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Attorneys for Plaintiff SETH NORTON

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

SETH NORTON, Individually and on behalf
of all similarly-situated employees of
Defendants in the State of California,

Plaintiffs,

v.

CARE MEDICAL TRANSPORTATION,
INC., a California corporation, and DOES 1
through 50, inclusive,

Defendants.

Case No.: 37-2020-00036520-CU-OE-CTL

Unlimited Civil - Amount Demanded
Exceeds \$25,000.00

IMAGED FILE

**DECLARATION OF BRIAN R. SHORT IN
SUPPORT OF PAGA SETTLEMENT
AGREEMENT**

Judge: Hon. Joel R. Wohlfeil
Dept.: C-73

Date Complaint Filed: October 13, 2020
Date FAC Filed: December 21, 2020
Date SAC Filed: April 16, 2021

I, Brian R. Short, state and declare:

1. I am an attorney at law licensed to practice before all courts of the State of California. I am the managing shareholder of ShortLegal, APC in San Diego, California. I am thoroughly familiar with and have personal knowledge of all of the facts set forth herein. If called as a witness, I could and would competently testify thereto.

2. My law firm, ShortLegal, APC and my Associate Dorota A. James are the attorneys of record for Plaintiff Seth Norton ("Plaintiff") in the case *Norton v. Care Medical Transportation, Inc.*, San Diego County Superior Court, Case No.: 37-2020-00036520-CU-OE-CTL, filed October 13, 2020. I submit this declaration in support of the Parties' "Private Attorney General Act (Labor Code §§ 2698 et. Seq.) Settlement Agreement" ("PAGA Settlement Agreement") and the Parties' request for leave to file a Third Amended Complaint that would add additional claims against Defendant Care Medical Transportation, Inc. The PAGA Settlement Agreement is attached to the Parties' Stipulation to Approve PAGA as Exhibit 1. The proposed Notice to the PAGA employees informing them regarding the Settlement is attached as Attachment A to the Settlement Agreement.

3. CLASS COUNSEL'S CLASS ACTION EXPERIENCE

4. I have been a member of the State Bar of California since 2005. I am also admitted to practice in various Districts of United States District Court. I have been practicing almost exclusively in complex class action matters in state and federal courts since I began my legal practice in 2005. Since February 2009, I have spent almost my entire practice representing employees in class and representative action wage and hour litigation. My primary practice in complex class action litigation spans more than 16 years.

5. During just the last 12 years, I have served as plaintiff's counsel of record in the following wage/hour employment class action and PAGA action cases, where I was responsible for the prosecution of said cases: Weaver v. Hallmark Marketing Corporation, United States District Court for the Central District of California (3,846 class members); Mahoney v. AT&T Corp., Superior Court for the County of Los Angeles; Thomson v. LawInfo.com, Superior Court for the County of San Diego; Vest v. Scher Tire, Inc., Superior Court for the County of Riverside; Duarte v. Rainbow Disposal Co., Inc., Superior Court for the County of Orange; Julio v L&M Tire Co., Inc., Superior Court for the County of San Diego; Lucarini v. Dresser, Inc., Superior Court for the County of Los Angeles; Stevenson v. Falcon Critical Care Transport, Superior Court for the County of Contra Costa; Iskandaryan v. Casual Male Retail Group, Inc., Superior Court for the County of Los Angeles; Williams v. OneLegacy, Superior Court for the County of Los Angeles; Corral v. Lifecare Solutions, Inc., et al., Superior Court for the County of Los Angeles;

1 Huerta v. Venture Petroleum Company, Inc., Superior Court for the County of San Diego; Frugard v.
2 Unified Protective Services, et al., Superior Court for the County of Los Angeles; Turnage v. Park
3 Management Corp. dba. Six Flags Discovery Kingdom, Superior Court for the County of Solano; Clancy,
4 et al. v. Scripps Health, Superior Court for the County of San Diego; Solaberrieta v. Baker Hughes Oilfield
5 Operations, Inc., et al., Superior Court for the County of Los Angeles; Gutierrez v. L & M Tire Company,
6 Inc., Superior Court for the County of San Diego; Stafford v. Dollar Tree Stores, Inc., Eastern District of
7 California; Stafford v. Dollar Tree Stores, Inc., Superior Court for the County of Solano; Turnage v. Old
8 Dominion Freightlines, Inc., Central District of California; Green v. Lawrence Service Company, United
9 States District Court for the Central District of California; Radford v. ACD Direct, Superior Court for the
10 County of San Diego; De La Rosa v. Quten Research Institute, LLC, Superior Court for the County of
11 San Diego; Frayre v. UPS, Superior Court for the County of San Diego; Leonard et al. v. ABTTC, Inc.,
12 Superior Court for the County of Riverside; Loveless v. ASM Affiliates, Superior Court for the County
13 of San Diego; Alfaro v. KSC Studios dba OneKreate, LLC, Superior Court for the County of San Diego;
14 Madriz v. North County Ford, Inc., Superior Court for the County of San Diego; Troxel v. LA Leasing,
15 Inc., Superior Court for the County of San Diego, and Norton v. WSI, et al., Superior Court for the County
16 of San Diego; and Enriquez v. Colt Services, Superior Court for the County of San Diego; Virissimo v.
17 L’Oreal USA Products, Inc. et al., Superior Court for the County of San Diego; Horton v. Socket Payment
18 Services, United States District Court for the Southern District of California; Alfaro v. Ten Stories, Inc.,
19 Superior Court for the County of San Diego; Lemar v. Earthlite, LLC, et al., Superior Court for the County
20 of San Diego; and Rodriguez v. Chimney Sweeps, Superior Court for the County of San Diego; Burgueno
21 v. Tayman Industries, Inc., Superior Court for the County of San Diego; and Norton v. Care Medical
22 Transportation, Inc., Superior Court for the County of San Diego; Rivera v. Octavian FM, LLC, Superior
23 Court for the County of San Diego; Virissimo v. L’Oreal USA Products, Inc. et al., Superior Court for the
24 County of San Diego; Ruess v. Fun Bike Center, Superior Court for the County of San Diego; Hitchko et
25 al v. NPTI of Southern California, et al., Superior Court for the County of San Diego, Dortch v. Southern
26 California Addiction Center, Superior Court for County of Orange; Fox v. Capital Growth Properties, Inc.;
27 Superior Court for the County of San Diego; Davis v. SoCal Interiors, Inc., Superior Court for the County
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of San Diego, Hubbard v. L'Oreal USA Inc., Superior Court for the County of San Francisco; Fox v. Capital Growth Properties, Inc.; Superior Court for the County of San Diego; Burns v. Driveline Retail Merchandising Inc., Superior Court for the County of Sacramento; Guiher v. Punch Bowl of San Diego, et al., Superior Court for the County of Sacramento; Flores v. New Age Distribution, Inc., Superior Court for the County of Orange; Lara v. The Pep Boys Manny Moe & Jack of California, Superior Court for the County of San Diego; Paul v. Hygeia, Superior Court for the County of San Diego; Brewer v. Pyramid Enterprises, Inc., Superior Court for the County of San Diego; Hoffman v. Crest Beverage, LLC, Superior Court for the County of San Diego.

6. My Associate Dorota A. James has a long history of experience litigating complex wage and hour class actions. Ms. James is a fifth-year attorney who has extensive experience dealing with complex wage and hour litigation. She received her Paralegal Certificate from the USD Paralegal Program in 2007. Prior to that, she was trained at the Law School at the University of Wroclaw, Poland where she graduated in 1994. Thereafter, Ms. James moved to Germany where she first received her LL.M. degree and then earned her title of Doctor of the Science of Law (S.J.D) at the University of Saarland (Germany). While completing her LL.M. degree, Ms. James worked as a law assistant in a German attorney's office with the focus on a civil and business litigation, including labor disputes. Ms. James completed the L.L.M. Program in Comparative Law at the University of San Diego and became a licensed member of the California State Bar in June 2016. Ms. James has significant experience and knowledge of complex class actions against employers in wage and hour disputes. Before she joined my law firm, Ms. James worked with myself as a senior litigation paralegal at another San Diego law firm which specialized in representing plaintiffs in wage and hour employment litigation. During her time spent at my current firm and the time she spent at our previous firm she provided all aspects of litigation support pertaining to complex class action litigation from pre-filing research, discovery, pre-mediation analysis through to post-settlement claims. She is actively assisting in the litigation of each of the cases listed in paragraph 4, above. During her career as employment law paralegal she assisted with and worked on more than 50 employment class action and PAGA cases.

7. During just the last 3 years, my Associate Dorota A. James has served as plaintiffs' counsel of record in the following wage/hour employment class action and PAGA action cases, where I was responsible for the prosecution of said cases: Norton v. Care Medical Transportation, Inc., Superior Court for the County of San Diego; Fox v. Capital Growth Properties, Inc.; Superior Court for the County of San Diego; Burns v. Driveline Retail Merchandising Inc., Superior Court of the County of Sacramento; Guhier v. Punch Bowl of San Diego, et al., Superior Court of the County of Sacramento; Ruess v. Fun Bike Center, San Diego Superior Court of San Diego; Hitchko et al v. NPTI of Southern California, et al., Superior Court for the County of San Diego; Dortch v. Southern California Addiction Center, Superior Court for County of Orange; Davis v. SoCal Interiors, Inc., Superior Court for the County of San Diego; Flores v. New Age Distribution, Inc., Superior Court for County of Orange; Rivera v. Octavian FM, LLC, Superior Court for the County of San Diego; Lara v. The Pep Boys Manny Moe & Jack of California, Superior Court for the County of San Diego; Paul v. Hygeia, Superior Court for the County of San Diego; Brewer v. Pyramid Enterprises, Inc., Superior Court for the County of San Diego; Hoffman v. Crest Beverage, LLC, Superior Court for the County of San Diego; Guzman-Lopez v. The American Bottling Company, et al., United State District Court, Central District.

8. I and my Associate Dorota A. James are currently serving as plaintiff's counsel of record in the following wage/hour and employment class action and/or PAGA representative action cases: Enriquez v. FedEx Office and Print Services, Inc., Superior Court for the County of San Diego; Taalib-Din v. FedEx Office and Print Services, Inc., Superior Court for the County of San Diego; Garcia v. Respironics California, LLC, Superior Court for the County of San Diego; Smith v. Tradition One, Superior Court for the County of San Diego; Smith v. McAlister Institute, Inc. for Treatment and Education, Inc., Superior Court for the County of San Diego; Martin v. Herc Rentals, Inc.; Superior Court for the County of San Diego, Superior Court for the County of San Diego; Salcedo v. Jackson and Blanc; Superior Court for the County of San Diego; Nichols, Jr. v. Vuori, Inc., Superior Court for the County of San Diego; Patel v. Apex Recovery, Superior Court for the County of San Diego; Fox v. Prime Asset Management, Inc., Superior Court of for the County of San Diego.

9. Ms. James and I have extensive experience litigating class actions, other complex litigation

1 and wage and hour claims, such as those asserted in this action. Our knowledge of the applicable wage
2 and hour laws is evidenced by our representation of employees in numerous disputes in state and federal
3 courts in California.

4 10. Ms. James and I are the attorneys of record for Plaintiff Seth Norton, who is a former
5 employee of Defendant Care Medical Transportation, Inc. (“Defendant” or “CARE”). Plaintiff has been
6 employed Defendant as a non-exempt emergency medical technician (“EMT”) from January 6, 2020 until
7 July 27, 2020 when he resigned.

8 11. In or around August 2020, Plaintiff contacted my law firm with concerns arising out of his
9 employment with Defendant. We immediately sent out a request for a copy of Plaintiff’s pay records, time
10 records and personnel file. Accordingly, based on the information known at that time, on September 27,
11 2020, my firm served the LWDA and Care Medical Transportation, Inc. with the LWDA notice alleging
12 a variety of California Labor Code violations against Defendant.

13 12. On October 13, 2020, Plaintiff Seth Norton filed a class action lawsuit against Care
14 Medical Transportation, Inc. alleging five (5) causes of action: 1) Failure to Pay Minimum and Regular
15 Wages; 2) Failure to Pay Overtime Wages; 3) Failure to Provide Itemized Wage Statement; 4) Failure to
16 Pay Wages Upon Separation; and 5) Violations of the Unfair Competition Law.

17 13. On December 21, 2021, following the 65-day statutory wait period for LWDA to
18 investigate Plaintiff’s claims, Plaintiff amended his operative complaint by adding PAGA claims for civil
19 penalties.

20 14. Shortly after Plaintiff filed his suit, the counsel for CARE advised my office that Plaintiff
21 Norton signed an arbitration agreement as a condition of employment with CARE.

22 15. Upon review of CARE’s Arbitration Agreement, Plaintiff filed a Second Amended
23 Complaint asserting a single representative claim pursuant to the California Private Attorneys General
24 Act, Cal. Labor Code sections 2698, et seq. (“PAGA”) and dismissing the class action allegations. The
25 Second Amended Complaint alleged additional claims against Defendant for violation of Labor Code
26 Sections 881-886.

1 16. The parties have been fully engaged in formal discovery in this matter. Both Plaintiff and
2 Defendant served a full set of discovery requests, including Special Interrogatories, Requests for
3 Production of Documents, Form Interrogatories -Employment, and Form Interrogatories-General which
4 were specifically tailored to address the most contentious legal issues for the claims asserted and potential
5 defenses in this action.

6 17. Following extensive meet and confer discussions regarding outstanding discovery disputes,
7 the parties agreed to engage in a mediation in attempt to informally resolve Plaintiff's claims filed on
8 behalf of other aggrieved employees of CARE.

9 18. Prior to filing the complaint, my firm conducted a lengthy investigation into the merits of
10 Plaintiff's claims as well as Defendant's anticipated affirmative defenses. My firm conducted extensive
11 interviews with the named Plaintiff regarding the claims in the action and thoroughly analyzed the various
12 time and pay records and employment policies which Plaintiff Norton had in his personal possession.

13 19. After discussions regarding a neutral mediation began, the Parties worked closely to
14 narrow the scope of data and information to be exchanged prior to mediation and necessary to thoroughly
15 evaluate the claims and defenses. This included information necessary to formulate a damages analysis
16 that would indicate the Defendant's potential damages exposure at trial if Plaintiffs were successful on all
17 claims and legal theories. Over the course of several weeks, the Parties continued to meet and confer on
18 numerous telephone discussions and email correspondence regarding the scope of the information to be
19 exchanged in addition to the data and records already produced during the lengthy discovery process.

20 20. Prior to mediation, the parties engaged in numerous lengthy substantive pre-mediation
21 discussions in order to understand and evaluate the merits and potential defenses which would be asserted
22 at the mediation. These additional time-consuming pre-mediation discussions are not often utilized in
23 complex PAGA action cases, but I believe that it significantly narrowed the scope of the issues which
24 were presented at mediation. Moreover, it permitted the parties to better analyze the claims asserted and
25 was a significant factor in the parties' ability to reach resolution at mediation.

26 21. My firm meticulously scrutinized and analyzed the documents and records provided by
27 Defendant for accuracy and compliance with the California Labor Code. We also performed
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comprehensive legal research based on each theory of recovery and the possible legal defenses thereto. We also performed a comprehensive damage study under each theory of recovery to evaluate the extent of the PAGA members' wage loss after receiving employee payroll records. My firm also calculated the potential PAGA damages for the claims asserted if Plaintiffs were successful on all claims.

22. My office also conducted extensive interviews with the current and former PAGA employees who reached to Plaintiff's counsel in a wake of the lawsuit commenced by Plaintiff. The interviews conducted with the PAGA members provided Plaintiff with a well of information regarding Defendant's day-to-day operations and practices and confirmed unequivocally that Defendant's wage and hour policies and practices are in violation of the relevant of the California Labor Code. The interviews also shed a light on additional claims they were unknown to Plaintiff at the time the lawsuit was commenced.

23. On December 8, 2021, the Parties engaged in an extended full-day mediation. During the mediation, Defendant was represented by Alexis S. Gutierrez and Geoffrey M. Thorne of HIGGS FLETCHER & MACK LLP, Plaintiff Seth Norton by Brian Short and Dorota A. James of ShortLegal, APC. Hon. Judge Joel M. Pressman, Esq. assisted the Parties during the negotiations and to narrow the gap between their respective positions

24. After a full-day mediation, the Parties reached an agreement which was summarized in the final Memorandum of Understanding signed by all parties at the outcome of the mediation. Consequently, after several more weeks of contentious, arms'- length negotiations, the parties finalized the terms of the instant PAGA Settlement and executed a settlement agreement which provides for immediate payment to PAGA Group Members in exchange for a release of the PAGA claims asserted in the *Norton* action.

25. Defendant vehemently denied all of Plaintiff's allegations. Defendant maintained several defenses to Plaintiff's theories. First, it argued that Defendant's meal and rest break written policies which are provided to every employee during on-boarding process are compliant with the applicable Labor Code provisions. Defendant also claimed that its employees were released of all duties during their meal and rest breaks and did not have to carry and keep-on any devices during their breaks. In addition, Defendant claimed its employees were free to leave the ambulances to take complaint meal and rest breaks.

1 Defendant further claimed the time records reflected that employees who worked shifts longer than 5
2 hours had, in fact, clocked in and out for lunches of at least 30 minutes or longer; when employees were
3 not provided with compliant meal periods, CARE automatically paid a 1-hr premium. Defendant,
4 consequently, valued the meal and rest break claim at \$0. Defendant also raised a defense that Care
5 operated as a transportation company and therefore did not fall under the provisions of the Labor Codes
6 cited in Plaintiff's Complaint.

7 26. Defendant also rejected the claim for failure to provide the required mental health training
8 as required under Labor Code Section 884. Defendant argued that the training was provided to every new
9 employee during their initial orientation. Accordingly, Defendant heavily discounted this claim.

10 27. In addition to the defenses on the merits, Plaintiff's considered the Defendant's position
11 that PAGA penalties are discretionary in nature and that even if Plaintiff were successful at trial, the Court
12 has discretion to significantly decrease the amount of damages awarded in this PAGA action. For instance,
13 the California Court of Appeal recently upheld San Diego Superior Court Judge Katherine Bacal's
14 heavily-discounted award of only \$5 per pay period in *Carrington v. Starbucks*, 30 Cal.App.5th 504 (2018).
15 Plaintiffs in *Carrington* had requested more than \$70 million in damages and were successful in proving
16 their PAGA claim during a bench trial. However, Judge Bacal held that the Defendant had attempted to
17 comply with the law and reduced the total award after trial to only \$150,000 out of the \$70 million
18 requested by Plaintiff's counsel. In affirming Judge Bacal's ruling, the appellate court confirmed that it
19 was within the Court's discretion to significantly reduce PAGA penalties even when there is a finding that
20 a violation of the California Labor Code occurred.

21 28. During the pre-mediation analysis of this case, my firm continued to update its research on
22 the recent trial court rulings related to awards of PAGA penalties and any discretionary reduction in
23 penalties associated with the awards. As part of my firm's extensive work in the practice are involving
24 PAGA actions, my firm maintains a database of these trial court rulings and keeps track of any rulings
25 where discretion was exercised by the Court in its award of PAGA penalties. This permits my firm to be
26 thoroughly knowledgeable about the risks that, even if successful at proving that a violation of the Labor
27 Code occurred which results in a PAGA penalty, there could be a significant reduction in the amount of
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1 penalties awarded. The evaluation of these risks is important in the analysis of any settlement value of a
2 case, like this one, where a significant component of damages is based on these “discretionary” penalties.
3 In light of the analysis performed regarding the potential for having the PAGA penalties significantly-
4 reduced even if successful, Plaintiff’s counsel weighed the risks forgoing the instant significant settlement
5 for PAGA members compared to the potential for a higher award much later at trial.

6 29. Another significant factor which was considered when evaluating this settlement was the
7 argument raised during mediation that PAGA penalties were not “stackable.” See *Smith v. Lux Retail*
8 *North America, Inc.*, 2013 WL 2932243. Many of Plaintiffs’ PAGA claims were derivative in nature and
9 arguments were raised that only a single PAGA penalty could be obtained at trial instead of multiple
10 “stacked” PAGA penalties. In addition, while Plaintiffs’ counsel believes that Defendant can be subject
11 in this action to the higher “subsequent” violation amount pursuant to Labor Code Section 2699(f)(2),
12 there is a risk that Labor Code §2699(f)(2) could be interpreted to only permit the higher “subsequent”
13 violation amount if the Labor Commissioner or LWDA issues a formal citation for a prior violation. That
14 issue was not present in this case and therefore there is a risk that Plaintiffs’ damages analysis could be
15 significantly reduced on this basis.

16 30. Plaintiff’s counsel performed a comprehensive damages analysis for mediation based on
17 the formal and informal discovery provided by Defendant and the records available to the Plaintiff. Based
18 on this information, Plaintiff calculated the per-pay-period civil penalties available per Labor Code
19 Section 2699(i). Based on Defendant’s produced information, Plaintiff calculated the number of pay
20 periods for current employees during the PAGA Period and multiplied that by the damages provided by
21 Labor Code Section 2699(f)(2). If Plaintiff were successful in achieving a trial verdict on a PAGA cause
22 of action for each employee during the PAGA Period, Plaintiffs’ counsel calculated that the penalties
23 available pursuant to Labor Code Section 2699(f)(2) is \$2,034,720.

24 31. However, Plaintiff’s counsel considered the uncertainties and risks set forth above, and/or
25 very lengthy litigation and appeals process, balanced by the exhaustive analysis and investigation our firm
26 had performed in valuing the case. As a result of these very-significant risks, and with the benefit of the
27 input of the well-respected neutral mediator, Plaintiff’s counsel agreed to accept the instant substantial
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1 settlement of \$275,000. Based on my analysis of the facts and our extensive experience in litigation of
2 these actions, I believe that the current settlement is fair, reasonable and represents a significant recovery
3 for the PAGA Group Members and merits approval by the Court.

4 32. It was after months of preparation for mediation, an extended full-day of negotiations, the
5 continued assistance of the knowledgeable and impartial mediator, reviews of calculations, comparison of
6 data and exchange of information that Plaintiff agreed to accept the gross settlement fund of \$275,000 in
7 settlement and release of the PAGA-only claims presented in this action.

8 33. In order to participate in the settlement, putative PAGA members are not required to
9 affirmatively perform any duties. They are not required to submit a claim form and a check will
10 automatically be sent to their best available address in a timely manner after the address-verification
11 procedures are performed. The participating PAGA members shall be paid their Individual Settlement
12 Amounts from the Net Settlement calculated on a *pro rata* basis according to the proportion of pay periods
13 each aggrieved employees worked compared to the number of pay periods worked by all participating
14 employees.

15 34. As detailed below, after payment of the requested attorney's fees and litigation costs,
16 PAGA representative enhancements, and claims administration costs, \$165,798.34 is available for
17 apportionment to the LWDA and PAGA Group Members in this PAGA-only action.

18 35. As part of the settlement, 75% (\$124,348.755) of the total PAGA penalties will be made
19 payable to the LWDA, and the remaining \$41,449.585 (25% of the total PAGA penalties) distributed
20 amount the participating PAGA Members which amounts to approximately \$175.63 for each of the 236
21 PAGA Group Members. The amount of PAGA civil penalties allocated in this manner was based on
22 Plaintiff's counsels' calculations of damages attributable to the per-workweek period remedies.
23 Consequently, Plaintiff's counsel proportionally attributed the Net Settlement Fund (after payment for
24 attorney's fees, costs, claims administration, and representative enhancements) to reach this allocation.

25 36. Plaintiffs' counsel will request attorney's fees of no more than 33 1/3% of the Gross
26 Settlement Amount which equates to \$91,666.66. Defendant has agreed not to oppose Plaintiff's
27 Counsel's application in attorney's fees.

37. My firm keeps contemporaneous records of our hours worked on this case by billing our time in increments of one tenth of an hour and costs. The billing rates for the attorneys and paralegals who primarily worked on this case are as follows: My hourly billable rate as Partner (Admitted to practice in California in 2005) is \$710; Associate Dorota James \$405 (Admitted to practice in California in June 2016); and Paralegal is \$200/hour. I believe these rates are reasonable considering the level of experience of the attorneys and experienced staff litigating this action in San Diego County and has been approved previously in San Diego County Superior Court in 2021. Additionally, the requested rates are less than the suggested rates by reliable fee-related resources such as the independent Laffey Matrix – as detailed further below. More information about the Laffey Matrix, including the associated matrix which includes these rates can be found at <http://www.laffeymatrix.com/see.html>.

38. As of this date, my firm has incurred 186.7 billable hours after partner review for elimination of tasks that could be construed to be duplicative of other timekeepers. This billable time constitutes a lodestar of \$145,865.50 not including the time necessary to carry out the terms of the settlement post-approval. These hours reflect all the time spent on this case, including but not limited to: pre-filing fact investigation and legal research and analysis, including analysis of prior similar cases; interviewing the named Plaintiff and PAGA members; performing on-going legal research analysis regarding potential motion for summary judgment and Defendant's defenses; analyzing Plaintiff's payroll and records of hours worked; discussing case strategy with the named Plaintiff on numerous occasions both in-person and telephonically; drafting the LWDA letter and the pleadings; preparing and attending routine court hearings; discussions with individuals with similar claims who worked with the named plaintiff at Care Medical Transportation, Inc.; review and analysis of the time and payroll records in preparation for mediation; analyzing and preparing a comprehensive damage analysis in preparation of mediation; analysis of Defendant's claims regarding the potential defenses that the penalties provided under California law; preparing for and participating in multiple pre-mediation conferences with counsel to discuss the relevant merits of the claims and potential defenses; preparing a detailed and comprehensive mediation brief and attending mediation; negotiating and drafting the proposed PAGA Settlement

1 Agreement; preparing the stipulation regarding the approval of the settlement agreement and related
2 memoranda; discussing the claims administration process and on-going issues with Defendant's counsel.

3 39. I believe that the above requested rates fall well-within the range of reasonableness
4 compared to those fees charged by attorneys with similar levels of experience in similar geographic
5 regions. Indeed, the requested fee of \$91,666.66 represents only 62.8% of the lodestar incurred by my
6 firm to-date of \$145,865.50. Furthermore, the fee is warranted and "reasonable" because of the significant
7 efforts expended in litigating this case, the risks involved in taking this complex case which involves
8 significant dynamic changes to California state law on the claims asserted on a purely contingency fee
9 basis and the exceptional result achieved for the PAGA Group Members. The requested fees fall within
10 the reasonable standard practices under the preferred common-fund theory which bases recovery of
11 attorney's fees as a percentage of any Gross Settlement Fund obtained on behalf of the PAGA members
12 See Lafitte v. Robert Half International, Inc., 1 Cal.5th 480 (2016). The requested fee is within the 33
13 1/3% standard applied by California state courts under the common fund theory for attorney's fees.

14 40. I also believe that the attorney's fees requested are fair and reasonable because of the
15 exceptional results achieved for the PAGA members in the face of the formidable defense mounted by
16 Defendant's experienced attorneys, the difficulties presented in these highly technical and ever-changing
17 landscape for PAGA wage and hour claims. Indeed, the unique theories presented in this PAGA-only
18 action, e.g. the obligation of the employer to provide relevant trainings to the EMTs and paramedics, have
19 changed dramatically over just the past year and there is no clear case law providing a guidance with
20 respect to these issues. Even the most experienced wage and hour litigators are required to stay up-to-
21 date on a day-to-day basis on the numerous changes in law affecting these PAGA actions, the variations
22 in application of the law between appellate districts and the potential effects and risks that any adverse
23 ruling could bring to these types of actions which are ordinarily brought on behalf of low-income clients
24 who are unable to pay the hourly rates for attorneys. As a result, attorneys bear the burden and risk that
25 the law could change at any given time and significantly decrease or eliminate the potential success in this
26 area of litigation. Moreover, these types of contingency cases routinely involve protracted litigation
27 against well-funded adversaries. There is an additional risk that the investment in both time and money
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in litigating these actions could be a complete loss if a Defendant encounters financial hardship or cannot sustain ultimate judgment at trial. These circumstances are present in this action, where there is a very real risk that CARE could claim bankruptcy and that it would leave both the PAGA Group Members and Plaintiffs' counsel with nothing.

41. My office is seeking reimbursement for litigation costs of \$ 6,785.00 Below is a chart reflecting a summary of the costs incurred to date as well as the anticipated costs of filing this stipulation:

Court Filing Fees	\$1,595.00
Legal Research	\$1,411.60
Postage/Overnight Mail	\$13.90
Photocopying/Document Imaging	\$64.50
Mediation Expenses (Plaintiff's share)	\$3,700.00
	\$6,785.00

42. Plaintiff Seth Norton spent a great deal of time and made personal sacrifices to act as PAGA Representative in furtherance of the litigation. Plaintiff contributed extensively during the case, including frequently communicating with counsel, providing valuable factual resources, searching for and providing numerous documentations, and rearranging personal and professional obligations in order to make himself available to assist Plaintiff's counsel and mediator during the extended full-day mediation and settlement negotiations. At all times, he acted to protect the best interests of the aggrieved employees in order to achieve the proposed settlement. Plaintiff was always available to respond to his Counsel's inquiries and made significant time available as the date of mediation approached. He also assisted with evaluating the proposed settlement. This work was undertaken in order to achieve the proposed settlement.

43. Most significantly, Plaintiff Norton undertook a great deal of risk that instituting this litigation against his former employers may preclude or negatively affect his ability to obtain employment with another company in the future due to the public nature of this lawsuit against his former employer. This is this age of internet and Google searching where a future potential employer can readily search Plaintiff's name and may very easily forgo hiring Plaintiff upon learning about this lawsuit against his former employer. For this precise reason, employees are very often intimidated and discouraged from

1 bringing actions against their former employers and are even more deterred from acting as a PAGA
2 representative. Indeed, for several of my previous cases entering the names my clients in a Google search
3 along with the term “class action” and/or “PAGA representative action” has yielded search results that
4 place their lawsuit at the top page of results and were therefore readily available to any potential future
5 employer. Mr. Norton also agreed to a much broader release than other PAGA Group Members despite
6 having the opportunity to pursue his wage and hour claims on individual basis which would have benefited
7 him more than taking the actions he did to accomplish the instant valuable result for all 236 employees.
8 Plaintiff nevertheless had the courage to bring this action and placed his co-workers’ interests before his
9 own. Plaintiff’s participation as the PAGA Representative was an essential element that allowed my firm
10 to settle these claims.

11 44. In addition, Plaintiff is agreeing to a much broader general release and §1542 waiver which
12 leaves him without recourse for known and unknown potential claims he may have against Defendant now
13 or in the future. This concession is significant and real. Considering these risks, Plaintiff’s selfless desire
14 to see that all similarly situated employees are included in this recovery is to be commended and should
15 be recognized. I believe that the requested service award in the total amount of \$7,500 for Plaintiff is fair
16 and reasonable.

17 45. Plaintiff and I are also mindful of the inherent problems of proof under - and possible
18 defenses to - the causes of action asserted in the lawsuit. Even though Plaintiff believes that his case
19 possesses substantial merit, the litigation cannot legitimately be characterized as being without risk or that
20 Plaintiff would inevitably prevail at trial or at the appeals process. Defendant is represented by able
21 counsel who has mounted a vigorous and knowledgeable defense on its behalf.

22 46. Granting approval of the PAGA settlement would create a settlement fund that would
23 streamline this process and the aggrieved employees who participate in the settlement will receive
24 payments for their claims and other damages and penalties in the immediate future.

25 47. My Associate Dorota A. James and I are qualified to evaluate the PAGA claims and
26 viability of defenses in this unpaid wage representative action based on our combined experience in other
27 wage and hour cases. The recovery for each PAGA member is reasonable, fair and adequate, and a
28

1 settlement at this time is in the best interests of the aggrieved employees. The settlement gives each PAGA
2 member a fair amount of payment for the PAGA penalties.

3 48. I believe that the settlement of \$275,000 is an excellent result. It is fair, reasonable, and
4 in the parties' best interests, especially after balancing the proposed settlement terms against the
5 probable outcome of liability, the untested issues, the range of recovery at trial, and the likelihood of
6 collection of any recovery at trial, the difficulties of complex litigation, the lengthy process of
7 establishing specific damages; individual issues, and possible delays and appeals. The settlement
8 provides a fair recovery to the aggrieved employees, the amount of which easily falls within the range
9 of reasonableness.

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

12 Executed on February 2, 2022 at San Diego, California.

13
14 

15
16 _____
Brian R. Short