

ANDINO v KAISER FOUNDATION HOSPITALS
MAILING ADMINISTRATOR
C/O RUST CONSULTING INC – 5082
PO BOX 2502
FARIBAULT MN 55021-9502

IMPORTANT LEGAL MATERIALS



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SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF ALAMEDA

Jose Andino v. Kaiser Foundation Hospitals
Case No. RG11580548

NOTICE OF PENDENCY OF CLASS ACTION

A state court authorized this Notice.

PLEASE READ THIS NOTICE CAREFULLY

To: All individuals employed by Kaiser Foundation Hospitals (“KFH”) in California as hourly employees whose time clock hours have been rounded for payment purposes at any time from June 15, 2007 through March 21, 2016.

Why should I read this Notice?

The purpose of this Notice is to inform you that your rights may be affected by a class action lawsuit pending before the Honorable Winifred Y. Smith of the Alameda County Superior Court (the “Court”). This Notice and its contents have been approved by the Court and are given by Order of the Court.

This case was originally filed on June 14, 2011. On November 23, 2015, the Court entered an Order certifying this case as a class action. By certifying the case, the Court has decided only that the matter may be litigated on behalf of the class of individuals defined below. The Court has made no determination as to the merits of the claims or defenses raised by either side in this lawsuit. This Notice explains your rights and ability to either participate in these proceedings or to exclude yourself from them.

Why did I get this Notice?

KFH’s records show that you were employed by KFH in California as an hourly employee whose time clock hours have been rounded for payment purposes at any time from June 15, 2007 through March 21, 2016.

What is a Class Action and Who is Involved?

A class action is a lawsuit which is brought by one or more persons called a “Class Representative.” The Class Representative brought suit on behalf of all of the California hourly employees whose time clock hours have been rounded for payment purposes to recover damages on their behalf, without the need for each member to file an individual lawsuit. The group of people is called the “Class” or “Class Members.” In a class action, one court resolves in one case the claims being litigated for everyone in the Class – except those people who exclude themselves from the Class and lawsuit by opting out.

What are the Claims in this Lawsuit?

Plaintiff brought claims for underpayment of hourly wages and overtime wages on behalf of hourly employees in California as a result of Kaiser’s policies and practices to round employees’ time clock hours for payment purposes. Plaintiff further alleges that the company’s rounding practices, in addition to attendance and tardiness policies, resulted in unlawful underpayment of wages to the Class. The Court also certified derivative claims, as they pertain to underpaid wages, related to failure to provide accurate wage statements and timely pay wages at termination and unfair competition.

KFH denies any wrongdoing and denies that Plaintiff or members of the Class were underpaid. It is KFH's position that its shift tolerance windows are lawful grace periods for clocking convenience and that, to the extent that KFH rounds any employee time, such rounding is neutral or favorable to the Class.

What Recovery Does the Class Action Seek?

In this action, Plaintiff seeks to recover allegedly unpaid hourly and overtime wages based on his claim that time was rounded off for payment purposes at the beginning and ending of the shift and, where applicable, at meal periods. Based on these claims, Plaintiff also seeks penalties for allegedly inaccurate wage statements, failure to timely pay all wages due at separation, and restitution and recovery of penalties, interest, injunctive relief, costs and attorneys' fees.

Who are the Attorneys Representing the Class Members?

The Court determined that Class Counsel, consisting of COHELAN KHOURY & SINGER and the LAW OFFICES OF SAHAG MAJARIAN II, are competent and experienced in class action litigation, including wage and hour class action litigation, and will adequately represent the interests of the Class and further appear to be qualified to prosecute this action.

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If you so desire, you may hire at your own cost an attorney of your choice to represent you. If you choose to do so, you and your attorney must provide a Notice of Appearance to the Court, Class Counsel and counsel for KFH.

Is There a Trial Date Set for this Class Action?

No trial date has been set at this time. The parties will conduct discovery and may proceed to a trial.

What Are My Rights and Options in this Matter?

REMAIN A MEMBER OF THE CLASS. If you would like to remain a member of the Class and be represented by the lawyers appointed by the Court, you do not have to do anything at this time. You may direct any questions to Class Counsel regarding this case. If this Notice was sent to you at your current address and you wish to be a member of the Class, you do not have to do anything further to receive any future notices concerning this case. If it was forwarded by the postal service, or if it was sent to you at an old address, you should immediately send a letter to Class Counsel at the address listed above with your former and current addresses.

The judgment, whether favorable or not, will bind all Class Members who do not request exclusion from the lawsuit.

Any member who does not request exclusion may, if the member so desires, enter an appearance through counsel.

EXCLUDE YOURSELF FROM THIS LAWSUIT. You have the right to exclude yourself from this Class and this lawsuit if you do not wish to participate in this lawsuit. If you exclude yourself, you will still have the right to pursue any claims you may have through counsel of your choice at your own expense. You will not lose any claims you may have by excluding yourself, but you cannot share in any potential class recovery if you seek to be excluded. If you want to be excluded from the Class in this lawsuit, you must request to be excluded from the Class by sending your request to the administrator at the address listed below. The request must include your name, address, telephone number, and signature and state that you do not wish to be a member of the class in the *Andino v. Kaiser Foundation Hospitals* case. The request must be postmarked by May 5, 2016 and mailed to the Administrator at:

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KFH will not retaliate against you in any manner (or confer any benefit on you) based upon your decision to remain a member of the Class or exclude yourself from this lawsuit.

How will Class Counsel be paid?

Class Counsel are representing the Class on a contingency fee basis. Class Members may receive a judgment or settlement without paying any out-of-pocket fees or costs. Class Counsel shall make a request to the Court for attorneys' fees and costs, to be paid from any judgment or settlement funds. All applications for attorneys' fees and expenses are subject to Court approval. In class actions, counsel who obtain a monetary recovery for the benefit of a class may be entitled to an award of reasonable attorneys' fees and costs.

What if I need additional information?

The information contained in this Notice is only a summary of the litigation. The pleadings and other records in this litigation may be examined online on the Alameda County Superior Court's website, known as "DomainWeb," at <https://publicrecords.alameda.courts.ca.gov/PRS/>

After arriving at the website, click the "Search By Case Number" link, then enter RG11580548 as the case number and click "SEARCH." Images of every document filed in the case may be viewed through the "Register of Actions" at a minimal charge.

You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings, including the René C. Davidson Courthouse located at 1225 Fallon Street, Oakland, CA 94612 and the Hayward Hall of Justice, located at 24405 Amador St, Hayward, CA 94544.

If you have any questions, you may call the administrator at (866) 925-0413 toll free. You may also contact Class Counsel for further information or visit www.andinovskaiser.com.

PLEASE DO NOT ADDRESS ANY QUESTIONS TO THE COURT.

Dated: March 21, 2016

/s/ Winifred Y. Smith
Hon. Winifred Y. Smith

