

COHELAN KHOURY & SINGER

Isam C. Khoury (SBN 58759)

ikhoury@ckslaw.com

Michael D. Singer (SBN 115301)

msinger@ckslaw.com

Maggie Realin (SBN 263639)

mrealin@ckslaw.com

605 C Street, Suite 200

San Diego, CA 92101

Telephone: (619) 595-3001/Facsimile: (619) 595-3000

Attorneys for Plaintiff Christian Calderon,

on behalf of himself and all others similarly situated and aggrieved

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

CHRISTIAN CALDERON, on behalf of
himself and all others similarly situated and
aggrieved,

Plaintiff,

v.

VIEWPOINT AMBULANCE INC., a
California Corporation; and DOES 1
Through 10, inclusive,

Defendant.

Case No. 30-2025-01460895-CU-OE-CXC

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT**

- 1. FAILURE TO PAY MINIMUM WAGES**
- 2. FAILURE TO PAY OVERTIME WAGES**
- 3. FAILURE TO PROVIDE MEAL PERIODS**
- 4. FAILURE TO AUTHORIZE AND
PERMIT PAID REST PERIODS**
- 5. FAILURE TO PROVIDE ACCURATE
ITEMIZED WAGE STATEMENTS**
- 6. FAILURE TO TIMELY PAY WAGES
DUE AT SEPARATION**
- 7. FAILURE TO REIMBURSE BUSINESS
EXPENSES**
- 8. VIOLATION OF THE UNFAIR
COMPETITION LAW**
- 9. VIOLATION OF THE PRIVATE
ATTORNEYS GENERAL ACT (“PAGA”)**

DEMAND FOR JURY TRIAL

COHELAN KHOURY & SINGER
605 C Street, Suite 200
San Diego, CA 92101

NATURE OF CLAIM

1. Plaintiff CHRISTIAN CALDERON (“Plaintiff”) brings this action on behalf of himself and a proposed Class of all California ambulance drivers and/or emergency medical technicians (“EMT”s) who worked for Defendant VIEWPOINT AMBULANCE INC., and Does 1 through 10 (“Defendant”), alleging Defendant’s unlawful policies and/or practices denied, and continue to deny, them the wages and benefits to which they are lawfully entitled.

2. Plaintiff seeks—for himself and the putative class—unpaid wages, liquidated damages, equitable relief, prejudgment interest, reasonable attorneys’ fees and costs, and any other relief this Court deems proper, pursuant to Labor Code sections 200-203, 218, 218.5, 218.6, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2804; the “Hours and Days of Work,” “Minimum Wages,” “Meal Periods,” and “Rest Periods” sections of the applicable Industrial Welfare Commission (“IWC”) Wage Order(s); and Business and Professions Code sections 17200, *et seq.*

3. Plaintiff also brings a Representative Action under the Private Attorneys General Act of 2004 (“PAGA”), Labor Code sections 2698, *et seq.*, but solely on behalf of all other aggrieved employees employed by Defendants in the State of California, for civil penalties pursuant to the PAGA for Defendant’s failure to pay minimum and overtime wages, failure to provide off-duty meal and rest periods, failure to provide reimbursement for costs and expenses, failure to provide compliant wage statements, and failure to timely pay all wages during and upon termination of employment. Plaintiff is not suing in his individual capacity, does not seek any redress or remedy for any of his individual claims including but not limited to his individual PAGA claims. Plaintiff is proceeding in this action solely under the PAGA, on behalf of the State of California for all aggrieved employees of Defendants, including himself. See *Balderas v. Fresh Start Harvesting, Inc.* (2024) 101 Cal.App.5th 533, 538; *Rodriguez v. Packers Sanitation Services LTD., Inc.* (2025) 109 Cal.App.5th 69, 80.

PARTIES

4. Plaintiff CHRISTIAN CALDERON is a resident of La Mirada, California. Plaintiff worked for Defendants as an ambulance driver and/or EMT between approximately

1 August and December 2024 in Orange County and Los Angeles County, California. Plaintiff has
2 been placed on medical leave in December 2024.

3 5. Defendant VIEWPOINT AMBULANCE INC. is a California corporation,
4 headquartered in Anaheim and doing business in California, including within the County of
5 Orange and County of Los Angeles. Defendant is a California ambulance transportation provider,
6 founded in 2014.¹

7 6. Does 1 through 10, inclusive, are persons or entities whose true names and
8 identities are now unknown to Plaintiff, and who are sued by such fictitious names. Plaintiff will
9 amend this complaint to allege their true names and capacities when known. Plaintiff is informed
10 and believes each Doe defendant is the agent, representative, or parent or subsidiary corporation
11 of Defendant Viewpoint Ambulance Inc., is responsible in some manner for the occurrences,
12 events, transactions, and injuries alleged, and that harm suffered by Plaintiff and the proposed
13 Class was proximately caused by them in addition to Viewpoint Ambulance Inc.

14 7. Plaintiff alleges each of the Defendants, including the Doe defendants, acted in
15 concert with each and every other Defendant, intended to and did participate in the events, acts,
16 practices, and courses of conduct alleged, and was a proximate cause of damage and injury to
17 Plaintiff.

18 8. At all relevant times each Defendant was the agent or employee of each of the
19 other Defendants and was acting within the course and scope of such agency or employment.

20 **JURISDICTION AND VENUE**

21 9. Venue as to each Defendant is proper in this judicial district. Code of Civil
22 Procedure § 395. Plaintiff is resident of Orange County. Defendant is headquartered in Orange
23 County, and is within the jurisdiction of this Court for service of process purposes. The unlawful
24 acts alleged have a direct effect on Plaintiff and other similarly-situated employees within the
25 State of California and Orange County. Plaintiff worked for Defendant within Orange County and
26 Los Angeles County. Defendant employs numerous drivers and EMTs in Orange County and Los
27 Angeles County.

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¹ <https://www.viewpointambulance.net/about-us>; last visited on January 22, 2025.

11. Further, as a representative action under the PAGA, the matter is not subject to removal under 28 U.S.C. §§ 1332(a)-(d) as PAGA civil penalty actions are not subject to federal jurisdiction.

12. At all relevant times, Plaintiff, Class Members, and aggrieved employees worked for Defendant in California, and Defendant conducted business in California. Defendant meets the definition of an “emergency ambulance provider” and Plaintiff meets the definition of an “emergency ambulance employee” as provided in Labor Code section 888.

13. Plaintiff worked for Defendant as an ambulance driver/EMT between approximately August and December 2024 in Orange County and Los Angeles County, California. Plaintiff worked two 24-hour shifts per week. His shifts varied, starting between 7 and 10 a.m., or even at midnight. Plaintiff would arrive at the ambulance station and check in by contacting dispatch, who would then log his clock in and clock out times. Typically, there would be several pre-scheduled transportation assignments. Plaintiff, Class Members, and other aggrieved employees transported patients between hospitals or other medical facilities on a non-emergency basis, with the patients generally in stable condition. Each ambulance crew included at least two employees, a driver and a primary patient care giver (EMT), and these roles were interchangeable. On occasions, when a patient's condition was not stable, a nurse was also present.

14. Once Plaintiff began the first patient transportation, he would receive calls from the dispatch regarding additional trips, which were not previously scheduled. The dispatchers'

1 duties included filling any gaps between scheduled transportations, as there was significant
2 pressure from the management that Plaintiff and other drivers complete as many transportations
3 as possible.

4 15. According to the “Agreement for 24-hour shifts” Defendant provided to Plaintiff
5 Class Members, and aggrieved employees, under Wage Order No. 9, “whenever employee is
6 scheduled for a 24-hour shift of duty, the following terms shall apply:

7 **Payment of 24-hour Shift:** Viewpoint Ambulance will pay you the hours you work. After
8 40 hours you will receive overtime.

9 **Meal and scheduled sleep periods:** Two meal periods of one hour each will be available
10 to each employee. Employees have the option of an uninterrupted sleeping period from
11 which they shall clock out for.

12 **Exclusion of sleep periods:** The optional sleep periods shall be excluded from “daily time
13 worked” and for the purpose of obtaining relief from daily overtime under Industrial
14 Welfare Commission Order Nos. 9-2001.

15 **Payment of weekly overtime:** “[T]ime worked in excess of 40 hours in a single
16 workweek will be paid at one and one-half times the employee’s straight-time rate. A pay
17 week is defined as starting Monday at 00:00 am.”

18 16. Despite the Agreement’s provision of two meal periods of one hour each, due to
19 the Defendant’s requirement to provide as many transportation services as possible, Plaintiff,
20 Class Members, and other aggrieved employees frequently did not receive one or both meal
21 periods, or had them interrupted with work duties, and such interrupted meal periods were not
22 restarted should the interruptions occur. *See* Labor Code §§ 885, 887. Plaintiff was not paid meal
23 period premiums for all missed and/or interrupted meal periods.

24 17. Similarly, due to the number of transportation orders scheduled by the dispatch,
25 Plaintiff, Class Members, and other aggrieved employees frequently did not receive their rest
26 periods, or had them interrupted with work duties, and such interrupted rest periods were not
27 restarted should the interruptions occur. *See* Labor Code § 887. Plaintiff was not rest break period
28 premiums for all missed and/or interrupted rest periods.

18. Defendant refused to provide meal and rest breaks to Plaintiff even if Plaintiff specifically requested them. On one occasion, Defendant's failure to provide a break, despite Plaintiff's repeated requests for one, resulted in Plaintiff and his co-worker falling asleep behind the wheel which resulted in an accident on a freeway. Plaintiff suffered injuries as a result of that accident.

19. At the end of Plaintiff's shift, he would return to the ambulance station and contact dispatch to clock out. Plaintiff believes there were instances where his actual hours worked exceeded his scheduled shift time, but these extra hours were removed from his time card by the Defendant, resulting in off-the-clock work and unpaid overtime.

20. To advise Plaintiff, Class Members, and other aggrieved employees of additional, not previously scheduled transportation order, dispatch personnel would call Plaintiff in the ambulance. Although ambulances were equipped with radios, during the significant portion of the Class Period, the radios did not work properly, which caused the dispatchers to contact Plaintiff, Class Members, and aggrieved employees on their personal cell phones. Additionally, although the ambulances were equipped with iPads that had the messenger function, employees were unable to use these devices for calls and were required to use their personal cell phones to make or receive calls from the Defendant. Plaintiff, Class Members, and other aggrieved employees were not reimbursed for these cell phone expenses.

21. As a result of the above violations, Defendants willfully failed to provide accurate, itemized wage statements, and complete, accurate, and timely final wages, to Plaintiff, Class Members, and other aggrieved employees.

22. Plaintiff, on behalf of himself and Class Members, seeks injunctive relief, restitution, and disgorgement of all benefits obtained by Defendant as a result of violations alleged. Business and Professions Code §§ 17200, *et seq.*

EXHAUSTION OF PAGA NOTICE REQUIREMENT

23. Plaintiff exhausted the notice requirement by filing a complaint with the Labor and Workforce Development Agency ("LWDA") in his letter dated January 31, 2025, respectively, as required under the California Labor Code Private Attorneys General Act ("PAGA"). A true

1 and correct copy of Plaintiff's letters is attached hereto as **Exhibit A**, and is incorporated herein
2 by reference. The LWDA did not assume jurisdiction over the applicable penalty claims alleged;
3 therefore, Plaintiff has exhausted the procedural requirement under the PAGA to pursue any and
4 all penalty claims as provided under the PAGA.

5 **CLASS ACTION ALLEGATIONS**

6 24. Plaintiff seeks to represent a Class defined as:

7 **Class**

8 All Defendant's California ambulance drivers and/or EMTs at any time
9 during the four years before the filing of this Complaint through the date of
trial.

10 25. Plaintiff seeks to certify a subclass defined as:

11 **"Minimum Wages Subclass"**

12 All Class Members who were not paid at least minimum wages for some
time worked or spent under Defendant's control.

13 26. Plaintiff seeks to certify a subclass defined as:

14 **"Overtime Wages Subclass"**

15 All Class Members who worked in excess of forty (40) hours in one week.

16 27. Plaintiff seeks to certify a subclass defined as:

17 **"First Meal Period Subclass"**

18 All Class Members who worked one or more period(s) in excess of five (5)
hours.

19 28. Plaintiff seeks to certify a subclass defined as:

20 **"Second Meal Period Subclass"**

21 All Class Members who worked one or more period(s) in excess of ten (10)
hours.

22 29. Plaintiff seeks to certify a subclass defined as:

23 **"Rest Period Subclass"**

24 All Class Members who worked one or more period(s) in excess of three
and one-half (3.5) hours.

25 30. Plaintiff seeks to certify a subclass defined as:

26 **"Wage Statement Subclass"**

27 All Class Members who received one or more itemized wage statements
28 during the one year preceding the filing of this Complaint.

31. Plaintiff seeks to certify a subclass defined as:

“Waiting Time Subclass”

All Class Members whose working relationship with Defendant ended at any time during the three years preceding the filing of this Complaint.

32. Plaintiff seeks to certify a subclass defined as:

“Expense Reimbursement Subclass”

All Class Members who used their personal cell phones for work-related purposes for Defendant.

33. Plaintiff seeks to certify a subclass defined as:

“UCL Subclass”

All Class and Subclass Members who were subject to Defendant’s unlawful or unfair business acts or practices.

34. Plaintiff reserves the right to amend or modify the Class description, including by division into subclasses or limitation to particular issues. California Rule of Court 3.765(b).

35. **Commonality**: This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure section 382 because there is a well-defined common interest of many persons and it is impractical to bring them all before the court.

36. **Ascertainable Class**: The proposed Class and Subclasses are ascertainable because they can be identified and located using Defendant’s payroll and personnel records.

37. **Numerosity**: The potential members of the Class and Subclasses as defined are so numerous that joinder of all members would be unfeasible and impractical. The disposition of their claims through this class action will benefit the parties and this Court. The number of members of the Class and Subclasses is unknown to Plaintiff, but is estimated to be at least 100 individuals. The number and identity of members can be readily ascertained using Defendant’s records.

38. **Typicality**: The claims of Plaintiff are typical of the claims of all members of the Class and Subclasses because all members of the Class and Subclasses sustained similar injuries and damages caused by Defendants’ common course of conduct in violation of law.

39. **Adequacy**: Plaintiff is an adequate representative of the Class and Subclasses, will fairly protect the interests of the Class and Subclass Members and has no interests antagonistic to them, and will vigorously pursue this suit. Plaintiff’s attorneys are competent, skilled, and

1 experienced in litigating large employment law class actions.

2 40. **Superiority**: A class action is superior to other available means for the fair and
3 efficient adjudication of this controversy. Individual joinder of all Class Members is not
4 practicable, and questions of law and fact common to the Class predominate over questions
5 affecting only individual Class Members. A Class action will allow those similarly situated to
6 litigate their claims in the most efficient and economical manner for the parties and the judicial
7 system. Plaintiff is unaware of any difficulties likely to be encountered in the management of this
8 action that precludes its maintenance as a class action.

9 41. The predominating common questions of law and fact include:

- 10 a. Whether Defendant has a policy and practice of paying less than minimum
11 wages for all time worked or under Defendant's control;
- 12 b. Whether Defendant has a policy or practice of failing pay overtime
13 compensation for all overtime hours;
- 14 c. Whether Defendant has a policy or practice of failing to provide compliant
15 meal periods;
- 16 d. Whether Defendant has a policy or practice of failing to authorize or permit
17 compliant rest periods;
- 18 e. Whether Defendant has a policy or practice of failing to provide accurate
19 itemized wage statements;
- 20 f. Whether Defendant has a policy or practice of failing to reimburse business
21 expenses;
- 22 g. Whether the Class and Waiting Time Subclass Members are entitled to waiting
23 time penalties under Section 203;
- 24 h. Whether Defendant violated Sections 17200, *et seq.* of the Business and
25 Professions Code; and
- 26 i. Whether the Class and Subclasses are entitled to equitable relief pursuant to
27 Business and Professions Code, sections 17200, *et seq.*

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CAUSES OF ACTION

FIRST CAUSE OF ACTION

Failure to Pay Minimum Wages

**Labor Code §§ 218, 218.5, 218.6, 1194 and 1194.2, 1197, 1197.1 and the “Minimum Wages” section of applicable IWC Wage Order(s)
(By Plaintiff and each Minimum Wages Subclass Member)**

42. Plaintiff incorporates the preceding paragraphs of this Complaint.

43. Labor Code section 218 provides, in pertinent part, that “[n]othing in this article [California Labor Code, Division 2, Part 1, Chapter 1 – Payment of Wages, Article 1] shall limit the right of any wage claimant to sue directly or through an assignee for any wages or penalty due to them under this article.”

44. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1 provide for payment of not less than a minimum wage to employees, and the payment of a lesser wage than the minimum so fixed is unlawful.

45. By failing to pay at least minimum wages for all hours worked or under Defendant’s control, Defendant violated Labor Code section 1194 and the “Minimum Wages” section of applicable IWC Wage Order(s).

46. In committing the violations of California law as alleged in this Complaint, Defendant has knowingly and willfully refused to perform its obligations to compensate Plaintiff and Class Members for all wages earned and all hours worked. As a direct result, Plaintiff and Class Members have suffered and continue to suffer, substantial losses related to the use and enjoyment of such compensation, wages and lost interest on such monies and expenses and attorneys’ fees in seeking to compel Defendant to fully perform its obligation under state law, all to its respective damage in amounts according to proof at trial and within the jurisdiction of this Court.

47. Labor Code section 1194.2 provides for liquidated damages equal to unlawfully unpaid minimum wages, with interest.

48. Defendant’s unlawful acts deprived Plaintiff and the Minimum Wages Subclass of minimum wages in amounts to be determined at trial, and they are entitled to recover these wages, and liquidated damages, interest, attorneys’ fees, and costs damages to the fullest extent

permissible pursuant to Labor Code sections 218, 218.5, 218.6, and 1194(a).

SECOND CAUSE OF ACTION

Failure to Pay Overtime Wages

Labor Code §§ 510 and 1194, 1198 and the “Overtime Wages” section of applicable IWC Wage Order(s)

(By Plaintiff and each Overtime Wages Subclass Member)

49. Plaintiff incorporates the preceding paragraphs of this Complaint.

50. As applicable here, Labor Code section 510 and the applicable Wage Order provide that employees in California shall not be employed more than forty hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law. Specifically, Labor Code section 510(a) requires that any work in excess of 40 hours in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.

51. Labor Code section 1194 establishes an employee’s right to recover unpaid overtime compensation, and interest thereon, together with the costs of suit, and attorneys’ fees. Labor Code §1198 makes employment of an employee for longer hours than the IWC set or under conditions the IWC prohibits unlawful.

52. Section 3 (“Hours and Days of Work”) of Wage Order No. 9 at K provides: “The daily overtime provision of subsection (A) above shall not apply to ambulance drivers and attendants scheduled for 24-hour shifts of duty who have agreed in writing to exclude from daily time worked not more than three (3) meal periods of not more than one (1) hour each and a regularly scheduled uninterrupted sleeping period of not more than eight (8) hours. The employer shall provide adequate dormitory and kitchen facilities for employees on such a schedule.”

53. During the Class Period, Plaintiff and other Class Members have worked more than forty hours in a workweek.

54. During the Class Period, Defendant has failed to pay Plaintiff and other Class Members the overtime compensation premium for those unpaid hours they have worked in excess of 40 hours in a workweek as required by Labor Code sections 510 and 1198, and the applicable Wage Order.

55. By failing to pay overtime wages, Defendant violated Labor Code sections 510

1 and 1194 and the “Hours and Days of Work” section of the applicable IWC Wage Order(s).

2 56. Defendant’s unlawful acts deprived Plaintiff and the Overtime Wages Subclass of
3 overtime wages in amounts to be determined at trial, and they are entitled to recover these wages,
4 interest, attorneys’ fees, and costs to the fullest extent permissible pursuant to Labor Code sections
5 218, 218.5, 218.6, and 1194(a).

6 **THIRD CAUSE OF ACTION**

7 **Failure to Provide Required Meal Periods**

8 **Labor Code §§ 226.7, 512, 885, 886, 887 and the “Meal Periods” section of applicable
IWC Wage Order(s)**

9 **(By Plaintiff and each First and Second Meal Period Subclass Member)**

10 57. Plaintiff incorporates the preceding paragraphs of this Complaint.

11 58. The applicable Wage Order provides, in pertinent part: “[n]o employer shall
12 employ any person for a work period of more than five (5) hours without a meal period of not
13 less than 30 minutes, except that when a work period of not more than six (6) hours will complete
14 the day’s work the meal period may be waived by mutual consent of the employer and the
employee.”

15 59. Labor Code section 512(a) provides, in pertinent part: “[a]n employer may not
16 employ an employee for a work period of more than five hours per day without providing the
17 employee with a meal period of not less than 30 minutes, except that if the total work period per
18 day of the employee is no more than six hours, the meal period may be waived by mutual consent
19 of both the employer and employee. An employer may not employ an employee for a work period
20 of more than 10 hours per day without providing the employee with a second meal period of not
21 less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second
22 meal period may be waived by mutual consent of the employer and the employee only if the first
23 meal period was not waived.”

24 60. Labor Code section 885 states, in pertinent part: “(a) All emergency ambulance
25 employees are hereby entitled to meal and rest periods as prescribed elsewhere by the Industrial
26 Welfare Commission. (b) Emergency ambulance employees shall be compensated at their regular
27 hourly rate of pay during meal and rest periods.”

28 61. Labor Code section 886(a) states, in pertinent part: “(1) An emergency ambulance

1 provider shall not require an emergency ambulance employee to take a meal period during the
2 first or last hour of a work shift and must allow an emergency ambulance employee to space
3 multiple meal periods during a work shift at least two hours apart. (2) An emergency ambulance
4 provider shall manage staffing at levels sufficient to provide enough inactivity in a work shift for
5 emergency ambulance employees to meet the requirements of this subdivision. (b) Any meal
6 period that does not comply with paragraph (1) of subdivision (a) shall not be counted towards
7 the meal periods an employee is entitled to during his or her work shift.”

8 62. Labor Code section 887 states, in pertinent part: (a) In order to maximize
9 protection of public health and safety, emergency ambulance employees shall remain reachable
10 by a portable communications device throughout the entirety of each work shift. (b) If an
11 emergency ambulance employee is contacted during a meal or rest period, that particular meal or
12 rest period shall not be counted towards the meal and rest periods the employee is entitled to
13 during his or her work shift. (c) If an emergency ambulance employee is not contacted during a
14 meal or rest period, that particular meal or rest period shall be counted towards the meal and rest
15 periods the employee is entitled to during his or her work shift.”

16 63. Defendant failed to provide meal periods of at least thirty (30) minutes for shifts
17 of five hours or more, which began before the end of the fifth hour of work; provide second duty-
18 free meal periods of at least thirty (30) minutes for shifts of ten hours or more, which began before
19 the tenth hour of work; and pay premium wages of one (1) hour of pay at employees’ regular rate
20 of compensation for each workday a meal period was not provided. By doing so, Defendant
21 willfully violated the provisions of Labor Code sections 226.7 and 512, and the “Meal Periods”
22 section of the applicable IWC Wage Order(s).

23 64. On occasions when meal breaks were interrupted as allowed by Labor Code
24 section 887, they were not re-taken, as prescribed in that section, resulting in Plaintiff and Class
25 Members’ entitlement to a premium pay.

26 65. Defendant’s unlawful acts deprived Plaintiff and the First and Second Meal Period
27 Subclasses of premium wages in amounts to be determined at trial, and they are entitled to recover
28 these amounts, along with interest, attorneys’ fees, and costs.

FOURTH CAUSE OF ACTION
Failure to Provide Required Rest Periods
Labor Code §§ 226.7, 887 and the “Rest Periods” section of applicable IWC
Wage Order(s)
(By Plaintiff and each Rest Period Subclass Member)

66. Plaintiff incorporates the preceding paragraphs of this Complaint.

67. California Labor Code section 226.7(b) provides, “An employer shall not require an employee to work during a meal or rest period mandated pursuant to an applicable order of the Industrial Welfare Commission.”

68. The applicable Wage Order provides, in pertinent part: “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.”

69. The applicable Wage Order further provides: “[i]f an employer fails to provide an employee with a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.”

70. By failing to authorize and permit Plaintiff and Class Members a paid rest period of at least 10 minutes for every four hours or major fraction worked per day, and by failing to provide premium wages at the regular rate of compensation when not permitted or authorized, Defendant willfully violated the provisions of Labor Code section 226.7 and the “Rest Period” section of applicable IWC Wage Order(s).

71. On occasions when rest breaks were interrupted as allowed by Labor Code section 887, they were not re-taken, as prescribed in that section, resulting in Plaintiff and Class Members’ entitlement to a premium pay.

72. Defendant’s unlawful acts deprived Plaintiff and the Rest Period Subclass of premium wages in amounts to be determined at trial, and they are entitled to recover these

1 amounts, along with interest, attorneys' fees, and costs.

2 **FIFTH CAUSE OF ACTION**
3 **Failure to Provide Accurate Wage Statements**
4 **Labor Code § 226**
5 **(By Plaintiff and each Wage Statement Subclass Member)**

6 73. Plaintiff incorporates the preceding paragraphs of this Complaint.

7 74. California Labor Code section 226(a) provides: "[e]very employer shall,
8 semimonthly or at the time of each payment of wages, furnish each of his or her employees, either
9 as a detachable part of the check, draft, or voucher paying the employee's wages, or separately
10 when wages are paid by personal check or cash, an accurate itemized statement in writing showing
11 (1) gross wages earned, (2) total hours worked by the employee [...], (3) the number of piece-rate
12 units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
13 deductions, provided that all deductions made on written orders of the employee may be
14 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
15 which the employee is paid, (7) the name of the employee and only the last four digits of his or
16 her social security number, [...], (8) the name and address of the legal entity that is the employer,
17 and (9) all applicable hourly rates in effect during the pay period and the corresponding number
18 of hours worked at each hourly rate by the employee...."

19 75. Any employee suffering injury due to a willful violation of Labor Code section
20 226(a) may, under Labor Code section 226(e), collect the greater of actual damages or \$50 for
21 the first inadequate pay statement and \$100 for each inadequate statement thereafter, up to \$4,000.
22 Defendant willfully failed to provide Plaintiff and Class Members with required adequate wage
23 statements. Labor Code § 226.

24 76. As a consequence of Defendant's knowing and intentional failure to comply with
25 Labor Code section 226(a), Plaintiff and the Wage Statement Subclass are entitled to recover the
26 greater of actual damages or penalties not to exceed \$4,000 for each employee with interest and
27 attorneys' fees and costs.

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SIXTH CAUSE OF ACTION
Failure to Timely Pay Wages Due at Separation
Labor Code §§ 201-203
(By Plaintiff and each Waiting Time Subclass Member)

77. Plaintiff incorporates the preceding paragraphs of this Complaint.

78. An employer who discharges an employee must pay all compensation due and to that employee immediately upon discharge. Labor Code § 201. An employer must pay all compensation due to an employee who quits within 72 hours. Labor Code § 202.

79. Defendant willfully failed to timely pay earned wages to former Class Members. If an employer willfully fails to timely pay such wages the employer must, as a penalty, continue to pay the subject employee's wages until paid or until an action is commenced. Labor Code § 203. The penalty cannot exceed 30 days of wages.

80. Waiting Time Subclass Members are no longer employed by Defendant.

81. Defendant willfully failed to pay Waiting Time Subclass Members the sum due at the time of their termination or within seventy-two (72) hours of their resignation, and failed to pay those sums for thirty (30) days thereafter. Defendant's unlawful acts deprived Plaintiff and Class Members of these wages, and they are entitled to recover waiting time penalties.

SEVENTH CAUSE OF ACTION
Failure to Reimburse Business Expenses
Labor Code §§ 2802 and 2804
(By Plaintiff and Expense Reimbursement Subclass Member)

82. Plaintiff incorporates the preceding paragraphs of this Complaint.

83. An employer must reimburse its employees for "all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer...." Labor Code § 2802. This right to reimbursement may not be waived. Labor Code § 2804.

84. By failing to reimburse Plaintiff and Class Members for their reasonable business expenses, including for personal cell phones, Defendant violated Labor Code section 2802.

85. Defendant's unlawful acts deprived Plaintiff and the Expense Reimbursement Subclass of expense reimbursements in amounts to be determined at trial, and they are entitled to

1 recover these amounts, along with interest, attorneys’ fees, and costs.

2 **EIGHTH CAUSE OF ACTION**
3 **Violation of the Unfair Competition Law**
4 **Bus. & Prof. Code §§ 17200, *et seq.***
5 **(By Plaintiff and each UCL Subclass Member)**

6 86. Plaintiff incorporates the preceding paragraphs of this Complaint.

7 87. The California Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code sections
8 17200, *et seq.*, defines unfair competition to include any “unlawful,” “unfair,” or “fraudulent”
9 business act or practice. Cal. Bus. & Prof. Code § 17200.

10 88. Defendant’s conduct as described above constitutes unlawful business practices
11 because Defendant violated: the California Labor Code, including but not limited to Sections
12 226.7 (meal and rest periods), 510 and 1194 (minimum and overtime wages) and 2802 (expense
13 reimbursement); and sections of the applicable IWC Wage Order(s).

14 89. Defendant’s conduct as described above constitutes unfair business practices
15 because their denial of lawfully earned wages outweighs any utility of such practices.

16 90. As a result of Defendant’s unlawful and unfair conduct, Plaintiff and Class
17 Members suffered injury in fact.

18 91. Plaintiff and Class Members seek declaratory and injunctive relief, restitution, and
19 other appropriate equitable relief. Cal. Bus. & Prof. Code §§ 17203, 17204.

20 92. Pursuant to California Code of Civil Procedure section 1021.5, Plaintiff and Class
21 Members are entitled to recover reasonable attorneys’ fees, costs, and expenses incurred in
22 bringing this action.

23 93. This cause of action is brought as a cumulative remedy and is intended as an
24 alternative remedy for restitution for Plaintiff, and each Subclass Member, for the four (4)-year
25 period before the filing of this Complaint, and as the primary remedy during the fourth year before
26 the filing of this Complaint. Business and Professions Code § 17205.

27 **NINTH CAUSE OF ACTION**
28 **Violation of Private Attorneys General Act (“PAGA”) Claim**
29 **Cal. Lab. Code §§ 2698 and 2699, *et seq.***

94. Plaintiff incorporates the preceding paragraphs of this Complaint.

1 95. Labor Code sections 2698 and 2699 (The California Private Attorneys General
2 Act of 2004, or “PAGA”), expressly establish that any provision of the California Labor Code
3 which provides for a civil penalty to be assessed and collected by The Labor and Workforce
4 Development Agency (“LWDA”), or any of its departments, divisions, commissions, boards,
5 agencies or employees for a violation of the California Labor Code, may be recovered through a
6 civil action brought by an aggrieved employee on behalf of other current or former employees.

7 96. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
8 agencies or employees has discretion to assess a civil penalty, a fact-finder in a civil action is
9 authorized to exercise the same discretion, subject to the same limitations and conditions, to assess
10 a civil penalty.

11 97. As an employee of Defendant who experienced the Labor Code violations alleged,
12 Plaintiff is an “aggrieved employee” as defined by Labor Code section 2699.

13 98. Plaintiff brings this PAGA action solely on behalf of all other aggrieved
14 employees employed by Defendant in the State of California, for civil penalties pursuant to the
15 PAGA for Defendant’s failure to pay minimum and overtime wages, failure to provide meal and
16 rest periods, failure to provide reimbursement for costs and expenses, failure to provide compliant
17 wage statements, and failure to timely pay all wages during and upon termination of employment,
18 as described in detail in the preceding paragraphs of this Complaint. Plaintiff is not suing in his
19 individual capacity, he is proceeding in this action solely under the PAGA, on behalf of the State
20 of California for all aggrieved employees of Defendant, which include himself, but does not seek
21 any redress or remedy for any of his individual claims including but not limited to his PAGA
22 individual claims. See *Balderas, supra*, 101 Cal.App.5th at p. 538; *Rodriguez, supra*, 109
23 Cal.App.5th at 80.

24 99. Plaintiff asserts his representative claims against Defendant for Defendant’s
25 violations of the PAGA on behalf of the LWDA and all aggrieved employees, in his capacity as
26 “private attorney general,” and seeks all statutory penalties available under the Labor Code.

27 100. By reason of the above and pursuant to Labor Code section 2699, Plaintiff, on
28 behalf of the LWDA and all aggrieved employees, is entitled to payment of penalties as provided

1 in the PAGA statute.

2 101. In addition, Plaintiff, on behalf of the LWDA and all aggrieved employees, seeks
3 and is entitled to have 65% of all recovered penalties and interest allocated to the LWDA and
4 35% to the aggrieved employees. Further, Plaintiff is entitled to seek and recover reasonable
5 attorneys' fees, expenses and costs pursuant to Labor Code section 2699, and any other applicable
6 statutes.

7 102. Plaintiff complied with the notice requirements of Labor Code section
8 2699.3(a)(1) prior to commencing this action. A copy of the letters submitted to the California
9 LWDA on January 31, 2025, via online filing, and copied to Defendant's Agent for Service of
10 Process in California on the same date, via certified mail, in accordance with Section 2699.3(a)(1),
11 is attached hereto as **Exhibit A**, and by reference incorporated herein.

12 103. As of today's date, the LWDA has not responded to Plaintiff's notice.

13 104. Plaintiff and the aggrieved employees are also entitled to reasonable attorneys'
14 fees and costs, pursuant to California Labor Code section 2699(k)(1).

15 **PRAYER FOR RELIEF**

16 **WHEREFORE**, Plaintiff prays for the following relief on behalf of himself and the Class
17 against Defendant:

18 1. Certification of this action as a class action and appointment of Plaintiff and
19 Plaintiff's counsel to represent the Class;

20 2. Provision of class notice to Class Members as defined above;

21 3. A declaratory judgment that Defendant knowingly and intentionally violated:

22 a. California Labor Code sections 510 and 1194 by failing to pay minimum
23 and overtime wages;

24 b. California Labor Code sections 226.7 and 512 by failing to provide meal
25 and rest periods;

26 c. California Labor Code section 226 by failing to provide accurate, itemized
27 wage statements;

28 d. California Labor Code section 203 by failing to pay waiting time penalties;

1 e. California Labor Code section 2802 by failing to reimburse business
2 expenses; and

3 f. California Business and Professions Code sections 17200, *et seq.* by
4 engaging in unlawful or unfair business practices.

5 4. That Defendant be permanently enjoined from engaging in the unlawful or unfair
6 acts and practices alleged;

7 5. An order requiring Defendant to pay restitution of all amounts owed to Plaintiff
8 and Class Members, in an amount according to proof, pursuant to California Business and
9 Professions Code section 17203;

10 6. That this action be maintained as a Representative Action under the PAGA, and
11 Plaintiff and his counsel be provided with all enforcement capability as if the action were brought
12 by the California Division of Labor Standards Enforcement;

13 7. For recovery of all civil penalties as permitted by Labor Code section 2699 for
14 unpaid minimum and overtime wages owed pursuant to Labor Code section 1194, according to
15 proof;

16 8. For recovery of civil penalties as permitted by Labor Code section 2699 for unpaid
17 meal period premiums earned pursuant to Labor Code section 226.7, according to proof;

18 9. For recovery of civil penalties as permitted by Labor Code section 2699 for unpaid
19 rest period premiums earned pursuant to Labor Code section 226.7, according to proof;

20 10. For recovery of civil penalties as permitted by Labor Code section 2699, for
21 inaccurate itemized wage statements pursuant to Labor Code sections 226 and 226.3, according
22 to proof;

23 11. For recovery of civil penalties under Labor Code section 2699(f) for failing to
24 timely pay all final wages due pursuant to Labor Code sections 201-202;

25 12. For recovery of civil penalties under Labor Code section 2699(f) for failing to pay
26 statutory waiting time penalties due pursuant to Labor Code section 203;

27 13. For recovery of civil penalties as permitted by Labor Code section 2699 for
28 unreimbursed business expenses pursuant to Labor Code section 2802, according to proof;

- COHELAN KHOURY & SINGER

By: Meah:

Maggie Realin, Esq.

Attorneys for Plaintiff CHRISTIAN CALDERON, on behalf of himself and all others similarly situated and aggrieved

DEMAND FOR JURY TRIAL

COHELAN KHOURY & SINGER

By: Neel

Maggie Realin, Esq.

Attorneys for Plaintiff CHRISTIAN CALDERON, on behalf of himself and all others similarly situated and aggrieved

EXHIBIT A

COHELAN KHOURY & SINGER

A PARTNERSHIP OF PROFESSIONAL LAW CORPORATIONS

TIMOTHY D. COHELAN, APLC*
ISAM C. KHOURY, APC
DIANA M. KHOURY, APC
MICHAEL D. SINGER, APLC•

(*Also admitted in the District of Columbia)
(•Also admitted in Colorado)

ATTORNEYS AT LAW

605 "C" STREET, SUITE 200
SAN DIEGO, CALIFORNIA 92101-5305
Telephone: (619) 595-3001
Facsimile: (619) 595-3000
www.ckslaw.com

JEFF GERACI
MAGGIE K. REALIN
ROSEMARY C. KHOURY

January 31, 2025

NOTICE VIA ONLINE SUBMISSION

California Labor and Workforce Development Agency ("LWDA")

VIA CERTIFIED U.S. MAIL WITH RETURN RECEIPT

Viewpoint Ambulance Inc.
1341 N. Miller Street, Suite 209
Anaheim, CA 92806

Viewpoint Ambulance Inc.
c/o Shahin Melamed, Registered Agent for Service
1341 N. Miller Street, Suite 209
Anaheim, CA 92806

Re: Notice by Christian Calderon, on behalf of himself and all similarly-situated aggrieved California employees of Viewpoint Ambulance, Inc., as an individual and as a proposed Representative of the State of California

Dear PAGA Administrator and Viewpoint Ambulance Inc.:

Pursuant to the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Cal. Lab. Code sections 2698, *et seq.* ("PAGA"), Christian Calderon ("Mr. Calderon" or "Claimant") intends to bring a civil action against his employer, Viewpoint Ambulance Inc. ("Viewpoint" or "Employer"), individually and on behalf of all other similarly-aggrieved employees. This letter serves as Claimant's written notice pursuant to Labor Code section 2699.3(a)(1)(A) providing the Labor and Workforce Development Agency (hereafter "LWDA") the opportunity to investigate the alleged claims contained herein.

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

FACTUAL STATEMENT

Claimant worked for Employer as an ambulance driver/emergency medical technician ("EMT") between approximately August and December 2024 in Orange County and Los Angeles County, California. Claimant worked two 24-hour shifts per week. His shifts varied, starting between 7 and 10 a.m., or even at midnight. Claimant would arrive at the ambulance station and check in by contacting dispatch, who would then log his clock-in and clock-out times. Typically, there would be several pre-scheduled transportation assignments. Claimant transported patients between hospitals or other medical facilities on a non-emergency basis, with the patients generally in stable condition. Each ambulance crew included at least two employees, a driver and a primary patient care giver (EMT), and these roles were interchangeable. On occasions, when a patient's condition was not stable, a nurse was also present.

Once Claimant began the first patient transportation, he would receive calls from the dispatch regarding additional trips, which were not previously scheduled. The dispatchers' duties included filling any gaps between scheduled transportations, as there was significant pressure from the management that Claimant and other drivers complete as many transportations as possible.

Despite the provision of Employer's "Agreement for 24-hour shifts" for two meal periods of one hour each, due to the Employer's requirement to provide as many transportation services as possible, Claimant frequently did not receive one or both meal periods, or had them interrupted with work duties, and such interrupted meal periods were not restarted should the interruptions occur.

Similarly, due to the number of transportation orders scheduled by the dispatch, Claimant frequently did not receive his rest periods, or had them interrupted with work duties, and such interrupted rest periods were not restarted should the interruptions occur.

Employer refused to provide meal and rest breaks to Claimant even if Claimant specifically requested them. On one occasion, Employer's failure to provide a break, despite Claimant's repeated requests for one, resulted in Claimant and his co-worker falling asleep behind the wheel which resulted in an accident on a freeway. Claimant suffered injuries as a result of that accident.

At the end of Claimant's shift, he would return to the ambulance station and contact dispatch to clock out. Claimant believes there were instances where his actual hours worked exceeded his scheduled shift time, but these extra hours were removed from his time card by the Employer, resulting in off-the-clock work and unpaid overtime.

To advise Claimant of additional, not previously scheduled transportation order, dispatch personnel would call Claimant in the ambulance. Although ambulances were equipped with radios, often times the radios did not work properly, which caused the dispatchers to contact Claimant on his personal cell phones. Additionally, although the ambulances were equipped with iPads that had the messenger function, employees were unable to use these devices for calls and were required to use their personal cell phones to make or receive calls from the Employer. Claimant was not reimbursed for these cell phone expenses.

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

1. Failed to pay Claimant and other aggrieved employees all wages due including minimum, regular, and overtime wages;
2. Failed to provide legally compliant off-duty meal periods or pay compensation in lieu thereof;

3. Failed to provide legally compliant duty-free, rest periods or pay compensation in lieu thereof;
4. Failed to reimburse all reasonable and necessary business expenses;
5. Failure to provide accurate and itemized wage statements;
6. Failed to pay all wages due during and upon separation of employment; and
7. Failed to maintain accurate records.

Accordingly, Claimant now seeks civil penalties on behalf of himself and other non-exempt aggrieved employees based on Employer's alleged violations of the California Labor Code and the applicable IWC Wage Order. Claimant's claims are set forth below.

FAILURE TO PAY MINIMUM, REGULAR, AND OVERTIME WAGES

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

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

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

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

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

Labor Code section 1197.1 states: “Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows: (1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid... (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed...”

Pursuant to the “Hours & Days of Work” Section of the applicable Wage Order, an employer may not pay non-exempt employees less than the applicable overtime rate for overtime hours worked in excess of 40 hours per workweek.

Pursuant to the “Minimum Wages” and “Hours & Days of Work” Sections of the applicable Wage Order, an employer may not pay employees less than the applicable minimum wage for all hours worked and provides that an employer may not pay non-exempt employees less than the applicable overtime rate for overtime hours worked in excess of 40 hours per week.

Employer violated Labor Code sections 218, 510, 1194, 1197, and 1198, and the “Minimum Wages” and “Hours and Days of Work” Sections of the applicable Wage Order because it did not pay Claimant and other aggrieved current and former employees all minimum, regular, and overtime wages, as a result of Employer’s policy of not paying Claimant and other aggrieved employees for all hours worked.

Employer failed to pay Claimant and other aggrieved employees working under the title of ambulance driver and/or EMTs or similar job title for all hours worked including minimum, regular, and overtime wages.

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

FAILURE TO PROVIDE MEAL AND REST PERIODS

(Labor Code §§ 226.7, 512, 885, 886(a), 887 and 1198, and the “Meal Period” and “Rest Period” Sections of the applicable IWC Wage Order)

Labor Code section 512(a) states in pertinent part: “An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes....” Labor Code section 226.7(b) states that “An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission....”

Labor Code section 885 states, in pertinent part: “(a) All emergency ambulance employees are hereby entitled to meal and rest periods as prescribed elsewhere by the Industrial Welfare Commission. (b) Emergency ambulance employees shall be compensated at their regular hourly rate of pay during meal and rest periods.”

Labor Code section 886(a) states, in pertinent part: “(1) An emergency ambulance provider shall not require an emergency ambulance employee to take a meal period during the first or last hour of a work shift and must allow an emergency ambulance employee to space multiple meal periods during a work shift at least two hours apart. (2) An emergency ambulance provider shall manage staffing at levels sufficient to provide enough inactivity in a work shift for emergency ambulance employees to meet the requirements of this subdivision. (b) Any meal period that does not comply with paragraph (1) of subdivision (a) shall not be counted towards the meal periods an employee is entitled to during his or her work shift.”

Labor Code section 887 states, in pertinent part: (a) In order to maximize protection of public health and safety, emergency ambulance employees shall remain reachable by a portable communications device throughout the entirety of each work shift. (b) If an emergency ambulance employee is contacted during a meal or rest period, that particular meal or rest period shall not be counted towards the meal and rest periods the employee is entitled to during his or her work shift. (c) If an emergency ambulance employee is not contacted during a meal or rest period, that particular meal or rest period shall be counted towards the meal and rest periods the employee is entitled to during his or her work shift.”

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

During Claimant’s employment, Employer failed to provide Claimant and other aggrieved employees working under the title of ambulance driver and/or EMT or similar job title with off-duty meal periods and duty-free rest periods as required by Labor Code sections 226.7 and 512, and Sections 11 and 12 of the applicable IWC Wage Order, due to Employer’s policy of not providing Claimant and other aggrieved employees with an off-the-clock, uninterrupted, thirty-minute off-duty meal break, and an uninterrupted, ten-minute off-duty rest break. Furthermore, Employer failed to pay one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal and/or rest period was not provided, in accordance with California law.

Labor Code section 226.7(c) states: “If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the

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employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

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

FAILURE TO REIMBURSE BUSINESS-RELATED EXPENSES

(Labor Code §§ 2802 and 2804, and the "Uniforms and Equipment" Section of the applicable IWC Wage Order)

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

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

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

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

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

Employer failed to comply with Labor Code section 2802 and the applicable IWC Wage Order by failing to reimburse Claimant and other aggrieved employees working under the title of ambulance driver and/or EMT or similar job title for necessary business-related expenses incurred in direct consequence of the discharge of their duties. Claimant and other aggrieved employees were required to use their personal cellular device for work-related purposes without receiving reimbursement for these business expenditures. As such, Employer failed to reimburse

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Claimant and other aggrieved employees for the costs incurred by employees in direct consequence of the discharge of their duties for Employer.

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

FAILURE TO PROVIDE ACCURATE AND ITEMIZED WAGE STATEMENTS
(Labor Code § 226, and the “Records” Section of the applicable IWC Wage Order)

Labor Code section 226(a) states in pertinent part that every employer shall provide an accurate itemized statement in writing with respect to each one of its employees showing: 1) gross wages earned; 2) total hours worked by an employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission; (3) the number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number; (8) the name and address of the legal entity that is the employer . . .; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

“An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.” Cal. Labor Code § 226(e)(1).

Section 7(A) of the applicable IWC Wage Order provides: “Every employer shall keep accurate information with respect to each employee including the following: ... (3) time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded.” Employer failed to accurately record the hours worked and meal periods for Claimant and other aggrieved employees working under the title of ambulance driver and/or EMT or similar job title.

Employer failed to provide Claimant and other current and former employees working under the title of ambulance driver and/or EMT or similar job title with accurate, timely, itemized wage statements complying with the requirements of the Labor Code and the applicable IWC Wage Order. Furthermore, Claimant’s wage statements did not include the correct number of hours worked and wages earned due to Employer’s policy of not paying Claimant and other aggrieved employees for all hours worked.

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

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

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

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

Labor Code section 203(a) states, in relevant part: “If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents themselves to avoid payment to them, or who refuses to receive the payment when fully tendered to them, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which the employee so avoids payment.”

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

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

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

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

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code §§1174, 1174.5, 2699, and the “Records” Section of the applicable IWC Wage Order)

Labor Code section 1174(d) requires every person, including Employer, employing labor in the state to “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

Labor Code section 1174.5 provides: “Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).”

Section 7(A) of the applicable IWC Wage Order provides: “Every employer shall keep accurate information with respect to each employee including the following: ... (3) time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded.” Employer failed to accurately record the hours worked and meal periods for Claimant and other aggrieved employees working under the title of ambulance driver and/or EMT or similar job title.

Employer failed to maintain accurate payroll records for Claimant and other current and former employees working under the title of ambulance driver and/or EMT or similar job title showing the hours worked daily and the wages paid. Claimant alleges that Employer failed to maintain accurate records of all hours worked by Claimant and all other current and former employees working under the title of ambulance driver and/or EMT.

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

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

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

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

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

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

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

Accordingly, Claimant will pursue *civil penalties* under the PAGA on behalf of himself and other aggrieved employees working under the title of ambulance driver and/or EMT or similar job title, including recovery of attorney’s fees, costs, and civil penalties to the extent allowed by law.

DUTIES OF EMPLOYER

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

Labor Code section 1174 describes certain duties of every employer in this state. Subsection (d) of this labor code section requires that payroll records show the hours worked daily by employees and the corresponding wages to be paid for the hours worked. Employer violated this requirement by its failure to accurately record employee hours worked and/or paid including wages owed for all work performed, and meal and rest period premiums. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer’s failure to maintain accurate and complete records. This civil penalty is addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code section 2699 for a violation of Labor Code section 1174(d). Furthermore, Claimant and all other aggrieved current and former employees are entitled to collect 35% of the penalty imposed pursuant to Section 2699(m).

Employer failed to accurately record all hours worked by Claimant and other aggrieved employees including the beginning and ending period for each work period, failed to record meal periods, and failed to record all accurate wages to be paid, in part as a result of Employer’s policy of not paying Claimant and other aggrieved employees for all hours worked.

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

ATTORNEY'S FEES, COSTS, INTEREST AND PENALTIES

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

Labor Code sections 218.6, 226(e), 1194, 1194.2, and 2699, *et seq.* give employees the right to recover in a civil action the unpaid balance of the full amount of minimum wages, regular wages, overtime compensation, damages, liquidated damages, and penalties, including interest thereon, reasonable attorney's fees, and costs of suit.

Pursuant to Labor Code sections 2699, *et seq.*, aggrieved employees are entitled to collect 35% of the penalty assessment and 100% of the underpaid wages. Accordingly, Employer is liable for these items in addition to the unpaid wages. Claimant has already incurred in actual damages, costs and attorney's fees and will continue to incur costs as a result of Employer's unlawful actions.

CONCLUSION

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

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

Very truly yours,
COHELAN KHOURY & SINGER



Maggie K. Realin, Esq.