

1 Zorik Mooradian, Esq., CSB No. 136636
2 zorik@mooradianlaw.com
3 Haik Hacopian, Esq., CSB No. 282361
4 haik@mooradianlaw.com
5 MOORADIAN LAW, APC
6 24007 Ventura Blvd., Suite 210
7 Calabasas, CA 91302
8 Telephone: (818) 487-1998
9 Facsimile: (888) 783-1030

10 Attorneys for: Plaintiffs FABIOLA CASTILLO and NORMA ORTIZ MARTINEZ,
11 individually and on behalf of other persons similarly situated and
12 similarly aggrieved employees

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF ORANGE – CIVIL COMPLEX CENTER**

15 FABIOLA CASTILLO and NORMA ORTIZ
16 MARTINEZ, individually and on behalf of
17 other persons similarly situated and similarly
18 aggrieved employees,

19 Plaintiffs,

20 v.

21 HOAG MEMORIAL HOSPITAL
22 PRESBYTERIAN, an active California
23 Corporation; and DOES 1 through 10,

24 Defendants.

Case No.: 30-2022-01291306-CU-OE-CXC

Assigned to: Hon. Randall J. Sherman
Department: CX-105
Complaint Filed: November 10, 2022

**FIRST AMENDED COMPLAINT –
CLASS AND REPRESENTATIVE
ACTION
JURY TRIAL DEMANDED**

1. Failure to Provide Meal Periods;
2. Failure to Provide Paid Rest Periods;
3. Failure to Pay Wages;
4. Failure to Timely Pay Wages at Termination/Separation;
5. Failure to Timely Pay Vacation Wages at Termination;
6. Failure to Provide Accurate Wage Statements;

7. Failure to Reimburse Business Expenses;
8. Violation of Unfair Business Practices Act – Bus. & Prof. Code §§ 17200, *et seq.*; and
9. Penalties Pursuant to Private Attorneys General Act (“PAGA”)

Plaintiffs FABIOLA CASTILLO and NORMA ORTIZ MARTINEZ (“Plaintiffs”), on behalf of themselves and all others similarly situated, based on information and belief, complain and allege:

I.

INTRODUCTION

1. This class and representative action lawsuit arises out of the failure of Defendant HOAG MEMORIAL HOSPITAL PRESBYTERIAN (referred here as “HOAG” or “Defendant”) to provide meal periods at the proper intervals, to provide rest periods at the proper intervals, to pay all wages owed including overtime, to provide accurate wage statements, to pay all wages owed to terminated or separated employees in a timely manner, to pay all vacation pay owed to terminated or separated employees, and to reimburse employee business expenses.
2. Defendant employed Plaintiffs during the applicable time period, utilizing consistent policies and procedures in violation of Labor Code §200, *et seq.*, Labor Code §500, *et seq.*, Labor Code §1194, *et seq.*, Labor Code §2800, *et seq.*, and the applicable Wage Orders issued by the California Industrial Welfare Commission.
3. Defendant is engaged in the provision of health care and related services including hospital ownership and operation. Plaintiff Castillo was hired on or about June 20, 2018 and separated on or about August 4, 2022. Plaintiff Norma

1 Ortiz Martinez was hired on or about November 2019 and separated on or
2 about January 21, 2022. At all times during said employments, Plaintiffs had
3 non-exempt classifications. Plaintiffs were employed by Defendant as
4 housekeeping/janitorial employees at the Hoag Hospital Irvine located at 16200
5 Sand Canyon Avenue in Irvine, California 92663.

- 6 4. At the time of their separation, Plaintiffs were not paid all their wages,
7 including all accrued and vested vacation pay.
- 8 5. Plaintiffs were also deprived of lawful meal and rest periods, not paid all wages
9 they were entitled to, and failed to receive accurate and compliant itemized
10 wage statements.
- 11 6. Defendant had a consistent policy of not paying wages for all hours worked,
12 including overtime and double time wages to the extent applicable, including
13 failing to calculate overtime and double time with respect to an employee's
14 regular rate of compensation.
- 15 7. Defendant had a consistent policy of requiring its employees, including
16 Plaintiffs, to work through meal periods or work without a meal period for at
17 least five (5) hours of a shift and failing to pay such employees one (1) hour of
18 pay at the employees' regular rate of compensation for each workday that the
19 meal period was not provided or as required by California state wage and hour
20 laws.
- 21 8. Defendant had a consistent policy of failing to allow its employees, including
22 Plaintiffs, rest periods for at least ten (10) minutes per four (4) hours, or a major
23 fraction worked, and failing to pay such employees one (1) hour of pay at their
24 regular rate of compensation for each workday that the rest period was not
25 provided, or other compensation, as required by California state and wage and
26 hour laws.
- 27 9. Defendant knowingly provided inaccurate wage statements to its
28

- employees, including Plaintiffs, that did not correctly include the correct wages, including compensation for meal periods not provided and rest period not authorized or permitted as required by California state wage and hour laws.
10. Defendant had a consistent policy of failing to pay its employees, including Plaintiffs, all wages including unpaid premium wages and accrued and vested vacation pay, due at the termination or separation, in violation of California state wage and hour laws.
11. Defendants had a consistent policy of failing to reimburse their employees, including Plaintiffs, for all business expenses incurred in the discharge of their duties.
12. Plaintiffs, on behalf of themselves and all Class Members, bring this action pursuant to Lab. Code §§ 201, 202, 203, 204, 210, 226, 226.7, 227.3, 510, 512, 1194, 1194.2, 2800, and 2802 seeking unpaid wages, penalties, equitable relief, and reasonable attorneys' fees and costs.
13. Plaintiffs, on behalf of themselves and the putative class members, also bring this action pursuant to Bus. & Prof. Code §§ 17200, *et seq.*, seeking injunctive relief, restitution, and disgorgement of all benefits obtained by Defendant as a result of Labor Code and applicable Wage Order violations.
14. Plaintiff, on behalf of the State of California, themselves, and other similarly aggrieved employees, also bring this action pursuant to California Private Attorney General Act ("PAGA"), Cal. Lab. Code §2698, *et seq.* seeking unpaid wages and other compensation, penalties, and reasonable attorneys' fees and costs.

II.

JURISDICTION AND VENUE

15. Venue as to each defendant is proper in this judicial district, pursuant to Code of Civil Procedure § 395. The County of Orange is the proper venue,

1 because work for Defendant was performed by Plaintiffs and other class
2 members in the County of Orange and the legal obligations owed by Defendant
3 to Plaintiffs and other class members were breached in the County of Orange.

4 16. The California Superior Court has jurisdiction in this matter, because Plaintiffs
5 are residents of California, Defendant is qualified to do business in California
6 and regularly conducts business in California.

8 III.

9 THE PARTIES

10 17. Plaintiff FABIOLA CASTILLO is a resident of the State of California, and was
11 employed by Defendant in Orange County from on or about June 20, 2018
12 through on or about August 4, 2022.

13 18. Plaintiff NORMA MARTINEZ ORTIZ is a resident of the State of California,
14 and was employed by Defendant in Orange County from on or about
15 November 2019 through on or about January 21, 2022.

16 19. Defendant HOAG MEMORIAL HOSPITAL PRESBYTERIAN was an active
17 California Corporation at all times during the claims of Plaintiffs and the
18 putative class, was doing business in California, and was headquartered in
19 California.

20 20. Plaintiffs are ignorant of the true names, capacities, relationships and extent of
21 participation in the conduct herein alleged, of the defendants sued herein as
22 Does 1 through 10, but they are informed and believe and thereon allege that
23 said defendants are legally responsible for the wrongful conduct alleged herein
24 and therefore sues these defendants by such fictitious names under Code of
25 Civil Procedure § 474. Plaintiffs will amend this First Amended Complaint to
26 allege their true names and capacities when ascertained.

27 21. Plaintiffs are informed and believe and thereon allege that each Defendant
28 acted in all respects pertinent to this action as the agent of the other Defendants,

1 carried out a joint scheme, business plan or policy in all respects pertinent
2 hereto, and the acts of each Defendant are legally attributable to the other
3 Defendants.
4

5 IV.

6 GENERAL ALLEGATIONS

- 7 22. At all times relevant here and as set forth in the following paragraphs of this
8 First Amended Complaint, Defendant employed more than 100 people; and
9 Plaintiffs and each member of the putative class was employed by Defendant,
10 and each of them, in the State of California.
- 11 23. The employees of Defendant have not been provided: uninterrupted thirty-
12 minute meal periods for work periods of more than five (5) hours per day;
13 second uninterrupted thirty-minute meal periods for work periods of more
14 than ten (10) hours per day; and have not been permitted to take ten-minute
15 (10) rest periods for work periods of four (4) hours or major fractions, pursuant
16 to the Labor Code, and applicable IWC Wage Orders.
- 17 24. Defendant failed to pay employees wages owed for all hours worked, including
18 overtime and double time hours as applicable, as well as failing to calculate any
19 overtime wages with respect to an employee's regular rate of compensation.
- 20 25. Defendant failed to pay Plaintiffs and the members of their putative class upon
21 separation the wages earned and unpaid at the time of discharge, including
22 unpaid premium wages and accrued and vested vacation pay or "PTO."
- 23 26. Defendant failed to provide Plaintiffs and the putative members of their class,
24 at the time of each payment of wages, an accurate itemized statement in
25 writing, showing the gross wages earned and/or paid, including premium
26 wages owed for failing to provide meal and/or rest periods at the proper
27 intervals.
28

1 27. Defendants failed to fully reimburse Plaintiffs and putative members of their
2 class for all their business-related expenditures. In violation of the Labor Code,
3 Plaintiffs and putative members of their class did not receive indemnification
4 for all business-related expenditures.

5 28. Plaintiffs assert claims for relief on behalf of themselves and other similarly
6 situated persons as a class action pursuant to Code of Civil Procedure § 382.
7 Plaintiffs and all members of their putative class are described below with
8 specificity and fall in several categories of subclasses whose rights have been
9 violated under the law. Defendant has made no effort as of the filing of this
10 First Amended Complaint to correct or remedy the violations of law specified
11 here.

12
13 **V.**

14 **CLASS ACTION ALLEGATIONS**

15 29. Plaintiffs bring this action on behalf of themselves and all other employees of
16 HOAG who are similarly-situated persons as a class action pursuant to
17 California Code of Civil Procedure § 382. There is a well-defined common
18 interest by and among Plaintiffs and the putative class members, and it is
19 impractical to bring all those individuals before the court under separate,
20 different and repetitive actions. Plaintiffs also reserve the right to amend or
21 modify the class descriptions set forth below in greater specificity or clarity if
22 required in the future in accordance with Rule 3.765 (b), California Rules of
23 Court. The class which Plaintiffs seek to represent is composed of and defined
24 as follows:

25 "Plaintiff Class" – All of Defendant's current and former non-exempt
26 employees who worked for Defendant in California as
27 housekeeping/janitorial employees, during the four years before the
28 filing of the Complaint through the time of class certification.

1 30. Plaintiffs seek to certify the following subclasses of employees:

- 2 a) "Meal Period Subclass" – All members of Plaintiff Class who worked
3 each period exceeding five (5) hours without an uninterrupted, off
4 duty, thirty (30) minute meal period and/or periods in excess of ten (10)
5 hours without a second uninterrupted, off duty, thirty (30) minute
6 meal periods; and were not provided compensation of one hour's pay
7 at the employee's regular rate for each day that a meal period was not
8 provided.
- 9 b) "Rest Period Subclass" – All members of Plaintiff Class who worked
10 periods of four (4) hours or major fraction thereof without a duty free
11 rest period of at least 10-minutes and who were not compensated one
12 hour's pay at the employee's regular rate for each day that a rest period
13 was not permitted.
- 14 c) "Unpaid Wage Subclass" – All members of Plaintiff Class who were
15 not paid their minimum/actual wages, including any time that was
16 unlawfully rounded by Defendant or otherwise considered as off-the-
17 clock, as well as overtime wages for hours worked in excess of eight
18 hours per day at the one and a half rate (of an employee's regular rate
19 of pay) or at a double time rate (of an employee's regular rate of pay)
20 as applicable.
- 21 d) "Waiting Time Subclass" – All members of Plaintiff Class to whom
22 Defendant failed to pay all wages due to them upon termination or
23 resignation under Labor Code §§ 201-203.
- 24 e) "Vacation Pay Subclass" – All members of Plaintiff Class to whom
25 Defendant failed to pay all vacation wages owed, vested or agreed to
26 upon termination or resignation as required by Labor Code §227.3.
27
28

- 1 f) "Wage Statement Subclass" – All members of Plaintiff Class to whom
2 Defendant improperly failed to provide accurate itemized wage
3 statements under Labor Code §§ 226.
4 g) "Expense Reimbursement Subclass" – All members of Plaintiff Class to
5 whom Defendant failed to fully reimburse employee business expenses
6 as required by Labor Code §2802.
7 h) "UCL Subclass" – All members of the Meal Period, Rest Period,
8 Unpaid Wage, Waiting Time, Vacation Pay, Wage Statement, and
9 Expense Reimbursement Subclasses who were subject to unlawful,
10 illegal, unfair and/or deceptive business acts and practices by
11 Defendant and are entitled to disgorgement and restitution of unpaid
12 wages.

13 31. There is a well-defined community of interest among many persons who
14 comprise a readily ascertainable class:

- 15 a) Numerosity - The potential members of the Class and Subclasses as
16 defined here are so numerous that the individual joinder of all of them as
17 named plaintiffs is impracticable. The number of members of the Class
18 and Subclasses is unknown to Plaintiffs. It is however estimated that the
19 members are more than 100 individuals, and their identities may readily
20 be ascertained from Defendant's records.
21 b) Typicality – The claims of Plaintiffs are typical of the claims of all
22 members of the Class and Subclasses, who sustained similar damages
23 arising out of Defendant's common course of conduct in violation of law
24 as alleged.
25 c) Ascertainable Class – The proposed Class and Subclasses are
26 ascertainable as the members can readily be identified and located based
27 on the Defendant's payroll and personnel records.
28

- 1 d) Adequacy – Plaintiffs are adequate representatives of the Class and
2 Subclasses: Plaintiffs will fairly protect the interests of the members, they
3 have no interest adverse to the members, and they will vigorously
4 pursue this lawsuit on behalf of all the members of the Class and
5 Subclasses. Plaintiffs’ attorneys are competent, skilled and experienced
6 in litigating large employment law class actions.
- 7 e) Superiority - Class action treatment will allow a large number of
8 similarly situated persons to prosecute their common claims in a single
9 forum simultaneously, efficiently, and without the unnecessary
10 duplication of effort and expense that numerous individual actions
11 would require. Further, the monetary amounts due to many individual
12 members of the Class and Subclasses are likely to be relatively small, and
13 the burden and expense of individual litigation would make it difficult
14 or impossible for the members to seek and obtain relief. A class action
15 will serve an important public interest by permitting employees harmed
16 by Defendant’s unlawful practices to effectively pursue recovery of the
17 sums owed to them.
- 18 f) Common Questions of Law and Fact – There are common questions of
19 law and fact as to the members of the Class and Subclasses which are
20 superior to questions affecting only individual members of the Class and
21 Subclasses. The common questions of law and fact may be summarized
22 as follows and if necessary will be refined with the progress of formal
23 discovery in the case:
- 24 g) Whether Defendant failed to provide members of Plaintiff Class who
25 ceased employment with Defendant all wages owed at the time of the
26 cessation of the employee-employer relationship?
- 27
28

- 1 h) Whether Defendant violated California law and applicable Wage Orders
2 by failing to provide Plaintiff Class members with paid ten-minute (10)
3 rest periods for each four hours worked?
- 4 i) Whether the remedy for an employer's failure to provide rest breaks as
5 required by law is a premium wage for hardship of missing a lawful rest
6 break?
- 7 j) Whether Defendant violated California law and applicable Wage Orders
8 by failing to provide Plaintiff Class members with thirty minute (30)
9 meal period for more than five hours of work?
- 10 k) Whether Defendant violated California law and applicable Wage Orders
11 by failing to provide members of Plaintiff Class with a second meal
12 period?
- 13 l) Whether the remedy for an employer's failure to provide meal period as
14 required by law is a premium wage for hardship of missing a lawful
15 meal period?
- 16 m) Whether Defendant violated California law, including the applicable
17 wage orders by failing to properly compensate Plaintiff Class members
18 for all hours worked, including overtime and double time hours as
19 applicable?
- 20 n) Whether Plaintiff Class is entitled to waiting time penalties under Labor
21 Code § 203?
- 22 o) Whether Defendant violated Labor Code §227.3 by its failure to provide
23 Plaintiff Class with all vacation wages or PTO owed, vested or agreed to
24 upon termination or separation?
- 25 p) Whether Defendant violated California law by its failure to provide
26 Class with accurate and itemized wage statements?
- 27
28

- 1 q) Whether Defendant has violated Labor Code §2802 by failing to
2 reimburse Plaintiffs and the Plaintiff Class for all business expenses
3 incurred by them in direct consequence of the discharge of their duties?
4 r) Whether Defendant violated Business and Professions Code §§ 17200 et.
5 seq., Labor Code §§ 201, 202, 203, 204, 210, 226, 226.7, 227.3, 510, 512,
6 1194, 1194.2, 2800, 2802, and applicable Wage Orders which constitute
7 violations of the public policy?
8 s) Whether Plaintiff Class is entitled to an equitable relief in accordance
9 with Business and Professions Code §§ 17200 et. seq.
10 t) Whether Defendant's affirmative defenses, if any, raise common issues
11 of law and fact as to Plaintiff Class as a whole and/or Subclasses in
12 particular?
13

14 **VI.**

15 **FIRST CAUSE OF ACTION**
16 **FAILURE TO PROVIDE MEAL PERIOD OR**
17 **COMPENSATION IN LIEU THEREOF**
18 **(Labor Code §§ 226.7, 512)**

19 **(By Plaintiffs and Meal Period Subclass against Defendant)**

- 20 32. Plaintiffs incorporate paragraphs 1 through 31 of this First Amended Complaint
21 as if fully alleged herein.
22 33. By its failure to provide thirty minute (30) uninterrupted meal period as well as
23 second meal period, if applicable, to Plaintiffs and members of Meal Period
24 Subclass, Defendant willfully violated the provisions of Labor Code §§ 226.7,
25 512 and applicable IWC Wage Orders.
26 34. As a result of Defendant's unlawful conduct, Plaintiffs and other members of
27 the Subclass have suffered damages as articulated in the Prayer for Relief, set
28 forth below, and fully incorporated here as applicable.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VII.

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE REST PERIODS OR
COMPENSATION IN LIEU THEREOF

(Labor Code § 226.7)

(By Plaintiffs and Rest Period Subclass against Defendant)

35. Plaintiffs incorporate paragraphs 1 through 31 of this First Amended Complaint as if fully alleged herein.
36. By its failure to provide ten-minute (10) rest periods for every four (4) hours of work or major fraction thereof per day to Plaintiffs and Rest Period Subclass, Defendant willfully violated Labor Code § 226.7 and applicable Wage Orders.
37. As a result of Defendant's unlawful conduct, Plaintiffs and other members of the Subclass have suffered damages as articulated in the Prayer for Relief, set forth below, and fully incorporated here as applicable.

VIII.

THIRD CAUSE OF ACTION
FAILURE TO PAY WAGES

(Labor Code §§ 204, 210, 510, 1194, 1194.2)

(By Plaintiffs and the Unpaid Wage Subclass against Defendant)

38. Plaintiffs incorporate paragraphs 1 through 31 of this First Amended Complaint as if fully alleged herein.
39. At all relevant times, Plaintiffs and the other members of the Unpaid Wage Class were employees of Defendant covered by Labor Code §§ 204, 210, 510, 1194, 1194.2 and applicable Wage Orders, and they were entitled to receive minimum and overtime wages for all hours worked and liquidated damages equal to unlawfully unpaid minimum wages with interest.
40. Defendant has violated California law and the specified provisions of the Labor Code and applicable Wage Orders by its failure to pay all wages due in

1 accordance, including minimum wages, wrongfully classified off-the-clock
2 wages, overtime pay and double time pay as based on an employee's regular
3 rate of compensation. Notably, any wages that were paid were not effectively
4 paid within seven (7) days of the close of any applicable payroll period. As a
5 result of Defendant's unlawful conduct, Plaintiffs and other members of the
6 Subclass have suffered damages as articulated in the Prayer for Relief, set forth
7 below, and fully incorporated here as applicable.

8
9 **IX.**

10 **FOURTH CAUSE OF ACTION**

11 **FAILURE TO PAY WAGES DUE AT TERMINATION**

12 **(Labor Code §§ 201, 202, 203)**

13 **(By Plaintiffs and Waiting Time Subclass against Defendant)**

- 14 41. Plaintiffs incorporate paragraphs 1 through 31 of this First Amended Complaint
15 as if fully alleged herein.
- 16 42. By its failure to timely pay Plaintiffs and Waiting Time Subclass, Defendant
17 willfully violated the provisions of Labor Code §§ 201, 202, 203 and applicable
18 Wage Orders. Sec. 203 of Labor Code provides that if an employer willfully fails
19 to timely pay such wages, the employer must, as penalty, continue to pay the
20 employee's wages until the back wages are paid in full or an action is
21 commenced.
- 22 43. As a result of Defendant's unlawful conduct, Plaintiffs and other members of
23 the Subclass have suffered damages as articulated in the Prayer for Relief, set
24 forth below, and fully incorporated here as applicable.

25 //

26 //

27 //

28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

X.

FIFTH CAUSE OF ACTION
FAILURE TO PAY VACATION WAGES DUE AT TERMINATION
(Labor Code §227.3)
(By Plaintiffs and Vacation Pay Subclass against Defendant)

44. Plaintiffs incorporate paragraphs 1 through 31 of this First Amended Complaint as if fully alleged herein.
45. By its failure to timely pay Plaintiffs and Vacation Pay Subclass, Defendant willfully violated the provisions of Labor Code §227.3. Section 227.3 of Labor Code provides that whenever a contract of employment or employer policy provides for paid vacation, and an employee is terminated without having taken off his or her vested vacation time, all vested vacation shall be paid to him as wages at his or her final rate in accordance with such contract of employment or employer policy respecting eligibility of time served; provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination.
46. As a result of Defendant's unlawful conduct, Plaintiffs and other members of the Subclass have suffered damages as articulated in the Prayer for Relief, set forth below, and fully incorporated here as applicable.

XI.

SIXTH CAUSE OF ACTION
FAILURE TO PROVIDE ITEMIZED WAGE STATEMENTS
(Labor Code §226)
(By Plaintiffs and Wage Statement Subclass against Defendant)

47. Plaintiffs incorporate paragraphs 1 through 31 of this First Amended Complaint as if fully alleged herein.

1 48. By its failure to provide accurate itemized wage statements, semimonthly or at
2 the time of each payment of wages, Defendant willfully violated the provisions
3 of Labor Code §226 and applicable Wage Orders.

4 49. As a result of Defendant's unlawful conduct, Plaintiffs and other members of
5 the Subclass have suffered damages as articulated in the Prayer for Relief, set
6 forth below, and fully incorporated here as applicable.

7
8 **XII.**

9 **SEVENTH CAUSE OF ACTION**

10 **FAILURE TO REIMBURSE ALL BUSINESS EXPENSES**

11 **(Labor Code §§2800, 2802)**

12 **(By Plaintiffs and Expense Reimbursement Subclass against Defendants)**

13 50. Plaintiffs incorporate paragraphs 1 through 31 of this First Amended Complaint
14 as if fully alleged herein.

15 51. Labor Code § 2800 provides, in pertinent part, "[a]n employer shall in all cases
16 indemnify his employee for losses caused by the employer's want of ordinary
17 care."

18 52. Labor Code § 2802 provides, in pertinent part, "[a]n employer shall indemnify
19 his or his employee for all necessary expenditures or losses incurred by the
20 employee in direct consequence of the discharge of his or his duties..."

21 53. Further, Labor Code § 2802 additionally provides, in pertinent part: "(c)...the
22 term 'necessary expenditures or losses' shall include all reasonable costs,
23 including but not limited to, attorney's fees incurred by the employee enforcing
24 the rights granted by this section."

25 54. During the relevant time period, Defendant was required to reimburse
26 Plaintiffs and class members for all expenditures or losses caused by the
27 employer's want of ordinary care and/or incurred in direct consequence of the
28 discharge of their duties, but failed to indemnify and reimburse Plaintiffs and
class members in violation of Labor Codes §§ 2800 and 2802.

1 55. As a direct and proximate result, Plaintiffs and class members have suffered,
2 and continue to suffer, substantial losses, related to the use and enjoyment of
3 such monies to be reimbursed, lost interest on such monies, and expenses and
4 attorney's fees in seeking to compel Defendant to fully perform its obligations
5 under California law, all of their damage in amounts according to proof at the
6 time of trial.

7
8 **XIII.**

9 **EIGHTH CAUSE OF ACTION**
10 **VIOLATION OF UNFAIR BUSINESS PRACTICES ACT**
11 **(Bus. & Prof. Code §§ 17200, *et seq.*)**
12 **(By Plaintiffs, Plaintiff Class and All Subclasses against Defendant)**

13 56. Plaintiffs incorporate paragraphs 1 through 55 of this First Amended Complaint
14 as if fully alleged herein.

15 57. The alleged unlawful conduct of Defendant constitutes unfair competition
16 pursuant to Business and Professions Code §§ 17200 *et seq.*, and this cause of
17 action is brought as a cumulative remedy under Bus. & Prof. Code § 17205 for
18 the time period starting four (4) years before the filing of the Complaint.

19 58. As a result, Plaintiffs and other members of Plaintiff Class and Subclasses have
20 suffered injury in fact and lost money or property. Plaintiffs and said members
21 have been deprived of their rights as set forth in this First Amended Complaint,
22 including, but not limited to, payment of minimum and/or actual wages for all
23 hours worked.

24 59. Pursuant to Business and Professions Code § 17203, Plaintiffs and other
25 members of Plaintiff Class and Subclasses are entitled to restitution of all wages
26 owed to them under the Labor Code, and interest thereon, in which they had a
27 property interest, which Defendant failed to pay to them but withheld and
28 retained for itself. Restitution of the money owed to Plaintiffs, Plaintiff Class
and Subclasses is necessary to prevent Defendant from becoming unjustly

1 enriched by its failure to comply with the Labor Code provisions.

2 60. Plaintiffs and members of Plaintiff Class and Subclasses are entitled to recover
3 reasonable attorney's fees in connection with their unfair competition claims
4 pursuant to Code of Civil Procedure § 1021.5, the substantial benefit doctrine
5 and/or the common fund doctrine.

6 61. Plaintiffs request the court to issue a preliminary and permanent injunction
7 prohibiting defendants from committing the Labor Code and applicable Wage
8 Order violations set forth in this First Amended Complaint, and Plaintiffs and
9 the members of Plaintiff Class and Subclasses have suffered further damages as
10 articulated in the Prayer for Relief, set forth below, also incorporated here fully
11 as applicable.

12
13 **XIV.**

14 **NINTH CAUSE OF ACTION**

15 **VIOLATION OF CALIFORNIA'S PRIVATE ATTORNEY GENERAL ACT**

16 **(LABOR CODE § 2699 *et seq.*)**

17 **(By Plaintiff and Aggrieved Employees Against Defendant)**

18 62. Plaintiffs incorporate paragraphs 1 through 61 of this First Amended Complaint
19 as if fully alleged herein.

20 63. Under the Private Attorney General Act, Labor Code §§ 2698-99 ("PAGA"),
21 private parties may recover civil penalties for violations of the California Labor
22 Code. PAGA penalties are in addition to any other relief available under the
23 Labor Code.

24 64. As set forth above, Defendant violated the California Labor Code by
25 consistently failing to employ Plaintiffs and other similarly situated employees
26 in compliance with California law.

27 65. Plaintiffs provided written notice by certified mail to Defendants on November
28 17, 2022, and electronic notice thereafter to the State Labor & Workforce

1 Development Agency ("LWDA"), of the legal claims and theories of this case.
2 To date, and after 65 days from the date of mailing of notice, the LWDA has not
3 notified Plaintiffs that the LWDA intends to exercise jurisdiction over the claim
4 for civil penalties under the PAGA. Accordingly, Plaintiffs exhausted
5 administrative remedies as required by Labor Code § 2699.3. Plaintiffs' PAGA
6 claim was assigned case number LWDA-CM-920119-22 by the LWDA.
7 Appended hereto is a copy of the notice communicated by Plaintiffs.
8

9 66. Under the PAGA, Plaintiffs and all other aggrieved employees are entitled to
10 recover the maximum civil penalties permitted by law from Defendant for the
11 violations of Labor Code alleged in this First Amended Complaint and the
12 notice communicated by Plaintiffs.

13 67. Plaintiffs and all other aggrieved employees are also entitled to recover their
14 attorneys' fees and costs under Labor Code § 2699.
15

16 XV.

17 PRAYER FOR RELIEF

18 WHEREFORE, on behalf of themselves and all others similarly situated,
19 Plaintiffs pray for relief and judgment against Defendant as follows:

20 A. An order certifying that Plaintiffs may pursue their claims as a class
21 action under Section 382 of the Code of Civil Procedure; and it is further requested
22 that Plaintiff Class and each Plaintiff Subclass be certified;

23 B. An order appointing Plaintiffs as Class representatives;

24 C. An order appointing Plaintiffs' counsel as Class counsel;

25 D. Disgorgement of Defendant's wrongfully obtained profits and restitution
26 of unpaid wages under Business and Professions Code §§ 17203, 17204;

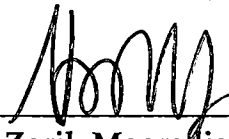
27 E. Damages for unpaid additional compensation for failing to provide
28 timely or uninterrupted or lawful meal periods and rest periods;

F. Damages for unpaid minimum wages under Labor Code § 1194;

- 1 G. Liquidated damages under Labor Code § 1194.2;
2 H. Statutory penalties under Labor Code § 210;
3 I. Statutory penalties under Labor Code § 226(e);
4 J. Damages for unpaid penalty wages under Labor Code § 203;
5 K. Reimbursement of business expenses under Labor Code § 2802;
6 L. Damages for unpaid vacation wages at the time of discharge under
7 Labor Code § 227.3;
8 M. Reasonable attorney's fees and costs pursuant to statute, including, but
9 not limited to Labor Code § 218.5 and Code of Civ. Proc. § 1021.5;
10 N. Enjoinment of Defendant from further acts of unfair competition and
11 continuous violations of the Labor Code and applicable Wage Orders;
12 O. Civil penalties under Labor Code Section 2699 (75% payable to the
13 LWDA and 25% payable to aggrieved employees); and
14 P. For such other relief that the Court may deem just and proper, including
15 prejudgment interest and costs.

16
17 DATED: Jan. 24, 2023

MOORADIAN LAW, APC

18
19 By: 

20 Zorik Mooradian,
21 Haik Hacopian,

Attorneys for Plaintiffs and the putative class

22
23 **DEMAND FOR A JURY TRIAL**

24 Plaintiffs FABIOLA CASTILLO and NORMA ORTIZ MARTINEZ hereby
25 demand a jury trial in the above case.

26
27 DATED: Jan. 24, 2023

MOORADIAN LAW, APC

28 By: 

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Zorik Mooradian,
Haik Hacopian,
Attorneys for Plaintiffs and the putative class

MOORADIAN LAW, APC
24007 Ventura Boulevard, Suite 210
Calabasas, California 91302
Mooradianlaw.com
Telephone 1-818-487-1998
Facsimile 1-888-783-1030

HAIK HACOPIAN

E-mail: haik@mooradianlaw.com

NOVEMBER 17, 2022

VIA USPS CERTIFIED MAIL

Hoag Memorial Hospital Presbyterian
One Hoag Drive
Newport Beach, CA 92663
7021 1970 0001 7313 8110

Agent for Service of Process for
Hoag Memorial Hospital Presbyterian
Lisa Bynum
One Hoag Drive
Newport Beach, CA 92663
7021 1970 0001 7313 8103

VIA ONLINE SUBMISSION

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814
www.dir.ca.gov

Re: *California Wage & Hour Violations*
Hoag Memorial Hospital Presbyterian

To Whom It May Concern:

This office represents Fabiola Castillo and Norma Ortiz Martinez with respect to Private Attorneys General Act ("PAGA") claims that they intend to pursue against Hoag Memorial Hospital Presbyterian ("Hoag") based upon its illegal wage and hour practices in the State of California as to its non-exempt housekeeping/janitorial employees. This letter constitutes the notice required by Labor Code Section 2699.3.

Facts

Hoag is engaged in the provision of health care and related services including hospital ownership and operation. Ms. Castillo and Ms. Martinez worked as non-exempt hourly employees of Hoag. Hoag employs numerous non-exempt, hourly paid employees such as Ms. Castillo and Ms. Martinez in California. Unfortunately, Hoag has engaged in the following practices:

Failure to Pay Wages

Hoag failed to pay employees for all hours worked, including due to rounding, work off-the-clock, and on-duty meal breaks that were considered off-duty. Notably, employees also did not receive net 30-minute meal breaks on account of the time clock accessibility as well as work off-the-clock during meal periods.

The above practices resulted in the underpayment of wages to employees, including underpayment of overtime and double-time to the extent applicable.

Failure to Provide COVID-19 Supplemental Paid Sick Leave

Hoag, as a private employer with 26 or more employees, was required to provide COVID-19 Supplemental Paid Sick Leave to employees in California who were unable to work or telework due to various reasons including: being subject to a quarantine or isolation period related to COVID-19, being advised by a healthcare provider to quarantine due to COVID-19, experiencing COVID-19 symptoms and seeking a medical diagnosis, caring for a family member who was subject to quarantine or isolation due to COVID-19, or attending a vaccine appointment or unable to work due to vaccine-related side effects. Hoag, however, failed to provide employees such as Ms. Castillo and Ms. Martinez with supplemental paid sick leave.

Meal Breaks

Hoag engages in the practice of not allowing mandated meal breaks and not compensating employees for any missed, late, or short meal breaks. Employees did not receive premium pay for any missed, late, or short meal period. Notably, meal breaks were not at least a net thirty (30) minutes in duration on account of the clock in and out process and other factors. Further, to the extent meal breaks were provided, employees were restricted to specific areas such that these meal breaks were not off-duty.

Rest Breaks

Hoag engages in the practice of not allowing mandated rest breaks and not compensating employees for any missed, late, or short rest breaks. Employees did not receive premium pay for these missed rest breaks. Notably, rest breaks were not at least a net ten (10) minutes in duration on account of work interruptions and other factors. As with meal breaks, rest breaks were restricted to specific areas.

Waiting Time and Unpaid Vacation Wages

At the time of an employee's separation (whether it be by termination or resignation) Hoag has failed to provide the employee with all monies owed, including meal break premiums, rest break premiums, and unpaid wages for work performed, including overtime and double-time wages to the extent applicable.

Hoag maintained a separate vacation/PTO benefit for employees and vacation wages would be owed to the extent that vacation/PTO pay did not accrue per Hoag's vacation/PTO policy as well as due to any unpaid compensation that was not factored into the accrual of the vacation benefit. Correspondingly, any vacation balance paid to an employee upon separation would not be full and complete.

Noncompliant Wage Statements

Hoag has adopted a custom and practice of failing to provide wage statements which reflect all hours worked during any pay period, whether or not employees received all wages entitled to, including meal and rest break premiums and sick leave.

Failure to Fully Reimburse Employee Expenses

Hoag required that employees launder their uniforms but never provided compensation for such expenses by employees.

Additional Penalties

Ms. Castillo, Ms. Martinez, and all other similarly aggrieved employees intend to seek all available civil penalties for the violations described above.

Code Provisions Violated and Legal Theories

The specific provisions of the California Labor Code which Hoag has violated, and applicable legal theories which establish the violations, are as follows:

Labor Code Section 201: Hoag violated, and continues to violate, Labor Code Section 201 by failing to pay the employees it has discharged the complete and correct amount of all wages owing at the time of termination. The wages earned but not paid at termination include uncompensated work time, including overtime and double-time as applicable, and premium wages for missed meal and rest breaks.

Labor Code Section 202: Hoag violated, and continues to violate, Labor Code Section 202 by failing to pay employees who quit the correct amount of all wages, within 72 hours of the termination. As already stated, the wages earned but not paid at termination include the above.

Labor Code Section 203: Hoag violated, and continues to violate, Labor Code Section 203 by failing to pay 30 days of continuing wages to employees owed wages (explained above) whose employment ended.

Labor Code Section 204: Hoag violated, and continues to violate, Labor Code Section 204 by failing to pay wages to employees for all hours worked as explained above.

Labor Code Section 226: Hoag violated, and continues to violate, Labor Code Section 226(a) by failing to provide employees with accurate and compliant itemized wage statements.

Labor Code Section 226.7: Hoag violated, and continues to violate, Labor Code Section 226.7 by failing to provide meal periods and/or rest periods that are in accordance and in compliance with the IWC's applicable wage order.

Labor Code Section 227.3: Hoag violated, and continues to violate, Labor Code Section 227.3 by failing to promptly pay all vested vacation or PTO benefits to employees upon their separation.

Labor Code Sections 246, 247, 248.2, and 248.6: Hoag violated, and continues to violate, Labor Code Sections 246, 247, 248.2, and 248.6 by failing to provide sick leave and COVID-19 Supplemental Paid Sick Leave to employees.

Labor Code Section 510: Hoag violated, and continues to violate, Labor Code Section 510 by failing to pay minimum wage or overtime compensation required by law including failing to calculate overtime and doubletime wages in accordance with employees' regular rate of pay.

Labor Code Section 512: Hoag violated, and continues to violate, Labor Code Section 512 by not providing employees with legally compliant meal periods.

Labor Code Section 1194: Hoag violated, and continues to violate, Labor Code Section 1194 by failing to pay employees minimum wage and overtime compensation required by law.

Labor Code Sections 1197 and 1197.1: Hoag violated, and continues to violate, Labor Code Section 1197 by failing to pay employees a wage less than the minimum fixed by an applicable state or local law.

Labor Code Section 2802: Hoag violated and continues to violate, Labor Code Section 2802 by failing to indemnify employees for all necessary expenditures or losses incurred by employees in direct consequence of the discharge of their duties.

Conclusion

Please inform us if you intend to investigate this matter. We look forward to prompt administrative action so that the identified unlawful practices can be rectified. In the absence of such action, we may file an appropriate action, pursuant to Labor Code Section 2698 *et seq.* Ms. Castillo, Ms. Martinez, and all other similarly aggrieved employees intend to seek all penalties for the violations described above. Should you require any additional information, do not hesitate to contact the undersigned.

Very truly yours,
MOORADIAN LAW, APC

/s/ Haik Hacopian
HAIK HACOPIAN

7021 1970 0001 7313 8110

U.S. Postal Service™	
CERTIFIED MAIL® RECEIPT	
Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
Newport Beach, CA 92663	
Certified Mail Fee	\$4.00
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	\$0.00
☐ Return Receipt (electronic)	\$0.00
☐ Certified Mail Restricted Delivery	\$0.00
☐ Adult Signature Required	\$0.00
☐ Adult Signature Restricted Delivery	\$0.00
Postage	\$0.60
Total Postage and Fees	\$4.60
Sent To	HOAG MEMORIAL HOSPITAL PRESBYTERIAN
Street and Apt. No., or PO Box No.	ONE HOAG DRIVE
City, State, ZIP+4®	NEWPORT BEACH, CA 92663
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

7021 1970 0001 7313 8103

U.S. Postal Service™	
CERTIFIED MAIL® RECEIPT	
Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
Newport Beach, CA 92663	
Certified Mail Fee	\$4.00
Extra Services & Fees (check box, add fee as appropriate)	
☐ Return Receipt (hardcopy)	\$0.00
☐ Return Receipt (electronic)	\$0.00
☐ Certified Mail Restricted Delivery	\$0.00
☐ Adult Signature Required	\$0.00
☐ Adult Signature Restricted Delivery	\$0.00
Postage	\$0.60
Total Postage and Fees	\$4.60
Sent To	AGENT FOR SERVICE OF PROCESS
Street and Apt. No., or PO Box No.	ONE HOAG DRIVE
City, State, ZIP+4®	NEWPORT BEACH, CA 92663
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	



Haik Hacopian <haik.hacopian@gmail.com>

Thank you for submission of your PAGA Case.

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
To: "haik.hacopian@gmail.com" <haik.hacopian@gmail.com>

Thu, Nov 17, 2022 at 1:29 PM

11/17/2022

LWDA Case No. LWDA-CM-920119-22
Law Firm : Mooradian Law, APC
Plaintiff Name : Fabiola Castillo, Norma Ortiz Martinez
Employer: Hoag Memorial Hospital Presbyterian
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm