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By: L. Castillejo Deputy

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Attorneys for Plaintiff,
PEDRO CEREN, on behalf of
himself, all aggrieved employees, and the State
of California as a Private Attorneys General

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

PEDRO CEREN, an individual, on behalf of
himself, all aggrieved employees, and the
State of California as a Private Attorneys
General,

Plaintiffs,

vs.

American Medical Response Ambulance
Service, Inc., a Delaware corporation,
American Medical Response of Southern
California, a California corporation, and DOES
1-50, inclusive,

Defendants.

Case No.: 20STCV15983

[Assigned for all purposes to the Hon. Ruth
Ann Kwan, Dept. 72]

FIRST AMENDED COMPLAINT

PAGA REPRESENTATIVE ACTION

**Violation of the Private Attorneys General
Act of 2004, Cal. Labor Code §2698 *et seq.***

1 Plaintiff PEDRO CEREN brings this PAGA representative action complaint on behalf of
2 himself, all aggrieved employees within the State of California, and the State of California as a
3 Private Attorneys General, and alleges as follows:

4 **NATURE OF THE ACTION**

5
6 1. Plaintiff Pedro Ceren worked for defendants American Medical Response Service, Inc.,
7 American Medical Response of Southern California, and Does 1-50 (collectively “Defendants”)
8 from 2014-2017, and again from 2018-2019. Plaintiff brings this action pursuant to the Private
9 Attorneys General Act of 2004 (“PAGA”), Cal. Labor Code §2698 *et seq.*, on a representative
10 basis. All current and former hourly, non-exempt employees of Defendants in the State of
11 California within one year of serving notice on the LWDA to the present are aggrieved employees.

12 2. Defendants failed to comply with California Labor Code requirements due to erroneous,
13 willful, and intentional employment practices and policies. Plaintiff brings this representative
14 action on behalf of himself, all others similarly situated aggrieved employees, and the State of
15 California, based upon the claims articulated below. Plaintiff provided notice of his claims
16 pursuant to §2698 *et seq.*, to the Labor and Workforce and Development Agency (“LWDA”), as
17 illustrated by the attached Exhibit. The LWDA has not provided any notice to Plaintiff following
18 the exhaustion of the 65-day notice period required by 2699.3(a)(2)(B). Accordingly, Plaintiff now
19 brings this Complaint for civil penalties under the Private Attorneys General Act (“PAGA”), Labor
20 Code §2698 *et seq.*

21 3. Defendants have had a consistent policy and/or practice of: (1) failing to pay for all hours
22 worked, including overtime hours worked; (2) failing to reimburse employees for required
23 business expenses; and (3) failing to provide accurate wage statements and maintain accurate
24 payroll records. Defendants are therefore liable for civil penalties under the Cal. Labor Code,
25 including the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, as described
26 more fully herein.

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28 ///

1 **THE PARTIES**

2 7. Plaintiff Pedro Ceren is a resident of the State of California and was employed as an
3 hourly, nonexempt employee of Defendants until 2019.

4 8. Defendant American Medical Response Service, Inc. is a Delaware corporation doing
5 business in California with the capacity to sue and to be sued and doing business, in Riverside
6 County, State of California.

7 9. Defendant American Medical Response of Southern California is a California
8 corporation doing business in California with the capacity to sue and to be sued and doing business,
9 in Riverside County, State of California.

10 10. Plaintiff is unaware of the true names, capacities, relationships, and extent of
11 participation in the conduct alleged herein, of the Defendants sued as DOES 1 through 50, but is
12 informed and believes and thereon alleges that said Defendants are legally responsible for the
13 wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names,
14 Plaintiff will amend this complaint when their true names and capabilities are ascertained.

15 11. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or
16 indirectly, or through agents or other persons, employed Plaintiff and other aggrieved employees
17 of the representative class, and exercised control over their wages, hours, and working conditions.
18 Plaintiff is informed and believes and thereon allege that each Defendant acted in all respects
19 pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business
20 plan or policy in all respects pertinent hereto, and the acts of each Defendants are legally
21 attributable to the other Defendants.

22 **JURISDICTION AND VENUE**

23 12. Venue is proper in this judicial district because Defendants conduct business in this
24 county, and each defendant has legal obligations to Plaintiff and many of the aggrieved employees
25 in this case that arose in this county.

26 13. The statutory penalties sought by Plaintiff exceeds the minimum jurisdictional limits
27 of the Superior Court and will be established according to proof at trial. Based on information,
28 investigation, and analysis, Plaintiff alleges that the amount in controversy, including claims for

monetary damages, penalties, and attorney's fees, is more than twenty-five thousand dollars (\$25,000).

14. The California Superior Court has jurisdiction in this matter because Plaintiff is a resident of California, and Defendants are incorporated in and/or qualified to do business in California and regularly conduct business in California. Further, there is no federal question at issue as the claims herein are based solely on California law.

PAGA REPRESENTATIVE ACTION ALLEGATIONS

15. During the relevant period, Defendants committed various violations of the California Labor Code as alleged below in more detail. Defendants enforce multiple policies that violate state law, which is intended to increase profits to the detriment of aggrieved employees.

16. Plaintiff is an aggrieved employee of Defendants, having worked for Defendants in California as an hourly, non-exempt employee during the statutory representative period, until mid- 2019.

17. For at least one (1) year prior to the date of service notice on the LWDA, and continuing to the present, Defendants engaged in unlawful employment practices that resulted in violations of numerous Labor Code sections, as set forth more fully below.

18. Plaintiff and all current and former hourly, non-exempt employees within the State of California within one year of filing this action to the present are aggrieved employees within the meaning of Labor Code 2699, *et seq.* (See Labor code §2699(c).)

19. Defendants, and each of them, have committed the following violations of the California Labor Code:

Failure to Pay for All Hours Worked, Including Overtime Hours Worked

(Cal. Labor Code §§218, 510, 512, 558, 1194, 1197, 1197.1, 1198, 1199, 2698 *et seq.*)

20. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporate said paragraphs herein by reference.

21. Section 2(H) of Wage Order 9 defines "hours worked" as "the time during which an employee is subject to the control of an employer, and including all the time the employee is suffered or permitted to work, whether or not required to do so." Plaintiff and aggrieved employees

1 were not paid for all hours worked, including overtime hours worked because of Defendants'
2 policy of shaving timecard entries due to rounding timeclock entries to the nearest quarter-hour.

3 22. Defendants have been engaged in many unlawful employment practices which resulted
4 in underpayment for hours worked each pay period, including penalty pay and overtime hours
5 worked, as more fully set forth below:

6 23. Time Shaving and Rounding. Defendants round employee timecard entries to the
7 nearest ¼ hour, although Defendants use KRONOS timeclocks that easily capture the exact minute
8 employees present for work. Below is a screenshot of Plaintiff's time detail from February 1, 2019.
9 Here, he worked a 12+ hour shift, clocking in 2 minutes early and clocking out 6 minutes late, yet
10 was not paid for the 8 minutes as his time was rounded down.

11 2/1/2019 4:58:00 AM 5:06:00 PM 12:00 12609:40
12 LV
13 13310.520.0000/IRWINDALE 5257 N VINCENT AV/11/1242/24/006/107107

14 24. The California Supreme Court has rejected the *de minimis* argument frequently echoed
15 by employers, confirming that employees are entitled to payment for all hours (and minutes)
16 worked. Indeed, California law will permit a "rounding policy only 'if the rounding policy is fair
17 and neutral on its face and 'it is used in such a manner that it will not result, over a period of time,
18 in failure to compensate the employees properly for all the time they have actually worked.'"
19 (*Troester v. Starbucks Corporation*, (2018) 5 Cal. 5th 829, 846, citing *See's Candy*, 210
20 Cal.App.4th at p. 907.) The policy utilized by Defendants was neither fair nor neutral, as it
21 consistently favored the employer, resulting in a failure to compensate Plaintiff and aggrieved
22 employees for all hours and overtime hours worked.

23 25. Failure to Pay Wages- Required Minimum Wage. Defendants failed to pay Plaintiff
24 and aggrieved employees for all hours worked as a result of Defendants' timecard rounding and
25 time shaving practices, reducing their effective pay rate below minimum wage as further discussed
26 below. Based on Defendants' unlawful conduct described above, and because Plaintiff and the
27 aggrieved employees were paid at or near minimum wage, Defendants' failure to pay for all hours
28

1 worked, including overtime, resulted in a payment of less than the minimum wage for all hours
2 worked, in violation of Labor Code §1197, 1197.1, 1199 and Wage Order 9-2001 §4. Defendants
3 are liable for civil penalties pursuant to Labor Code §§558 and 2699 *et seq.*

4 26. Failure to Pay Overtime Wages. Defendants have required, as a result of the practices
5 alleged herein, Plaintiff and others to work hours in excess of eight hours in a day and forty in a
6 week, but has not paid these employees overtime compensation at one and one-half times the
7 regular rate of pay in violation of Labor Code §510. Further, Plaintiff and aggrieved employees
8 have been required to work more than 12 hours in one day without being compensated at a rate of
9 twice the regular rate of pay. §510. As a result, Plaintiff and aggrieved employees have been denied
10 “the unpaid balance of the full amount of this... overtime compensation” as required by Cal. Labor
11 Code. §1194. Defendants are liable for civil penalties pursuant to Labor Code §§558 and 2699 *et*
12 *seq.*

13 **Failure to Reimburse For Required Business Expenses**

14 **(Cal. Labor Code §§1198, 2802, 2699 *et seq.*)**

15 27. Labor Code §2802 requires employers to indemnify employees for necessary
16 expenditures or losses incurred by employees in direct consequence of the discharge of duties.

17 28. Plaintiff and aggrieved employees were frequently required to use their personal cell
18 phones for business purposes, such as for calling in to dispatch. Although employees were
19 provided with unit phones (for some shifts), pagers, and radios, the unit phones and radios
20 frequently didn’t work – often failing to have service or be sufficiently charged when employees
21 started their shifts. As professionals, aggrieved employees recognized how critical clear and
22 consistent communication with the dispatch center is, so they had to use their personal cell phones
23 frequently as the phones provided failed to work properly and reliably.

24 29. Defendant required Plaintiff and employees to utilize their personal cell phones for
25 work purposes but failed to reimburse Plaintiff and employees for this use as required by the Labor
26 Code. As a result of these practices, Defendants are liable for civil penalties under Cal. Lab. Code
27 §2698 *et eq.* Plaintiff also seeks attorneys’ fees and costs pursuant to Labor Code §§558 and
28 2699(g)(1).

1 **Civil Penalties For Failure to Furnish and Maintain Accurate Payroll Records**

2 (Civil Penalties under Labor Code §§ 226(a), 226.3, 1174, 1174.5, 2698 *et seq.*)

3 30. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
4 incorporate said paragraphs herein by reference.

5 31. California Labor Code § 226(a) provides that “[e]very employer shall, semimonthly or
6 at the time of each payment of wages, furnish each of his or her employees...an accurate itemized
7 statement in writing showing (1) gross wages earned, (2) total hours worked..., (3) the number of
8 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
9 (4) all deductions ... , (5) net wages earned, (6) the inclusive dates of period for which the employee
10 is paid, (7) the name of the employee and his or her social security number..., (8) the name and
11 address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during
12 the pay period and the corresponding number of hours worked at each hourly rate by the
13 employee.”

14 32. Labor Code § 1174 provides that “[e]very employer employing labor in this state shall
15 ... (c) [k]eep a record showing the names and addresses of all employees employed and the ages
16 of all minors [and] (d) [k]eep at a central location in the state or at the plants or establishments at
17 which employees are employed, payroll records showing the hours worked daily by and the wages
18 paid to, and the number of piece-rate units earned by and any applicable piece rate paid to,
19 employees employed at the respective plants or establishments. These records shall be kept in
20 accordance with rules established for this purpose by the commission, but in any case shall be kept
21 on file for not less than two years.”

22 33. Defendants knowingly and intentionally failed to provide timely, accurate, itemized
23 wage statements to Plaintiff and the aggrieved employees in accordance with Labor Code §§ 226
24 and 1174. Wage statements failed to state the hourly rate for regular, OT, or DT hours, as
25 evidenced in the screenshot below. Further, and derivative of the claims alleged above, the
26 statements provided to Plaintiff and aggrieved employees have not accurately reflected actual
27 gross wages earned, including overtime, and total hour worked. Such failures caused injury to
28 Plaintiff and aggrieved employees, by, among other things, impeding them from knowing the total

American Medical Response of Southern California 6363 S. Fiddlers Green Circle #1400 Greenwood Village, CO 80111	Pedro Ceren	CHECK NO.: 1346999260	TAX STATUS:	Single/
		ROUTE: IRW OPS	EXEMPTIONS:	
		CHECK DATE: 14-DEC-18	Federal	0
		PERIOD START: 25-NOV-18	California	0
	EE ID	PERIOD END: 08-DEC-18		

	TOTAL GROSS	TAXABLE GROSS	TOTAL TAXES	TOTAL DED	EXP REIMB	NET PAY
Current	1,019.13	960.46	197.16	58.67	0.00	762.80
YTD	20,747.14	19,749.75	3,957.87	997.39	0.00	15,783.87

PAGA REPRESENTATIVE ACTION COMPLAINT - 8

34. Labor Code § 226.3 provides, “[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation... which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law.”

35. Defendants are liable for civil penalties under §226.3 for violation of §226(a).

36. Plaintiff alleges on information and belief that Defendants knowingly and intentionally failed to furnish aggrieved employees with accurate itemized statements for each pay period that they worked and failed to maintain accurate payroll records of the aggrieved employees as mandated by Labor Code §§ 226.

37. Defendants failed to timely furnish final wages upon separation as required under Labor Code §201-202, resulting in waiting time penalties when final wages were ultimately paid. As a result, Defendants issued inaccurate final wage statements to aggrieved employees.

38. Through this representative action, Plaintiff will advance the interests of hundreds of current and former employees, such that joinder is impracticable. These current and former employees can be readily be identified through a review of Defendants' payroll records and the records of the company that handles payroll for Defendants.

39. Plaintiff seeks to recover the PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

FIRST CAUSE OF ACTION

Against All Defendants for Violation of the Private Attorneys General Act (“PAGA”)

(California Labor Code §2698 *et seq.*)

40. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporate said paragraphs herein by reference.

41. Plaintiff is an “aggrieved employee” under PAGA, as he was employed by Defendants during the applicable statutory period and suffered one or more of the Labor Code violations set

1 forth herein. Accordingly, Plaintiff seeks to recover on behalf of himself and all other current and
2 former aggrieved employees of Defendants, the civil penalties provided by PAGA, plus reasonable
3 attorneys' fees and costs.

4 42. Plaintiff seeks to recover the PAGA civil penalties through a representative action
5 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.
6 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

7 43. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor
8 Code provisions:

9 a. Failure to Pay for All Hours Worked, Including Overtime Hours Worked (Cal.
10 Labor Code §§218, 510, 558, 1194, 1197, 1197.1, 1198, 1199, 2698 *et seq.*)

11 b. Failure to Reimburse For Required Business Expenses (Cal. Labor Code §§1198,
12 2802, 2699 *et seq.*)

13 c. Failure to Provide Accurate Itemized Wage Statements and Maintain Accurate
14 Records (Cal. Labor Code §§ 226, 226.3, 1174, 1174.5, 2698 *et seq.*).

15 44. With respect to violations of Labor Code §226(a), Labor Code §226.3 imposes a civil
16 penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per
17 aggrieved employee for each initial violation of Labor Code §226(a).

18 45. Labor Code §2698 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per
19 pay period, per aggrieved employee for initial violations for all Labor Code provisions for which
20 a civil penalty is not specifically provided.

21 46. Plaintiff and the other current and former employees of Defendants are aggrieved
22 employees. They were or are employed by Defendants, and each of them, and the violations alleged
23 herein were committed against them. Plaintiff brings this action on behalf of himself and all other
24 current and former aggrieved employees.

25 47. At the time of each violation, Defendants employed one or more employees.

26 48. As a result of the aforesaid wrongful and illegal conduct of Defendants, and each of
27 them, Plaintiff and aggrieved employees are entitled to civil penalties in an amount to be
28 determined at trial, costs, and attorneys' fees.

1 49. Plaintiff has complied with all procedural requirements of Labor Code §2699.3 prior
2 to filing this Complaint. By the Notice attached as Exhibit 1, submitted online to the Labor and
3 Workforce Development Agency (“LWDA”) and served by certified mail upon Defendants,
4 Plaintiff through counsel notified the LWDA and Defendants of the specific Labor Code
5 provisions that Defendants have violated. The LWDA did not respond to Plaintiff’s Notice within
6 the statutory timeframe, and Plaintiff has therefore exhausted administrative remedies. Pursuant to
7 Labor Code §2699.3, Plaintiff may now pursue his PAGA claims in this action on behalf of
8 aggrieved employees and the State of California.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff, individually and on behalf of the aggrieved employees, prays for
11 judgement against Defendants as follows:

- 12 1. An award of civil penalties pursuant to PAGA and the Cal. Labor Code in an amount to be
13 determined at trial, but at least the jurisdictional amount of this Court;
- 14 2. An award of reasonable attorneys’ fees and costs pursuant to California Labor Code §2699(g)
15 and/or other applicable law;
- 16 3. For civil penalties as provided under Labor Code §§226.3 and 558, and/or other applicable
17 law;
- 18 4. Post-judgement interest as provided by law; and
- 19 5. Such other and further relief that the Court may deem just and proper.
- 20

21 DATED: July 17, 2020

KOUL LAW FIRM
LAW OFFICES OF SAHAG MAJARIAN II

24 
25 _____

26 BY: Nazo Koulloukian, Esq.
27 Attorneys for Plaintiff PEDRO CEREN, and all
28 aggrieved employees

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EXHIBIT A

PROOF OF SERVICE

Case No. 20STCV15983

Pedro Ceren v. American Medical Response Ambulance Service, Inc., et al.

I, NAZO KOULLOUKIAN declare that I am a resident of or employed in the County of Los Angeles, California. I am over the age of 18 years and not a party to the entitled case. The name and address of my residence or business is KOUL LAW FIRM, 3435 Wilshire Blvd. Ste. 1710, Los Angeles, California 90010.

On July 17, 2020, I served the foregoing document described as:

FIRST AMENDED COMPLAINT

PAGA REPRESENTATIVE ACTION

- _____ by placing the document(s) listed above in a sealed envelope, addressed as set forth below, and placing the envelope for collection and mailing in the place designated for such in our offices, following ordinary business practices.
- _____ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00PM.
- X _____ by transmitting via electronic mail the document(s) listed above to the electronic mailing address set forth below on this date before 5:00PM.
- _____ by causing a true copy thereof to be personally delivered to the person(s) at the address(es) set forth below.

on the parties listed below by placing a true copy thereof enclosed in a sealed envelope for collection and mailing in the United States Postal Service following ordinary business practices at Los Angeles, California addressed as follows:

SEE ATTACHED SERVICE LIST

I am readily familiar with the ordinary practice of the business of collecting, processing and depositing correspondence in the United States Postal Service and that the correspondence will be deposited the same day with postage thereon fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this July 17, 2020, in Los Angeles, California.



NAZO KOULLOUKIAN

PROOF OF SERVICE

Case No. 20STCV15983

Pedro Ceren v. Pedro Ceren. v. American Medical Response Ambulance Service, Inc., et al.

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