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COUNTY OF LOS ANGELES – CENTRAL DISTRICT**STANLEY MOSK COURTHOUSE**

JUAN HERNANDEZ ORTEGA,

Plaintiff,

v.

CARENETLA, INC.; and DOES 1 through 50, inclusive,

Defendant.

Case No.: **22STCV31959****REPRESENTATIVE ACTION**

1. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Recovery of Unpaid Wages and Overtime;
2. Violation of the Private Attorneys General Act, Labor Code §2698 et seq. for Failure to Provide Meal Periods;
3. Violation of the Private Attorneys General Act, Labor Code §2698 et seq for Failure to Provide Rest Periods;
4. Violation of the Private Attorneys General Act, Labor Code §2698 et seq for Failure to Keep Accurate Payroll Records and Provide Accurate Itemized Wage Statements;
5. Violation of the Private Attorneys General Act, Labor Code §2698 et seq for Failure to Pay Wages Due Upon Termination of Employment; and
6. Violation of the Private Attorneys General Act, Labor Code §2698 et seq for Failure to Indemnify for Expenditures or Losses in Discharge of Duties.

1
2 Plaintiff JUAN HERNANDEZ ORTEGA (“Plaintiff” or “Mr. Ortega”) complains and
3 alleges as follows:

4 **INTRODUCTION**

5 1. This is an action brought on behalf of Plaintiff and all similarly-situated employees
6 who were subjected to one or more of the violations alleged herein (“Aggrieved Employees”) by
7 Defendant CARENETLA, INC. (“Defendant”). The term “Relevant Time Period” or “Time
8 Period” is defined as one (1) year plus sixty-five (65) days prior to the filing of the complaint.
9 Plaintiff reserves the right to amend this complaint to reflect a different “Time Period” as further
10 discovery is conducted.

11 2. Plaintiff, individually and on behalf of the Aggrieved Employees, seeks relief
12 against Defendant for its: (1) failure to pay all wages due, including regular and overtime wages;
13 (2) failure to provide meal periods or premium compensation in lieu thereof; (3) failure to provide
14 rest periods or premium compensation in lieu thereof; (4) failure to keep accurate payroll records
15 and provide accurate itemized wage statements; (5) failure to pay wages due upon termination of
16 employment; and (6) failure to indemnify for expenditures or losses in discharge of duties.

17 3. At all relevant times herein, Defendant has consistently maintained and enforced
18 the following unlawful policies and practices against Plaintiff:

- 19 (a) Willfully refusing to pay all hours worked, including both regular and
20 overtime wages;
21 (b) Willfully refusing to permit off-duty meal periods or providing
22 compensation in lieu thereof;
23 (c) Willfully refusing to permit rest periods or providing compensation in lieu
24 thereof;
25 (d) Willfully refusing to furnish accurate itemized wage statements upon
26 payment of wages;
27 (e) Willfully refusing to pay all wages due upon separation of employment;
28 and

1 (f) Willfully refusing to pay for expenditures or losses in the discharge of
2 their duties.

3 **JURISDICTION AND VENUE**

4 4. This Court has subject matter jurisdiction over the causes of action alleged in this
5 complaint because the Court is a court of general subject matter jurisdiction and is not otherwise
6 excluded from exercising subject matter jurisdiction over said causes of action.

7 5. Venue is proper in the County of Los Angeles, because the Defendant maintains
8 their location and transact business in this county, the obligations and liability arise in this county,
9 and work performed by Plaintiff and Aggrieved Employees that form the subject of this action
10 occurred in this county.

11 6. The California Superior Court has jurisdiction in the matter, because of the
12 individual claims are under the seventy-five thousand dollar (\$75,000.00) jurisdictional threshold
13 for Federal Court and this action seeks recovery of civil penalties. Plaintiff is a resident of and/or
14 domiciled in the State of California. Defendant is a corporation doing business in the State of
15 California.

16 7. Further, there is no federal question at issue as the issues herein are based solely
17 on California statutes and law, including the Labor Code, Code of Civil Procedure, Business and
18 Professions Code, and Rules of Court.

19 **THE PARTIES**

20 **Plaintiff**

21 8. Plaintiff began his employment with Defendant on or around April 17, 2018, as a
22 caregiver. Throughout the relevant time period, Plaintiff was always paid an hourly wage and was
23 deemed a non-exempt hourly employee by Defendant. Plaintiff is accordingly entitled to
24 compensation for all hours worked, overtime compensation, premium pay, business expense
25 reimbursements, and penalties from Defendant.

26 **Defendant**

27 9. Plaintiff is informed and believes, and based thereon alleges, that Defendant
28 CARENETLA, INC. is a caregiving company that operates in the state of California. On

1 information and belief, and based thereon, Plaintiff alleges that Defendant is conducting business
2 in good standing in California, at all times herein mentioned, has regularly conducted business
3 throughout the State of California.

4 10. Plaintiff is ignorant of the true names, capacities, relationships, and extent of
5 participation in the conduct herein alleged of Defendants sued herein as DOES 1 through 50,
6 inclusive, but on information and belief alleges that said Defendants are legally responsible for
7 the violations alleged herein. Plaintiff will amend this complaint to allege the true names and
8 capacities of the DOE Defendants when ascertained.

9 11. Plaintiff is informed believes, and thereon alleges, that each Defendant acted in all
10 respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme,
11 business plan, or policy in all respects pertinent hereto, and the acts of each Defendant are legally
12 attributable to the other Defendant. Furthermore, Defendants operate as a joint venture and/or
13 single business enterprise, integrated enterprise and/or are agents of one another, are alter egos,
14 joint employers and conspire with one another to increase profits by engaging in the conduct
15 described in this complaint.

16 12. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
17 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
18 managing agent, and/or principal of the co-Defendant, and in performing the actions mentioned
19 below was acting, at least in part, within the course and scope of that authority as such agent,
20 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
21 the permission and consent of the co-Defendant. Plaintiff also alleges the acts of each Defendant
22 are legally attributable to the other Defendant.

23 **PAGA ADMINISTRATIVE PREREQUISITE**

24 13. This complaint, Plaintiff brings this case as a representative action seeking
25 penalties for the State of California in a representative capacity, as provided by the Private
26 Attorney General Act, Labor Code section 2698 et seq. ("PAGA"), as an aggrieved employee was
27 employed by Defendant and did not receive all wages due, was not paid regular wage, was not
28 paid overtime, was not provided accurate wage statements, was not reimbursed for necessary

1 expenditures, and was not able to take lawful meal and rest breaks or receive premium
2 compensation in lieu thereof.

3 14. Prior to filing this complaint, on July 25, 2022, Plaintiff gave written notice by
4 certified electronic mail to the Labor and Workforce Development Agency (“LWDA”) and to
5 Defendant of the specified provisions alleged to have been violated, including the facts and
6 theories to support the alleged violation as required by Labor Code section 2699.3. A true and
7 correct copy of Plaintiff’s original letter sent to the LWDA on July 25, 2022, is attached hereto
8 as Exhibit A.

9 15. More than sixty-five (65) days have passed since Plaintiff submitted his July 25,
10 2022 notice to the LWDA and Defendant of the specific alleged Labor Code violations and the
11 LWDA have not provided notice to Plaintiff of its intent to investigate such alleged violations.
12 Plaintiff further has received no notice of Defendant’ intent to cure any of the alleged violations.
13 Therefore, Plaintiff has satisfied the administrative prerequisites for filing this action with regard
14 to his July 25, 2022 PAGA notice.

15 **FACTUAL ALLEGATIONS**

16 16. This lawsuit arises out of an ongoing wrongful scheme by Defendant to deny its
17 employees the benefits due under California’s wage and hour laws for work performed in
18 California. Defendant wrongfully refused to pay Plaintiff and Aggrieved Employees regular
19 wages, overtime compensation, business expense reimbursements, and other statutory benefits
20 mandated by California.

21 17. Throughout the Relevant Time Period, Defendant employed Plaintiff and
22 Aggrieved Employees in non-exempt positions throughout its California locations. Accordingly,
23 these positions remain non-exempt from California’s wage and hour laws yet Defendant fail to
24 pay overtime, provide meal and rest breaks and otherwise pay all wages due to these non-exempt
25 employees as required by law.

26 18. Plaintiff is informed and believes, and based thereon alleges, that Defendant’s
27 policies and practices described herein are common across each of Defendant’s locations within
28 the State of California.

1 19. Plaintiff is informed and believes, and based thereon alleges, that Defendant
2 instituted a policy and practice against its employees wherein overtime wages due were not paid
3 in compliance with California law. Specifically, Defendant failed to compensate Plaintiff and
4 Aggrieved Employees for all hours worked in violation of California law, including overtime and
5 double time compensation. Defendant's policy resulted in failure to pay all overtime hours for all
6 work performed by Plaintiff and Aggrieved Employees.

7 20. Plaintiff is informed and believes, and based thereon alleges, that Defendant had a
8 policy and/or practice of rounding the hours worked by Plaintiff and Aggrieved Employees, which
9 systematically undercompensated Plaintiff and Aggrieved Employees.

10 21. Plaintiff is informed and believes, and based thereon alleges, that Defendant was
11 required to provide Plaintiff and Aggrieved Employees with a work-free, thirty (30) minute meal
12 period within the first five (5) hours of a shift for workdays in excess of six (6) hours, and a second
13 thirty (30) minute meal period within the tenth hour of a shift for workdays in excess of ten (10)
14 hours, in compliance with Labor Code section 512. Specifically, Defendant never allowed
15 Plaintiff and Aggrieved Employees to take their meal periods. Defendant routinely denied
16 Plaintiff and Aggrieved Employees a full, thirty (30) minute off-duty meal period when they
17 worked in excess of six (6) hours within the first five (5) hours of their shifts and a second meal
18 period when they worked in excess of ten (10) hours. As a result of Defendant's unlawful policy
19 and practice, Plaintiff and Aggrieved Employees did not receive all meal periods or payment of
20 one (1) additional hour of pay at Plaintiff and Aggrieved Employees' regular rate of pay when
21 they did not receive a timely, uninterrupted thirty (30) minute off-duty meal period.

22 22. Additionally, Defendant were obligated to provide Plaintiff and Aggrieved
23 Employees with a ten (10) minute rest break for every four (4) hours, or major fraction thereof,
24 worked each day. Defendant prevented Plaintiff and Aggrieved Employees from taking their full
25 rest breaks throughout their shifts. Specifically, Plaintiff and Aggrieved Employees' rest breaks
26 were regularly interrupted in order to perform security tasks. Plaintiff and Aggrieved Employees
27 did not receive all paid rest periods or payment of one (1) additional hour of pay at Plaintiff's'

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1 and Aggrieved Employees' regular rate of pay when a paid rest period was missed, shortened or
2 interrupted.

3 23. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
4 or should have known that Plaintiff and Aggrieved Employees were entitled to receive itemized
5 wage statements that accurately showed their actual hours worked, total hours worked, number
6 of hours worked at each hourly rate, gross and net wages earned, premium wages earned per pay
7 period, and the name and address of the legal entity that is the employer in accordance with
8 California law. In violation of the Labor Code, Plaintiff and Aggrieved Employees were not
9 provided with accurate itemized wage statements that accurately reported their gross and net
10 wages earned, total hours worked, premium wages earned, and each applicable rate of pay in
11 effect during the pay period with the corresponding number of hours worked, among other things.

12 24. Plaintiff is informed and believes, and based thereon alleges, that Defendant knew
13 or should have known that Plaintiff and Aggrieved Employees were entitled to receive business
14 reimbursements for necessary expenditures incurred in connection with the performance and
15 execution of their job duties. In violation of the Labor Code, Defendants required Plaintiff and
16 Aggrieved Employees to purchase of scrubs, use of their vehicles and cellphones, without
17 reimbursement.

18 25. For at least one (1) year and sixty-five (65) days prior to the filing of this action
19 and through to the present, Plaintiff alleges that Defendant consistently maintained and enforced
20 the following unlawful practices and policies against its employees, in violation of California
21 state wage and hour laws.

22 a. Defendant had a consistent policy of not paying Plaintiff and Aggrieved
23 Employees for all hours worked;

24 b. Defendant had a consistent policy of requiring Aggrieved Employees within
25 the State of California, including Plaintiff, to work at least five (5) hours
26 without a lawful meal period and work at least ten (10) hours without a second
27 meal period, and failing to pay such employees one (1) hour of pay at the
28 employees' regular rate of compensation for each workday that the meal period

1 was not provided, all in violation of, among others, Labor Code sections 201,
2 202, 226.7, 512, and applicable Industrial Welfare Commission Wage Orders,
3 in one or more of the following manners; and

4 i. employees were required to work through their daily meal period(s), or
5 work an unlawful “on-duty meal period;”

6 ii. employees were restricted in their ability to take an uninterrupted meal
7 period.

8 c. Defendant had a consistent policy of failing to provide Aggrieved Employees
9 within the State of California, including Plaintiff, rest periods of at least (10)
10 minutes per four (4) hours worked or major fraction thereof and failing to pay
11 such employees one (1) hour of pay at the employees’ regular rate of
12 compensation for each workday that the rest period is not provided, as required
13 by California state wage and hour laws, in one or more of the following
14 manners:

15 i. employees were required to work without being provided a minimum
16 ten-minute rest period for every four (4) hours, or major fraction
17 thereof, worked and were not compensated with one hour of pay at their
18 regular rate of pay for each workday that a rest period was not
19 provided; and

20 ii. employees were neither permitted nor authorized to take lawful rest
21 periods.

22 d. With respect to the Aggrieved Employees who either were discharged, laid off,
23 or resigned, Defendant failed to pay them in accordance with the requirements
24 of Labor Code sections 201, 202, and 203;

25 e. Defendant failed to institute policies and procedures that ensured accurate
26 recording of all hours Plaintiff and Aggrieved Employees worked during the
27 Relevant Time Period;

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1 f. Defendant instituted policies and procedures that offset the necessary costs of
2 doing business on its employees. Plaintiff and Aggrieved Employees were
3 required to purchase and wash and maintain scrubs; use their own vehicles,
4 and use their personal cellphones. Defendant failed to reimburse Plaintiff and
5 Aggrieved Employees for the cost of purchasing, washing and maintaining the
6 required uniform, use of their personal vehicles, or use of their cellphones.
7 Defendant required Plaintiff and Aggrieved Employees to take on the burden
8 of these expenses without reimbursement in violation of Labor Code section
9 2802.

10 26. Plaintiff is informed and believes, and based thereon alleges, that Defendant
11 willfully failed to pay Aggrieved Employees all wages earned, including compensation for missed
12 meal and rest periods, in a timely manner upon or after termination of their employment with
13 Defendant.

14 27. Plaintiff is informed and believes, and based thereon alleges, that Defendant
15 currently employs, and during the relevant liability period has employed hundreds of employees
16 in the State of California in non-exempt positions.

17 28. At relevant times herein, Plaintiff and the Aggrieved Employees were employed
18 by Defendant in non-exempt hourly positions.

19 29. On information and belief, Plaintiff alleges that Defendant's actions as described
20 throughout this complaint were willful.

21 30. On information and belief, Plaintiff alleges that Defendant willfully failed to pay
22 the legal wages, failed to provide legal rest and meal periods, and willfully failed to pay one (1)
23 hour's wages in lieu of rest and meal periods, when each such employee quit or was discharged.

24 31. Plaintiff, on behalf of himself, the State of California, and all other Aggrieved
25 Employees, brings this action pursuant to Labor Code sections 201, 202, 203, 204, 226, 226.7,
26 227.3, 510, 512, 1174, 1194, and 2802, seeking penalties, injunctive, and other equitable relief,
27 and reasonable attorneys' fees and costs.

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32. Defendant has failed to comply with Labor Code section 226, subdivision (a) by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked by Plaintiff and the Aggrieved Employees. Plaintiff and Aggrieved Employees are therefore entitled to penalties not to exceed four thousand dollars (\$4,000.00) for each employee pursuant to Labor Code section 226, subdivision (b).

33. Defendant has failed to comply with section 7 of the California IWC Wage Orders by failing to maintain time records showing when the employee begins and ends each work period, meal periods, wages earned pursuant to Labor Code section 226.7, and total daily hours worked by itemizing in wage statements all deductions from payment of wages and accurately reporting total hours worked by the Aggrieved Employees

FIRST CAUSE OF ACTION

VIOLATION OF PAGA FOR RECOVERY OF UNPAID MINIMUM WAGE AND OVERTIME

(Labor Code Sections 226.7 and 512)
(Plaintiff Against All Defendants)

34. Plaintiff realleges and incorporates by reference the preceding paragraphs of this complaint as if fully set forth herein.

35. Plaintiff and Aggrieved Employees regularly worked over eight (8) hours per day and forty (40) hours per week. Defendant failed to pay Plaintiff and Aggrieved Employees minimum wage for all hours worked and overtime premium for hours worked in excess of over eight (8) hours per day and/or forty (40) hours per week for work performed for the Defendant.

36. Plaintiff alleges that, Defendant CARENETLA, INC. maintained, and has maintained throughout the Relevant Time Period, a consistent policy and practice of failing to pay wages, including overtime and double time wages due for hours actually worked.

37. Plaintiff alleges that Defendant CARENETLA, INC. maintained, and have maintained throughout the Relevant Time Period, a consistent policy of failing to pay its employees for all hours worked. Specifically, Defendant maintained a policy of failing to record

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1 all hours Plaintiff and Aggrieved Employees worked and failing to pay for all hours worked at
2 the appropriate rate of pay.

3 38. As such, Plaintiff and Aggrieved Employees seek overtime in an amount according
4 to proof, which they earned and accrued one (1) year prior to filing this complaint, according to
5 proof, as part of the civil penalty pursuant to Labor Code section 558, subdivision (a).

6 39. Defendant willfully violated the Labor Code by failing to pay Plaintiff and
7 Aggrieved Employees all wages, including both minimum wage and overtime. Plaintiff and
8 Aggrieved Employees performed work off-the-clock, during overtime periods and during meal
9 and rest periods, when Plaintiff and Aggrieved Employees were ostensibly off-duty. Plaintiff and
10 Aggrieved Employees also regularly and frequently worked beyond the eighth (8th) hour of the
11 shift and/or forty (40) hours per week, but Defendant compensated only for forty (40) hours per
12 week failing to compensate for overtime work in violation of the Labor Code Section 510.

13 40. Since the LWDA has not indicated that it will be investigating more than sixty-
14 five (65) days since Plaintiff provided notice, and because Defendant took no corrective action to
15 remedy the allegations set forth above, Plaintiff, as a representative of the people of the State of
16 California, will seek any and all penalties otherwise capable of being collected by the Labor
17 Commission, the LWDA and/or the Department of Labor Standards Enforcement (“DLSE”). This
18 includes each of the following, as set forth in Labor Code section 2699.5, which provides that
19 section 2699.3, subdivision (a), applies to any alleged violation of the following provisions: 510
20 and 1194.

21 41. Plaintiff is informed and believes that Defendant have violated, and continue to
22 violate, provisions of the Labor Code and applicable Wage Orders related to the payment of
23 minimum wages and overtime.

24 42. Plaintiff, as a personal representative of the general public, will and does seek to
25 recover any and all penalties for each and every violation shown to exist or to have occurred
26 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
27 otherwise only available to public agency enforcement actions. Funds recovered will be
28 distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties

1 recovered being reimbursed to the LWDA.

2 43. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
3 costs pursuant to Labor Code sections 2699, subdivision (g)(1), 218.5, 1194, and prejudgment
4 interest.

5 **SECOND CAUSE OF ACTION**

6 **VIOLATION OF PAGA FOR FAILURE TO PROVIDE MEAL PERIODS OR**
7 **PREMIUM COMPENSATION IN LIEU THEREOF**

8 **(Labor Code Sections 226.7 and 512)**

9 **(Plaintiff against All Defendants)**

10 44. Plaintiff realleges and incorporates by reference all preceding paragraphs as if
11 fully set forth herein.

12 45. Labor Code sections 226.7 and 512 and IWC Wage Order 5-2001, Sect. 11
13 provides that no employer shall employ any person for a work period of more than five (5) hours
14 without providing a meal period uninterrupted by work duties of not less than thirty (30) minutes
15 or employ any person for a work period of more than ten (10) hours without a second meal period
16 of not less than thirty (30) minutes.

17 46. Labor Code section 226.7 provides that if an employer fails to provide an
18 employee a meal period in accordance with this section, the employer shall pay the employee one
19 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
20 period is not provided in accordance with this section. Plaintiff alleges Defendant failed to provide
21 legally compliant meal periods in addition to impeding, discouraging, dissuading and/or not
22 relieving employees from all work duties during meal periods thereby preventing employees from
23 taking legally compliant meal periods.

24 47. Industrial Welfare Commission (IWC) Wage Order No. 5-2001 (Wage Order 5)
25 section 11, subdivision (A) states, "Unless the employee is relieved of all duty during a 30-minute
26 meal period, the meal period shall be considered an "on duty" meal period and counted as time
27 worked. An "on duty" meal period shall be permitted only when the nature of the work prevents
28 an employee from being relieved of all duty and when by written agreement between the parties

1 an on-the-job paid meal period is agreed to. The written agreement shall state that the employee
2 may, in writing, revoke the agreement at any time.”

3 48. The burden to prove that a meal or rest period violation has occurred normally
4 rests on the Plaintiff. However, under *Safeway, Inc. v. Superior Court* (238 Cal.App.4th 1138,
5 1159-60 (2015)), where an employer fails to keep accurate records of meal and rest periods, a
6 presumption of meal and rest period violations is created, shifting the burden to the employer to
7 prove that meal and rest period violations did not occur.

8 49. Defendant failed to schedule non-exempt employees in an adequately overlapping
9 manner so as to reasonably ensure Plaintiff and Aggrieved Employees could take and/or receive
10 such meal periods within the statutory timeframe. Further, Defendant obligated Plaintiff and
11 Aggrieved Employees to work through meal periods while off-the-clock. Defendant denied
12 Plaintiff and Aggrieved Employees duty-free meal periods, as a result, Plaintiff and Aggrieved
13 Employees were often forced to forego meal periods and/or work during their meal periods. In so
14 doing, Defendant have intentionally and improperly denied meal periods to Plaintiff and
15 Aggrieved Employees in violation of Labor Code sections 226.7 and 512 and other regulations
16 and statutes.

17 50. Defendant failed to keep accurate records of the meal periods taken by Plaintiff
18 and Aggrieved Employees.

19 51. Plaintiff and Aggrieved Employees did not voluntarily or willfully waive meal
20 periods.

21 52. At all times relevant hereto, Plaintiff and Aggrieved Employees have worked more
22 than five (5) hours in a workday.

23 53. At varying times relevant hereto, Plaintiff and Aggrieved Employees at times have
24 worked more than ten (10) hours in a workday.

25 54. At all times relevant hereto, Defendant failed to offer or to schedule non-exempt
26 positions in a manner so as to reasonably provide meal and/or work free meal period as required
27 by Labor Code sections 226.7 and 512.

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1 55. Defendant' failure to schedule Plaintiff and Aggrieved Employees in such a way
2 as to provide meal periods, and/or work free meal periods to Plaintiff and Aggrieved Employees,
3 and/or to provide on-duty meal periods in accordance with the applicable IWC Wage Order, has
4 caused Plaintiff and Aggrieved Employees to suffer, and continue to suffer, injury which will be
5 ascertained according to proof at trial.

6 56. Further, Defendant' failure to maintain accurate records of the meal periods taken
7 by Plaintiff and Aggrieved Employees creates a presumption of the violations having occurred
8 and shifts the burden to Defendant to prove they did not occur.

9 57. Plaintiff individually, and on behalf of the Aggrieved Employees, requests
10 recovery of meal period compensation pursuant to Labor Code sections 226.7 and 558,
11 subdivision (a), which they are owed beginning one (1) year prior to filing this complaint as well
12 as the assessment of any civil penalties against Defendant, and each of them, in a sum as provided
13 by the Labor Code and/or other statutes.

14 58. Since the LWDA has not indicated that it will be investigating and sixty-five (65)
15 days have passed since Plaintiff mailed his letter, and because Defendant took no corrective action
16 to remedy the allegations set forth above, Plaintiff, as a representative of the people of the State
17 of California, will seek any and all penalties otherwise capable of being collected by the Labor
18 Commission, the LWDA and/or the Department of Labor Standards Enforcement ("DLSE"). This
19 includes each of the following, as set forth in Labor Code section 2699.5, which provides that
20 section 2699.3, subdivision (a), applies to any alleged violation of the following provisions: 510
21 and 1194.

22 59. Plaintiff is informed and believes that Defendant have violated and continue to
23 violate provisions of the Labor Code and applicable Wage orders related to the payment of
24 minimum wages, including overtime.

25 60. Plaintiff, as a personal representative of the general public, will and does seek to
26 recover any and all penalties for each and every violation shown to exist or to have occurred
27 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
28 otherwise only available to public agency enforcement actions. Funds recovered will be

distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered being reimbursed to the LWDA.

61. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

THIRD CAUSE OF ACTION

**VIOLATION OF PAGA FOR FAILURE TO PROVIDE REST PERIODS OR
PREMIUM COMPENSATION IN LIEU THEREOF**

(Labor Code Sections 226.7 and 512)

(Plaintiff against All Defendants)

62. Plaintiff and Aggrieved Employees reallege and incorporate by reference the preceding paragraphs of this complaint as if fully set forth herein.

63. Labor Code section 226.7 provides that employers authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours.

64. Labor Code section 226.7, subdivision (b), provides that if an employer fails to provide an employee rest periods in accordance with this section, 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.

65. Defendant, and each of them, failed and or refused to implement a relief system by which Plaintiff and Aggrieved Employees could receive rest periods and/or work free rest periods. Defendant denied Plaintiff and Aggrieved Employees duty free rest periods by interrupting Plaintiff and Aggrieved Employees' rest periods. By and through their actions, Defendant intentionally and improperly denied duty free rest periods to the Plaintiff and Aggrieved Employees in violation of Labor Code sections 226.7 and 512.

66. Furthermore, Defendant failed to provide Plaintiff and Aggrieved Employees with duty free rest periods or failed to provide Plaintiff and Aggrieved Employees with rest periods all together in violation of Labor Code section 226.7 and 512.

67. Defendant failed to keep accurate records of the rest periods taken by Plaintiff and Aggrieved Employees.

1 68. At all times relevant hereto, Plaintiff and Aggrieved Employees, have worked
2 more than four (4) hours in a workday.

3 69. By virtue of the Defendant' unlawful failure to provide rest periods to Plaintiff and
4 Aggrieved Employees as a result of their scheduling and shift relief system, Plaintiff and
5 Aggrieved Employees have suffered, and will continue to suffer, damages, in amounts which are
6 presently unknown, but which exceed the jurisdictional limits of this Court and which will be
7 ascertained according to proof at trial.

8 70. Plaintiff, by virtue of Plaintiff's employment with Defendant, Defendant' failure
9 to provide Plaintiff and Aggrieved Employees with rest breaks, and Defendant' policy of
10 requiring employees to work through their rest periods without receiving compensation in lieu
11 thereof, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has
12 satisfied all prerequisites to serve as a representative of the general public to enforce California's
13 labor laws, and the penalty provisions identified in Labor Code section 2699.5.

14 71. Plaintiff individually, and on behalf of the Aggrieved Employees, requests
15 recovery of meal period compensation pursuant to Labor Code sections 226.7 and 558,
16 subdivision (a), which they are owed beginning one (1) year prior to filing this complaint as well
17 as the assessment of any civil penalties against Defendant, and each of them, in a sum as provided
18 by the Labor Code and/or other statutes. Plaintiff, as a representative of the people of the State of
19 California, will seek any and all penalties otherwise capable of being collected by the Labor
20 Commission, the LWDA and/or the DLSE. This includes each of the following, as set forth in
21 Labor Code section 2699.5, which provides that section 2699.3, subdivision (a), applies to any
22 alleged violation of the following provisions: 226.7 and 512.

23 72. Plaintiff, as a personal representative of the general public, will and does seek to
24 recover any and all penalties for each and every violation shown to exist or to have occurred
25 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
26 otherwise only available to public agency enforcement actions. Funds recovered will be
27 distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties
28 recovered being reimbursed to the LWDA.

73. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

FOURTH CAUSE OF ACTION

**VIOLATION OF PAGA FOR FAILURE TO KEEP ACCURATE PAYROLL RECORDS
AND TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

(Labor Code Sections 1174 and 226, subdivision (A), (E))

(Plaintiff against All Defendants)

74. Plaintiff and Aggrieved Employees reallege and incorporate by reference the preceding paragraphs of this complaint as if fully set forth herein.

75. Labor Code section 1174, subdivision (d), requires an employer to keep at a central location in California or at the plant or establishment at which the employees are employed, payroll records showing the hours worked daily, and the wages paid to each employee. Plaintiff is informed and believes, based thereon alleges, that Defendant willfully failed to make or keep accurate records for Plaintiff and similarly-aggrieved employees.

76. Labor Code section 226, subdivision (a), states in pertinent part that, "every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing: (1) gross wages earned; (2) total hours worked by the employee...; (3) the number of piece-rate units earned...; (4) all deductions...; (5) net wages; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and only 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 corresponding number of hours worked at each hourly rate by the employee..." (Lab. Code, § 226.).

77. Defendant knowingly and intentionally failed to provide timely and accurate itemized wage statements to Plaintiff and Aggrieved Employees in accordance with Labor Code section 226, subdivision (a), by failing to record the accurate number of hours worked, the

1 accurate rate of pay for each hour worked, the accurate amount of premiums wages earned, the
2 accurate net pay, and the accurate gross pay. Such failure caused injury to Plaintiff and Aggrieved
3 Employees.

4 78. Plaintiff and Aggrieved Employees are entitled to damages under Labor Code
5 section 226, subdivision (a), and the greater of all actual damages or fifty dollars (\$50.00) for the
6 initial pay period in which a violation occurs and one-hundred (\$100.00) per employee for each
7 violation in each subsequent pay period, pursuant to Labor Code section 226, subdivision (e).

8 79. Plaintiff, as a personal representative of the general public, will and does seek to
9 recover any and all penalties for each and every violation shown to exist or to have occurred
10 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
11 otherwise only available to public agency enforcement actions. Funds recovered will be
12 distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties
13 recovered being reimbursed to the LWDA.

14 80. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
15 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

16 **FIFTH CAUSE OF ACTION**

17 **VIOLATION OF PAGA FOR FAILURE TO PAY WAGES DUE UPON**

18 **TERMINATION OF EMPLOYMENT**

19 **(Labor Code Sections 201 and 203)**

20 **(Plaintiff against All Defendants)**

21 81. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
22 preceding paragraphs of this complaint as if fully set forth herein.

23 82. Plaintiff is informed and believes that certain members of the Aggrieved
24 Employees who ended their employment with Defendant during the Relevant Time Period, were
25 entitled to be promptly paid both minimum wage and lawful overtime compensation and other
26 premiums, as required by Labor Code sections 201 and 203.

27 83. Defendant refused and/or failed to promptly compensate Aggrieved Employees
28 wages owed as a result of Defendant' failure to provide meal and/or rest periods as well as pay

1 both minimum and overtime compensation owed for work performed for Defendant.

2 84. Plaintiff, by virtue of his employment with Defendant, is an aggrieved employee
3 with standing to bring an action under the PAGA and has suffered injury as to one or more
4 violations committed by Defendant. Plaintiff has satisfied all prerequisites to serve as a
5 representative of the general public to enforce California's labor laws, and the penalty provisions
6 identified in Labor Code section 2699.5.

7 85. Plaintiff, as a representative of the people of the State of California, will seek any
8 and all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE.
9 This includes each of the following, as set forth in Labor Code section 2699.5, which provides
10 that section 2699.3, subdivision (a), applies to any alleged violation of the following provisions:
11 201-203, 226, 226.7, 510, 512, 1174, and 1194.

12 86. Plaintiff, as a personal representative of the general public, will and does seek to
13 recover any and all penalties for each and every violation shown to exist or to have occurred
14 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
15 otherwise only available to public agency enforcement actions. Funds recovered will be
16 distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties
17 recovered being reimbursed to the LWDA.

18 87. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and
19 costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

20 **SIXTH CAUSE OF ACTION**

21 **VIOLATION OF PAGA FOR FAILURE TO INDEMNIFY FOR EXPENDITURES OR**
22 **LOSSES IN DISCHARGE OF DUTIES**

23 **(Labor Code Section 2802)**

24 **(Plaintiff against All Defendants)**

25 88. Plaintiff and Aggrieved Employees reallege and incorporate by reference the
26 preceding paragraphs of this complaint as if fully set forth herein.

27 89. Labor Code section 2802 states, "An employer shall indemnify his or her
28 employee for all necessary expenditures or losses incurred by the employee in direct consequence

1 of the discharge of his or her duties...”

2 90. Plaintiff and the Aggrieved Employees were not reimbursed by Defendant for
3 necessary expenditures as a direct consequence of the discharge of their duties.

4 91. Defendant knowingly, willingly and intentionally attempted to offset the cost of
5 doing business on the Plaintiff and Aggrieved Employees.

6 92. Defendant had a practice and policy of requiring Plaintiff and Aggrieved
7 Employees to shoulder the burden of Defendant’s cost of doing business by failing to reimburse
8 Plaintiff and Aggrieved Employees for necessary business expenditures, specifically the cost of
9 cost of purchasing scrubs, maintaining uniforms, the cost of using their personal vehicles for work
10 responsibilities, and the cost of using their personal cell phone for work responsibilities.

11 93. Accordingly, Plaintiff and Aggrieved Employees are entitled to an award of
12 "necessary expenditures or losses" which shall include all reasonable costs, including, but not
13 limited to, attorney's fees and interest.

14 94. Plaintiff by virtue of his employment with Defendant and the Defendant’ policy
15 of requiring Plaintiff and Aggrieved Employees to shoulder the burden of Defendant' cost of doing
16 business by failing to reimburse Plaintiff and Aggrieved Employees for necessary expenditures,
17 is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied
18 all prerequisites to serve as a representative of the general public to enforce California’s labor
19 laws, and the penalty provisions identified in Labor Code section 2699.5.

20 95. Plaintiff, as a representative of the people of the State of California, will seek any
21 and all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE.
22 This includes each of the following, as set forth in Labor Code section 2699.5, which provides
23 that section 2699.3, subdivision (a), applies to any alleged violation of the following provisions:
24 201-203, 226, 226.7, 510, 512, 1174, and 1194.

25 96. Plaintiff, as a personal representative of the general public, will and does seek to
26 recover any and all penalties for each and every violation shown to exist or to have occurred
27 during the Relevant Time Period, in an amount according to proof, as to those penalties that are
28 otherwise only available to public agency enforcement actions. Funds recovered will be

distributed in accordance with the PAGA, with at least seventy-five percent (75%) of the penalties recovered being reimbursed to the LWDA.

97. Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g)(1), and prejudgment interest.

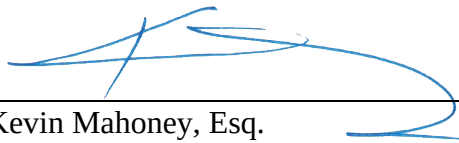
PRAYER FOR RELIEF

WHEREFORE, Plaintiff and Aggrieved Employees pray for judgment as follows:

1. For civil penalties for each violation for Plaintiff and each Aggrieved Employee as provided by law, including, but not limited to, those civil penalties provided by statute, provided by PAGA;
2. For costs of suit and expenses incurred herein pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis or pursuant to the California Rules of Court;
3. For reasonable attorneys' fees pursuant to Labor Code section 2699, subdivision (g), and any other statutory basis; and
4. For all such other and further relief as the Court may deem just and proper.

Dated: September 29, 2022

MAHONEY LAW GROUP, APC



Kevin Mahoney, Esq.
Attorneys for Plaintiff JUAN HERNANDEZ
ORTEGA

EXHIBIT A



Kevin Mahoney, Esq.
(562) 590-5550 phone
(562) 590-8400 facsimile
kmahoney@mahoney-law.net

July 25, 2022

LWDA Online Submission

LABOR AND WORKFORCE DEVELOPMENT AGENCY

<http://dir.tfaforms.net/308>

VIA CERTIFIED MAIL # 7021 0950 0000 9825 3867

Return Receipt Requested

CareNetLA, Inc.

600 Deep Valley Drive

Rolling Hills Estates, CA 90274

VIA CERTIFIED MAIL # 7021 0950 0000 9825 3874

Return Receipt Requested

Agent Edward Francis Devitt

29 Santa Isabel

Rancho Santa Margarita, CA 92688

Re: Hernandez-Ortega v. CareNetLA, Inc.

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

To: California Labor and Workforce Development Agency; *CareNetLA, Inc.*

From: Juan Hernandez Ortega, as a designated Private Attorney General, pursuant to the Private Attorney General Act.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents the interests of Mr. Juan Hernandez Ortega ("Mr. Hernandez Ortega" or "Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code sections 2698 *et seq.* ("PAGA"), on behalf of state of California as a Private Attorney General.

Theories of Labor Code Violations and Remedies

CareNetLA, Inc., (hereinafter “*CareNetLA*” or “Employer”) is a California corporation that operates in-home caregiving services in California. Mr. Hernandez Ortega began his employment with Employer on or around April 17, 2018 as a non-exempt, hourly caregiver.

Mr. Hernandez Ortega alleges Employer violated various sections of the Labor Code, including sections 201, 202, 203, 204, 226, 226.7, 227.3, 510, 512, 1174, 1194 and 2802, by failing to pay Mr. Hernandez Ortega and all other aggrieved employees all wages owed, including overtime and double time, failing to provide meal and rest breaks, failing to provide accurate wage statements and maintain accurate payroll records, failing to timely pay wages at separation from employment, and failing to reimburse for necessary business expenditures. Mr. Hernandez Ortega and similarly aggrieved employees consist of identifiable, current, and/or former similarly situated persons who worked for Employer in non-exempt positions in California during the liability period of one year prior to the filing of a complaint alleging a PAGA cause of action.

A. Employer failed to pay Mr. Hernandez Ortega and other aggrieved employees for all hours worked, in accordance with California law

Employer failed to pay Mr. Hernandez Ortega and other aggrieved employees at the legally mandated wage rates for all hours worked in violation of California law. *Huntington Memorial Hospital v. Superior Court of Los Angeles*, 131 Cal. App. 4th 893 (2005). The Employer had a policy and/or practice of rounding the hours worked by employees, which systematically undercompensated employees. See’s *Candy Shops, Inc. v. Superior Court*, (2012) 210 Cal.App.4th 889. Mr. Hernandez Ortega contends that Employer imposed on employees a time “rounding policy” which was not fair and neutral and which resulted in failure to compensate employees properly for all time actually worked.

B. Employer failed to provide Mr. Hernandez Ortega and other aggrieved employees with meal and rest periods, or premium compensation in lieu thereof, in accordance with California law.

Mr. Hernandez Ortega alleges that he and other aggrieved employees were often precluded from taking timely and uninterrupted meal and rest breaks in accordance with California law due to the nature of their work. Mr. Hernandez Ortega alleges that he and other aggrieved employees routinely did not receive at least one duty-free, uninterrupted meal period within the first five (5) hours worked, and a second meal period before the start of the 11th hour of work. (*Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1041-42.). Mr. Hernandez Ortega and other aggrieved employees, never received meal or rest periods and were forced to skip their meal periods approximately every shift.

Due to the nature of their work, employees were forced to skip or work through their meal and rest periods in compliance with California law, employees did not receive regularly scheduled meal and rest breaks.

When employees were prevented from taking timely and complete meal and rest periods, they did not receive premium pay as compensation for the missed meal and periods. Mr. Hernandez Ortega alleges he and other aggrieved employees were not compensated with premium pay for every meal period and rest period that was not timely provided or interrupted. Employer's conduct is actionable under PAGA as violations of Labor Code sections 226.7 and 512.

C. Employer failed to provide Mr. Hernandez Ortega and other aggrieved employees compliant wage statements

As a result of Employer's failure to pay all wages owed, as described herein, Employer further failed to keep accurate payroll records and failed to provide Mr. Hernandez Ortega and other aggrieved employees with complete and accurate itemized wage statements showing the actual hours worked, premium wages earned per pay period, the accurate net and gross wage earned per pay period, and the accurate rate of pay for each hour worked. This conduct is in violation of Labor Code sections 226 and 1174 and is actionable under PAGA.

D. Employer failed to provide Mr. Hernandez Ortega and other aggrieved employees pay all wages owed at the time their employment ended

Pursuant to California Labor Code sections 201-203, employers are required to pay all earned and unpaid wages immediately upon termination by the employer and within 72 hours if the employee resigns. At the time of employees' separation from employment, they were entitled to wages for the time worked during the rest breaks or the premiums paid in lieu of missed/interrupted breaks. However, Employer failed to pay such wages within 72 hours of the end of employees' employment.

E. Employer failed to reimburse Mr. Hernandez Ortega and other aggrieved employees for necessary business expenditures

Here, Mr. Hernandez Ortega and aggrieved employees were forced to shoulder the burden Employer's cost of doing business by purchasing, washing and maintaining scrubs, using their personal phones, and using their personal vehicles without reimbursement. Employees were not reimbursed by Employer for said necessary expenditures. Due to the abovementioned, Employer failed to reimburse Mr. Hernandez Ortega and aggrieved employees for necessary business expenditures.

F. Reservation of Rights

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, Mr. Hernandez Ortega becomes aware of additional compensation owed or losses incurred by him or by any other aggrieved employee of the Employer, Mr. Hernandez Ortega expressly 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 to the complaint which will relate back to the date of this letter.

LABOR AND WORKFORCE DEVELOPMENT AGENCY

July 25, 2022

Page 4 of 4

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please provide notice via certified mail to:

Mahoney Law Group, APC
Kevin Mahoney, Esq.
249 E. Ocean Blvd., Suite 814
Long Beach, CA 90802
Tel: (562) 590-5550
Email: kmahoney@mahoney-law.net

Sincerely,



Kevin Mahoney, Esq.
MAHONEY LAW GROUP, APC