

SUMMONS

(CITACION JUDICIAL)

NOTICE TO DEFENDANT: Pacifica Senior Living Management LLC;
(AVISO AL DEMANDADO): Pacifica Senior Living Merced LLC; Pacifica Senior Living Vacaville LLC; Trion Solutions I, Inc.; Park Lane, L.P.; P Monterey LP; and Does 1-50, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Nancy Johnson Moulton, on behalf of herself and as a representative for the State of California on behalf of all other aggrieved employees

FOR COURT USE ONLY
 (SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
 Superior Court of California,
 County of San Diego

12/10/2020 at 12:04:00 PM

Clerk of the Superior Court
 By Taylor Crandall, Deputy Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
 (El nombre y dirección de la corte es): Hall of Justice
 330 West Broadway, San Diego, CA 92101

CASE NUMBER:
 (Número del Caso):

37-2020-00045281-CU-OE-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
 (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
 Jonathan M. Lebe, 777 S. Alameda Street, 2nd Floor, Los Angeles, CA 90021

DATE: 12/11/2020
 (Fecha)

Clerk, by
 (Secretario)

T. Crandall

T. Crandall

, Deputy
 (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)	☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation)	☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership)	☐ CCP 416.90 (authorized person)
☐ other (specify):	
4. ☐ by personal delivery on (date):

Jonathan M. Lebe (SBN 284605)
jon@lebelaw.com
LEBE LAW, APLC
777 S. Alameda Street, Second Floor
Los Angeles, CA 90021
Telephone: (213) 444-1973
Facsimile: (213) 457-3092

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
12/09/2020 at 11:37:35 AM
Clerk of the Superior Court
By Maria Acevedo, Deputy Clerk

Attorney for Plaintiff Nancy Johnson Moulton,
On behalf of herself and as a representative for the State of California on behalf of all other
aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

Nancy Johnson Moulton, on behalf of
herself and as a representative for the State of
California on behalf of all other aggrieved
employees,

Plaintiff,

vs.

Pacifica Senior Living Management LLC;
Pacifica Senior Living Merced LLC; Pacifica
Senior Living Vacaville LLC; Trion Solutions
I, Inc.; Park Lane, L.P.; P Monterey LP; and
Does 1-50, inclusive,

Defendants.

Case No. 37-2020-00045281-CU-OE-CTL

**REPRESENTATIVE ACTION
COMPLAINT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL
ACT OF 2004 [Labor Code § 2698, *et seq.*] (“PAGA”)**

- (1) PAGA Civil Penalties for Failure to Pay All Minimum Wages (Lab. Code § 2698, *et seq.*);
- (2) PAGA Civil Penalties for Failure to Pay All Overtime Wages (Lab. Code § 2698, *et seq.*);
- (3) PAGA Civil Penalties for Failure to Provide Timely and Compliant Meal Periods (Lab. Code § 2698, *et seq.*);
- (4) PAGA Civil Penalties for Failure to Provide Timely and Compliant Rest Periods (Lab. Code § 2698, *et seq.*);
- (5) PAGA Civil Penalties for Failure to Provide Accurate and Itemized Wage Statements (Lab. Code § 2698, *et seq.*);
- (6) PAGA Civil Penalties for Failure to Timely Pay all Wages Due During Employment (Lab. Code § 2698, *et seq.*)

(7) PAGA Civil Penalties for Failure to Timely Pay All Wages Due to Terminated/Separated Employees (Lab. Code § 2698, *et seq.*);

(8) PAGA Civil Penalties for Failure to Pay All Vacation Wages (Lab. Code § 2698, *et seq.*);

(9) PAGA Civil Penalties for Failure to Maintain Accurate Records (Lab. Code § 2698, *et seq.*); and

(10) PAGA Civil Penalties for Failure to Reimburse All Reasonable and Necessary Business Expenses (Lab. Code § 2698, *et seq.*).

Plaintiff Nancy Johnson Moulton (“Plaintiff”), on behalf of herself and as a representative for the State of California, the California Labor and Workforce Development Agency (“LWDA”), and on behalf of all other aggrieved employees, hereby alleges as follows:

I.

INTRODUCTION

1. Plaintiff brings this representative action pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code sections 26894, *et seq.*, against Pacifica Senior Living Management LLC; Pacifica Senior Living Merced LLC; Pacifica Senior Living Vacaville LLC; Trion Solutions I, Inc.; Park Lane, L.P.; P Monterey LP and Does 1 through 50, inclusive (collectively, “Defendants”) to recover civil penalties for all California-based “aggrieved employees” during the “Relevant Time Period” arising out of Defendants’ labor code violations including failure to: pay all minimum, regular, and overtime wages; provide timely and compliant meal and rest periods; provide accurate itemized wages statements; timely pay all wages due during and upon separation of employment; pay all vacation wages; maintain accurate records; and reimburse reasonable and necessary business expenses.

2. On June 24, 2020, Plaintiff gave notice of these claims to the California Labor and Workforce Development Agency (“LWDA”) and to the agent for service of process for each

1 Defendant. A true and correct copy of Plaintiff's notice showing compliance with Labor Code section
2 2699.3 is attached hereto as **Exhibit 1**. As there has been no LWDA intervention within 65 days of
3 that notice, Plaintiff asserts claims for civil penalties as a representative for and on behalf of the State
4 of California, as provided by the PAGA to the extent permitted by law, as an aggrieved non-exempt
5 employee. Plaintiff is an aggrieved employee and has standing to bring a representative action on
6 behalf of the State of California and the LWDA as a private attorney general.

7 3. Plaintiff asserts claims for civil penalties as a representative of the State of
8 California, as authorized by the Private Attorneys General Act of 2004 ("PAGA"), and to the
9 extent permitted by law, on behalf of aggrieved employees who held the positions identified
10 herein and suffered one or more of the violations alleged. Labor Code §§ 2698, *et seq.*,
11 2699.3(a)(2)(C).

12 II.

13 JURISDICTION, VENUE, AND PARTIES

14 4. Venue as to each Defendant is proper in this judicial district. Code of Civil
15 Procedure section 395. Defendants conduct business and commit Labor Code violations in San
16 Diego County, and each Defendant or DOE is within California for service of process. The
17 unlawful acts alleged have a direct effect on aggrieved employees within California and within
18 San Diego County.

19 5. The relief sought by Plaintiff on behalf of herself and the aggrieved employees
20 below exceeds the minimal jurisdictional limits of the Superior Court and will be established
21 according to proof at trial. The Court has personal jurisdiction over each of the parties because
22 they are either citizens of this State, doing business in this State or otherwise have minimum
23 contacts with this State.

24 6. Based on information and belief, Plaintiff alleges that this entire action arises solely
25 under the laws of the State of California and applicable regulations of the health, safety and wages
26 of the employees residing in the State of California. Plaintiff alleges, on information and belief,
27 that no federal question is raised. Moreover, PAGA civil penalty actions are not subject to federal
28 jurisdiction.

1 7. Venue is proper in this Court because, upon information and belief, Plaintiff
2 worked for Defendants in this county, Defendants transact business or have offices in this county,
3 and the acts and omissions alleged herein took place in this county.

4 **Plaintiff**

5 8. Plaintiff is a citizen of California who worked for Defendants as a non-exempt
6 employee from about June 3, 2019 until approximately November 11, 2019. Plaintiff was and is
7 the victim of the policies, practices, and customs of Defendants complained of in this action in
8 ways that have deprived her of her rights guaranteed by the California Labor Code.

9 **Defendants**

10 9. Pacifica Senior Living Management LLC, Pacifica Senior Living Merced LLC,
11 Pacifica Senior Living Vacaville LLC, and P Monterey LP are entities headquartered in San Diego,
12 California.

13 10. Trion Solutions I, Inc. and Park Lane, LP are entities headquartered in Troy,
14 Michigan.

15 11. Plaintiff is unaware of the true names or capacities of the defendants sued herein
16 under the fictitious names DOES 1 through 50 but will seek leave of this Court to amend this
17 Complaint and serve such fictitiously named defendants once their names and capacities become
18 known.

19 12. Plaintiff is informed and believes, and thereon alleges, that each Defendant acted
20 in all respects pertinent to this action as the agent of the other defendant, carried out a joint scheme,
21 business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally
22 attributable to the other Defendant. Furthermore, Defendants in all respects acted as the employer
23 and/or joint employer of Plaintiff and other aggrieved employees.

24 13. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts
25 and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES
26 1 through 50, acting as the agent or alter ego for the other, with legal authority to act on the other's
27 behalf. The acts of any and all Defendants were in accordance with, and represent, the official
28 policy of Defendants.

14. At all relevant times, Defendants, and each of them, acted within the scope of such agency or employment, or ratified each and every act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the damages herein alleged.

15. Plaintiff is informed and believes, and thereon alleges, that each of said Defendants is in some manner intentionally, negligently or otherwise responsible for the acts, omissions, occurrences and transactions alleged herein.

III.

GENERAL ALLEGATIONS

16. California's Labor Code and the applicable IWC Wage Order requires employers, among other things, to pay wages, including minimum, regular, overtime, and vacation wages, for all hours worked, provide compliant meal and rest periods, to furnish each employee with accurate itemized wage statements, to reimburse employees for all expenses necessarily incurred in discharge of employment, and to pay all wages upon separation of employment.

17. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein, Defendants were advised by skilled lawyers, employees and other professionals who were knowledgeable about California wage and hour law, employment and personnel practices and the requirements of California.

18. Plaintiff is informed and believes, and thereon alleges that Defendants have maintained a consistent policy of failing to pay Plaintiff and other aggrieved employees for all hours worked, including minimum, regular and overtime wages, by requiring Plaintiff and other aggrieved employees to work off-the-clock throughout their employment. Defendants employed Plaintiff and other aggrieved employees for more than 8 hours per day and more than 40 hours per workweek, or in excess of twelve (12) hours in a day and/or in excess of eight (8) hours on the seventh day of work in a work week, failed to pay Plaintiff and other aggrieved employees overtime and double time compensation for the overtime and double time hours.

19. Plaintiff, and on information and belief, other aggrieved employees regularly worked off-the-clock without receiving any compensation for these hours worked off-the-clock.

1 Defendants also failed to pay all overtime wages for all overtime hours worked because they failed
2 to properly calculate the regular rate of pay for purposes of calculating overtime and double-time
3 rates for Plaintiff and other aggrieved employees. Defendants misclassified Plaintiff, and on
4 information and belief, other aggrieved employees as exempt from California's overtime and
5 minimum wage laws.

6 20. Plaintiff is informed and believes, and thereon alleges that Defendants failed to
7 provide Plaintiff and other aggrieved employees timely, uninterrupted, off-duty meal periods of
8 no less than thirty minutes before their fifth hour of work and failed provide a second meal period
9 for shifts of more than ten hours. Defendants failed to compensate Plaintiff and other aggrieved
10 employees for these missed meal periods. Furthermore, when Plaintiff and other aggrieved
11 employees took meal periods, they were regularly interrupted, less than thirty minutes, or on duty.

12 21. Plaintiff is informed and believes, and thereon alleges that Defendants employed
13 Plaintiff and other aggrieved employees for work periods of four hours or major fraction thereof
14 without rest periods of ten minutes' net rest time and failed to compensate Plaintiff and other
15 aggrieved employees for these missed rest periods. Defendants' employment practices pressured
16 employees to not take breaks because employees were often not provided coverage in order to take
17 a break, and thus were regularly denied breaks. As a result, when Plaintiff and other aggrieved
18 employees took rest breaks, they were regularly interrupted, less than ten minutes, or on duty.

19 22. Plaintiff is informed and believes, and thereon alleges that Defendants had a
20 consistent policy of failing to reimburse Plaintiff and other aggrieved employees for all necessary
21 and reasonable business expenses incurred, in violation of California state wage and hour laws.
22 Defendants failed to reimburse Plaintiff and other aggrieved employees for their work-related use
23 of their cellular telephones and other expenses incurred in the discharge of their duties for
24 Defendants.

25 23. Plaintiff is informed and believes, and thereon alleges that as a result of the conduct
26 described above, Defendants have failed to maintain accurate records showing the accurate number
27 of hours worked and accurate wages owed.

28 24. Plaintiff is informed and believes, and thereon alleges that Defendants a consistent

1 policy of failing to Plaintiff and other aggrieved employees all wages due during and upon
2 termination of employment, including regular, minimum and overtime wages, meal and rest period
3 premiums, and vacation wages, in violation of California state wage and hour laws.

4 25. In violation of Labor Code section 226(a), Defendants provided itemized wage
5 statements provided to Plaintiff and other aggrieved employees were inaccurate, and failed to
6 accurately list: 1) gross wages earned; 2) total hours worked by an employee, except for any
7 employee whose compensation is solely based on a salary and who is exempt from payment of
8 overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
9 Commission; (3) the number of piece rate units earned and any applicable piece rate if the
10 employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on
11 written orders of the employee may be aggregated and shown as one item; (5) net wages earned;
12 (6) the accurate inclusive dates of the period for which the employee is paid; (7) the name of the
13 employee and the last four digits of his or her social security number or an employee identification
14 number other than a social security number; (8) the name and address of each legal entity that is
15 an employer including joint employers; and (9) all applicable hourly rates in effect during the pay
16 period and the corresponding number of hours worked at each hourly rate by the employee. As a
17 result, Defendants failed to provide Plaintiff and other current and former employees with accurate,
18 timely, itemized wage statements complying with the requirements of the Labor Code and
19 applicable IWC Wage Order.

20 26. For purposes of this action, Plaintiff, as a representative of the State of California,
21 will seek to invoke Labor Code section 1195.5 which states: “The Division of Labor Standards
22 Enforcement shall determine, upon request, whether the wages of employees, which exceed the
23 minimum wages fixed by the commission, have been correctly computed and paid. For this
24 purpose, the division may examine the books, reports, contracts, payrolls and other documents of
25 the employer relative to the employment of employees. The division shall enforce the payment of
26 any sums found, upon examination, to be due and unpaid to the employees.”

27 27. Labor Code section 2699(a) provides: “Notwithstanding any other provision of law,
28 any provision of this code that provides for a civil penalty to be assessed and collected by the

1 Labor and Workforce Development Agency or any of its departments, divisions, commissions,
2 boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered
3 through a civil action brought by an aggrieved employee on behalf of himself or herself and other
4 current or former employees pursuant to the procedures specified in Section 2699.3.”

5 28. Labor Code section 2699(f)(2) states: “For all provisions of this code except those
6 for which a civil penalty is specifically provided, there is established a civil penalty for a violation
7 of these provisions, as follows... (2) If, at the time of the alleged violation, the person employs
8 one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved
9 employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
10 employee per pay period for each subsequent violation.”

11 29. Pursuant to California Labor Code section 558(a), “Any employer or other person
12 acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or
13 any provision regulating hours and days of work in any order of the Industrial Welfare Commission
14 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
15 each underpaid employee for each pay period for which the employee was underpaid in addition
16 to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one
17 hundred dollars (\$100) for each underpaid employee for each pay period for which the employee
18 was underpaid in addition to an amount sufficient to recover underpaid wages.” Plaintiff seeks
19 only to recover the civil penalty provided for in section 558(a) for the violations alleged herein
20 and **does not** seek to recover underpaid wages.

21 30. Pursuant to California Labor Code section 558.1, Defendants are employers of
22 Plaintiff, and/or a person acting on behalf of Plaintiff’s employer, who violated, or caused to be
23 violated, any provision regulating minimum wages or hours and days of work in the applicable order
24 of the Industrial Welfare Commission, as well as California Labor Code sections 201, 202, 203, 226,
25 510, 512, 558, 1194, 1197.1, and 1198, and as such, are liable as an employer of Plaintiff and other
26 aggrieved employees employed in the State of California.

27 31. Plaintiff, as a representative of the general public and State of California, seeks to
28 recover all civil penalties under the PAGA, Labor Code sections 2699 and 2699(f)(2), for

1 violations of sections 201-204, 226, 226.3, 226.7, 227.3, 510, 512, 1174, 1174.5, 1194, 1194.2,
2 1197, 1198, and 2802 shown to have occurred, in an amount according to proof, as to those
3 penalties that are otherwise only available in public agency enforcement actions. The funds
4 recovered will be distributed in accordance with the PAGA, with 75% of penalties recovered
5 distributed to the LWDA on and 25% distributed to the aggrieved employees, subject to Court
6 approval.

7 **IV.**

8 **CAUSES OF ACTION**

9 **FIRST CAUSE OF ACTION**

10 **PAGA CIVIL PENALTIES FOR FAILURE TO PAY**

11 **ALL MINIMUM WAGES**

12 **[Labor Code § 2698, *et seq.*]**

13 32. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
14 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
15 dated June 24, 2020.

16 33. Labor Code section 1194 states: “Notwithstanding any agreement to work for a
17 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
18 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
19 of the full amount of this minimum wage or overtime compensation, including interest thereon,
20 reasonable attorney’s fees, and costs of suit.”

21 34. Labor Code section 1197 states: “The minimum wage for employees fixed by the
22 commission is the minimum wage to be paid to employees, and the payment of a less wage than
23 minimum wage so fixed is unlawful.”

24 35. Labor Code section 2699(a) provides: “Notwithstanding any other provision of law,
25 any provision of this code that provides for a civil penalty to be assessed and collected by the
26 Labor and Workforce Development Agency or any of its departments, divisions, commissions,
27 boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered
28 through a civil action brought by an aggrieved employee on behalf of himself or herself and other

1 current or former employees pursuant to the procedures specified in Section 2699.3.”

2 36. “For all provisions of this code except those for which a civil penalty is specifically
3 provided, there is established a civil penalty for a violation of these provisions, as follows... (2)
4 If, at the time of the alleged violation, the person employs one or more employees, the civil penalty
5 is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation
6 and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
7 violation.” Labor Code section 2699(f)(2).

8 37. Labor Code section 2699.5 provides, in pertinent part that “provisions of
9 subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: [Labor
10 Code §§] ...1194, 1194.1” and allow for recovery of civil penalties pursuant to the PAGA.

11 38. On information and belief, Plaintiff alleges that during all or a substantial part of
12 the PAGA Period, Defendants failed to pay minimum, regular, and overtime wages for all hours
13 worked in excess of 8 hours per day and/or 40 hours per week and all hours subject to Defendants’
14 control. Specifically, Defendants have maintained a consistent policy of failing to provide Plaintiff
15 and other aggrieved employees their minimum, regular, and overtime wage compensation by
16 requiring Plaintiff and other aggrieved employees to work off-the-clock during meal periods and
17 after their shifts. To the extent these unpaid hours worked were overtime hours, Defendants failed
18 to pay overtime premium wages.

19 39. As a result of Defendants’ failure to pay overtime wages for hours worked in excess
20 of eight hours in one workday and any work in excess of 40 hours in any one workweek and the
21 first eight hours worked on the seventh day of work in any one workweek, Defendants, and each
22 of them, are liable for civil penalties within the applicable limitations period of Labor Code section
23 2699(f)(2) for violations of Labor Code sections 1194 and 1194.2 in the amount of \$100 for each
24 aggrieved employee per pay period for the initial violation and \$200 for each subsequent violation,
25 for Defendants’ failure to pay Plaintiff and other aggrieved employees overtime wages.

26 40. Pursuant to California Labor Code section 558(a), “Any employer or other person
27 acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or
28 any provision regulating hours and days of work in any order of the Industrial Welfare Commission

1 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
2 each underpaid employee for each pay period for which the employee was underpaid in addition
3 to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one
4 hundred dollars (\$100) for each underpaid employee for each pay period for which the employee
5 was underpaid in addition to an amount sufficient to recover underpaid wages.” Plaintiff seeks
6 only to recover the civil penalty provided for in section 558(a) for the violations alleged herein
7 and does not seek to recover any underpaid wages.

8 41. Plaintiff, as a representative of the general public, will and does seek to recover any
9 and all penalties under Labor Code section 2699(f)(2) for each and every violation of Labor Code
10 shown to exist or to have occurred, in an amount according to proof, as to those penalties that are
11 otherwise only available in public agency enforcement actions. Funds will be distributed in
12 accordance with the PAGA, with 75% of the civil penalties recovered being reimbursed to the
13 LWDA on behalf of the State of California. The exact amount of the applicable penalty is all in an
14 amount to be shown according to proof at trial.

15 **SECOND CAUSE OF ACTION**

16 **PAGA CIVIL PENALTIES FOR FAILURE TO PAY**

17 **ALL OVERTIME WAGES**

18 **[Labor Code § 2698, *et seq.*]**

19 42. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
20 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
21 dated June 24, 2020.

22 43. Labor Code section 510(a) states in pertinent part that: “Eight hours of labor
23 constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess
24 of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in
25 any one workweek shall be compensated at the rate of no less than one and one-half times the
26 regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be
27 compensated at the rate of no less than twice the regular rate of pay for an employee.”

28 44. Labor Code section 1194 states: “Notwithstanding any agreement to work for a

1 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
2 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance
3 of the full amount of this minimum wage or overtime compensation, including interest thereon,
4 reasonable attorney's fees, and costs of suit."

5 45. Labor Code section 2699(a) provides: "Notwithstanding any other provision of law,
6 any provision of this code that provides for a civil penalty to be assessed and collected by the
7 Labor and Workforce Development Agency or any of its departments, divisions, commissions,
8 boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered
9 through a civil action brought by an aggrieved employee on behalf of himself or herself and other
10 current or former employees pursuant to the procedures specified in Section 2699.3."

11 46. "For all provisions of this code except those for which a civil penalty is specifically
12 provided, there is established a civil penalty for a violation of these provisions, as follows... (2)
13 If, at the time of the alleged violation, the person employs one or more employees, the civil penalty
14 is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation
15 and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
16 violation." Labor Code section 2699(f)(2).

17 47. Labor Code section 2699.5 provides, in pertinent part that "provisions of
18 subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: [Labor
19 Code §§] ...1194, 1194.1" and allow for recovery of civil penalties pursuant to the PAGA.

20 48. As a result of Defendants' failure to pay overtime wages for hours worked in excess
21 of eight hours in one workday and any work in excess of 40 hours in any one workweek and the
22 first eight hours worked on the seventh day of work in any one workweek, Defendants, and each
23 of them, are liable for civil penalties within the applicable limitations period of Labor Code section
24 2699(f)(2) for violations of Labor Code sections 1194 and 1194.2 in the amount of \$100 for each
25 aggrieved employee per pay period for the initial violation and \$200 for each subsequent violation,
26 for Defendants' failure to pay Plaintiff and other aggrieved employees overtime wages.

27 49. Pursuant to California Labor Code section 558(a), "Any employer or other person
28 acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or

1 any provision regulating hours and days of work in any order of the Industrial Welfare Commission
2 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
3 each underpaid employee for each pay period for which the employee was underpaid in addition
4 to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one
5 hundred dollars (\$100) for each underpaid employee for each pay period for which the employee
6 was underpaid in addition to an amount sufficient to recover underpaid wages.” Plaintiff seeks
7 only to recover the civil penalty provided for in section 558(a) for the violations alleged herein
8 and does not seek to recover any underpaid wages.

9 50. Plaintiff, as a representative of the general public, will and does seek to recover any
10 and all penalties under Labor Code section 2699(f)(2) for each and every violation of Labor Code
11 shown to exist or to have occurred, in an amount according to proof, as to those penalties that are
12 otherwise only available in public agency enforcement actions. Funds will be distributed in
13 accordance with the PAGA, with 75% of the civil penalties recovered being reimbursed to the
14 LWDA on behalf of the State of California. The exact amount of the applicable penalty is all in an
15 amount to be shown according to proof at trial.

16 **THIRD CAUSE OF ACTION**

17 **PAGA CIVIL PENALTIES FOR FAILURE TO PROVIDE**

18 **TIMELY AND COMPLIANT MEAL PERIODS**

19 **[Labor Code § 2698, *et seq.*]**

20 51. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
21 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
22 dated June 24, 2020.

23 52. Labor Code section 512(a) states in pertinent part: “(a) An employer shall not
24 employ an employee for a work period of more than five hours per day without providing the
25 employee with a meal period of not less than 30 minutes, except that if the total work period per
26 day of the employee is no more than six hours, the meal period may be waived by mutual consent
27 of both the employer and employee. An employer shall not employ an employee for a work period
28 of more than 10 hours per day without providing the employee with a second meal period of not

1 less than 30 minutes . . .”

2 53. Labor Code section 226.7(b) provides that: “An employer shall not require an
3 employee to work during a meal or rest or recovery period mandated pursuant to an applicable
4 statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the
5 Occupational Safety and Health Standards Board, or the Division of Occupational Safety and
6 Health.”

7 54. Labor Code section 226.7(c) provides: “If an employer fails to provide an employee
8 a meal or rest or recovery period in accordance with a state law . . . the employer shall pay the
9 employee one additional hour of pay at the employee’s regular rate of compensation for each
10 workday that the meal or rest or recovery period is not provided.”

11 55. On information and belief, during the PAGA Period, Plaintiff and other aggrieved
12 employees were not provided with legally compliant, off-duty meal periods. Defendants failed to
13 provide Plaintiff and other aggrieved employees timely, uninterrupted, off-duty meal periods of
14 no less than thirty minutes before their fifth hour of work and failed to provide Plaintiff and other
15 aggrieved employees a second meal period for shifts of more than ten hours. Furthermore,
16 Defendants failed to compensate Plaintiff and other aggrieved employees for these missed meal
17 periods. As a result, when Plaintiff and other aggrieved employees had breaks, they were regularly
18 interrupted, less than thirty minutes, or on duty. Consequently, Plaintiff, on behalf of herself and
19 other aggrieved employees, intends to seek civil penalties pursuant to the PAGA for these alleged
20 violations.

21 56. By failing to provide off-duty and uninterrupted meal periods of at least thirty (30)
22 minutes for shifts of five (5) hours or more, which began before the end of the fifth hour of work,
23 and failing to pay employees one hour of pay at their regular rate of pay for each workday a meal
24 period was not provided, Defendants willfully violated Labor Code sections 226.7 and 558(a)(3),
25 and the Wage Order.

26 57. By failing to provide a second off-duty and uninterrupted meal period of at least
27 thirty (30) minutes for shifts of ten (10) hours or more and failing to pay employees one hour of
28 pay at their regular rate of pay for each eligible workday a second meal period was not provided,

1 Defendants willfully violated Labor Code sections 226.7 and 558(a)(3), and the Wage Order.

2 58. Labor Code section 2699(f)(2) provides for civil penalties for violations of the
3 Labor Code for which there is no corresponding civil penalty, including Labor Code section 226.7.
4 The civil penalty is \$100 for the initial violation and \$200 for each subsequent violation for each
5 underpaid employee. Labor Code § 2699(f)(2).

6 59. Plaintiff, as a representative of the general public, seeks to recover all Labor Code
7 section 2699(f)(2) penalties for each Labor Code section 226.7 or 512(a) violation, according to
8 proof, as to those penalties otherwise only available in public agency enforcement actions. Funds
9 will be distributed in accordance with the PAGA, with 75% of the civil penalties recovered being
10 reimbursed to the LWDA on behalf of the State of California. The exact amount of the applicable
11 penalty is all in an amount to be shown according to proof at trial.

12 **FOURTH CAUSE OF ACTION**

13 **PAGA CIVIL PENALTIES FOR FAILURE**

14 **TO PROVIDE TIMELY AND COMPLIANT REST PERIODS**

15 **[Labor Code § 2698, *et seq.*]**

16 60. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
17 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
18 dated June 24, 2020.

19 61. The “Rest Period” Section of IWC Wage Order states: “Every employer shall
20 authorize and permit all employees to take rest periods, which insofar as practicable shall be in the
21 middle of each work period. The authorized rest period shall be based on the total hours worked
22 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.” If
23 an employer fails to provide an employee a rest period in accordance with the applicable provision
24 of the order, the employer shall pay the employee one (1) hour of pay at the employee’s regular
25 rate of compensation of each workday that the rest period is not provided.

26 62. Labor Code section 226.7(c) provides: “If an employer fails to provide an employee
27 a meal or rest or recovery period in accordance with a state law . . . the employer shall pay the
28 employee one additional hour of pay at the employee’s regular rate of compensation for each

1 workday that the meal or rest or recovery period is not provided.”

2 63. By failing to authorize and permit Plaintiff to receive a duty-free rest period of at
3 least 10 minutes for every four (4) hours or major fraction thereof worked per day, and by failing
4 to provide premium wages at the regular rate of pay when these periods were not permitted or
5 authorized, Defendants willfully violated Labor Code sections 226.7, 558 and the Wage Order.

6 64. Labor Code section 2699(f)(2) provides for civil penalties for violations of the
7 Labor Code for which there is no corresponding civil penalty, including Labor Code section 226.7.
8 The civil penalty is \$100 for the initial violation and \$200 for each subsequent violation for each
9 underpaid employee. Labor Code § 2699(f)(2).

10 65. Plaintiff, as a representative of the general public, seeks to recover all Labor Code
11 section 2699(f)(2) penalties for each Labor Code section 226.7 violation, according to proof, as to
12 those penalties otherwise only available in public agency enforcement actions. Funds will be
13 distributed in accordance with the PAGA, with 75% of the civil penalties recovered being
14 reimbursed to the LWDA on behalf of the State of California. The exact amount of the applicable
15 penalty is all in an amount to be shown according to proof at trial.

16 **FIFTH CAUSE OF ACTION**

17 **PAGA CIVIL PENALTIES FOR FAILURE**

18 **TO PROVIDE ACCURATE AND ITEMIZED WAGE STATEMENTS**

19 **[Labor Code § 2698, *et seq.*]**

20 66. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
21 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
22 dated June 24, 2020.

23 67. Labor Code section 226(a) provides: “Every employer shall, semimonthly or at the
24 time of each payment of wages, furnish each of his or her employees... an accurate itemized
25 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee,
26 (4) all deductions, provided that all deductions made on written orders of the employee may be
27 aggregated and shown as one item, (5) net wages earned... ..and (9) all applicable hourly rates in
28 effect during the pay period and the corresponding number of hours worked at each hourly rate by

1 the employee...”

2 68. Due to Defendants’ failure to pay for all hours worked and all meal and rest periods
3 premiums as required by the Labor Code, the wages and hours worked listed on each wage
4 statement provided to Plaintiff and other aggrieved employees were misstated and violated
5 Sections 226(a)(1), (2), (5), and (9). Defendants’ actions were intentional and willful.

6 69. Plaintiff has satisfied all prerequisites to serve as a representative of the general
7 public to enforce California’s labor laws, and the penalty provisions identified in Labor Code
8 section 226.3. Plaintiff, as a representative of the people of the State of California, seeks all
9 penalties otherwise capable of being collected by the Division of Labor Standards Enforcement
10 (“DLSE”). Labor Code section 2699.5 provides that Section 2699.3(a) applies to an alleged
11 violation of Labor Code section 226.

12 70. Labor Code section 226.3 provides for civil penalties for violations of Section 226.
13 The civil penalty is \$250 for the initial violation and \$1,000 for each subsequent violation.

14 71. Plaintiff, as a representative of the general public, seeks to recover all Labor Code
15 section 2699(f)(2) penalties for each Labor Code section 226 violation, according to proof, as to
16 those penalties otherwise only available in public agency enforcement actions. Funds recovered
17 will be distributed in accordance with the PAGA, with 75% of penalties recovered provided to the
18 LWDA on behalf of the State of California.

19 **SIXTH CAUSE OF ACTION**

20 **PAGA CIVIL PENALTIES FOR FAILURE TO TIMELY PAY**

21 **ALL WAGES DUE DURING EMPLOYMENT**

22 **[Labor Code § 2698, *et seq.*]**

23 72. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
24 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
25 dated June 24, 2020.

26 73. Labor Code section 204(a) requires employers to pay wages earned by employees
27 within strict time requirements. Defendants had a policy, practice, and procedure of willfully
28 failing to pay the earned wages of Defendants’ employees twice during each calendar month, on

1 days designated in advance by the employer as the regular paydays.

2 74. Upon information and belief, during the PAGA Period, Defendant failed to pay
3 Plaintiff and other aggrieved employees all minimum, regular, and overtime wages and all meal
4 and rest period premium wages during their employment, as required by Labor Code sections 204.

5 75. Labor Code sections 2698, et seq. impose upon Defendants, and each of them, a
6 penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial
7 violation and two hundred (\$200.00) for each aggrieved employee per pay period for each
8 subsequent violation of Labor Code sections 204, and 1198 Labor Code section 2699(f)(2)
9 provides for civil penalties for violations of the Labor Code for which there is no corresponding
10 civil penalty, including Labor Code section 203. The civil penalty is \$100 for the initial violation
11 and \$200 for each subsequent violation for each underpaid employee. Labor Code § 2699(f)(2).

12 76. Plaintiff, as a representative of the general public, seeks to recover all penalties
13 under Labor Code section 2699(f)(2) for each and every violation of Labor Code section 204(a),
14 in an amount according to proof, as to those penalties that are otherwise only available in public
15 agency enforcement actions. Funds recovered will be distributed in accordance with the PAGA,
16 with 75% of penalties recovered provided to the LWDA on behalf of the State of California

17 **SEVENTH CAUSE OF ACTION**

18 **PAGA CIVIL PENALTIES FOR FAILURE TO TIMELY PAY ALL**
19 **WAGES DUE UPON TERMINATION/SEPARATION OF EMPLOYMENT**

20 **[Labor Code § 2698, et seq.]**

21 77. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
22 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
23 dated June 24, 2020.

24 78. Labor Code sections 201-203 require employers to pay wages earned by employees
25 within strict time requirements. Defendants had a policy, practice, and procedure of willfully
26 failing to pay the earned wages of Defendants' former employees. If an employer willfully fails to
27 timely and fully pay all final wages the employer must, as a penalty, continue to pay an employee's
28 wages for 30 days, or until the back wages are paid in full.

1 79. Defendants failed to pay Plaintiff and other aggrieved employees who ended their
2 employment with the Defendant all wages, including minimum, overtime, and meal and rest period
3 premium wages, as required by Labor Code sections 201-203.

4 80. Labor Code section 256 states: “The Labor Commissioner shall impose a civil
5 penalty in an amount not exceeding 30 day’s pay as waiting time under the terms of Section 203.”

6 81. Labor Code section 2699(f)(2) provides for civil penalties for violations of the
7 Labor Code for which there is no corresponding civil penalty, including Labor Code section 203.
8 The civil penalty is \$100 for the initial violation and \$200 for each subsequent violation for each
9 underpaid employee. Labor Code § 2699(f)(2).

10 82. Plaintiff, as a representative of the general public, seeks to recover all Labor Code
11 section 2699(f)(2) penalties for each Labor Code section 201-203 violation, according to proof, as
12 to those penalties otherwise only available in public agency enforcement actions. Funds recovered
13 will be distributed in accordance with the PAGA, with 75% of penalties recovered provided to the
14 LWDA on behalf of the State of California

15 **EIGHTH CAUSE OF ACTION**

16 **PAGA CIVIL PENALTIES FOR**

17 **FAILURE TO PAY VACATION WAGES**

18 **[Labor Code § 2698, *et seq.*]**

19 83. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
20 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
21 dated June 24, 2020.

22 84. Labor Code section 227.3 states: “Unless otherwise provided by a collective-
23 bargaining agreement, whenever a contract of employment or employer policy provides for paid
24 vacations, and an employee is terminated without having taken off his vested vacation time, all
25 vested vacation shall be paid to him as wages at his final rate in accordance with such contract of
26 employment or employer policy respecting eligibility or time served; provided, however, that an
27 employment contract or employer policy shall not provide for forfeiture of vested vacation time
28 upon termination.”

1 85. Upon information and belief, during the PAGA Period, Plaintiff and other
2 aggrieved employees were not paid all vested vacation wages upon termination of employment.
3 During Plaintiff's employment, Plaintiff was entitled to paid time off/vacation time which was not
4 paid out in full upon separation of employment. As a result of Defendants failure to accurately
5 record all hours worked, including hours worked during meal periods, the vested vacation provided
6 to Plaintiff and other aggrieved employees was not accurate nor based on the accurate number of
7 hours worked.

8 86. Defendants' conduct violates Labor Code Section 227.3.

9 87. Labor Code section 2699(f)(2) provides for civil penalties for violations of the
10 Labor Code for which there is no corresponding civil penalty, including Labor Code section
11 227.3. The civil penalty is \$100 for the initial violation and \$200 for each subsequent violation
12 for each underpaid employee. Labor Code § 2699(f)(2).

13 88. Plaintiff, as a representative of the general public, seeks to recover all Labor Code
14 section 2699(f)(2) penalties for each Labor Code section 227.3 violation, according to proof, as
15 to those penalties otherwise only available in public agency enforcement actions. Funds
16 recovered will be distributed in accordance with the PAGA, with 75% of penalties recovered
17 provided to the LWDA on behalf of the State of California.

18 **NINTH CAUSE OF ACTION**

19 **PAGA CIVIL PENALTIES FOR**

20 **FAILURE TO MAINTAIN ACCURATE RECORDS**

21 **[Labor Code § 2698, *et seq.*]**

22 89. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
23 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
24 dated June 24, 2020.

25 90. Labor Code section 1174(d) states: "Every person employing labor in this state
26 shall: Keep, at a central location in the state or at the plants or establishments at which employees
27 are employed, payroll records showing the hours worked daily by and the wages paid to employees
28 employed at the respective plants or establishments. These records shall be kept in accordance

1 with rules established for this purpose by the commission, but, in any case shall be kept on file for
2 not less than three years.”

3 91. Labor Code section 1174.5 states “Any person employing labor who willfully fails
4 to maintain accurate and complete records required by subdivision (d) of Section 1174, shall be
5 subject to a civil penalty of five hundred dollars.”

6 92. The Applicable IWC Wage Order, section 7 obligates an employer to keep accurate
7 information of wages earned and paid including applicable overtime, rest period and gratuity
8 wages. IWC Wage Order, section 7(A)(3) states in pertinent part: “Every employer shall keep
9 accurate information with respect to each employee including the following: . . . (3) Time records
10 showing when the employee begins and ends each work period. Meal periods, split shift intervals
11 and total daily hours worked shall also be recorded.”

12 93. During all or a substantial portion of the PAGA Period, Defendants failed to
13 maintain accurate records showing the accurate number of hours worked.

14 94. As a result, Defendants willfully violated the Labor Code and are liable to Plaintiff,
15 and other aggrieved employees, for civil penalties as required by Labor Code section 1174(d) or,
16 in the alternative, section 2699(f)(2).

17 95. As a proximate result of the aforementioned violations, Plaintiff has been damaged
18 in an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
19 this Court.

20 Plaintiff, as a representative of the general public, will and does seek to recover any and all civil
21 penalties for each and every violation, in an amount according to proof, as to those penalties that
22 are otherwise only available in public agency enforcement actions. Civil penalties recovered will
23 be distributed in accordance with the PAGA, with 75% of civil penalties recovered provided to the
24 LWDA on behalf of the State of California.

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2 **TENTH CAUSE OF ACTION**

3 **PAGA CIVIL PENALTIES FOR FAILURE TO**
4 **REIMBURSE ALL REASONABLE AND NECESSARY BUSINESS EXPENSES**

5 **[Labor Code § 2698, *et seq.*]**

6 96. Plaintiff incorporates the preceding paragraphs of this Complaint expressly herein
7 by this reference as if all prior paragraphs were set forth in full, including the Notice to the LWDA
8 dated June 24, 2020.

9 97. California Labor Code section 2802(a) provides: “An employer shall indemnify his
10 or her employee for all necessary expenditures or losses incurred by the employee in direct
11 consequence of the discharge of his or her duties, or of his or her obedience to the directions of the
12 employer, even though unlawful, unless the employee, at the time of obeying the directions,
13 believed them to be unlawful.”

14 98. California Labor Code section 2802(b) provides: “All awards made by a court or
15 by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures
16 under this section shall carry interest at the same rate as judgments in civil actions. Interest shall
17 accrue from the date on which the employee incurred the necessary expenditure or loss.”

18 99. California Labor Code section 2802(c) provides: “For purposes of this section, the
19 term ‘necessary expenditures or losses shall include all reasonable costs, including, but not limited
20 to, attorney’s fees incurred by the employee enforcing the rights granted by this section.”

21 100. Upon information and belief, during the PAGA Period, Defendant failed to
22 reimburse Plaintiff and other aggrieved employees for their work-related use of their cellular
23 telephones and other expenses incurred in the discharge of their duties for Defendants.
24 Consequently, Plaintiff, on behalf of herself and other aggrieved employees, intends to seek civil
25 penalties pursuant to the PAGA for these alleged violations.

26 101. Labor Code section 2699(f)(2) provides for civil penalties for violations of the
27 Labor Code for which there is no corresponding civil penalty, including Labor Code section 2802.
28 The civil penalty is \$100 for the initial violation and \$200 for each subsequent violation for each

1 underpaid employee. Labor Code § 2699(f)(2).

2 102. Plaintiff, as a representative of the general public, seeks to recover all Labor Code
3 section 2699(f)(2) penalties for each Labor Code section 226.7 or 512(a) violation, according to
4 proof, as to those penalties otherwise only available in public agency enforcement actions. Funds
5 will be distributed in accordance with the PAGA, with 75% of the civil penalties recovered being
6 reimbursed to the LWDA on behalf of the State of California. The exact amount of the applicable
7 penalty is all in an amount to be shown according to proof at trial.

8 **V.**

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- 11 1. For civil penalties against Defendants on behalf of all aggrieved employees;
12 2. For reasonable attorney's fees and costs of suit to the extent permitted by law,
13 including pursuant to California Labor Code §§ 2699(g) and California Code of Civil Procedure §
14 1021.5; and
15 3. For such other relief as the Court deems just and proper.
16

17 Dated: December 8, 2020

LEBE LAW, APLC

19 By: 
20 Jonathan M. Lebe

21 Attorney for Plaintiff Nancy Moulton, on behalf of
22 herself and as a representative for the State of California
23 on behalf of all other aggrieved employees
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June 24, 2020

NOTICE VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency ("LWDA")

VIA CERTIFIED U.S. MAIL WITH RETURN RECEIPT

Pacifica Senior Living Management LLC
Pacifica Senior Living Merced LLC
Pacifica Senior Living Vacaville LLC
P Monterey LP
1775 Hancock St #200
San Diego Ca 92110

Trion Solutions I, Inc.
888 W Big Beaver Rd Ste 1000
Troy, MI 48084

Park Lane, L.P.
790 Sonoma Ave
Santa Rosa, CA 95404

Re: Notice pursuant to California Labor Code sections 2698, *et seq.*, the Private Attorneys General Act ("PAGA"), submitted by Nancy Johnson Moulton on behalf of herself and all other employees of Pacifica Senior Living Management LLC, Pacifica Senior Living Merced LLC, Pacifica Senior Living Vacaville LLC, Trion Solutions I, Inc., Park Lane, L.P. and P Monterey LP as an individual and as a proposed Representative of the State of California

Dear PAGA Administrator:

This letter shall serve as Nancy Johnson Moulton's (hereafter "Claimant") Notice pursuant to the California Private Attorneys General Act of 2004 ("PAGA"), California Labor Code sections 2698, *et seq.* regarding her claims against Pacifica Senior Living Management LLC, Pacifica Senior Living Merced LLC, Pacifica Senior Living Vacaville LLC, Trion Solutions I, Inc., Park Lane, L.P. and P Monterey LP (referred to herein as "the Employer"). Claimant submits this notice on behalf of herself and all current and former

employees employed by the Employer in California during the one year preceding the date of this notice suffered one or more of the violations described herein (collectively referred to as “aggrieved employees”).

If the LWDA does not intend to investigate the alleged violations, Claimant intends to file a representative action for PAGA *civil penalties* on behalf of herself and all other aggrieved employees of the Employer, seeking civil penalties on behalf of herself and all other aggrieved employees in the State of California. A copy of this notice is being sent to the Employer by certified mail at the addresses above.

Claimant and other employees were subject to the same policies and practices alleged herein which impermissibly denied aggrieved employees their rights pursuant to the California Labor Code and caused violation of the Labor Code as set forth below.

FACTUAL STATEMENT

Claimant worked for the Employer as an employee within one year of this notice. At all relevant times at least one year prior to the date of this Notice, the Employer subjected Claimant and employees to policies and practices which caused the violations of the Labor Code as described herein. Claimant now seeks civil penalties individually and on behalf of other aggrieved employees based on the alleged violations of the California Labor Code and applicable IWC Wage Order, including civil penalties pursuant to Labor Code section 558(a), *excluding underpaid wages per ZB, N.A. v. Superior Court* (2019) 8 Cal. 5th 175, 252 Cal. Rptr. 3d 228, 448 P.3d 239. Claimant’s claims are set forth in further detail below.

For reasons set forth herein, Claimant alleges the following violations of the California Labor Code and the applicable IWC Wage Order on behalf of herself and all other aggrieved employees of Employer. Claimant alleges that Employer:

1. Failed to pay Claimant and other aggrieved employees all wages due including minimum, regular, and overtime wages;
2. Failed to provide legally compliant off-duty meal periods or pay compensation in lieu thereof;
3. Failed to provide legally compliant duty-free, rest periods or pay compensation in lieu thereof;
4. Failed to reimburse all reasonable and necessary business expenses;
5. Failure to provide accurate and itemized wage statements;
6. Failure to pay all paid leave/accrued vacation pay;
7. Failed to pay all wages due upon separation of employment.

Accordingly, Claimant now seeks civil penalties on behalf of herself and other nonexempt aggrieved employees based on the Employer’s alleged violations of the

California Labor Code and applicable IWC Wage Order. Claimant's claims are set forth below.

FAILURE TO PAY MINIMUM, REGULAR, AND OVERTIME WAGES

(Labor Code §§ 218, 510, 1194, 1197, 1197.1, 1198, and 1199(c) and the “Minimum Wages” and “Hours and Days of Work” Sections of the Applicable Wage Order)

Labor Code section 510 provides in pertinent part: “Eight hours of labor constitutes a day’s work. Any work in excess of 8 hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

Labor Code section 1194(a) states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

Labor Code section 1198 provides: “The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

Labor Code section 1199, which is a statute listed for which PAGA default civil penalties are recoverable pursuant to Labor Code sections 2699.5 and 2699(f) ((2), provides that:

Every employer or other person acting either individually or as an officer, agent, or employee of another person is guilty of a misdemeanor and is punishable by a fine of not less than one hundred dollars (\$100) or by imprisonment for not less than 30 days, or by both, who does any of the following:

- (a) Requires or causes any employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission.
- (b) Pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission.
- (c) Violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission.

Labor Code section 1197 states: “The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful. This section does not change the applicability of local minimum wage laws to any entity.”

Labor Code section 1197.1 states: “Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203. For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.”

Pursuant to the “Hours & Days of Work” Section of the applicable Wage Order, an employer may not pay non-exempt employees less than the applicable overtime rate for all overtime hours worked.

Pursuant to the “Minimum Wages” and “Hours & Days of Work” Sections of the applicable Wage Order, an employer may not pay employees less than the applicable minimum wage for all hours worked and provides that an employer may not pay non-exempt employees less than the applicable overtime rate for all overtime hours worked.

The Employer violated Labor Code sections 218, 510, 1194, 1197, and 1198, and the “Minimum Wages” and “Hours and Days of Work” Sections of the Applicable Wage Order because it did not pay Claimant and other aggrieved current and former employees all minimum, regular, and overtime wages for all hours worked. Claimant, and on information and belief, other aggrieved employees regularly worked off-the-clock without receiving any compensation for these hours worked off-the-clock. The Employer also failed to pay all overtime wages for all overtime hours worked because it failed to properly calculate the regular rate of pay for purposes of calculating overtime and double-time rates for Claimant and other aggrieved employees. Employer misclassified Claimant, and on information and belief, other aggrieved employees as exempt from California’s overtime and minimum wage laws.

Accordingly, Claimant now seeks *civil penalties* pursuant to the PAGA on behalf of all aggrieved employees based on the alleged violations of the California Labor Code and applicable IWC Wage Orders.

FAILURE TO PROVIDE MEAL AND REST PERIODS

(Labor Code §§ 226.7, 512, and 1198, and the “Meal Period” and “Rest Period” Sections of the applicable IWC Wage Order)

Labor Code section 512(a) states in pertinent part: “[A]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes . . .” Labor Code section 226.7(a) states that “no employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.”

The “Rest Period” Section of applicable IWC Wage Order states: “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.” If an employer fails to provide an employee a rest period in accordance with the applicable provision of the order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation of each workday that the rest period is not provided.

Labor Code section 226.7(c) states: “[I]f an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the IWC, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each work day that the meal or rest period is not provided.”

The Employer failed to provide Claimant and other aggrieved employees with legally compliant meal and rest periods on eligible workdays. The Employer regularly failed to provide a duty-free and uninterrupted meal period before the end of the fifth hour of work and failed to provide a second meal period on shifts of more than 10 hours, as required under California law. Furthermore, the meal periods provided to Claimant and other aggrieved employees were often short insofar as they were not at least 30 minutes in length, as required under California law, or late.

During Claimant’s employment, the Employer failed to provide Claimant and other aggrieved employees with legally compliant off-duty meal periods and duty-free rest periods as required by Labor Code sections 226.7 and 512, and sections 11 and 12 of the applicable IWC Wage Order. The Employer’s employment practices pressured employees to not take breaks because employees were often not provided coverage in order to take a break, and thus were regularly denied breaks. Furthermore, the Employer failed to pay one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal and/or rest period was not provided, in accordance with California law. Employer misclassified Claimant, and on information and belief, other aggrieved employees as exempt from California’s meal and rest break laws, and as a result of this misclassification Claimant and aggrieved employees did not receive meal and rest breaks.

Accordingly, Claimant now seeks *civil penalties* pursuant to the PAGA on behalf of all aggrieved employees based on the alleged violations of the California Labor Code and applicable IWC Wage Orders.

FAILURE TO REIMBURSE BUSINESS-RELATED EXPENSES
(Labor Code §§ 2802 and 2804, and the “Tools and Equipment” section of the applicable IWC Wage Order)

Labor Code section 2802(a) provides that “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.”

Labor Code section 2802(c) states that “[f]or purposes of [2802], the term “necessary expenditures or losses” shall include all reasonable costs, including, but not limited to attorney’s fees incurred by the employee enforcing the rights granted by [2802].”

Section 9(b) of the applicable IWC Wage Order states in pertinent part: “When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer.”

Labor Code section 2802 prohibits employers, such as the Employer, from shifting their cost of doing business onto the employee. California Labor Code section 2802 states that employers must “indemnify” an employee for “all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.” This means that if the expense in question is “necessary” for performance of the job, the employer must reimburse the employee 100% of the cost. An expense is considered “necessary” if it directly results from the employee’s performance of his or her work duties. An expense is also “necessary” if it occurs because the employee is following the directions given by the employer.

“Any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled to under the laws of this State.” Cal. Labor Code § 2804.

The Employer failed to comply with Labor Code section 2802 and the applicable IWC Wage Order by failing to reimburse Claimant and other aggrieved employees for necessary business-related expenses incurred in direct consequence of the discharge of his or her duties. For example, claimant and other aggrieved employees were required to use their personal cellular device for work related purposes, such as, but not limited to, communicating with other co-workers. As such, the Employer failed to reimburse Claimant and other aggrieved employees for the costs incurred by employees in direct consequence of the discharge of his or her duties.

Accordingly, Claimant now seeks *civil penalties* pursuant to the PAGA on behalf of herself and other aggrieved employees based on the alleged violations of the California Labor Code and applicable IWC Wage Orders.

FAILURE TO PROVIDE ACCURATE AND ITEMIZED WAGE STATEMENTS

(Labor Code § 226, and the “Records” section of the applicable IWC Wage Order)

Labor Code section 226(a) states in pertinent part that every employer shall provide an accurate itemized statement in writing with respect to each one of its employees showing: 1) gross wages earned; 2) total hours worked by an employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission; (3) the number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for

which the employee is paid; (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer . . .; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

“An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurs and one hundred dollars (\$100.00) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000.00), and is entitled to an award of costs and reasonable attorney's fees.”

The itemized wage statements provided by Employer to Claimant and other aggrieved employees were inaccurate, and failed to accurately list: 1) gross wages earned; 2) total hours worked by an employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission; (3) the number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the accurate inclusive dates of the period for which the employee is paid; (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of each legal entity that is an employer including joint employers; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. As a result, Employer failed to provide Claimant and other current and former employees with accurate, timely, itemized wage statements complying with the requirements of the Labor Code and applicable IWC Wage Order.

Accordingly, Claimant now seeks *civil penalties* pursuant to the PAGA on behalf of herself and other aggrieved employees based on the alleged violations of the California Labor Code and applicable IWC Wage Orders.

**FAILURE TO TIMELY PAY WAGES DUE DURING AND UPON
TERMINATION OF EMPLOYMENT**

(Labor Code §§ 201, 202, 203, 204, 256, 1198, and 2699)

Labor Code section 201 states: “If an Employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code section 202 states: “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

Labor Code section 203(a) states, in relevant part: “If an Employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the

employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents herself or herself to avoid payment to his or her, or who refuses to receive the payment when fully tendered to his or her, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which he or she so avoids payment.”

Labor Code section 204(a) states, in pertinent part: “All wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” The “Minimum Wages” Section of the applicable Wage Order further states “every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period.”

Labor Code section 256 states: “The Labor Commissioner shall impose a civil penalty in an amount not exceeding 30 days of pay as waiting time under the terms of Section 203.”

As detailed above, the Employer failed to pay Claimant and other aggrieved employees all wages that were due and owing to them including meal and rest period premiums, and regular, minimum and overtime wages within the required time during their employment and upon their separation of employment, in violation of the Labor Code and the applicable IWC Wage Order because of the violations alleged herein. As a result, the Employer violated the above sections of the Labor Code.

Accordingly, Claimant now seeks *civil penalties* pursuant to the PAGA on behalf of herself and other aggrieved employees based on the alleged violations of the California Labor Code and applicable IWC Wage Orders.

**CIVIL PENALTIES FOR VIOLATION OF
THE LABOR CODE AND IWC WAGE ORDERS**

(Labor Code §§ 558, 558.1, and 1197.1)

Labor Code section 558 subjects any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of Part 2, Chapter 1, of the Labor Code or any provision regulating hours and days of work in any IWC Wage Order to a civil penalty in the amount of \$50 for any initial violation for each pay period in which an employee is underpaid in addition to an amount sufficient to recover underpaid wages, and \$100 for each subsequent violation in addition to an amount sufficient to recover underpaid wages, which shall be paid to each affected employee.

Labor Code section 558.1(a) states: “Any Employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the Employer for such violation.” Labor Code section 558.1 expressly defines “employer or other person acting on behalf of an employer” to include a “natural person who is an owner, director, officer, or managing agent of the employer.”

Labor Code section 1197.1 states that any employer or other person acting either individually or as an officer, agent or employee of another person, which pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission shall be subject to a civil penalty and restitution of wages payable to the employee in an amount of \$100 for the initial violation for each pay period in which an employee underpaid in addition to an amount sufficient to recover underpaid wages, and \$250 for each subsequent violation in addition to an amount sufficient to recover underpaid wages, which shall be paid to each affected employee.

As set forth above, Employer violated the IWC Wage Order regulating the hours and days of work, Labor Code sections 510, 1197, and 1198, and caused the employees to be paid less than the minimum set by the IWC Wage Order. As a result, Employer is liable for civil penalties under Labor Code sections 558, 558.1, and 1197.1.

Accordingly, Claimant will pursue civil penalty or other lawful remedies for herself and other current and former employees, including recovery of attorney's fees, costs, and civil penalties to the extent allowed by law. However, pursuant to the recent California Supreme Court decision in *ZB, N.A. v. Superior Court* (2019) 8 Cal. 5th 175, 252 Cal. Rptr. 3d 228, 448 P.3d 239, Claimant does not seek underpaid wages as part of any anticipated PAGA representative action.

DUTIES OF EMPLOYER

(Labor Code §§ 1174, 1174.5, 1175, and 1198, and the Applicable Wage Order)

Labor Code section 1174 describes certain duties of every employer in this state. Subsection (d) of this labor code section requires that payroll records show the hours worked daily by employees and the corresponding wages to be paid for the hours worked. The Employer violated this requirement by its failure to accurately record employee hours worked and/or paid including wages owed for off-the-clock time and meal and rest period premiums. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's failure to maintain accurate and complete records. This civil penalty is addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code section 2699 for a violation of Labor Code section 1174(d). Furthermore, Claimant and all other aggrieved current and former employees are entitled to collect 25% of the penalty imposed pursuant to Section 2699.

The Employer failed to accurately record all hours worked by Claimant and other aggrieved employees and failed to record all accurate wages to be paid.

Claimant will pursue all remedies on behalf of herself and other current and former employees, including recovery of attorney's fees, costs, damages and penalties to the extent allowed by law.

ATTORNEY'S FEES, COSTS, INTEREST AND PENALTIES

(Labor Code §§ 218.6, 226(e), 1194, 1194.2, and 2699, *et seq.*)

Labor Code sections 218.6, 226(e), 1194, 1194.2, and 2699, *et seq.* give employees the right to recover in a civil action the unpaid balance of the full amount of minimum

wages, regular wages, overtime compensation, damages, liquidated damages, and penalties, including interest thereon, reasonable attorney's fees, and costs of suit.

Pursuant to Labor Code sections 2699, *et seq.*, aggrieved employees are entitled to collect 25% of the penalty assessment and 100% of the underpaid wages. Accordingly, the Employer is liable for these items in addition to the unpaid wages. Claimant has already incurred in actual damages, costs and attorney's fees and will continue to incur costs as a result of the Employer's unlawful actions.

CONCLUSION

The Employer violated Labor Code sections as set forth herein. Claimant will pursue all remedies on behalf of herself and other aggrieved employees, including recovery of attorney's fees, costs, and penalties to the extent allowed by law. The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Claimant becomes aware of additional claims, he reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action in the complaint.

Should you have any questions, please feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. M. Lebe', with a stylized flourish at the end.

Jonathan M. Lebe, Esq.

Attorney for Nancy Johnson Moulton,

Individually and on behalf of Aggrieved Employees

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Jonathan M. Lebe (SBN 284605) Lebe Law, APLC 777 S. Alameda Street, 2nd Floor, Los Angeles, CA 90021 TELEPHONE NO.: (213) 444-1973 FAX NO.: ATTORNEY FOR (Name): Plaintiff Nancy Johnson Moulton		FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 12/09/2020 at 11:37:35 AM Clerk of the Superior Court By Maria Acevedo, Deputy Clerk	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Hall of Justice			
CASE NAME: Nancy Johnson Moulton v. Pacifica Senior Living Management LLC et. al			
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)		Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: 37-2020-00045281-CU-OE-CTL JUDGE: Judge Eddie C Sturgeon DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/WD tort (35) Employment ☐ Wrongful termination (36) ☒ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/Inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (not specified above) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties | d. ☐ Large number of witnesses |
| b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. ☐ Substantial amount of documentary evidence | f. ☐ Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify):
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 8, 2020
 Jonathan M. Lebe

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 330 W Broadway	
MAILING ADDRESS: 330 W Broadway	
CITY AND ZIP CODE: San Diego, CA 92101-3827	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7067	
PLAINTIFF(S) / PETITIONER(S): Nancy Johnson Moulton	
DEFENDANT(S) / RESPONDENT(S): Pacifica Senior Living Management LLC et.al.	
MOULTON VS PACIFICA SENIOR LIVING MANAGEMENT LLC [IMAGED]	
NOTICE OF CASE ASSIGNMENT and CASE MANAGEMENT CONFERENCE	CASE NUMBER: 37-2020-00045281-CU-OE-CTL

CASE ASSIGNED FOR ALL PURPOSES TO:

Judge: Eddie C Sturgeon

Department: C-67

COMPLAINT/PETITION FILED: 12/09/2020

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	10/22/2021	10:30 am	C-67	Eddie C Sturgeon

Due to the COVID-19 pandemic, all hearings will be conducted remotely until further notice. Absent an order of the court, personal appearances at the hearing will not be allowed. For information on arranging telephonic or video appearances, contact CourtCall at (888)882-6878, or at www.courtcall.com. Please make arrangements with CourtCall as soon as possible.

A case management statement must be completed by counsel for all parties or self-represented litigants and timely filed with the court at least 15 days prior to the initial case management conference. (San Diego Local Rules, Division II, CRC Rule 3.725).

All counsel of record or parties in pro per shall appear at the Case Management Conference, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of ADR* options.

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, parking citation appeals, and family law proceedings.

COMPLAINTS: Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

JURY FEES: In order to preserve the right to a jury trial, one party for each side demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) on or before the date scheduled for the initial case management conference in the action.

COURT REPORTERS: Court reporters are not provided by the Court in Civil cases. See policy regarding normal availability and unavailability of official court reporters at www.sdcourt.ca.gov.

*ALTERNATIVE DISPUTE RESOLUTION (ADR): THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).



Superior Court of California County of San Diego

NOTICE OF ELIGIBILITY TO eFILE AND ASSIGNMENT TO IMAGING DEPARTMENT

This case is eligible for eFiling. Should you prefer to electronically file documents, refer to General Order in re procedures regarding electronically imaged court records, electronic filing, and access to electronic court records in civil and probate cases for rules and procedures or contact the Court's eFiling vendor at www.onelegal.com for information.

This case has been assigned to an Imaging Department and original documents attached to pleadings filed with the court will be imaged and destroyed. Original documents should not be filed with pleadings. If necessary, they should be lodged with the court under California Rules of Court, rule 3.1302(b).

On August 1, 2011 the San Diego Superior Court began the Electronic Filing and Imaging Pilot Program ("Program"). As of August 1, 2011 in all new cases assigned to an Imaging Department all filings will be imaged electronically and the electronic version of the document will be the official court file. The official court file will be electronic and accessible at one of the kiosks located in the Civil Business Office and on the Internet through the court's website.

You should be aware that the electronic copy of the filed document(s) will be the official court record pursuant to Government Code section 68150. The paper filing will be imaged and held for 30 days. After that time it will be destroyed and recycled. **Thus, you should not attach any original documents to pleadings filed with the San Diego Superior Court. Original documents filed with the court will be imaged and destroyed except those documents specified in California Rules of Court, rule 3.1806.** Any original documents necessary for a motion hearing or trial shall be lodged in advance of the hearing pursuant to California Rules of Court, rule 3.1302(b).

It is the duty of each plaintiff, cross-complainant or petitioner to serve a copy of this notice with the complaint, cross-complaint or petition on all parties in the action.

On all pleadings filed after the initial case originating filing, all parties must, to the extent it is feasible to do so, place the words **"IMAGED FILE"** in all caps immediately under the title of the pleading on all subsequent pleadings filed in the action.



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

CASE NUMBER: 37-2020-00045281-CU-OE-CTL

CASE TITLE: Moulton vs Pacifica Senior Living Management LLC [IMAGED]

NOTICE: All plaintiffs/cross-complainants in a general civil case are required to serve a copy of the following three forms on each defendant/cross-defendant, together with the complaint/cross-complaint:

- (1) this Alternative Dispute Resolution (ADR) Information form (SDSC form #CIV-730),
- (2) the Stipulation to Use Alternative Dispute Resolution (ADR) form (SDSC form #CIV-359), and
- (3) the Notice of Case Assignment form (SDSC form #CIV-721).

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts, community organizations, and private providers offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. The San Diego Superior Court expects that litigants will utilize some form of ADR as a mechanism for case settlement before trial, and it may be beneficial to do this early in the case.

Below is some information about the potential advantages and disadvantages of ADR, the most common types of ADR, and how to find a local ADR program or neutral. A form for agreeing to use ADR is attached (SDSC form #CIV-359).

Potential Advantages and Disadvantages of ADR

ADR may have a variety of advantages or disadvantages over a trial, depending on the type of ADR process used and the particular case:

Potential Advantages

- Saves time
- Saves money
- Gives parties more control over the dispute resolution process and outcome
- Preserves or improves relationships

Potential Disadvantages

- May take more time and money if ADR does not resolve the dispute
- Procedures to learn about the other side's case (discovery), jury trial, appeal, and other court protections may be limited or unavailable

Most Common Types of ADR

You can read more information about these ADR processes and watch videos that demonstrate them on the court's ADR webpage at <http://www.sdcourt.ca.gov/adr>.

Mediation: A neutral person called a "mediator" helps the parties communicate in an effective and constructive manner so they can try to settle their dispute. The mediator does not decide the outcome, but helps the parties to do so. Mediation is usually confidential, and may be particularly useful when parties want or need to have an ongoing relationship, such as in disputes between family members, neighbors, co-workers, or business partners, or when parties want to discuss non-legal concerns or creative resolutions that could not be ordered at a trial.

Settlement Conference: A judge or another neutral person called a "settlement officer" helps the parties to understand the strengths and weaknesses of their case and to discuss settlement. The judge or settlement officer does not make a decision in the case but helps the parties to negotiate a settlement. Settlement conferences may be particularly helpful when the parties have very different ideas about the likely outcome of a trial and would like an experienced neutral to help guide them toward a resolution.

Arbitration: A neutral person called an "arbitrator" considers arguments and evidence presented by each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are usually relaxed. If the parties agree to binding arbitration, they waive their right to a trial and agree to accept the arbitrator's decision as final. With nonbinding arbitration, any party may reject the arbitrator's decision and request a trial. Arbitration may be appropriate when the parties want another person to decide the outcome of their dispute but would like to avoid the formality, time, and expense of a trial.

Other ADR Processes: There are several other types of ADR which are not offered through the court but which may be obtained privately, including neutral evaluation, conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR processes. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute. Be sure to learn about the rules of any ADR program and the qualifications of any neutral you are considering, and about their fees.

Local ADR Programs for Civil Cases

Mediation: The San Diego Superior Court maintains a Civil Mediation Panel of approved mediators who have met certain minimum qualifications and have agreed to charge \$150 per hour for each of the first two (2) hours of mediation and their regular hourly rate thereafter in court-referred mediations.

On-line mediator search and selection: Go to the court's ADR webpage at www.sdcourt.ca.gov/adr and click on the "Mediator Search" to review individual mediator profiles containing detailed information about each mediator including their dispute resolution training, relevant experience, ADR specialty, education and employment history, mediation style, and fees and to submit an on-line Mediator Selection Form (SDSC form #CIV-005). The Civil Mediation Panel List, the Available Mediator List, individual Mediator Profiles, and Mediator Selection Form (CIV-005) can also be printed from the court's ADR webpage and are available at the Mediation Program Office or Civil Business Office at each court location.

Settlement Conference: The judge may order your case to a mandatory settlement conference, or voluntary settlement conferences may be requested from the court if the parties certify that: (1) settlement negotiations between the parties have been pursued, demands and offers have been tendered in good faith, and resolution has failed; (2) a judicially supervised settlement conference presents a substantial opportunity for settlement; and (3) the case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required. Refer to SDSC Local Rule 2.2.1 for more information. To schedule a settlement conference, contact the department to which your case is assigned.

Arbitration: The San Diego Superior Court maintains a panel of approved judicial arbitrators who have practiced law for a minimum of five years and who have a certain amount of trial and/or arbitration experience. Refer to SDSC Local Rules Division II, Chapter III and Code Civ. Proc. § 1141.10 et seq or contact the Arbitration Program Office at (619) 450-7300 for more information.

More information about court-connected ADR: Visit the court's ADR webpage at www.sdcourt.ca.gov/adr or contact the court's Mediation/Arbitration Office at (619) 450-7300.

Dispute Resolution Programs Act (DRPA) funded ADR Programs: The following community dispute resolution programs are funded under DRPA (Bus. and Prof. Code §§ 465 et seq.):

- In Central, East, and South San Diego County, contact the National Conflict Resolution Center (NCRC) at www.ncrconline.com or (619) 238-2400.
- In North San Diego County, contact North County Lifeline, Inc. at www.nclifeline.org or (760) 726-4900.

Private ADR: To find a private ADR program or neutral, search the Internet, your local telephone or business directory, or legal newspaper for dispute resolution, mediation, settlement, or arbitration services.

Legal Representation and Advice

To participate effectively in ADR, it is generally important to understand your legal rights and responsibilities and the likely outcomes if you went to trial. ADR neutrals are not allowed to represent or to give legal advice to the participants in the ADR process. If you do not already have an attorney, the California State Bar or your local County Bar Association can assist you in finding an attorney. Information about obtaining free and low cost legal assistance is also available on the California courts website at www.courtinfo.ca.gov/selfhelp/lowcost.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY, STATE, & ZIP CODE: San Diego, CA 92101-3827 BRANCH NAME: Central	FOR COURT USE ONLY
PLAINTIFF(S): Nancy Johnson Moulton	
DEFENDANT(S): Pacifica Senior Living Management LLC et.al.	
SHORT TITLE: MOULTON VS PACIFICA SENIOR LIVING MANAGEMENT LLC [IMAGED]	
STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR)	CASE NUMBER: 37-2020-00045281-CU-OE-CTL

Judge: Eddie C Sturgeon

Department: C-67

The parties and their attorneys stipulate that the matter is at issue and the claims in this action shall be submitted to the following alternative dispute resolution (ADR) process. Selection of any of these options will not delay any case management timelines.

- | | |
|---|--|
| ☐ Mediation (court-connected) | ☐ Non-binding private arbitration |
| ☐ Mediation (private) | ☐ Binding private arbitration |
| ☐ Voluntary settlement conference (private) | ☐ Non-binding judicial arbitration (discovery until 15 days before trial) |
| ☐ Neutral evaluation (private) | ☐ Non-binding judicial arbitration (discovery until 30 days before trial) |
| ☐ Other (specify e.g., private mini-trial, private judge, etc.): _____ | |

It is also stipulated that the following shall serve as arbitrator, mediator or other neutral: (Name) _____

Alternate neutral (for court Civil Mediation Program and arbitration only): _____

Date: _____

Date: _____

Name of Plaintiff

Name of Defendant

Signature

Signature

Name of Plaintiff's Attorney

Name of Defendant's Attorney

Signature

Signature

If there are more parties and/or attorneys, please attach additional completed and fully executed sheets.

It is the duty of the parties to notify the court of any settlement pursuant to Cal. Rules of Court, rule 3.1385. Upon notification of the settlement, the court will place this matter on a 45-day dismissal calendar.

No new parties may be added without leave of court.

IT IS SO ORDERED.

Dated: 12/10/2020

JUDGE OF THE SUPERIOR COURT