

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND RELEASE

This Joint Stipulation for Private Attorneys General Act Settlement Agreement and Release is made and entered into by and between Plaintiff Derek Dukes ("Plaintiff") on behalf of himself and on behalf of the State of California and all allegedly-aggrieved employees, and Defendant K.W.P.H. Enterprises d/b/a American Ambulance ("Defendant") (jointly, "the Parties"), subject to the approval of the Court, that the settlement of the Action (as defined below) shall be effectuated upon and subject to the following terms and conditions. Plaintiff and Defendant collectively are referred to herein as the "Parties." Capitalized terms as used herein shall have the meanings set forth in Section II.A or elsewhere in this Settlement Agreement and Release.

I. RECITALS

WHEREAS, on November 19, 2020, Derek Dukes notified the Labor Workforce Development Agency ("LWDA") of his intent to file an action under California's Private Attorneys General Act, California Labor Code § 2698 *et seq.* ("PAGA"), contending that Defendant: (1) failed to pay wages due for all hours worked before the beginning of their shifts as required by Labor Code sections 1182.1-1182.3, 1194, 1194.2, 1197 and 1198, in violation of Labor Code section 558; (2) failed to pay overtime wages as required by Labor Code sections 510 and 1194, in violation of Labor Code section 558; (3) failed to provide accurate itemized wage statements, in violation of Labor Code sections 226 and 226.3; (4) failed to timely pay all wages due upon separation from employment, in violation of Labor Code sections 201 through 203; and (5) failed to pay Plaintiff and other aggrieved employees all wages due on their regular paydays, in violation of Labor Code sections 204 and 210 (the "PAGA Letter");

WHEREAS, Plaintiff allowed the LWDA an opportunity to investigate his claims as required by the Labor Code;

WHEREAS, the LWDA took no action in response to Plaintiff's notice;

WHEREAS, on January 25, 2021, Derek Dukes commenced a lawsuit by filing a Representative Action Complaint on behalf of himself and other similarly situated individuals styled *Derek Dukes v. K.W.P.H. Enterprises d/b/a American Ambulance, et al.*, Fresno County Superior Court Case No. 21CECG00216, asserting one PAGA cause of action based upon the Labor Code violations stated in his PAGA Letter;

WHEREAS, during the course of the litigation the Parties engaged in significant informal discovery, including the exchange of written information, documents, and payroll information concerning the Aggrieved Employees;

WHEREAS, on December 15, 2021, the Parties engaged in mediation with James A. Dilling, Esq. and successfully reached agreement on settlement, which was thereafter memorialized in a Memorandum of Understanding signed by the Parties on December 21, 2021;

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND RELEASE

WHEREAS, the Parties desire to settle, compromise, and avoid litigation relating to the claims described in Plaintiff's PAGA Letter and in the pleadings in the Action, and have agreed to settle the Action upon the terms and conditions and for the consideration set forth in this Settlement Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is hereby agreed by and between the Parties hereto as follows:

II. SETTLEMENT TERMS

A. Definitions

1. **"Aggrieved Employees"** are all current and former paramedics and emergency medical technicians ("EMTs") who worked for Defendant at any time during the PAGA Period. Defendant has represented that there are approximately 744 Aggrieved Employees.
2. **"Action"** means the case entitled *Derek Dukes v. K.W.P.H. Enterprises d/b/a American Ambulance, et al.*, pending in the Superior Court of the State of California for the County of Fresno ("Court"), Case No. 21CECG00216.
3. **"Attorneys' Fees and Costs"** means such attorneys' fees and litigation costs as the Court may award to Plaintiff's Counsel for the services they have rendered and will render to the Aggrieved Employees in the Action, and for the costs they have incurred and will incur in the investigation, litigation, and resolution of the Action, and which shall not exceed One-Hundred-Fifteen-Thousand One-Hundred-Sixty-Five Dollars (\$115,165.00).
4. **"Effective Date"** means the date this Settlement is approved as provided herein and the Court's order granting Settlement Approval and entry of Final Judgment becomes final and is no longer appealable. For purposes of this Settlement, "becomes final and is no longer appealable" shall mean the later of: (a) the day after the last date by which a notice of appeal to the applicable Court of Appeal of the order and judgment approving this Settlement may be timely filed and none is filed (*i.e.*, 61 days from notice of entry of judgment); (b) if an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or in any other manner that confirms the validity of the order and judgment, the day after the last date for filing a request for further review of the order and judgment approving this Settlement passes, and no further review is requested; or (c) if an appeal is filed and the order approving this Settlement is affirmed and further review of the order is requested, the day after the review is finally resolved and the order and judgment approving this Settlement is affirmed. In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Effective Date does not occur for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their respective positions. The Effective Date cannot occur, and Defendant will not be obligated to fund this Settlement, until and unless there is no possibility of an appeal or further appeal that could potentially prevent this Settlement from becoming final and binding.

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE**

5. **“Gross Settlement Amount”** means the Three-Hundred-Forty-Five-Thousand-Four-Hundred-Ninety-Five Dollars (\$345,495.00) that Defendant will pay if the Court approves this Settlement and the Effective Date occurs. The Gross Settlement Amount is inclusive of all payments to the LWDA and Aggrieved Employees, for Attorney’s Fees and Costs payment to Plaintiff’s Counsel, and for Settlement Administration Fees.

6. **“Individual Settlement Payment”** means the portion of the Net Settlement Amount allocated to each Aggrieved Employee following distribution to the LWDA, as calculated pursuant to Section C(6) below. Individual Settlement Payments will be paid to Aggrieved Employees in the form of a check and the Settlement Administrator shall make all required withholdings.

7. **“Net Settlement Amount”** is the amount left in the PAGA Settlement Fund once seventy-five percent (75%) of the Fund has been distributed to the LWDA.

8. **“PAGA Letter”** means the notice Plaintiff provided to the LWDA on November 19, 2020, of his intent to file an action under California’s Private Attorneys General Act, California Labor Code § 2698 *et seq.* (“PAGA”), contending that Defendant (1) failed to pay wages due for all hours worked before the beginning of their shifts as required by Labor Code sections 1182.1-1182.3, 1194, 1194.2, 1197 and 1198, in violation of Labor Code section 558; (2) failed to pay overtime wages as required by Labor Code sections 510 and 1194, in violation of Labor Code section 558; (3) failed to provide accurate itemized wage statements, in violation of Labor Code sections 226 and 226.3; (4) failed to timely pay all wages due upon separation from employment, in violation of Labor Code sections 201 through 203; and (5) failed to pay Plaintiff and other aggrieved employees all wages due on their regular paydays, in violation of Labor Code sections 204 and 210. A copy of this letter is attached to this Settlement as **Exhibit A**.

9. **“PAGA Period”** means the period from November 19, 2019 through December 31, 2021 (the “PAGA Period”).

10. **“PAGA Settlement Fund”** means the Gross Settlement Amount minus (a) the award of Attorney’s Fees and Costs to Plaintiff’s Counsel, and (b) all Settlement Administration Fees owed to the Settlement Administrator. Seventy-five percent (75%) of the PAGA Settlement Fund will be distributed to the LWDA and twenty-five percent (25%) will be distributed to Aggrieved Employees.

11. **“Plaintiff’s Counsel”** means Hunter Pyle and John J. Darin of Hunter Pyle Law.

12. **“Released Claims”** means all PAGA claims, demands, rights, liabilities, penalties, fees, and causes of action that are alleged or could have been pursued in the Action pursuant to PAGA, Labor Code section 2699 *et seq.*, including under Labor Code sections 558 and/or 2698 *et seq.*, predicated on any Labor Code violations alleged in the operative complaint, which include Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 510, 558, 1182.1, 1182.2, 1182.3, 1194, or that could have been alleged in the operative complaint based on the facts, policies, practices, occurrences, or acts alleged in the operative complaint, or that are based

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE**

on any alleged failure to pay minimum, regular, or hourly wages, and/or alleged off-the-clock work; failure to pay overtime wages or accurate overtime wages; failure to provide accurate and/or complete wage statements; and failure to timely pay wages during employment or upon separation. For the avoidance of doubt, the released claims shall not include any non-PAGA claims.

13. **“Released Parties”** means Defendant K.W.P.H. Enterprises d/b/a American Ambulance, and their past, present, and future parents, affiliates, subsidiaries, divisions, predecessors, successors, partners, joint venturers, affiliated organizations, shareholders, members, insurers, reinsurers and assigns, and each of their past, present and future managers, officers, directors, trustees, agents, employees, attorneys, contractors, representatives, benefits plans sponsored or administered by the Released Parties, divisions, units, and branches, and any other persons or entities acting on behalf of or in concert with any of the foregoing.

14. **“Settlement”** means the terms agreed to by the Parties and memorialized in this Agreement.

15. **“Settlement Agreement”** means this document.

16. **“Settlement Approval Order and Judgment”** means the settlement approval order and judgment that will be entered by the Court.

17. **“Settlement Administration Fees”** means the amount of fees and costs incurred by the Settlement Administrator awarded by the Court pursuant to the terms of this Agreement, which is not anticipated to exceed Four-Thousand Nine-Hundred Ninety-Five Dollars and No Cents (\$4,995.00).

18. **“Settlement Administrator”** means the third-party claims administration firm selected by the Parties and approved by the Court. The Parties have agreed to propose Phoenix Class Action Administration Solutions as the Settlement Administrator for the Court’s consideration and approval.

19. **“Settlement Notice”** means the form of notice that will be sent to each Aggrieved Employee accompanying their Individual Settlement Payments, which shall be substantially in the form attached hereto as **Exhibit B**.

20. **“Void Date”** means the 181st day after issuance of Individual Settlement Payment checks to Aggrieved Employees, upon which the Individual Settlement Payment checks will no longer be valid and negotiable.

B. Consideration

1. **No Admission of Liability.** Plaintiff acknowledges that Defendant denies all allegations and claims in the Action. Defendant has contended and continues to contend that the allegations in the Action have no merit. Defendant specifically denies all of the allegations in Plaintiff’s PAGA Letter and complaint in the Action. This Settlement is a compromise of such

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND RELEASE

disputed claims. Nothing contained in this Settlement Agreement and no documents referred to herein and no action taken to carry out this Settlement may be construed or used as an admission by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever.

2. Monetary Settlement Components. Provided that the Court approves the Settlement and the Effective Date occurs, Defendant will pay the Gross Settlement Amount of Three-Hundred-Forty-Five-Thousand-Four-Hundred-Ninety-Five Dollars (\$345,495.00). All amounts to be paid to anyone pursuant to this Settlement Agreement shall be paid from this Gross Settlement Amount, as follows.

- a. Attorneys' Fees and Costs. In full satisfaction of all claims Plaintiff may have for Attorneys' Fees arising out of the Action, Plaintiff may request an award of attorneys' fees and costs from the Court, in an amount up to One-Hundred-Fifteen-Thousand One-Hundred Sixty-Five Dollars (\$115,165.00) to be paid from the Gross Settlement Amount. Defendant agrees not to oppose Plaintiff's application for Attorneys' Fees not to exceed this sum. The Attorney's Fees and Costs to be awarded to Plaintiff are subject to the approval of the Court and will be paid only from the Gross Settlement Amount. Any portion of the Attorney's Fees and Costs not awarded to Plaintiff's Counsel will be added to the PAGA Settlement Fund. Plaintiff understands and agrees that this Agreement and Release shall remain in full force and effect even if the full amount of Attorney's Fees and Costs identified herein is not awarded by the Court.
- b. Settlement Administration Fees. Costs incurred by the Settlement Administrator during administration will not exceed Four-Thousand Nine-Hundred Ninety-Five Dollars and No Cents (\$4,995.00).
- c. PAGA Settlement Fund. The PAGA Settlement Fund will consist of all monies that remain after the award of Attorney's Fees and Costs to Plaintiff's Counsel and all Settlement Administration Fees owed to the Settlement Administrator have been paid from the Gross Settlement Amount. Pursuant to PAGA, seventy-five percent (75%) of the PAGA Settlement Fund will be paid to the LWDA. The remaining twenty-five percent (25%) of the PAGA Settlement Fund (the Net Settlement Amount) will be paid to all Aggrieved Employees as Individual Settlement Payments pursuant to the calculation method set forth in section C(6) below.
- d. Plaintiff's Service Award. Plaintiff does not intend to seek a Service Award or other enhancement or incentive payment.

3. Aggrieved Employees' Release. Upon the Effective Date, Plaintiff, on behalf of himself, the State of California, and all Aggrieved Employees, releases the Released Parties from the Released Claims. This release shall be effective for the period of November 19, 2019 through the December 31, 2021. It is the intent of the Parties that the Settlement Approval Order

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND RELEASE

entered by the Court shall have full *res judicata* effect and be final and binding upon Aggrieved Employees regarding the Released Claims.

C. Settlement Administration Procedures

1. Settlement Approval Motion. Following full execution of this Settlement Agreement, Plaintiff will promptly seek approval of the Settlement via an ex parte application. If that application is denied, Plaintiff will request a hearing before the Court to seek approval of the Settlement on a mutually available date. In conjunction with such hearing, Plaintiff's Counsel will present this Settlement Agreement to the Court and will move for the Court issue a Settlement Approval Order and Judgment approving and incorporating by reference the terms and conditions of the Settlement Agreement. Plaintiff's Counsel will be primarily responsible for drafting all documents necessary to obtain approval of the Settlement, though the Parties will meet and confer on such materials as necessary. Defendant agrees not to oppose Plaintiff's motion for Settlement Approval unless the motion is inconsistent with the terms set forth in this Settlement Agreement.

2. LWDA Notice. Pursuant to California Labor Code § 2699(I), Plaintiff will provide a copy of this Settlement to the LWDA concurrently with the filing of the motion for Settlement Approval. Plaintiff will also file a declaration in support of his motion for Settlement Approval confirming that he has submitted the Settlement to the LWDA in compliance with Labor Code § 2699(I).

3. No Right of Aggrieved Employees to Object or Opt-Out. The Parties agree there is no explicit statutory right for any Aggrieved Employee to object, opt out or otherwise exclude himself or herself from the Settlement. The Parties will take reasonable steps to defend against any attempted intervention, objection/opt out or appeal filed with respect to the Final Order.

4. Judgment and Continued Jurisdiction. After entry of the Settlement Approval Order and Judgment, the Court will have continuing and exclusive jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement; (b) matters relating to the administration of the Settlement; and (c) such post-Judgment matters as may be appropriate under Court rules or as set forth in this Settlement.

5. Provision of Individual Settlement Payment Data to Settlement Administrator. Within thirty (30) days of the entry of the Settlement Approval Order and Judgment, Defendant will provide to the Settlement Administrator with each Aggrieved Employee's (a) name, (b) last known address, and (c) number of pay periods worked during the PAGA Period (the "Individual Settlement Payment Data"). The Individual Settlement Payment Data shall be based on Defendant's payroll and available business records in a format acceptable to the Settlement Administrator. The Settlement Administrator will run a check of the Aggrieved Employees' addresses against those on file with the U.S. Postal Service's National Change of Address List; this check will be performed by the Settlement Administrator only once per Aggrieved Employee. The Individual Settlement Payment Data provided to the Settlement Administrator will remain confidential and will not be used or disclosed to anyone, except as required by

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE**

applicable tax authorities, pursuant to Defendant's express written consent, or by order of the Court.

6. Calculation of Individual Settlement Payments to Aggrieved Employees. Within fifteen (15) days of the receipt of the Individual Settlement Payment Data, the Settlement Administrator shall calculate each Aggrieved Employee's Individual Settlement Payment amount. Individual Settlement Payments will be made pro rata based on the number of eligible bi-weekly pay periods that each Aggrieved Employee worked between November 19, 2019 and December 31, 2021 (the PAGA period), exclusive of leaves of absence. Individual Settlement Payments will be calculated as follows: $[(\text{individual's qualifying pay periods}) / (\text{all qualifying pay periods})] \times [\text{Net Settlement Amount}]$. Individual Settlement Payments will be paid to Aggrieved Employees in the form of a check and the Settlement Administrator shall make all required withholdings.

7. Tax Treatment of Individual Settlement Payments. One hundred percent (100%) of each Individual Settlement Payment shall be allocated to miscellaneous income for which an IRS Form 1099 will issue, if required by law, and will not count as earnings by Aggrieved Employees and will not be subject to local, state or federal tax withholdings.

8. Delivery of Funds to Settlement Administrator. Within ten (10) calendar days following the Effective Date, Defendant shall deposit the Gross Settlement Amount in a Qualified Settlement Fund maintained by the Settlement Administrator.

9. Distribution of Funds. Within ten (10) calendar days after receipt of Defendant's payment to fund the Settlement as provided in this Settlement Agreement, the Settlement Administrator shall do the following:

- a. Disburse the Court-approved Attorney's Fees and Costs to Plaintiff's Counsel. Plaintiff's Counsel agrees to provide the Settlement Administrator with an executed IRS Form W-9 before payments for Attorney's Fees and Costs are issued.
- b. Issue a check payable to the LWDA for seventy-five percent (75%) of the PAGA Settlement Fund.
- c. Calculate Individual Settlement Payment to be made to each Aggrieved Employee from the Net Settlement Amount, pursuant to Section C(6) above.
- d. Calculate, withhold, and remit to applicable governmental agencies each Aggrieved Employee's share of the payroll taxes, or other taxes, in accordance with this Settlement Agreement, pursuant to Sections C(7) above.
- e. Mail each Individual Settlement Payment along with a Settlement Notice to each respective Aggrieved Employee's last-known address, as determined pursuant to Section C(5) above. Any checks returned as non-deliverable on or before the Void Date will be sent promptly via regular First-Class U.S. Mail to any forwarding

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND RELEASE

address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip trace, or other search using the name, address or Social Security number of the Aggrieved Employee involved and will then perform a single re-mailing. Any check re-mailings will not extend the 180-day period to cash a check. Any checks issued to Aggrieved Employees shall remain valid and negotiable for one hundred and eighty (180) calendar days from the date of their issuance and then shall become void on the 181st day after issuance, *i.e.*, the Void Date. The Parties agree that, within fourteen (14) calendar days after the Void Date, any unclaimed funds as a result of the failure to cash Individual Settlement Payment checks prior to the Void Date shall be paid by the Settlement Administrator to the LWDA.

f. Calculate and apprise Defendant of its share of taxes owed, if any.

10. Administration of Taxes. The Settlement Administrator will be responsible for issuing to Plaintiff, Aggrieved Employees, and Plaintiff's Counsel Form 1099s or other tax forms as may be required by law for all amounts paid pursuant to this Settlement Agreement, and for forwarding all penalties to the appropriate government authorities.

11. Additional Court Filings: Dismissal. Plaintiff shall file a declaration from Defendant or Defendant's Counsel within thirty (30) days of the distribution of funds as described above. Assuming that all funds have been distributed, absent other directions from the Court, Plaintiff will file a request for dismissal with prejudice at the same time that he files that declaration.

D. Miscellaneous Provisions

1. No Effect on Employee Benefits. Amounts paid to Plaintiff and other Aggrieved Employees pursuant to this Settlement Agreement do not count as earnings or compensation for purposes of any benefits (e.g., 401(k) plans or retirement plans) sponsored by Defendant.

2. Tax Liability. The Parties make no representation as to the tax treatment or legal effect of the payments called for hereunder, and the Parties are not relying on any statement, representation, or calculation by any of the Parties in this regard. Plaintiff understands and agrees that he will be solely responsible for the payment of any taxes and penalties assessed on the payments made to Plaintiff described herein. Each Party to this Settlement (for purposes of this section, the "Acknowledging Party" and each Party to this Settlement other than the Acknowledging Party, an "other Party") acknowledges and agrees that: (a) no provision of this Settlement Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor will any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended); (b) the Acknowledging Party (i) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Settlement, (ii) has not entered into this Settlement based upon the recommendation of any other Party or any attorney or advisor to any other Party, and (iii) is not entitled to rely upon any

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE**

communication or disclosure by any attorney or adviser to any other Party to avoid any tax penalty that may be imposed on the Acknowledging Party; and (c) no attorney or adviser to any other Party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Settlement Agreement.

3. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged.

4. Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.

5. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the entirety of the Parties' settlement terms, and no oral or written representations, warranties or inducements have been made to any Party concerning this Settlement Agreement or its Exhibits other than the representations, warranties and covenants contained and memorialized in the Settlement Agreement and its Exhibits.

6. Amendment or Modification. This Agreement may be amended or modified only by a formal written instrument signed by counsel for all Parties or their successors-in-interest.

7. Authorization to Enter into Settlement Agreement. The Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms. The person or persons signing this Settlement Agreement on behalf of Defendant represent and warrant that he/she/they are authorized to sign this Settlement Agreement on behalf of Defendant. Plaintiff represents and warrants that he is authorized to sign this Settlement Agreement and that he has not assigned any claim covered by this Settlement to a third party.

8. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement Agreement, and further intend that this Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

9. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE**

10. California Law Governs. All terms of this Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

11. Execution and Counterparts. This Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument. Electronic signatures (e.g., DocuSigned signatures) may be used to execute this Settlement Agreement.

12. Acknowledgement that the Settlement is Fair, Adequate and Reasonable. The Parties believe this Settlement is a fair, adequate and reasonable settlement of the Action and have arrived at this Settlement Agreement after arm's-length negotiations, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness, adequacy and reasonableness of this Settlement.

13. Waiver of Certain Appeals. In the event the Court grants Approval of this Settlement, Plaintiff agrees to waive appeals concerning this Settlement.

14. Captions. The captions and paragraph numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this Agreement.

15. Waiver. No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

16. Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel and reviewed in full. Further, Plaintiff and Plaintiff's Counsel warrant and represent that there are no liens on the Agreement.

17. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties may seek the assistance of the Court to resolve such disagreement.

18. Publicity. The Parties agree that Plaintiff and Plaintiff's Counsel will not communicate the fact of, or the terms of, this Settlement to members of the press, including to Verdicts and Settlements. The Parties and their respective counsel also agree not to publish the fact of, or terms of, this Settlement or any related information on their website, for advertising purposes and/or in publication materials generally available to the public.

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE**

19. Notices. Unless otherwise specifically provided, all notices, demands or other communications in connection with this Agreement shall be in writing and deemed given (i) on the third business day after mailing, if sent via United States registered or certified mail, return receipt requested, (ii) upon delivery by nationally recognized overnight courier with written delivery confirmation; or (iii) by facsimile or email, addressed as follows:

To Plaintiff:	To Defendant:
Hunter Pyle John J. Darin Hunter Pyle Law 428 Thirteenth Street, Eleventh Floor Oakland, California 94612 Telephone: (510) 444-4400 Facsimile: (510) 444-4410 Email: hunter@hunterpylelaw.com jdarin@hunterpylelaw.com	Diane E. Coderniz Baker Manock & Jensen, PC 5260 North Palm Ave., Suite 201 Fresno, California 93704 Telephone: (559) 432-5400 Facsimile: (559) 432-5620 Email: dcoderniz@bakermanock.com

[Signatures follow on the next page]

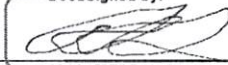
**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE**

It is hereby agreed.

Dated: 1/25/2022

PLAINTIFF

DocuSigned by:

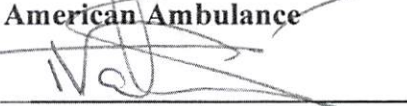

38464607DD1049C...

Derek Dukes

DEFENDANT

**K.W.P.H. Enterprises
d/b/a American Ambulance**

Dated: 01/25/2022

By: 

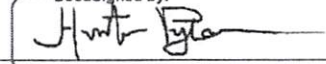
Its: President

Approved as to form:

Dated: 1/24/2022

HUNTER PYLE LAW

DocuSigned by:


1351908E487B4B6...

Hunter Pyle

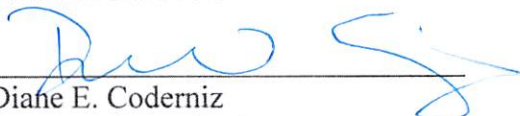
John J. Darin

Attorney for Plaintiff

Approved as to form:

Dated: 1/26/22

BAKER MANOCK & JENSEN PC


Diane E. Coderniz

Attorney for Defendant

EXHIBIT A

[PAGA Letter to LWDA]

Hunter Pyle Law

Hunter Pyle | Tanya Tarabling | Vincent Chen | Katherine Flester | Jake Darrin

1300 Broadway Street, 11th Floor, Oakland, CA 94612 | tel 510 444 4400 | fax 510 444 4410 | inquire@hunterpylelaw.com | hunterpylelaw.com

November 19, 2020

By Electronic Filing and Certified Mail:

Labor and Workforce Development Agency
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

K.W.P.H. Enterprises d/b/a American Ambulance
2911 East Tulare Street
Fresno, CA 93721

**RE: Notice of Labor Law Violations, California Labor Code § 2699.3(a)
*Dukes, et al. v. K.W.P.H. Enterprises d/b/a American Ambulance***

Dear Labor and Workforce Development Agency and Employer:

We represent aggrieved employee Derek Dukes (“Plaintiff”), who submits this letter on behalf of all EMTs and Paramedics who are California citizens and who are employed by Defendant K.W.P.H. Enterprises d/b/d American Ambulance (“Defendant”) in the State of California (“aggrieved employees”).

The purpose of this letter is to comply with the statutory exhaustion requirements pursuant to California Labor Code section 2699.3(a)(1). Below we set forth the facts and theories which give rise to the various California Labor Code violations in this case.

Facts and Theories Giving Rise To Labor Code Violations

Defendant is a California corporation doing business in the State of California. Defendant is the sole 9-1-1 provider for Fresno and Kings Counties in Central California.

Plaintiff has worked for Defendant as a paramedic, staffing Defendant’s ambulances, since 2007. Defendant has paid Plaintiff and aggrieved employees on an hourly basis.

Over the course of the past year, Defendant has violated the California Labor Code in the following ways:

First, Plaintiff and aggrieved employees regularly work shifts that are either 12 or 24 hours long. Plaintiff and aggrieved employees perform certain job duties before the start of their shifts, including, but not limited to, stocking ambulances, checking fuel, transferring narcotics,

***Labor and Workforce Development Agency
Attn. PAGA Administrator***

***November 19, 2020
Page 2 of 3***

checking oxygen levels, logging in, verifying that radios and telephones are working, checking computers and other devices, and other tasks. Plaintiff and aggrieved employees regularly arrive at work 15 minutes early in order to ensure that the outgoing gets off duty in a timely manner. However, Defendant not and does not pay Plaintiff or aggrieved employees for time spent working before the start of their shifts.

Second, Defendant has failed to pay Plaintiff and other aggrieved employees overtime wages for all hours worked. California law requires employers to pay employees one-and-a-half times the regular rate of pay for all hours worked in excess of 8 hours in a workday up to 12 hours and double the regular rate of pay for all hours worked in excess of 12 hours in a workday.

However, Defendant has failed to pay Plaintiff and other aggrieved employees overtime for all hours worked. In particular, Defendant has failed to pay Plaintiff and other aggrieved employees overtime for hours worked in excess of eight hours on 24 hour shifts.

Third, Defendant has failed to provide Plaintiff and other aggrieved employees with adequate itemized wage statements. California law requires employers to provide employees with accurate itemized wage statements that list, among other things, the rates of pay and the number of hours worked at each applicable rate. Defendant has provided Plaintiff and other aggrieved employees with wage statements that fail to list all applicable hourly rates of pay and the number of hours worked at each applicable rate. Therefore, Defendant has failed to provide Plaintiff and other aggrieved employees with adequate itemized wage statements.

Fourth, Defendant has failed to pay aggrieved employees all wages due upon separation from employment. California law requires employers to pay employees all wages due upon separation from employment. As described above, Defendant has failed to pay aggrieved employees overtime as required by California law. Therefore, Defendant has failed to pay aggrieved employees all wages due upon separation from employment.

Last, Defendant has failed to pay aggrieved employees all wages due on their regular paydays. California law requires an employer to pay employees all wages due on their regular paydays. As described above, Defendant has failed to pay Plaintiff and other aggrieved employees overtime as required by California law. Therefore, Defendant has failed to pay Plaintiff and other aggrieved employees all wages due on their regular paydays.

Based on the foregoing facts, Plaintiff is asserting PAGA claims on behalf of himself and all other aggrieved employees employed by Defendant from November 18, 2019 to the present for all Labor Code violations.

***Labor and Workforce Development Agency
Attn. PAGA Administrator***

November 19, 2020

Page 3 of 3

Employer's Labor Code Violations

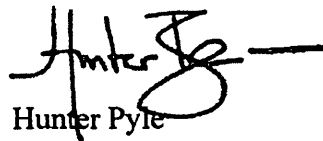
Plaintiff seeks civil penalties under PAGA for the following Labor Code violations:

1. Violations of Labor Code section 558 for failing to pay wages due. Specifically, Defendant does not pay wages to Plaintiff and other aggrieved employees for all hours worked before the beginning of their shifts, as required by Labor Code sections 1182.1-1182.3, 1194, 1194.2, 1197 and 1198.
2. Violations of Labor Code sections 558, 510 and 1194 for failing to pay overtime wages. Specifically, Defendant has failed to pay Plaintiffs and other aggrieved employees one-and-a-half times the regular rate of pay for all hours worked in excess of 8 hours in a workday up to 12 hours and double the regular rate of pay for all hours worked in excess of 12 hours in a workday, as required by Labor Code sections 510 and 1194.
3. Violations of Labor Code sections 226 and 226.3 for failing to provide accurate itemized wage statements. Specifically, Defendant has failed to provide Plaintiffs and other aggrieved employees with itemized wage statements that include, among other things, all applicable hourly rates of pay and the number of hours worked at each applicable rate.
4. Violations of Labor Code sections 201 through 203, requiring the timely payment of wages upon separation from employment. Defendant has not timely paid aggrieved employees who are no longer employed all wages due upon their separation from employment.
5. Violations of Labor Code sections 204 and 210, based on Defendant's failure to pay Plaintiff and other aggrieved employees all wages due on their regular paydays.

Thank you in advance for your attention to this matter.

Very Truly Yours,

HUNTER PYLE LAW



Hunter Pyle

HP/ds