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CARE MEDICAL TRANSPORTATION, INC.

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

**JOINT STIPULATION FOR LEAVE TO
FILE THIRD AMENDED COMPLAINT AND
FOR COURT APPROVAL OF PAGA
SETTLEMENT AND [PROPOSED] ORDER**

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
Date TAC filed:****

1 By and through his counsel of record, Plaintiff Seth Norton ("Plaintiff"), and Defendant Care
2 Medical Transportation, Inc. ("Defendant" or "CARE") ("Plaintiff" and "Defendant" are collectively
3 referred to hereinafter as "Parties") submit this Joint Stipulation for Leave to File Third Amended
4 Complaint for this Court's review and approval of their "Settlement Agreement and Release of Private
5 Attorneys General Act of 2004 Claims" ("PAGA Claims Settlement") (Exhibit 1).

6 Through the instant joint-stipulation, the Parties respectfully request the Court grant the Parties'
7 Proposed Order which provides for the following:

- 8 1. Permits the filing of the Third Amended Complaint (Exhibit 2) which adds additional
9 claims for Defendant's alleged failure to permit and authorize rest breaks; failure to
10 indemnify for business expenses; failure to pay reporting time; and unlawful
11 deductions of wages in violation of Labor Code Section 2928; and
- 12 2. Grants Approval of a gross settlement amount of \$275,000.00 in exchange for
13 settlement and release of the PAGA-only claims asserted in this action.

14 Pursuant to Labor Code Section 2699(1)(2), the proposed PAGA-only settlement requires court
15 approval which the parties seek herein. If the Court has any questions regarding the particular terms of
16 the Agreement after review of the instant Stipulation and PAGA Claims Settlement Agreement the
17 Parties respectfully request that the Court set the first-available date for an *ex parte* hearing to discuss
18 any of these topics.

19 RECITALS

20 1. Defendant Care Medical Transportation, Inc. employed Plaintiff Seth Norton as an
21 Emergency Medical Technician ("EMT") in San Diego, California from January 6, 2020 until July 27,
22 2020 when he resigned.

23 2. On September 27, 2020, Plaintiff, through his legal counsel, ShortLegal, APC
24 ("Plaintiff's Counsel"), submitted a notice to the Labor Workforce Development Agency ("LWDA"),
25 alleging a variety of California Labor Code violations against Defendant (the "LWDA Notice"). The
26 LWDA declined to investigate this matter, leaving Plaintiff Norton free to pursue such PAGA Claims
27 in a superior court civil action under Labor Code section 2698, et seq.

3. On October 12, 2020, Plaintiff filed a class action lawsuit against Defendant on behalf of himself and all other similarly-situated and current and former aggrieved employees of Defendant with the California Superior Court, County of San Diego alleging five causes of action: 1) Failure to Pay Minimum and Regular Wages; 2) Failure to Pay Overtime Wages; 3) Failure to Provide Itemized Wage Statement; 4) Failure to Pay Wages Upon Separation; and 5) Violations of the Unfair Competition Law.

4. On December 21, 2021, following the 65-day statutory wait period for LWDA to investigate Plaintiff's claims, Plaintiff filed the First Amended Complaint which added PAGA Claims for Civil Penalties in addition to the five causes of action alleged in Plaintiff's initial complaint.

5. After Plaintiff served the First Amended Complaint, Defendant advised Plaintiff's counsel that Plaintiff Norton entered into an arbitration agreement and class action waiver with Defendant waiving his right to pursue class claims on behalf other similarly-situated employees, and, therefore, he is required to pursue his claims against Defendant through binding arbitration on individual basis.

6. Upon thorough review and analysis of the arbitration agreement and after further meet and confer communication with Defendant regarding the enforceability of the agreement, Plaintiff agreed to amend his operative complaint by including only PAGA allegations and theories of liability. In addition, after submitting an amendment to his initial LWDA Notice, Plaintiff filed a Second Amended Complaint by adding claims alleging violations of Labor Code Sections 881-886.

7. Following the filing of the Second Amended Complaint, both Parties fully engaged in a formal written discovery. It was during extensive meet and confer communication when the parties agreed to explore a possibility of an informal resolution of the matter with assistance of a neutral mediator.

8. After numerous exchanges of email correspondence and phone conferences, the Parties agreed to mediate the case on December 8, 2021 before neutral mediator Hon. Joel M. Pressman, Ret. who is well-respected and knowledgeable in wage and hour actions and has additional specific expertise in PAGA representative action.

9. After discussions regarding a neutral mediation began, the Parties worked closely to narrow the scope of data and information to be exchanged prior to mediation and necessary to thoroughly evaluate the claims and defenses and formulate a damages analysis that would indicate the Defendant's potential

1 damages exposure at trial if Plaintiff was successful on all claims and legal theories. Over the course of
2 several weeks, the Parties continued to meet and confer on numerous telephone discussions and email
3 correspondence regarding the scope of the information to be exchanged in addition to the data and records
4 already produced during the lengthy discovery process.

5 10. Prior to mediation, the parties engaged in numerous lengthy substantive pre-mediation
6 discussions in order to understand and evaluate the merits and potential defenses which would be asserted
7 at the mediation. As a result of these discussions, the Parties were able to narrow the scope of the issues
8 which were presented at mediation, which ultimately was a significant factor in the parties' ability to reach
9 resolution at mediation.

10 11. After a full-day mediation before neutral mediator Hon. Joel M. Pressman, Ret. wherein
11 the Parties discussed the legal and factual basis for Plaintiff's claims and Defendant's defenses at-length,
12 the parties reached a Settlement Agreement as to the representative action PAGA claims, for which they
13 now seek this Court's approval. The Parties agreed that the settlement is specifically limited to a release
14 of PAGA claims as alleged in the Third Amended Complaint.

15 12. The proposed PAGA Claims Settlement herein provides for Defendant to pay a non-
16 reversionary PAGA settlement in the gross amount of \$275,00 which is allocated as follows:

- 17 a. A PAGA Award in the amount of \$165,788.34, 75% of which (\$124,348.755) shall be paid
18 to the LWDA and 25% of which (\$41,449.585) shall be apportioned and paid to Aggrieved
19 Employees in proportion to their pro rata share of work weeks each employee worked
20 during the relevant PAGA period;
- 21 b. Attorney's Fees of 1/3 of the gross settlement amount, which amounts to \$91,666.66;¹
- 22 c. Reimbursement of Litigation Costs not to exceed \$6,785;²
- 23
- 24

25 _____
26 ¹ A detailed description of the work performed and further support for Plaintiff's Counsel's fee request is detailed in the
27 concurrently-filed Declarations of Brian R. Short.

28 ² A description of the request for reimbursement of litigation costs incurred is detailed in the concurrently-filed Declaration
of Brian R. Short.

d. Plaintiff's PAGA Representative Service Award of \$7,500;³

e. Costs of Administration of the PAGA Settlement expected not to exceed \$3,250.

13. Pursuant to Labor Code section 2699(1), "the superior court shall review and approve any settlement of any civil action filed pursuant to this part." [*i.e.*, Labor Code §§ 2698 *et seq.*]

14. PAGA penalties are in the nature of a law enforcement penalty and are designed to penalize an employer for its failure to comply with California's wage and hour laws and regulations and are not designed to compensate employees. *Ochoa-Hernandez v. CJADERS Foods, Inc.* (E.D. Cal. Apr. 2, 2010) 2010 U.S. Dist. LEXIS 32774, at *12-13. ("Unnamed employees need not be given notice of the PAGA claim, nor do they have the ability to opt-out of the representative PAGA claim. There is no indication that the unnamed plaintiffs can contest a settlement, if any, reached between the parties,").

15. The settlement of a private plaintiff's PAGA claim is binding on all other purportedly aggrieved employees on behalf of whom it was asserted as to recovery of PAGA penalties. *See Arias Superior Court* (2009) Cal.4th 969, 986 (because a private plaintiff's PAGA action "functions as a substitute for an action brought by the government itself, a judgment in that action binds all those, including nonparty aggrieved employees, who would be bound by a judgment in an action brought by the government.").

16. The Parties submit that the PAGA Claims Settlement provides fair and reasonable payment penalties for the benefit of the LWDA and the approximately 236 employees who qualify as PAGA Group Members.

17. Contingent on this Court's approval of the Parties' settlement of the PAGA claims, the Parties have fully and finally settled all PAGA claims that were or could have been asserted against Defendant by Plaintiff and now hereby seeks court approval of the Settlement pursuant to Labor Code sections 2698 *et seq.*

18. The Parties agree that Defendant will provide the last known contact information for the PAGA Group Members to the Settlement Administrator, ILYM Settlement Administrators, in the form(s)

³ A description of the risks undertaken and work performed by each PAGA Representative and further support for the requested PAGA Representative Enhancements is included in the concurrently-filed Declaration of Seth Norton and Brian R. Short.

requested by the settlement administrator within 14 calendar days of the Court's Order Approving the
PAGA Claims Settlement. No later than 14 calendar days after approval of the Parties' PAGA Claims
Settlement, Defendant will pay the total gross settlement amount due pursuant to the PAGA Claims
Settlement to the Settlement Administrator. The Claims Administrator will run an address verification
for all PAGA Group Members via the USPS National Change of Address database, perform all necessary
calculations to determine all the pro rata individual settlement share for each PAGA Group Member and
then will make payment to each of the PAGA Group Members along with a copy of a Notice of PAGA
Claims Settlement to each of the PAGA Group Members within thirty-five (35) days of the date below.
(A true and correct copy of the Notice of PAGA Claims Settlement is attached hereto as Attachment A to
the PAGA Claims Settlement Agreement, Exhibit 1.)

STIPULATION

Thus, the Parties stipulate:

1. On review of the Third Amended Complaint in this Action, the PAGA Claims Settlement
(Ex. 1) and all other supporting exhibits and submissions, the Parties request that the Court approve all
terms of the instant PAGA Claims Settlement Agreement.

2. The Parties have entered a PAGA Claims Settlement in consideration of Plaintiff's full
and final settlement and release of all PAGA representative claims for: unpaid straight and overtime
wages (including but not limited to those wages for hours worked "off the clock" and during meal
periods), reporting time, unreimbursed business expenses (including but not limited to expenses for use
of personal cellular phones), unauthorized deductions, failure to provide compliant meal periods and/or
pay meal period premiums, failure to authorize and permit compliant rest periods and/or pay rest period
premiums, failure to provide and maintain accurate wage statements (including but not limited to failing
to accurately identify total overtime and regular hours worked, and any other violation of Labor Code §
226(a)), failure to pay timely wages at termination of employment, and PAGA claims for: civil and
statutory penalties, including but not limited to violations of and claims arising under California law,
Labor Code sections §§ 201, 202, 203, 204, 210, 218, 218.5, 218.6, 223, 226, 226.7, 510, 512, 558,

558.1, 881, 883, 884, 885, 886, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698 et seq., 2802, 2928, provisions of the applicable Industrial Welfare Commission Wage Order; and the Business & Professions Code §17200, et seq. as it relates to the underlying Labor Code claims referenced above and permissible pursuant to Labor Code Section 2699, and California Code of Civil Procedure § 1021.5 to the extent permissible pursuant to Labor Code Section 2699, interest, attorneys' fees and costs, from September 27, 2019 through December 8, 2021.

3. The Parties agreed that the PAGA Claims Settlement is specifically limited to a release of Plaintiff's individual claims and the PAGA representative action claims only and does not release any putative class allegations claims of any other similarly-situated and aggrieved employees, to the extent any such individuals exist.

4. Pursuant to the provisions of PAGA and the terms of the Parties' PAGA Claims Settlement, the Parties have agreed that after payment of Plaintiff's Counsel Fees and Cost Award, the Settlement Administration Costs, the Service Award, the total amount of the PAGA Award is \$165,798.34 ("Net Settlement Fund").

5. Seventy-five percent (75%) of the PAGA Award shall be paid to the State of California Labor and Workforce Development Agency (LWDA) (i.e., the sum of \$124,348.705) and the remaining twenty-five percent (25%) (\$41,449.585) to the PAGA Settlement Members on a pro rata basis pursuant to the terms set forth in the PAGA Claims Settlement. Based upon the best-available figures to-date the average payment to each of the 236 employees is approximately \$175.63 in exchange for their release for the narrowly-tailored PAGA penalties. As a result of the narrow and limited release, each of the PAGA members retain their rights to present legal claims to pursue individual remedies for any claims for past wages or penalties other than PAGA should they so choose.

8. Pursuant to Code of Civil Procedure § 664.6, the Parties agree this Court shall retain jurisdiction over the parties to enforce the PAGA Claims Settlement until full and final performance of all its terms and conditions has been satisfied.

9. Plaintiff's Counsel shall notify the Court upon full and final performance of all terms and conditions of the PAGA Claims Settlement, in which case this matter will be dismissed with prejudice.

SHORTLEGAL, APC

Dated: February 2, 2022



By: _____

BRIAN R. SHORT

DOROTA A. JAMES

Attorneys for Plaintiff Seth Norton

Dated: January _____, 2022

HIGGS FLETCHER & MACK LLP

By: _____

Alexis S. Guttierrez

Geoffrey M. Thorne

JUSTIN R. WILMERS

*Attorneys for Defendant Care Medical
Transportation, Inc.*

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Dated: January ____, 2022

SHORTLEGAL, APC

By: _____
BRIAN R. SHORT
DOROTA A. JAMES
Attorneys for Plaintiff Seth Norton

Dated: February 4, 2022

HIGGS FLETCHER & MACK LLP


By: _____
Alexis S. Guttierrez
Geoffrey M. Thorne
*Attorneys for Defendant Care Medical
Transportation, Inc.*

EXHIBIT 1

SHORTLEGAL, APC
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Attorneys for Plaintiff SETH NORTON

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San Diego, CA 92101-7913
TEL: 619.236.1551
FAX: 619.696.1410
Attorneys for Defendant
CARE MEDICAL TRANSPORTATION, INC.

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

**SETTLEMENT AGREEMENT AND
RELEASE OF PRIVATE ATTORNEYS
GENERAL ACT OF 2004 CLAIMS**

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
Date TAC Filed: ****

SETTLEMENT AGREEMENT AND RELEASE OF PAGA CLAIMS

Plaintiff Seth Norton, individually and in his capacity as a representative of the State of California on behalf of other aggrieved employees, and Defendant Care Medical Transportation, Inc., hereby enter into this Settlement Agreement and Release of Private Attorneys General Act of 2004 Claims (Labor Code §§ 2698 *et seq.*) (“Settlement”) as follows:

I. DEFINITIONS

Unless otherwise defined herein, the following terms used in this Settlement Agreement shall have the following meanings:

1. “Action” shall mean the civil action entitled *Seth Norton v. Care Medical Transportation, Inc.* filed and currently pending in the Superior Court for the County of San Diego on or about October 13, 2020, designated as Case No. 37-2020-00036520-CU-OE-CTL.

2. “Claims” shall mean all claims that were actually alleged or which could have been alleged by Plaintiff in the Action, on behalf of himself and the PAGA Settlement Members, based on the facts alleged in Plaintiff’s Notice of PAGA violations to the LWDA, as amended, and Plaintiff’s complaint (and each iteration thereof, including the operative Second Amended Complaint and the proposed Third Amended Complaint to-be-filed in connection with this Agreement), including PAGA claims for civil and statutory penalties, including but not limited to violations of and claims arising under California law, Labor Code sections §§ 201, 202, 203, 204, 210, 218, 218.5, 218.6, 223, 226, 226.7, 510, 512, 558, 558.1, 881, 883, 884, 885, 886, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698 *et seq.*, 2802, 2928, provisions of the applicable Industrial Welfare Commission Wage Order; and the Business & Professions Code §17200, *et seq.* as it relates to the underlying Labor Code claims referenced above and permissible pursuant to Labor Code Section 2699, and California Code of Civil Procedure § 1021.5 to the extent permissible pursuant to Labor Code Section 2699. The term “Claims” also includes Plaintiff’s claim that Defendant is liable for attorneys’ fees and costs incurred by Plaintiff to prosecute the action on behalf of the PAGA Settlement Members, and interest.

3. “Defendant” shall mean Care Medical Transportation, Inc.

///

4. “Defense Counsel” shall mean Alexis S. Gutierrez and Geoffrey M. Thorne of HIGGS FLETCHER & MACK LLP.

5. “Effective Date” refers to the date the Agreement is approved by the San Diego Superior Court.

6. “Gross Settlement Payment” means Two Hundred Seventy-Five Thousand Dollars and No Cents (\$275,000.00), which is the maximum amount that Defendant shall be obligated to pay under this Agreement, subject to the Court’s approval.

7. “Individual Settlement Payment” means the amount payable to each PAGA Settlement Member, as calculated pursuant to Paragraph VI.B., below.

8. “LWDA” refers to the California Labor & Workforce Development Agency.

9. “Net Distribution Fund” means the Gross Settlement Payment, less the amounts that the Court awards for the LWDA’s portion of the PAGA Award, Plaintiff’s Counsel Cost Award, Plaintiff’s Counsel Fee Award, Settlement Administration Costs, and Plaintiff’s Service Award, if any.

10. “PAGA” refers to the Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698 *et seq.*

11. “PAGA Award” means the amount of the Gross Settlement Payment that is allocated to PAGA penalties, pursuant to California Labor Code section 2698 *et seq.*, and as awarded by the Court.

12. “PAGA Period” shall mean September 27, 2019 through December 8, 2021.

13. “PAGA Settlement Members” shall mean all current and former non-exempt employees who were employed by Defendant as Emergency Medical Technicians, Paramedics, Drivers and similar positions in the State of California at any time commencing September 27, 2019 through and including December 8, 2021. The PAGA Settlement Members consist of approximately 236 current and former non-exempt employees.

14. “Parties” collectively refers to Plaintiff and Defendant.

15. “Plaintiff” refers to Seth Norton in his capacity as a representative of the State of California on behalf of PAGA Settlement Members.

17. “Plaintiff’s Counsel Cost Award” refers to the expenses and costs incurred by Plaintiff’s Counsel for the litigation and resolution of this Action, as awarded by the Court, in an amount not to exceed \$6,785, and payable out of the Gross Settlement Payment.

18. “Plaintiff’s Counsel Fees Award” refers to the attorneys’ fees for Plaintiff’s Counsel’s litigation and resolution of this Action, as awarded by the Court, in an amount not to exceed Ninety-One Thousand Six Hundred and Sixty-Six Dollars and Sixty-Six Cents (\$91,666.66), which represents thirty-three and one-third percent of the Gross Settlement Payment.

19. “Released Claims” means the Claims that Plaintiff and PAGA Settlement Members are fully releasing in exchange for the consideration provided by this Agreement, whether arising at law, in contract or in equity, and whether for economic or non-economic damages, restitution, injunctive relief, penalties or liquidated damages as specified below. Released Claims means all claims actually asserted or which could have been asserted in the Action by Plaintiff and PAGA Settlement Members against the Released Parties, arising during the PAGA Period, based on the facts alleged in the operative Second Amended Complaint and proposed Third Amended Complaint (attached as Exhibit 2 to the Stipulation re Approval of the PAGA Settlement Agreement and Leave to Amend to File Third Amended Complaint), including but not limited to PAGA claims for civil and statutory penalties, including but not limited to violations of and claims arising under California law, Labor Code sections §§ 201, 202, 203, 204, 210, 218, 218.5, 218.6, 223, 226, 226.7, 510, 512, 558, 558.1, 881, 883, 884, 885, 886, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698 et seq., 2802, 2928, provisions of the applicable Industrial Welfare Commission Wage Order; and the Business & Professions Code §17200, et seq. as it relates to the underlying Labor Code claims referenced above and permissible pursuant to Labor Code Section 2699, and California Code of Civil Procedure § 1021.5 to the extent permissible pursuant to Labor Code Section 2699, as well as attorneys’ fees, expenses and interest.

20. “Released Parties” shall mean Defendant and its past, present, and future subsidiaries, parents, affiliates, predecessors, insurers, agents, employees, successors, assigns, officers, officials,

1 directors, attorneys, personal representatives, executors, and shareholders, including their respective
2 pension, profit sharing, savings, health, and other employee benefits plans of any nature, the successors
3 of such plans, and those plans' respective current or former trustees and administrators, agents,
4 employees, and fiduciaries.

5 21. "Service Award" means the amount that the Court may award to Plaintiff for his efforts
6 in assisting with the prosecution of the Action and as consideration for his execution of this Agreement
7 and releasing his claims, as specified herein, in an amount not to exceed Seven Thousand Five Hundred
8 Dollars and No Cents (\$7,500.00). The Service Award shall be paid out of the Gross Settlement
9 Payment.

10 22. "Settlement Administrator" means ILYM Group, Inc.

11 23. "Settlement Administration Costs" means the costs incurred by the Settlement
12 Administrator in connection with the administration of the Settlement.

14 II. RECITALS

15 1. On September 27, 2020, Plaintiff's Counsel sent a letter to the LWDA on behalf of
16 Plaintiff Seth Norton, in compliance with California Labor Code section 2699.3. Plaintiff seeks to
17 represent himself and all PAGA Settlement Members. More than 65 days passed after the letter was
18 sent to the LWDA, and the LWDA has not indicated that it intends to investigate the alleged violations
19 referenced in the letter.

20 2. On October 13, 2020, Plaintiff commenced the Action.

21 3. Following the 65-day statutory wait period to meet the administrative requirements set by
22 the California Labor Code section 2699 et seq., on October 19, 2020, Plaintiff filed a First Amended
23 Complaint adding a cause of action for PAGA civil penalties.

24 4. On March 30, 2021, after Plaintiff's counsel reviewed an Arbitration Agreement signed
25 by Plaintiff at the commencement of his employment with Defendant and provided to Plaintiff's
26 Counsel by Defense Counsel in response to his Labor Code Section 226 request for documents, Plaintiff
27 filed his Second Amended Complaint asserting only a single cause of action for PAGA civil penalties.

5. On December 8, 2021, the Parties engaged in a mediation with Hon. Judge Joel M. Pressman, Esq. assisting the Parties with the negotiations and to narrow the gap between their respective positions. 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.

6. Prior to the mediation, Counsel for all Parties thoroughly investigated the facts relating to the claims alleged in the operative Second Amended Complaint and the proposed Third Amended Complaint (attached as Exhibit 2 to the Stipulation re Approval of the PAGA Settlement Agreement and Leave to File Third Amended Complaint) and have made a thorough study of the legal principles applicable to the claims asserted against Defendant. Based on their investigation and evaluation of this case, Plaintiff's Counsel believes that the settlement is fair, reasonable, and adequate in light of all known facts and circumstances, including the defenses asserted by Defendant, potential adverse findings regarding liability, and numerous potential appellate issues.

7. Defendant denies and continue to deny, each and every claim and contention alleged in the Action, and has always maintained that it never engaged in any unlawful acts regarding any of the matters alleged in the Action.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and conditions set forth, the Parties agree as follows:

III. NON-ADMISSION OF LIABILITY

A. Based on the factual and legal issues involved, the expense and time necessary to prosecute the Action through trial, the risks, uncertainty and costs of further prosecution, the difficulty of proof necessary to establish liability as to the PAGA Settlement Members, and the relative benefits to the PAGA Settlement Members of an expeditious resolution to the Action, the Parties have concluded that the terms set forth in this Settlement are fair, reasonable, adequate and in the best interests of the PAGA Settlement Members.

B. By entering into this Settlement, Defendant denies any liability for any of the claims in the Action, as well as any other potential or unknown claims based on wage and hour violations under state or federal law. Neither this Settlement, nor any document referred to or contemplated herein, nor

1 any action taken to carry out this Settlement, is, may be construed as, or may be used as, an admission,
2 concession, or indication by or against Defendant of any unlawful conduct, fault, wrongdoing or liability
3 whatsoever. Defendant specifically denies that it has engaged in any unlawful or wrongful conduct
4 against Plaintiff or the PAGA Settlement Members.

5 **IV. APPROVAL AND IMPLEMENTATION OF SETTLEMENT**

6 **A. Cooperation and Implementation of the Settlement Agreement**

7 The Parties will cooperate in obtaining through written stipulation, or unopposed motion if a
8 motion is required, an Order from the Court approving the Settlement Agreement as described in this
9 Agreement at the earliest possible date. The Parties agree to use their best efforts to expedite the
10 preparation and submission of the settlement documents. The Parties further agree to fully cooperate in
11 the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or
12 filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary
13 to the approval and implementation of this Agreement, including the settlement payment as described in
14 this Agreement.

15 **B. Court Approval**

16 Plaintiff will seek to obtain the Court's approval of this Agreement by way of a stipulation with
17 Defendant. Plaintiffs' Counsel and Defense Counsel will jointly lodge this Agreement with the Court
18 for its approval. The Court's approval of this Agreement shall be embodied in a written Order. If the
19 Court requires a noticed motion, Plaintiff will file a motion that will not be opposed by Defendant (with
20 a reservation of rights in the event of a deviation in material terms). Should the Court not grant approval
21 of this Agreement after reasonable attempts to obtain Court approval, then the entirety of this Agreement
22 shall be null and void.

23 **C. Plaintiff Norton Shall File A Third Amended Complaint.**

24 In conjunction with the filing of the approval stipulation, Plaintiff Norton shall file a Third
25 Amended Complaint (attached as Exhibit 2 to the Stipulation re Approval of the PAGA Settlement
26 Agreement and Leave to File Third Amended Complaint) to include any and all claims, factual
27 allegations and underlying Labor Code allegations that were discovered during the litigation, including
28

claims for Defendant's alleged failure to permit and authorize rest breaks; alleged failure to indemnify for business expenses; alleged failure to pay reporting time; and alleged unlawful deductions of wages in violation of Labor Code Section 2928.

V. TERMS OF PAGA SETTLEMENT

A. The Gross Settlement Payment

Defendant shall pay a settlement payment in a total gross amount not to exceed Two Hundred Seventy-Five Thousand Dollars (\$275,000). The Gross Settlement Payment is inclusive of Plaintiff's Counsel Cost Award, Plaintiff's Counsel Fee Award, Settlement Administration Costs, any Service Award to Plaintiff, and the PAGA Award.

B. Plaintiff's Counsel Fee and Cost Award.

1. Plaintiff's Counsel will apply to the Court, and Defendant agrees not to oppose, a Plaintiff's Counsel Fee Award not to exceed Ninety-One Thousand Six Hundred and Sixty-Six Dollars and Sixty-Six Cents (\$91,666.66), which represents thirty-three and one-third percent (33 1/3%) of the Gross Settlement Payment. Plaintiff's Counsel will be responsible for submitting all documents to support Plaintiff's Counsel Fee Award.

2. Plaintiff and Plaintiff's counsel will request, and Defendant agrees not to oppose, a Plaintiff's Counsel Cost Award in an amount not to exceed Six Thousand and Seven Hundred and Eighty-Five Dollars (\$6,785). Plaintiff's Counsel believes, and Defendant does not challenge, that such an award to Plaintiff's Counsel is reasonable.

3. Plaintiff's Counsel may elect to have the Settlement Administrator, directly or indirectly, disperse all or part of the Plaintiff's Counsel Fee Award in periodic payments, through a structured settlement. Plaintiff's Counsel will bear any and all costs, fees, and expenses of administration for any periodic payments of the Plaintiff's Counsel Fee Award and shall be fully responsible for any taxes, costs, liabilities and attorneys' fees, and/or penalties resulting from any issues, claims, and/or disputes arising out of, related to, or incurred in connection with any such periodic payments, including, without limitation, any such issues, claims and/or disputes brought by the state or federal government concerning

1 the payment of taxes thereon. The Settlement Administrator shall separately bill Plaintiff's Counsel for
2 any and all fees, costs, and expenses of administration associated with any periodic payments of the
3 Plaintiff's Counsel Fee Award. Plaintiff's Counsel shall indemnify, defend, and hold Defendant
4 harmless for any and all taxes, costs, liabilities, attorneys' fees, and/or penalties resulting from any
5 issues, claims, and/or disputes arising out of, related to, or incurred in connection with any such periodic
6 payments.

7 4. Any reductions by the Court of Plaintiff's Counsel Fee or Cost Award, if any, shall
8 revert to the Net Distribution Fund.

9 **C. Service Award To Plaintiff**

10 1. Subject to Court approval, Defendant agrees not to oppose Plaintiff's request for a
11 Service Award not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00), to be paid from the
12 Gross Settlement Amount, as an enhancement for his service as the PAGA representative, in addition to
13 any payment he may otherwise receive as a PAGA Settlement Member.

14 2. Plaintiff will be responsible for correctly characterizing this compensation for tax
15 purposes and for paying any taxes owing on said amount. The Parties agree that a reduction by the
16 Court of the requested Service Award is not a basis for rendering the entire Settlement voidable or
17 unenforceable. Any reductions by the Court of the Service Award shall revert to the Net Distribution
18 Fund.

19 3. Plaintiff shall not receive any additional payments other than those expressly provided
20 under this Settlement.

21 **D. Settlement Administration Fees And Costs**

22 1. Settlement administration shall be conducted by a qualified, third-party
23 Settlement Administrator agreed to by the Parties and approved by the Court. In this instance, the
24 Parties agree to use ILYM Group, Inc. as the Settlement Administrator. The Parties agree that the
25 Settlement Administrative Costs in the amount of \$3,250 shall be paid from the Gross Settlement
26 Amount. The Settlement Administrative Costs includes all fees and costs for postage, envelopes, and
27

1 computer searches to locate addresses; issuance of the notice in English to PAGA Settlement Members;
2 and expenses of the Settlement Administrator to implement and complete the settlement process
3 according to the terms of this Settlement, to calculate payments to individual PAGA Settlement
4 Members, any cost associated with the escheatment process for any uncashed or undeliverable
5 settlement checks, to prepare any necessary tax documents for PAGA Settlement Members (if
6 necessary), and any other related fees and costs . The parties shall require that the Settlement
7 Administrator undertake all reasonable measures to ensure the protection of any private information for
8 PAGA Settlement Members.

9 2. Any reductions by the Court or any unused amount of the Settlement
10 Administrative Costs shall revert to the Net Distribution Fund.

11 **E. PAGA Award.**

12 1. After deducting payments of the Plaintiff's Counsel Fee Award, Plaintiff's Counsel Cost
13 Award, any Service Award, and Settlement Administration Costs from the Gross Settlement Payment,
14 the remainder shall be the PAGA Award.

15 2. Seventy-five percent (75%) of the PAGA Award will be sent to the LWDA and twenty-
16 five percent (25%) of the PAGA Award will be allocated among the PAGA Settlement Members based
17 on the total number of weeks worked by each PAGA Settlement Member during the PAGA Period in
18 proportion to the total amount of weeks worked by all PAGA Settlement Members during the PAGA
19 Period. The allocation of the PAGA Award to the PAGA Settlement Members is the Net Distribution
20 Fund.

21 **VI. COMPUTATION AND DISTRIBUTION OF GROSS SETTLEMENT PAYMENT**

22 **A. Deposit Of Gross Settlement Payment**

23 1. The Settlement Administrator shall establish a Qualified Settlement Fund pursuant to
24 Section 468B(g) of the Internal Revenue Code for purposes of administering the Settlement. The
25 Settlement Administrator shall furnish the Qualified Settlement Fund with its own Employer ID Number
26 and calculate all settlement checks and payroll deductions and withholdings required under law based on
27

B. Formula For Calculating Share Of Individual Settlement Payment

1. The payment to any individual PAGA Settlement Member will be based on the number of weeks worked by the PAGA Settlement Member during the PAGA Period. Partial weeks will be treated as full work weeks.

3. Defendant's records shall be determinative for purposes of calculating the number of hours worked and any payments to PAGA Settlement Members unless reliable verifiable information is provided by PAGA Settlement Members. The Settlement Administrator shall have ultimate responsibility for resolving any discrepancy after consulting with each Party's counsel in an effort to resolve any dispute.

1. Within thirty-five (35) days after the Effective Date, the Settlement Administrator shall pay to the LWDA an amount equivalent to seventy-five percent (75%) of the PAGA Award, or as otherwise directed by the Court.

2. Defendant shall provide the Settlement Administrator with a list of the names and addresses of the PAGA Settlement Members within fourteen (14) days of the Effective Date. The contact information is being provided confidentially to the Settlement Administrator only, and the Settlement Administrator shall treat the information as private and confidential and take all necessary precautions to maintain the confidentiality of contact information of the PAGA Settlement Members.

1 This information is to be used only to carry out the Settlement Administrator's duties as specified in this
2 Settlement.

3 3. Within twenty-one days (21) days after the Effective Date, the Settlement Administrator
4 shall run a NCOA search on PAGA Settlement Members in order to obtain any updated addresses.
5 Thereafter, the Administrator shall distribute to PAGA Settlement Members to their best address their
6 Individual Settlement Payments, or as otherwise directed by the Court.

7 4. The Settlement Administrator will send the Individual Settlement Payments to the PAGA
8 Settlement Members by postmarked First Class U.S. Mail within thirty-five (35) calendar days of the
9 Effective Date. Such payment will be accompanied by a notice.

10 5. To provide the best notice practicable, any Individual Settlement Payment returned to the
11 Settlement Administrator as non-delivered shall be sent by post-marked First-Class U.S. Mail to the
12 forwarding address affixed thereto, if any. If no forwarding address is provided for an Individual
13 Settlement Payment that is returned as non-deliverable, the Settlement Administrator shall use the best
14 available technology accessible (e.g. skip tracing, address verification, etc.) to the Settlement
15 Administrator or other mutually agreeable method to locate PAGA Settlement Members and will then
16 mail the Individual Settlement Payment to the address identified by the best available technology
17 accessible to the Settlement Administrator or other mutually agreeable method. If no current address is
18 located, the Individual Settlement Payment for that individual will be deemed undeliverable. If any
19 PAGA Settlement Member cannot be located within two attempts at mailings by the Settlement
20 Administrator, the Individual Settlement Payment for that individual will be deemed undeliverable.

21 6. The Settlement Administrator shall maintain a list of the postmark date for the original
22 mailing of the Individual Settlement Payments to the PAGA Settlement Members, the postmark date of
23 any subsequent mailing to any PAGA Settlement Member, and a list of PAGA Settlement Members who
24 did not receive the Individual Settlement Payments due to the inability to locate a valid address using the
25 procedures described herein or who otherwise could not be located within two attempts at mailing.

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7. All settlement checks will remain valid and negotiable for 180 days from the date of their mailing by the Settlement Administrator. After 180 days from the date of their mailing by the Settlement Administrator, any uncashed checks will be void and be sent to the State of California Department of Industrial Relations, Unclaimed Wages Fund in the PAGA Settlement Member's name who did not cash his or her check.

8. No later than January 31 of the year following payment of their individual portion of the PAGA Fund, the Settlement Administrator will prepare and issue IRS Form 1099 to PAGA Settlement Members who received an Individual Settlement Payment.

D. Payment For Attorneys' Fees And Costs

Subject to the provisions of Section V.B.4, above, within thirty-five (35) days after the Effective Date, the Settlement Administrator shall pay to Plaintiff's counsel an amount equal to the Plaintiff's Counsel Fees and Cost Award.

E. Payment For Settlement Administration Fees And Costs

Within thirty-five (35) days after the Effective Date, the Settlement Administrator shall deduct an amount equivalent to the Settlement Administrative Costs.

VI. CLAIMS RELEASED BY PAGA SETTLEMENT MEMBERS

A. Claims Released By The LWDA And All PAGA Settlement Members

Upon the date of completion of the later of the following 1) the Effective Date, ; and 2) Payment of Individual Settlement Payments by the Settlement Administrator to PAGA Settlement Members, the LWDA and PAGA Settlement Members, including Plaintiff, fully release and forever discharge the Released Parties from any and all Released Claims.

B. Tax Treatment

PAGA Settlement Members will assume any employee-side tax obligations or consequences which may arise from this Settlement. PAGA Settlement Member shall be responsible for their own defense of and payment for any claim of unpaid taxes, interest, or penalties brought by any state or federal taxing authority for the PAGA Settlement Member's share of any state or federal tax obligation. If a PAGA Settlement Member has questions about any liability to any state or federal taxing authority,

they shall contact the Settlement Administrator. The PAGA Settlement Members shall not contact Defendant, any of the Released Parties, or Defense Counsel.

C. General Release By Plaintiff Seth Norton

Plaintiff Norton agrees to release the Released Parties for all known and unknown claims, and he is expressly waiving all rights under California Civil Code section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

VII. MISCELLANEOUS PROVISIONS

A. Voiding The Settlement

1. A failure of the Court to approve any material condition of this Settlement shall render the entire Settlement voidable and unenforceable as to Plaintiff and Defendant, at the option of Plaintiff or Defendant. Each party may exercise its option to void this Settlement as provided above by giving notice, in writing, to the other, and to the Court within fifteen (15) days of the Effective Date.

2. Defendant has represented that there are 236 PAGA Settlement Members during the PAGA Period. Plaintiff may at his sole discretion void this Settlement if the final number of PAGA Settlement Members exceeds 259 PAGA Settlement Members. Upon the voidance of the Settlement, the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

B. Parties' Authority

The signatories hereto represent that they are fully authorized to enter into this Settlement.

C. Binding Nature Of The Settlement

1. This Agreement shall be binding upon, and inure to the benefit of, the Parties, the Released Parties, and their successors or assigns. Plaintiff represents, covenants, and warrants that he

has not directly or indirectly, assigned, transferred, encumbered, any claim, demand, action, cause of action or rights released in the Released Claims in this Settlement. This Settlement also shall be binding upon Plaintiff and the PAGA Settlement Members and the parties shall present a judgment to the court for approval and dismissal of the action pursuant to applicable California law.

2. This Settlement may be amended or modified only by a written instrument signed by Plaintiff's Counsel and Plaintiff, as well as Defense Counsel and Defendant. No rights under this Settlement may be waived except in writing.

3. This Settlement and any attached exhibits constitute the entire agreement between Plaintiff and Defendant relating to the terms contained herein. All prior or contemporaneous agreements, understandings and statements, whether oral or written, whether express or implied, and whether by a party or its counsel, concerning this Settlement are merged herein. No oral or written representations, warranties or inducements have been made to any party concerning this Settlement or its exhibits other than the representations, warranties and covenants contained and memorialized in such documents.

4. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any of its provisions. Each term of this Settlement is intended to be contractual and not merely a recital.

D. Joint Drafting Of Settlement Documents

1. Plaintiff's Counsel and Defense Counsel have arrived at this Agreement as a result of an arm's-length negotiation, taking into account all relevant factors, present and potential.

2. This Agreement has been drafted jointly by Plaintiff's Counsel and Defense Counsel and, therefore, in any construction or interpretation of this Settlement, the same shall not be construed against any of the Parties.

3. Plaintiff and Plaintiff's Counsel agree that none of the documents provided to them by Defendant shall be used for any purpose other than the settlement of this Action. Specifically, none of the documents provided shall be used to pursue any subsequent claims or litigation against Defendants or the Released Parties.

E. Execution Of The Settlement

This Settlement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and when taken together with other signed counterparts, shall constitute one signed Agreement, which shall be binding upon and effective as to all Parties.

Any party may sign and deliver this Agreement by signing on the designated signature block and transmitting that signature page via facsimile, DocuSign or an equivalent e-signature plan, or as an attachment to an e-mail to counsel for the other party. Any signature made and transmitted by facsimile, DocuSign or an equivalent e-signature plan, or as an attachment to an e-mail for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding upon the party who transmits the signature page.

F. Continuing Jurisdiction Of The Court

Pursuant to California Code of Civil Procedure section 664.6, the Parties agree that the Court shall retain jurisdiction over the Parties, and over this Settlement, in order to: (i) monitor and enforce compliance of the Agreement, and/or (ii) resolve any disputes over this Agreement or the administration of the benefits of this Agreement. **E. Governing Law**

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California.

G. Attorneys' Fees and Costs

Except as otherwise set forth in this Agreement, the Parties agree that each shall bear their own respective attorneys' fees and costs incurred in this Litigation for the claims alleged and released herein.

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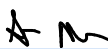
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1 **AGREED TO BY PLAINTIFF:**

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3 DATED: February³, 2022



Seth Norton (Feb 3, 2022 12:06 MST)

4 SETH NORTON, individually and on behalf of
5 other aggrieved employees

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7
8 **AGREED TO BY DEFENDANT:**

9 Dated: February __, 2022

10 **CARE MEDICAL TRANSPORTATION, INC.**

11
12 By: Mildred Carlisle, Chief Executive Officer

1 **AGREED TO BY PLAINTIFF:**

2

3

4 DATED: February __, 2022

5

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9 **AGREED TO BY DEFENDANT:**

10

11 Dated: February 2, 2022

12

SETH NORTON, individually and on behalf of
other aggrieved employees

13

CARE MEDICAL TRANSPORTATION, INC.

14

By: Mildred Carlisle, Chief Executive Officer

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EXHIBIT 1

**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. 37-2020-0036520-CU-OE-CTL

**COURT-APPROVED NOTICE OF
SETTLEMENT OF PAGA CLAIMS**

Date Complaint Filed: October 13, 2020

[Date]

[Name]

[Address]

Re: *Seth Norton v. Care Medical Transportation, Inc.*,
Case No.: 37-2020-00036520-CU-OE-CTL

Dear [Name]:

You are receiving this Notice in connection with a representative lawsuit that was filed by Plaintiff Seth Norton against Defendant Care Medical Transportation, Inc. (the “Company”). As part of a Settlement Agreement (the “Settlement”), the Company provided your name and last-known address and identified you as a non-exempt employee who worked for the Company as an Emergency Medical Technician, Paramedic, Driver, or other similar position, in the State of California (“Aggrieved Employees”) at any time between September 27, 2019 and December 8, 2021 (“Covered Period”).

Pursuant to the terms of the Settlement, and the [redacted] [date] final order of the San Diego County Superior Court (Final Order) in the above numbered case (Action), you are receiving a check—enclosed herewith—representing payment of \$ [redacted], which includes your portion of the Settlement attributed to civil penalties and interest for which you may be issued an IRS Form 1099 if required by the IRS. **YOU ARE NOT REQUIRED TO TAKE ANY ACTION TO RECEIVE YOUR SETTLEMENT SHARE.**

Pursuant to California’s Private Attorneys General Act of 2004, an employee may seek to recover civil penalties and other relief for certain California Labor Code violations committed by an employer on behalf of himself and other current and former aggrieved employees. Mr. Seth Norton (“Plaintiff”) initiated a PAGA action against the Company on September 27, 2020 by

sending notice to the Labor Workforce Development Agency, with a copy provided to the Company (PAGA Notice) and by then subsequently, on October 13, 2020, filing a civil lawsuit with the San Diego Superior Court. The initial complaint was amended on December 21, 2020, March 30, 2021, and [REDACTED], 2022.

While the Company fully disputes the allegations and denies liability, the Company has reached a settlement with Plaintiff, as memorialized in a [REDACTED], 2022 written “Settlement Agreement and Release Of Private Attorney General’s Act (PAGA) Claims” (Settlement Agreement).

Pursuant to the requirements of the PAGA, the San Diego Superior Court reviewed and approved the Settlement. You are entitled to a portion of the proceeds based on your employment with the Company, payable as detailed above. The San Diego County Superior Court’s Final Order approved the Settlement Agreement for a total of \$275,000 (Gross Settlement Amount), to be distributed by the Settlement Administrator thirty-five (35) calendar days of the Court’s approval of the Settlement Agreement.

The Final Order allocates the Gross Settlement Amount into specified portions, including: (1) Mr. Norton’s service award; (2) Plaintiff’s attorneys’ fees and costs, (3) the Settlement Administrator’s costs to administer the Settlement Agreement; (4) payment to the State of California’s Labor and Workforce Development Agency, and (5) a remaining Net Settlement Fund to all Aggrieved Employees.

The Final Order directs an apportionment of the Net Settlement Fund between the Aggrieved Employees by a formula that establishes each person is entitled to a portion of the Net Settlement Fund which will be allocated based on his/her total number of worked weeks during the Covered Period in proportion to the total number of worked weeks of all the Aggrieved Employees within the Covered Period.

The Company has reported approximately _____ Total Work Weeks for the Aggrieved Employees. It has also reported your Work Weeks as [REDACTED], employed between [REDACTED] [date] and [REDACTED] [date]. Thus, the Company calculates your Individual Settlement Payment amounts to \$ [REDACTED].

In consideration of the Company’s payment of the Individual Settlement Payment, the Final Order and the Settlement Agreement provides that all Aggrieved Employees shall release all claims for civil penalties (“Released Claims”) as defined in the Settlement Agreement and copied below:

“Released Claims” means the Claims that Plaintiff and PAGA Settlement Members are fully releasing in exchange for the consideration provided by this Agreement, whether arising at law, in contract or in equity, and whether for economic or non-economic damages, restitution, injunctive relief, penalties or liquidated damages as specified below. Released Claims means all claims actually asserted or which could have been asserted in the Action by Plaintiff and PAGA Settlement Members against the Released Parties, arising during the PAGA Period (September 27, 2019 through December 8, 2021), based on the facts alleged in the operative Second Amended Complaint and proposed Third Amended Complaint, including but not limited to PAGA claims for civil and statutory penalties, including but not limited to violations of and claims arising under California law, Labor Code sections §§ 201, 202, 203, 204, 210, 218, 218.5, 218.6, 223, 226, 226.7, 510, 512, 558, 558.1, 881, 883, 884, 885, 886, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698 et seq., 2802, 2928, provisions of the applicable Industrial

Welfare Commission Wage Order; and the Business & Professions Code §17200, et seq. as it relates to the underlying Labor Code claims referenced above and permissible pursuant to Labor Code Section 2699, and California Code of Civil Procedure § 1021.5 to the extent permissible pursuant to Labor Code Section 2699, as well as attorneys' fees, expenses and interest.

You can find and review the full text of the Final Order, the Settlement Agreement, the PAGA Notice, Mr. Norton's complaint and all other publicly filed papers in the Action through the San Diego County Superior Court's online portal: [REDACTED]. You can also examine all such papers at any time during regular business hours at the Office of the Clerk, San Diego County Superior Court, 330 W. Broadway, San Diego, CA 92101

Counsel for Plaintiff and the PAGA Represented Aggrieved Employees are:

Brian R. Short
Brian@shortlegal.com
Dorota A. James
Dorota@shortlegal.com
ShortLegal, APC
350 10th Avenue, Suite 1000
San Diego, California 92101
Telephone: (619) 272-0720
Fax: (619) 839-3129

Counsel for Defendant for CARE MEDICAL TRANSPORTATION, INC. is:

Alexis S. Gutierrez
agutierrez@higgslaw.com
Geoffrey M. Thorne
thorneg@higgslaw.com
HIGGS FLETCHER & MACK LLP
401 West "A" Street, Suite 2600
San Diego, CA 92101-7913
TEL: 619.236.1551
FAX: 619.696.1410
Attorneys for Defendant
CARE MEDICAL TRANSPORTATION, INC.

PLEASE DIRECT ALL QUESTIONS REGARDING THE FINAL ORDER OR THE SETTLEMENT AGREEMENT TO THE CLAIMS ADMINISTRATOR. PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION REGARDING THESE MATTERS.

Sincerely,

[Claims Administrator representative]

EXHIBIT 2

SHORTLEGAL, APC
Brian R. Short (SBN 236140)
Email: Brian@ShortLegal.com
Dorota A. James (SBN 309933)
Email: Dorota@ShortLegal.com
350 10th Ave., Suite 1000
San Diego, California 92101
Telephone: 619.272.0720
Facsimile: 619.839.3129

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

THIRD AMENDED COMPLAINT

1. PAGA Claim for Civil Penalties
(Labor Code Private Attorneys
General Act of 2004 ("Paga"), Lab.
Code §§ 2698, et seq.)

Initial Complaint Filed: October 13, 2020
FAC Filed: December 21, 2021
SAC Filed: March 30, 2021
TAC Filed: ***

Plaintiff SETH NORTON on behalf of himself and all other aggrieved employees and the State
of California alleges as follows:

I.

NATURE OF ACTION AND INTRODUCTORY STATEMENT

1. Plaintiff SETH NORTON (hereinafter "NORTON"), brings this PAGA representative
action suit against Defendant CARE MEDICAL TRANSPORTATION, INC. ("CARE" or "Defendant")
and DOES 1 through 50, inclusive (collectively referred to herein as "Defendants"), on behalf of himself

1 and all other current and former aggrieved employees and the State of California for engaging in a
2 systemic pattern of wage and hour violations under California Labor Code and Industrial Welfare
3 Commission (“IWC”) Wage Orders.

4 2. CARE MEDICAL TRANSPORTATION, INC. is a company that provides emergency
5 medical transportation services in San Diego County, California.

6 3. SETH NORTON, at times relevant, was employed by Defendants as non-exempt
7 emergency medical technician (“EMT”) in San Diego, California.

8 4. Plaintiff is informed and believes, and thereon alleges, that Defendants decreased their
9 employment-related costs in order to increase their level of productivity and profits by systematically
10 violating both state wage and hour laws and the applicable IWC Wage Order, including, but not limited
11 to PAGA representative action claims for:

- 12 a. Failing to pay for minimum, regular and overtime wages for all hours worked;
- 13 b. Failing to permit and authorize rest breaks;
- 14 c. Failing to indemnify for business expenses;
- 15 d. Failing to pay reporting time;
- 16 e. Unlawful deductions of wages in violation of Labor Code Section 2928;
- 17 f. Failing to provide and maintain accurate records and itemized wage statements;
- 18 g. Failing to timely pay wages due during and upon termination of employment.;
- 19 h. Failing to provide a paid training in the following areas: responding to shooter
20 and mass casualty incidents and natural disasters, and preventing violence against
21 emergency ambulance employees and patients;
- 22 i. Failure to provide required mental health services;
- 23 j. Failing to provide and authorize meal periods;
- 24 k. Failure to comply with staffing of meal periods provisions;
- 25 l. Failure to provide reasonable temperature at work area.

26 5. Plaintiff brings this lawsuit seeking only PAGA remedies which are not a subject to any
27 arbitration agreements pursuant to California law, including any civil penalties, injunctive, restitution and
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monetary relief against Defendants, and each of them, on behalf of all aggrieved employees and the State of California to recover, among other things, PAGA remedies/penalties pursuant to Labor Code Section 2699 , attorney’s fees and costs pursuant to California Labor Code §§ 201, 202, 203, 204, 210, 218, 218.5, 218.6, 223, 226, 226.7, 510, 512, 558, 558.1, 881, 883, 884, 885, 886, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698 et seq., 2802, 2928, California Code of Civil Procedure 1021.5, and provisions of IWC Wage Order 9-2001. Plaintiff reserves the right to name additional representatives throughout the State of California.

II.

PARTIES, JURISDICTION AND VENUE

6. Plaintiff SETH NORTON is and at all relevant times was a resident of the State of California, and at all relevant times was employed by Defendants in San Diego, California.

7. Defendant CARE MEDICAL TRANSPORTATION, INC. (“CARE”), is a California company doing business in California, including San Diego County, California.

8. Plaintiff is informed and believes, and thereon alleges, that at times relevant CARE, and Does 1 through 50 are the alter egos of each other and directly or indirectly, or through agents or other persons, employed Plaintiff and other current and former aggrieved employees, and exercised control over their wages, hours, and/or working conditions. Plaintiff is informed and believes, and thereon alleges, that each Defendant directly or indirectly, or through agents or other persons, acted and/or ratified in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

9. Plaintiff was, at times relevant, employed by Defendants in San Diego, California as an emergency medical technician and was subject to the employment policies, procedures and practices implemented by Defendants which applied to all of their employees throughout the State of California, including in San Diego.

10. Defendants, at all relevant times, conducted business in the State of California and were employers who violated, or caused to be violated, a section of Part 2, Chapter 1, of the California Labor

1 Code or any provision regulating hours and days of work in any order of the Industrial Welfare
2 Commission and, as such, are subject to penalties for each underpaid employee as set forth in Labor Code
3 § 558 and or 558.1.

4 11. The true names and capacities of the Defendants named as DOES 1 through 50, inclusive,
5 are presently unknown to Plaintiff. Plaintiff will amend this Complaint setting forth the true names and
6 capacities of these fictitious defendants when they are ascertained. Plaintiff is informed and believes, and
7 on that basis, alleges that each of the fictitious Defendants have participated in the acts alleged in this
8 Complaint.

9 12. Jurisdiction and venue are proper for the San Diego Superior Court because Defendants
10 maintain offices, transact business, and/or have an agent in San Diego Superior County and some of the
11 acts and events complained of herein occurred in the judicial district of San Diego County Superior Court
12 and the State of California.

13 III.

14 GENERAL ALLEGATIONS

15 13. Plaintiff SETH NORTON was employed with Defendants from January 6, 2020 until July
16 27, 2020 when he resigned.

17 14. Defendant CARE is a San Diego company that provides emergency medical transportation
18 services in San Diego County, California.

19 15. Plaintiff and all other aggrieved employees worked under numerous Defendants' policies,
20 practices, and procedures relating to the hours worked, wage statements, recordkeeping, and payment of
21 wages applicable to Plaintiff and all other aggrieved employees of Defendants in the State of California.
22 Defendants failed to pay all wages, including regular, minimum, and overtime wages, to Plaintiff and all
23 other aggrieved employees as a result of Defendants' unlawful policies and practices.

24 16. During their tenure with Defendants, Plaintiff and all other aggrieved employees were non-
25 exempt hourly employees eligible for overtime wages for work in excess of eight (8) hours a day and 40
26 hours within a workweek but they were not paid at least minimum wage for each hour worked, nor were
27 they provided overtime wages for all overtime hours worked.

1 17. At all times relevant, Defendants required Plaintiff and other class members to remain on
2 call during the entirety of their shifts and carry radios, pagers, and other electronics, and keep those devices
3 on, to remain vigilant and responsive to calls when the need arose. Plaintiff and all other aggrieved
4 employees were required to remain on-call and carry the portable communication devices during their
5 lunch breaks as well to ensure any CARE dispatcher would be able to reach them in case they needed to
6 get immediately to an emergency scene. In addition, at all relevant times, Plaintiff and other all other
7 aggrieved employees were required to remain in close proximity to their ambulances during their lunch
8 breaks in order to reach them as quickly as possible, if needed.

9 18. While Plaintiff and all other current and former aggrieved employees were required by
10 Defendants to be on call during the entirety of their shifts, Defendants had a practice of automatically
11 clocking out and in Plaintiff and all other aggrieved employees for their lunches and deducting 30-minutes
12 from their daily total hours worked during a single shift despite the fact that they were working. As result
13 of the illegal practice, Plaintiff and all other current and former aggrieved employees were not
14 compensated for all minimum, regular and overtime wages as required under the relevant Labor Code
15 provisions, including but not limited to Labor Code Section 885(b).

16 19. In addition, because Plaintiff was paid an hourly rate of \$13.00, a California statewide
17 minimum wage, the automatic deduction of 30 minute per every shift Plaintiff worked effectively
18 decreased his hourly rate below the required minimum wage required by the California Labor Code. On
19 information and belief, other putative Class Members were subject to this unlawful practice and policy.

20 20. At all relevant times, Defendants required Plaintiff and other aggrieved employees to carry
21 and keep on their pagers while off-the clock to monitor for any incoming messages from their supervisors.
22 The pager was used as a quasi-company intranet to disseminate information regarding work related
23 policies or company news. Defendants also used the pager to send updates regarding the changes to the
24 master work schedule and open shifts. As the daily and weekly work schedules would fluctuate and adjust
25 from day-to-day based upon unpredictable workforce need, it was expected that Plaintiff and other
26 aggrieved employees monitor the pager at all times, including their time off-the-clock. Although being a
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1 compensable time, Defendants failed to pay Plaintiff and other aggrieved employees for the off-the-clock
2 and on-call time as required under the relevant Labor Code provisions.

3 21. At all relevant times, the aggrieved employees who held the positions of EMT/Field
4 Training Officers and were in charge of training newly hired EMTs, spent numerous hours off-the-clock
5 drafting performance reviews and performance progress notes regarding newly trained EMTs and
6 participating via Google Hangout app in Field Training Officers discussions and chats. However,
7 Defendants failed to pay its EMT/Field Training Officers for the time they worked off-the-clock to benefit
8 their employers.

9 22. At all relevant times, Defendants informed newly-hired employees to report to work 10-
10 15 minutes prior to the scheduled shift to complete ambulance pre-check before leaving the station en-
11 route. Following Defendants' requirements, the aggrieved employees reported to work 10-15 minutes
12 prior to their scheduled shifts to complete these safety inspections. However, Defendants had a practice
13 of editing the actual time entries but rounding them up to no more than 5 minutes before the scheduled
14 start time of the shift and, and consequently failed to pay its employees for all hours worked. This was
15 despite the fact that Defendants' policies specifically require safety inspections of their vehicles prior to
16 the scheduled shift and it expressly-knew that its employees are working during this uncompensated time.

17 23. Additionally, at all relevant times, in violation of Labor Code Sections 226.7, 512, and
18 885(a), Plaintiff and all other aggrieved employees were denied meal periods as prescribed by the
19 California Labor Code. Specifically, Defendants failed to provide Plaintiff, and on information and belief
20 other aggrieved employees with a second meal periods on workdays when Plaintiff and other aggrieved
21 employees worked more than ten (10) hours. Plaintiff and other aggrieved employees worked shifts longer
22 than ten (10) hours (double shifts were up to 17 hours in length), however, they were frequently unable to
23 take their second meal until the end of the 12th hour of work or later in violation of the relevant provision
24 of the Labor Code and the applicable IWC Order. On information and belief, Plaintiff and all other
25 aggrieved employees did not voluntarily or willfully waive the mandated meal periods.

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24. At all times relevant, Defendants did not maintain compliant off-duty rest period policies for Plaintiff and other current and former aggrieved employees as required by the California Labor Code, nor did they provide rest periods compliant under California law, to Plaintiff and other employees. On information and belief, Defendants had a common pattern and practice of failing to provide compliant off-duty 10 - minute rest breaks for shifts longer than eight (8) hours. Plaintiff and other aggrieved employees frequently worked shifts longer than ten (10) and twelfth (12) hours without receiving a third and fourth rest breaks as required under Labor Code Section 226.7.

25. Defendants failed to pay Plaintiff and other aggrieved employees rest period premium wages for each day in which they did not authorize or permit them to take compliant rest periods.

26. At all relevant times, Defendants violated the requirement in Section 5 of the IWC Wage Order 9 but failing to pay reporting time wages to Plaintiff and other aggrieved employees who report to work, but were not put to work. Due to day-to-day changes of their work schedule resulting from Defendants' unpredictable workforce needs and/or shortage, Plaintiff and other aggrieved employees would timely report to work but were sent back home without being compensated for the required reporting time.

27. At all relevant times, Defendants offered Paid Time Off (PTO) to its employees as a part of their benefits package. The PTO accrues on a pay period basis. Until April 2021, Defendants' written policies did not set any condition related to the Class Members' tardiness that would prevent them from accruing the PTO. However, in violation of Labor Code Section 2928, Defendants had a practice of penalizing its employees for tardiness by deducting earned PTO hours from their paychecks. Defendants deducted the maximum number of PTO hours to be accrued during a pay period in such trivial instances like one-two minute tardiness. This unlawful practice went unnoticed for years as the paychecks issued by CARE did not include any entries regarding the PTO hours accrued and/or the PTO hours used as an express attempt to hide this illegal conduct.

28. At all relevant times, Defendants failed to provide Plaintiff with wage statements accurately itemizing information required by Labor Code § 226(a) and Section 7 of the applicable Wage Order including. The wages statements that were provided did not include all the items required by law

1 and some of information they did contain was inaccurate. For example, the wage statements did not
2 include all regular and overtime hours worked and all wages earned. On information and belief, others all
3 current and former aggrieved employees were subject to the same policy and practice concerning wage
4 statements and receive similarly deficient wage statements.

5 29. As a result of these deficiencies and inaccuracies, Plaintiff and other all aggrieved
6 employees were not able to promptly and easily determine from the wage statements alone their total
7 overtime and/or all wages earned.

8 30. At all relevant times, Plaintiff and other aggrieved employees were required to maintain
9 and utilize their own cellphone to perform their job duties, e.g. the employees use their cell-phones as a
10 navigation system while transporting patients, and to communicate with their supervisors regarding
11 changes into their work schedules, and any other issues related to their job duties. In violation of Labor
12 Code Section 2802(a) Plaintiff and the current and former employees were never reimbursed for these
13 required expenses which were incurred for the benefit of Defendants.

14 31. Defendants failed to maintain accurate records reflecting all wages earned as required by
15 law.

16 32. Defendants failed to pay Plaintiff and other all aggrieved employees for all wages due and
17 owing and by the times required by law in the time periods set forth by Labor Code § 204 and Section 4
18 of the applicable Wage Order in that Defendants failed to properly compensate said employees for all
19 hours worked.

20 33. Defendants failed to pay Plaintiff SETH NORTON and other all aggrieved employees all
21 wages due and owing at the time of termination of employment as required by Labor Code §§ 201(a) and
22 202(a), as applicable, because Plaintiff SETH NORTON and all other aggrieved employees were not
23 properly compensated for all hours worked. On information and belief, Defendants willingly withheld
24 wages including, but not limited to overtime wages.

25 34. At all relevant times, Defendants failed to outfit the ambulances driven by Plaintiff and all
26 other aggrieved employees with properly functioning air-conditioning systems which are necessary to
27 provide a reasonable and safe temperature for the EMTs to perform their job duties. Plaintiff and, on
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1 information and belief other aggrieved employees, repeatedly informed Defendants that the air-
2 conditioning systems in their ambulances were routinely not functioning, but Defendant failed to have the
3 air-conditioning system fixed to ensure that the work environment met the conditions required by Section
4 15 of the applicable IWC Wage Order. As result of Defendants' failure to provide properly air-conditioned
5 ambulances, Plaintiff and other aggrieved employees have been exposed to extreme heat, especially during
6 summer and early autumn where the temperatures reach above 80-90 degrees inside the vehicles.

7 35. At all relevant times, Defendants failed to provide to Plaintiff and all aggrieved employees
8 training in each of the following areas: in responding to active shooter and mass casualty incidents and
9 natural disasters; and preventing violence against emergency ambulance employees and patients as
10 required under Labor Code Sections 881 (b)-(c) and 883 (a).

11 36. At no point during the first 30 days after being hired, Plaintiff received employer-paid
12 mental health and wellness education. Defendants also failed to inform Plaintiff about available mental
13 health treatments and support services and provide general information regarding common mental health
14 illnesses pursuant to Labor Section 884 (a). On information and belief, other putative Class Members were
15 subject to this unlawful practice and policy.

16 37. Plaintiff also alleges that at times, Defendants scheduled Plaintiff's and, on information
17 and belief, other aggrieved employees' meal periods during the first and/or last hour of a work shift in
18 violation of Labor Code Section 886(a)(1).

19 IV.

20 PRIVATE ATTORNEYS GENERAL ACT OF 2004 DESIGNATION

21 38. The Cause of Action alleged herein is appropriately suited for a Labor Code Private
22 Attorneys General Act of 2004 (hereinafter referred to as "PAGA") representative action because:

- 23 a. This action involves allegations of violations of provisions of the California Labor Code that
24 either do not provide for a civil penalty or provide for a civil penalty to be assessed and
25 collected by the Labor and Workforce Development Agency (hereinafter referred to as
26 "LWDA") or any departments, divisions, commissions, boards, agencies or employees;

1 b. Plaintiff NORTON is an "aggrieved employee" because he was employed by the alleged
2 violators during the applicable statutory period and had one or more of the alleged violations
3 committed against him and, therefore, is properly suited to represent the interests of all other
4 current and former aggrieved employees of Defendants;

5 c. Plaintiff NORTON seeks to recover all applicable penalties under PAGA on behalf of
6 himself and all other aggrieved employees pursuant to Labor Code § 2699 as well as
7 attorneys' fees, costs, and/or other damages as permitted by PAGA through a representative
8 action pursuant to the PAGA and the California Supreme Court in *Arias v. Superior Court*
9 (2009) 46 Cal.4th 969. Therefore, Plaintiff is not required to, nor does he seek class
10 certification of the PAGA claims under Code of Civil Procedure § 382.

11 d. Pursuant to Labor Code § 2699.3(a), Plaintiff NORTON has complied with his notice
12 requirements by serving via certified mail, return receipt requested to Defendant CARE
13 MEDICAL TRANSPORTATION, INC. and by online filing to the LWDA, a notice with his
14 claims for wage and hour violations and penalties. The PAGA claims have been tolled during
15 the pendency of the notice period to the LWDA. Thereafter, on March 29, 2021, Plaintiff
16 submitted an amended written notice by online filing to the Labor and Workforce
17 Development Agency ("LWDA") and by certified mail to Defendants, of the specific
18 provisions of the Labor Code alleged to have been violated, including the facts and theories
19 to support the alleged violations.

20 On December 23, 2021, Plaintiff submitted a second amended written notice by online filing
21 to the Labor and Workforce Development Agency ("LWDA") and by certified mail to
22 Defendants, of the specific provisions of the Labor Code alleged to have been violated,
23 including the facts and theories to support the alleged violations. The statutory period
24 expired, and the LWDA did not serve Plaintiff NORTON with a notice of intent to assume
25 jurisdiction over the applicable penalty claims alleged in the initial and second amendments
26 to the initial LWDA complaint. Therefore, Plaintiff NORTON satisfied and exhausted the
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procedural notice requirement to pursue penalties against Defendants pursuant to Labor Code § 2698, *et seq.*

VI.
CAUSES OF ACTION

FIRST CAUSE OF ACTION
PRIVATE ATTORNEY GENERAL ACT (PAGA)

(Violation of Labor Code § 2699, *et seq.*)
(Alleged by Plaintiff Individually and On Behalf of all current and former Aggrieved Employees
Against All Defendants)

39. Plaintiff realleges and incorporates by reference the foregoing allegations, as though set forth herein.

40. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of herself and other current or former employees pursuant to the procedures specified in Labor Code § 2699.3.

41. Plaintiff NORTON is an “aggrieved employee” because he was employed by the alleged violator and had one or more of the alleged violations committed against him, and therefore is properly suited to represent the interests of other current and former aggrieved employees of Defendants.

42. On or about September 27, 2020 pursuant to Labor Code § 2698, *et seq.*, Plaintiff NORTON served via certified mail, return receipt requested, the LWDA, and DEFENDANT with his claims for wage and hour violations and penalties. Thereafter, on March 29, 2021 and December 23, 2021 Plaintiff submitted an amended and second amended written notices, respectively, by online filing to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to Defendants, of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. The statutory period expired, and the LWDA did not serve Plaintiff with a notice of intent to assume jurisdiction over the applicable penalty claims. Therefore, Plaintiff has satisfied and exhausted the procedural notice requirement to pursue penalties against Defendants pursuant to Labor Code §2698, *et seq.*

43. Labor Code § 1198 states “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.”

44. Defendants violated Labor Code §§ 885(b), 1194, 1197, and 1198 by failing to pay Plaintiff and current and former aggrieved employees at least minimum and regular wages for the time permitted to work, engaged in work, and/or under Defendants’ control as alleged herein. Under Labor Code § 2699 (f)(2) Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for an initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

45. Defendants violated Labor Code §§ 510 and 1198 by failing to pay Plaintiff and current and former aggrieved employees overtime wages for the time permitted to work, engaged in work, and/or under Defendants’ control as alleged herein. On information and belief, at all relevant times, Plaintiff and other current and former aggrieved employees were not paid overtime wages when they worked in excess of eight (8) hours a day or forty (40) hours within a workweek. Therefore, under Labor Code § 2699 (f)(2) Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for an initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

46. Defendants violated Labor Code §§ 2267, 512, and 885(a), and Sections 11 of the applicable IWC Order by failing to provide Plaintiff and other aggrieved employees with meal periods as mandated by the Industrial Welfare Commission. As a result of the unlawful employment practices alleged herein, Plaintiff seeks the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699 (f)(2), and seeks to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

47. In violation of Labor Code § 886 (a), Defendants scheduled Plaintiff’s and, on information and belief, other aggrieved employees’ meal breaks during the first or last hour of a work shift. Therefore, under Labor Code § 2699 (f)(2) Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for an initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

1 48. Defendants violated Labor Code §§ 226.7 and 1198 by failing to provide Plaintiff and
2 current and former aggrieved employees rest periods for every four hours of work and by failing to pay
3 them premium wages for each day compliant rest period were not provided. Under Labor Code §
4 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period
5 for an initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

6 49. In violation of Labor Code § 2802(a), Defendants failed to indemnify an employee for all
7 necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his
8 or her duties, or of his or her obedience to the direction of the employer. Therefore, under Labor Code §
9 2699 (f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period
10 for an initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation.

11 50. On information and belief, Defendants failed to pay Plaintiff and other aggrieved employees
12 the reporting time pay for every instance an employee was required to report to work and did report as
13 required under IWC-Wage Order Section 5. As result of Defendants' failure, Plaintiff and other aggrieved
14 employees are entitled to a civil penalty of \$100 for each aggrieved employee per pay period for an initial
15 violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to
16 Labor Code § 2699(f)(2).

17 51. In violation of Labor Code Section 2928, Defendants had a practice of penalizing their
18 employees for tardiness by deducting earned PTO hours from their paychecks. As result of Defendants'
19 failure, Plaintiff and other aggrieved employees are entitled to a civil penalty of \$100 for each aggrieved
20 employee per pay period for an initial violation and \$200 for each aggrieved employee per pay period for
21 each subsequent violation pursuant to Labor Code § 2699 (f)(2).

22 52. On information and belief, Defendants failed to comply with Labor Code §§ 881 (b)-(c) and
23 883 (a) requiring Defendants to provide to Plaintiff and all aggrieved employees training in each of the
24 following areas: in responding to active shooter and mass casualty incidents and natural disasters; and
25 preventing violence against emergency ambulance employees and patients. As result of Defendants'
26 failure, Plaintiff and other aggrieved employees are entitled to a civil penalty of \$100 for each aggrieved
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1 employee per pay period for an initial violation and \$200 for each aggrieved employee per pay period for
2 each subsequent violation pursuant to Labor Code § 2699 (f)(2).

3 53. Defendants failed to provide Plaintiff and, on information and belief other aggrieved
4 employee with a paid mental health and wellness education during the first 30 days of their employment
5 with Defendants. Defendants also failed to inform Plaintiff about available mental health treatments and
6 support services and provide general information regarding common mental health illnesses pursuant to
7 Labor Section 884 (a). As a result of the Defendants' violations of Labor Code § 884(a), Plaintiff seeks
8 the assessment of all applicable and available PAGA remedies pursuant to Labor Code § 2699, and seeks
9 to recover all attorneys' fees, costs, and/or any other damages permitted under PAGA.

10 54. Section 15 of the applicable IWC order requires that the temperature maintained in each
11 work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the
12 process and work performed. As alleged above, Plaintiff and other aggrieved employees spent the majority
13 of their shifts in ambulances owned and maintained by Defendants. The ambulances are not equipped with
14 properly functioning air-conditioning systems which are necessary to provide a reasonable and safe
15 temperature for the EMTs to perform their job duties. As result of Defendants' failure to provide properly
16 air-conditioned ambulances, Plaintiff and other aggrieved employees have been exposed to extreme heat,
17 especially during summer and early autumn where the temperatures reach above 80-90 degrees inside the
18 vehicles. As a result of the unlawful employment practices alleged herein, Plaintiff seeks the assessment
19 of all applicable and available PAGA remedies pursuant to Labor Code § 2699 (f)(2), and seeks to recover
20 all attorneys' fees, costs, and/or any other damages permitted under PAGA.

21 55. Defendants violated Labor Code §§ 226(a), 1174(d), and 1198 and Section 6 of the
22 applicable IWC Wage Order by failing to maintain and provide Plaintiff and other current and former
23 aggrieved employees of Defendants with accurate wage statements itemizing all information required by
24 Labor Code § 226(a), as alleged herein, including the correct number of hours worked and the correct total
25 wages earned. Unlike class action claims, a PAGA plaintiff need not meet the "injury" and "knowing and
26 intentional" violation requirements of Labor Code § 226(e). See *Lopez v. Friant & Associates, LLC* (2017)
27 15 Cal.App.5th 773, 788 ("a plaintiff seeking civil penalties under PAGA for a violation of section 226(a)
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1 does not have to satisfy the “injury” and “knowing and intentional” requirements of section 226(e)(1)”);
2 See also *Lawson v. ZB, N.A.* (2017) 18 Cal.App.5th 705, 722 (“the scienter requirement [of § 226(e)] has
3 no application in a PAGA claim for violation of [§ 226(a)]”). Thus, under Labor Code § 2699(f)(2),
4 Defendants are subject to a civil penalty of \$100 for each aggrieved employee per pay period for the initial
5 violation of Labor Code §§ 226(a) and 1198, and \$200 for each aggrieved employee per pay period for
6 each subsequent violation.

7 56. Alternatively, Labor Code § 226.3 provides for a civil penalty in the amount of \$250 per
8 violation in an initial citation and \$1,000 for each violation in a subsequent citation for failure to provide
9 accurate itemized wage statements.

10 57. Under Labor Code § 1174.5 an employer who willfully fails to maintain the records by
11 Labor Code § 1174 is a subject to a civil penalty of \$500.

12 58. Defendants violated Labor Code §§ 201, 202, 203, and 1198 by failing to pay Plaintiff and
13 other current and former aggrieved employees all overtime wages owed and all meal premiums wages
14 owed by the time set forth by law upon their separation of employment as alleged herein. Thus, under
15 Labor Code § 2699(f)(2), Defendants are subject to a civil penalty of \$100 for each aggrieved employee
16 per pay period for the initial violation of Labor Code §§ 201, 202, 203, and 1198, and \$200 for each
17 aggrieved employee per pay period for each subsequent violation.

18 59. Defendants violated Labor Code §§ 204 and 1198 by failing to pay Plaintiff and other
19 current and former aggrieved employees all overtime wages owed by the time set forth by law upon during
20 their employment as alleged herein. Thus, under Labor Code § 2699(f)(2), Defendants are subject to a
21 civil penalty of \$100 for each aggrieved employee per pay period for the initial violation of Labor Code
22 §§ 204 and 1198, and \$200 for each aggrieved employee per pay period for each subsequent violation.

23 60. As set forth herein, Defendants violated Labor Code sections 201, 202, 203, 204, 223, 226,
24 510, 512, 881, 883, 884, 885, 1174, 1198, 2802, 2928, and Labor Code § 2699, *et seq.*, imposes upon
25 Defendants, and each of them, penalties for violating the Labor Code, including those penalties set forth
26 in 210, 226.3, 558, 1174.5 and 2698, *et seq.*

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61. Pursuant to Labor Code § 2699, Plaintiff NORTON seeks to recover civil penalties on behalf of himself and other current and former aggrieved employees of Defendants who suffered one or more the labor code violations described herein. The exact amount of the applicable penalty is all in an amount to be shown according to proof at trial.

62. For bringing this action, Plaintiff NORTON is entitled to attorney's fees and costs incurred herein.

WHEREFORE, Plaintiff NORTON prays for relief as hereinafter requested.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for damages for judgment against Defendants, jointly and severally, as applicable, as follows:

- a. For penalties to the extent permitted pursuant to the Labor Code, Orders of the Industrial Welfare Commission including, but not limited to, civil penalties recoverable under Cal. Labor Code pursuant to Labor Code §2698 et seq.;
- b. For reasonable attorney's fees and cost of suit and, to the extent permitted by law, including pursuant to Labor Code §§ 218.5, 226, 1194, and Code of Civil Procedure § 1021.5; and
- c. An award of such other and further relief as this Court deems proper and just.

Dated: February 4, 2022

ShortLegal, APC



By: _____

BRIAN R. SHORT
DOROTA A. JAMES
Attorneys for Plaintiff SETH NORTON

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SHORTLEGAL, APC
350 10TH AVE., SUITE 1000
SAN DIEGO, CA 92101

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury to the extent authorized by law.

SHORTLEGAL, APC

Dated: February 4, 2022



By: _____

BRIAN R. SHORT
DOROTA A. JAMES
Attorneys for Plaintiff SETH NORTON