations of the Labor Code for
20 which no civil penalty is specifically provided, based on the following Labor Code violations:

- 21 a. Failing to pay Plaintiff and other aggrieved employees all overtime and/or double-
22 time compensation earned in violation of Labor Code §§ 204, 510, 558, 1194, and
23 1198;
- 24 b. Failing to pay Plaintiff and other aggrieved employees at least the statutory
25 minimum wage for all hours worked in violation of Labor Code §§ 1182.12, 1194,
26 1194.2, 1197, and 1198;
- 27 c. Failing to provide all legally required meal periods and by failing to pay meal
28 period premiums to Plaintiff and other aggrieved employees at the employees’

1 respective regular rates of compensation for meal period violations in violation
2 of Labor Code §§ 226.7, 512, and 1198;

3 d. Failing to authorize and permit all legally required rest periods and failing to pay
4 rest period premiums to Plaintiff and other aggrieved employees at those
5 employees' respective regular rates of compensation in violation of Labor Code
6 §§ 226.7, 516, and 1198;

7 e. Failing to furnish Plaintiff and other aggrieved employees with accurate and
8 complete itemized wage statements in violation of Labor Code § 226;

9 f. Failing to pay Plaintiff and other aggrieved former employees all final wages
10 owed at the termination of their employment in violation of Labor Code §§ 201-
11 203;

12 g. Failing to reimburse Plaintiff and other aggrieved employees for all necessary
13 work expenditures incurred in violation of Labor Code §§ 2802 and 2804;

14 h. Failing to pay Plaintiff and other aggrieved employees all earned wages at least
15 twice each calendar month in violation of Labor Code § 204; and

16 i. Failing to maintain accurate records on behalf of Plaintiff and aggrieved
17 employees in violation of Labor Code § 1174, and 1198.

18 62. On or about June 2, 2021 Plaintiff notified Defendants via certified mail and
19 notified the California Labor and Workforce Development Agency ("LWDA") via its website, of
20 Defendants' violations of the California Labor Code and Plaintiff's intent to bring a claim for
21 civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the
22 California Labor Code identified in Paragraph 61 (a)-(i). Now that sixty-five days have passed
23 from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not
24 provided notice that it intends to investigate the violations, Plaintiff has exhausted her
25 administrative requirements for bringing a claim under the Private Attorneys General Act with
26 respect to these violations.

27 63. Based on the foregoing, Plaintiff seeks to represent herself, the State of California,
28 and all aggrieved employees, as defined by Labor Code § 2699(c), which includes all current and

former non-exempt employees who worked for Defendants in California at any time from one year and 178 days prior to the submission of Plaintiff's PAGA notice to the present.

64. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interest and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which he is entitled to recover under California Labor Code § 2699.

PRAYER

WHEREFORE, Plaintiff prays for judgment for herself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing counsel for Plaintiff as counsel for the Classes;
4. Upon the First Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
5. Upon the Second Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
6. Upon the Third Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7 and 512;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7 and 516;
8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code § 226, *et seq.*;
9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201-203;
10. Upon the Seventh Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 2802 and 2804;

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1 11. Upon the Eighth Cause of Action, for restitution to Plaintiff and members of the
2 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
3 practices declared by this Court to violate Business & Professions Code § 17200, *et seq.*;

4 12. Upon the Ninth Cause of Action, for civil penalties due to Plaintiff, other
5 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§
6 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for
7 each failure to pay each employee and \$200.00 for each subsequent violation or willful or
8 intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus
9 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100.00 for each
10 subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for
11 each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1
12 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each
13 subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5)
14 \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay
15 period for those violations of the Labor Code for which no civil penalty is specifically provided,
16 based on the violations of Labor Code sections identified in Paragraph 61 (a)-(i) above.

17 13. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code
18 §§ 218.6, 1194(a), and 2802(b) and Civil Code §§ 3287 and 3289;

19 14. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
20 226(e), 1194 *et seq.*, 2802(c), 2699(g), and Code of Civil Procedure § 1021.5; and

21 15. For such other and further relief the Court may deem just and proper.

22
23 Date: August 9, 2021

Respectfully submitted,
HAINES LAW GROUP, APC

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25 By:



Paul K. Haines
Attorney for Plaintiff

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Dated: August 9, 2021

Respectfully submitted,
HAINES LAW GROUP, APC

Respectfully submitted,
HAINES LAW GROUP, APC

Paul K. Haines
Attorney for Plaintiff

PROOF OF SERVICE

Maria Alicia Ortega v. Casa Colina Hospital and Centers for Healthcare, et al.
Los Angeles County Superior Court Case No. 21STCV20670

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2155 Campus Drive, Suite 180, El Segundo, California 90245.

On August 9, 2021, I served the foregoing document(s) described as:

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

on the interested party(ies) in this action as follows:

Jason W. Kearnaghan, Esq.
Email: jkearnaghan@sheppardmullin.com
Richard J. Simmons, Esq.
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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

333 South Hope Street, 43rd Floor
Los Angeles, CA 90071

Attorneys for Defendant Casa Colina Hospital and Centers for Healthcare, et al.

[X] (VIA ELECTRONIC MAIL) Pursuant to the Code of Civil Procedure § 1010.6(e)(1), I sent the document(s) to the person(s) at the electronic service address(es) listed from the email address jhernandez@haineslawgroup.com.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 9, 2021, at El Segundo, California.



Jackie Hernandez