

SUM-100

SUMMONS
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

POST ACUTE CARE PARTNERS, INC., a California Corporation, and DOES 1-50, inclusive

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

ROSARIO ZAVALA, as an individual and on behalf of all Aggrieved Employees

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

Assigned for All Purposes

The name and address of the court is:

(El nombre y dirección de la corte es): Civil Complex Center
751 W Santa Ana Blvd, Santa Ana, CA 92701

CASE NUMBER:
(Número del Caso):

30-2023-01362792-CU-OE-CXC

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Tatiana Hernandez 315 S. Beverly Dr, Ste 504, Beverly Hills, CA 90212, (213)9094248; Amir Seyedfarshi 6380 Wilshire Blvd, Ste 1602 Los Angeles, CA 90048 (424)7770964

DATE: 11/22/2023 DAVID H. YAMASAKI, Clerk of the Court
(Fecha)

Clerk, by
(Secretario)

A. Burton Athena Burton, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☒ on behalf of (specify): Post Acute Care Partners, Inc.
under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

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Assigned for All Purposes
Judge Melissa R. McCormick
Dept. CX104

Attorneys for Plaintiff, ROSARIO ZAVALA, as a representative of the State of California and the Labor and Workforce Development Agency, and on behalf of herself and all other Aggrieved Employees.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
THE COUNTY OF ORANGE

ROSARIO ZAVALA, as an individual and
on behalf of all Aggrieved Employees,

Plaintiff,

v.

POST ACUTE CARE PARTNERS INC., a
California corporation, and DOES 1 through
50, inclusive,
Defendant.

Case No.: 30-2023-01362792-CU-OE-CXC

COMPLAINT FOR CIVIL PENALTIES

1. Private Attorneys General Act, Labor Code § 2698 *et seq.* Penalties for Failure to Timely Pay Minimum Wages;
2. Violation of the Private Attorneys General Act, Labor Code § 2698 *et seq.* Penalties for Failure to Provide Meal Periods;
3. Private Attorneys General Act, Labor Code § 2698 *et seq.* Penalties for Failure to Provide Rest Periods;
4. Private Attorneys General Act, Labor Code § 2698 *et seq.* Penalties for Failure to Issue Accurate Itemized Wage Statements;
5. Private Attorneys General Act, Labor Code § 2698 *et seq.* Penalties for Failure to Pay Wages Due at Separation of Employment; and,
6. Private Attorneys General Act, Labor Code § 2698 *et seq.* Penalties for Failure to Reimburse Required Business Expenses

1 Plaintiff ROSARIO ZAVALA (“Plaintiff”), as a representative of the State of California
2 and the Labor and Workforce Development Agency, and on behalf of herself and all other
3 Aggrieved Employees, complains and alleges as follows:

4 **INTRODUCTION**

5 1. This is a representative action brought pursuant to the Private Attorneys General
6 Act, Labor Code section 2698, *et seq.* (“PAGA”) on behalf of Plaintiff and all other Aggrieved
7 Employees by Defendant POST ACUTE CARE PARTNERS INC. (“Defendant”).

8 2. The term “PAGA Period” is defined as one (1) year and sixty-five (65) days prior
9 to the filing of this complaint. Plaintiff reserves the right to amend this complaint to reflect a
10 different PAGA Period as further discovery is conducted.

11 3. “Aggrieved Employees” is defined as all non-exempt, hourly-paid employees,
12 currently and/or formerly employed by Defendant during the PAGA period who were subjected
13 to one or more of the violations alleged herein.

14 4. Plaintiff, individually and on behalf of the Aggrieved Employees, seeks an award
15 of statutory penalties against Defendant pursuant to the PAGA for violations of numerous Labor
16 Code provisions, including, but not limited to, sections 201, 201.3, 202, 203, 204, 210, 226, 226.7,
17 512, 512.1, 1194, 1197, 1197.1, 1198, 1199, and 2802 for: (1) failure to timely pay all minimum
18 wages due; (2) failure to provide meal periods or premium compensation in lieu thereof; (3)
19 failure to provide rest periods or premium compensation in lieu thereof; (4) failure to issue
20 accurate itemized wage statements; (5) failure to pay all wages due upon separation of
21 employment; and (6) failure to reimburse required business expenses.

22 5. At all relevant times herein, Defendant has consistently maintained and enforced
23 the following unlawful policies and practices against Plaintiff:

- 24 a. Willfully rounding time punches in a way that fails to capture all actual time
25 worked;
- 26 b. Willfully failing to pay all minimum wages due for time spent filling out pre-
27 shift COVID-19 screening forms;
- 28 c. Willfully failing to pay for all hours worked, including minimum wages;

- d. Willfully failing to permit off-duty meal periods or provide premium compensation in lieu thereof;
- e. Willfully failing to permit rest periods or provide premium compensation in lieu thereof;
- f. Willfully failing to furnish accurate itemized wage statements;
- g. Willfully failing to timely pay employees all wages, including meal and rest period premiums, when due and on their regular payday;
- h. Willfully failing to pay all wages due upon separation of employment;
- i. Willfully failing to reimburse required business expenses.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over the causes of action alleged in this complaint as a Court of general subject matter jurisdiction and is not otherwise excluded from exercising subject matter jurisdiction over this action. The penalties recoverable for Plaintiff individually do not exceed seventy-five thousand dollars (\$75,000.00), and collectively amongst all Aggrieved Employees do not exceed five million dollars (\$5,000,000.00). Further, there is no federal question at issue, as the issues herein are based solely on California statutes and law, including the Labor Code, Industrial Welfare Commission ("IWC") Wage Orders, Code of Civil Procedure, and Rules of Court.

7. Defendant is a California Corporation with its principal office in Orange County, California. As such, this Court has personal jurisdiction over Defendant because Defendant resides in, is incorporated in, has its main place of business in, and/or conducts business in the State of California, and a substantial portion of the acts, omissions, events, and transactions constituting the causes of action alleged herein occurred within the State of California, and more specifically, in the County of Orange. (Code Civ. Proc., § 410.10.)

8. Venue is proper in this judicial district and the County of Orange pursuant to the California Code of Civil Procedure, sections 295 and 395.5, because the acts that give rise to the causes of action alleged herein occurred in this county.

///

THE PARTIES

Plaintiff

9. Plaintiff was employed by Defendant from on or about May 2022 until on or about June 30, 2023, and Performed her job in the County of Orange, California. At all relevant times herein, Plaintiff was employed by Defendant in a non-exempt, hourly position as a caregiver, and was entitled to compensation for all hours worked, including minimum wage and meal and rest period premiums. Plaintiff was employed by Defendant within the PAGA Period.

10. Plaintiff and Aggrieved Employees consist of identifiable, current, and/or formerly similarly situated persons who worked for Defendant in California during the PAGA Period.

Defendant(s)

11. Plaintiff is informed and believes, and thereupon alleges, that Defendant is a California corporation whose facilities are located in Orange County, California, and was the employer of Plaintiff. On information and belief, and based thereon, Plaintiff alleges that Defendant is conducting business in good standing in California, and at all times herein mentioned has regularly conducted business in the State of California.

12. Plaintiff is further informed and believes that Defendant was the employer of Plaintiff and Aggrieved Employees during the PAGA Period.

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

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

1 the conduct described in this complaint.

2 15. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
3 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
4 managing agent, and/or principal of the co-Defendants, and in performing the actions mentioned
5 below was acting, at least in part, within the course and scope of that authority as such agent,
6 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
7 the permission and consent of the co-Defendants. Plaintiff also alleges the acts of each Defendant
8 are legally attributable to the other Defendants.

9 **PAGA ADMINISTRATIVE PREREQUISITE**

10 16. Plaintiff brings this case as a representative action seeking penalties for the State
11 of California in a representative capacity, as provided for under PAGA, Labor Code section 2698
12 *et seq.*, to the extent permitted by law, as an aggrieved employee who was employed by Defendant
13 and did not receive all regular and overtime wages due, was not provided compliant meal or rest
14 periods or premium compensation in lieu thereof, was not provided accurate itemized wage
15 statements, did not receive all wages owed upon termination of employment, and was not
16 reimbursed for required business expenses.

17 17. Pursuant to Labor Code section 2699.3, subdivision (a), a plaintiff may bring a
18 cause of action under the PAGA only after giving the Labor Workforce Development Agency
19 (LWDA) and the employer notice of the Labor Code sections alleged to have been violated, and
20 after receiving notice from the LWDA of its intention not to investigate, or after 65 days have
21 passed without notice from the LWDA.

22 18. On September 8, 2023, prior to the filing of this complaint, Plaintiff gave written
23 notice of the specified provisions alleged to have been violated, including the facts and theories
24 to support the alleged violations, as required by Labor Code section 2699.3. This written notice
25 was given via certified mail to Defendant, and to the LWDA by electronically filing the notice
26 via the Department of Industrial Relations website. Plaintiff was given an LWDA case number
27 of LWDA-CM-980572-23. Attached herein as **Exhibit A** is a true and correct copy of Plaintiff's
28 original letter sent to the LWDA on September 8, 2023.

19. More than sixty-five (65) days have elapsed since Plaintiff submitted her September 8, 2023 notice to the LWDA and Defendant of the specific alleged Labor Code violations and the LWDA has not provided notice to Plaintiff of its intent to investigate such alleged violations. Also, Plaintiff has not received notice of Defendant's intent to cure any of the alleged violations. Accordingly, Plaintiff has satisfied the administrative prerequisites for filing this action.

FACTUAL ALLEGATIONS

20. Plaintiff and Aggrieved Employees are, and at all times during the PAGA Period were, non-exempt employees within the meaning of the California Labor Code, and California Wage Order 4–2001 and Wage Order 15–2001 of the Industrial Welfare Commission (“IWC”). Defendant is, and at all times during the PAGA Period was, an “employer” within the meaning of state law and IWC Wage Order 4–2001 and IWC Wage Order 15–2001.

21. Defendant owns and operates a homecare service in Orange, California, providing pediatric care, homecare care, assisted and independent living, and rehabilitation to clients. (See Post Acute Partners “Homepage,” *available at* <https://www.postacute.com/our-companies/>.) Plaintiff and Aggrieved Employees were and are non-exempt hourly employees of Defendant who worked six (6) or more hours per shift on average.

22. During the PAGA Period, Defendant was required to pay Plaintiff and Aggrieved Employees at least the current legal minimum wage for any and all hours worked.

23. Defendant had and has a history, pattern, and practice of rounding Plaintiff and the Aggrieved Employees' time punches in a way that fails to capture all actual time worked. This consistently results, and has resulted, in Plaintiff and other Aggrieved Employees being underpaid for their actual time worked. The total amounts of uncaptured time due to Defendant's rounding practice add up to significant amounts of unpaid wages for Plaintiff and each Aggrieved Employee. See **Exhibit B**, a sample of time keeping records).

24. Furthermore, before clocking into their shift, Plaintiff and the Aggrieved Employees were required to spend ten to fifteen minutes every shift filling out a COVID-19 screening form via an app on their cell phones without receiving compensation for the time spent

1 filling out the screening form.

2 25. Defendant did not, and does not, have or enforce a policy providing for Plaintiff or the
3 Meal Break Aggrieved Employees to take timely, uninterrupted, duty free, thirty-minute meal periods.
4 Rather, Defendant required Plaintiff and the Meal Break Aggrieved Employees to work during their
5 meal periods. Defendant told Plaintiff and the Meal Break Aggrieved Employees that they were solely
6 responsible for their patients and needed to be with them at all times, which forced, and forces, them
7 to take on-premises meal breaks or skip their meal breaks entirely. As a result, Plaintiff and the Meal
8 Break Aggrieved Employees typically work through their meal breaks or take their meal breaks after
9 the end of the fifth hour of work. Defendant did not execute any written agreements with Plaintiff or
10 the Meal Break Aggrieved Employees for “on duty” meal periods, neither did Plaintiff or the Meal
11 Break Aggrieved Employees sign meal period waivers. Furthermore, Defendant did not, and does not,
12 compensate Plaintiff or the Meal Break Aggrieved Employees for their skipped or untimely meal
13 breaks with premium pay as required by Labor Code section 226.7.

14 26. Defendant did not, and does not have or enforce a policy authorizing or permitting
15 Plaintiff or the Rest Break Aggrieved Employees to take timely, uninterrupted, duty free, ten-
16 minute rest periods. Plaintiff and Aggrieved employees are required by Defendant to be with their
17 patients at all times and, therefore, are constantly forced to skip their rest breaks. Furthermore,
18 Defendant did not, and does not, compensate Plaintiff or the Rest Break Aggrieved Employees for
19 their skipped or untimely rest breaks with premium pay as required by Labor Code section 226.7.

20 27. Furthermore, Plaintiff and the Aggrieved Employees were required to use their
21 personal cell phones to download and use an app for all shifts to clock in and out of work. Plaintiff
22 and the Aggrieved Employees were also required to use their cell phones to communicate with
23 patients and management and to take patient notes. Defendant failed to indemnify or reimburse
24 Plaintiff and Aggrieved Employees for their necessary work-related cell phone expenditures
25 incurred in the discharge of their duties.

26 28. During the PAGA Period, Defendant was required to provide Plaintiff and
27 Aggrieved Employees with complete and accurate itemized wage statements. The wage
28 statements issued by Defendant to Plaintiff and the Aggrieved Employees were incomplete and

1 inaccurate because, due to Defendant's rounding practice and Defendant's pre-shift COVID-19
2 screening requirements, not all hours actually worked were captured and recorded. In addition,
3 the wages statement did not include the accurate gross wages earned because, due to Defendant's
4 rounding practice, and due to Defendant's failure to pay meal period and rest period premiums,
5 not all wages actually earned and owed were captured or recorded on the wage statements.

6 29. At the time of Plaintiff's and any of the Aggrieved Employees' separation from
7 employment, Defendant was required to compensate them for all wages earned and owed.

8 30. Defendant failed to compensate Plaintiff and Aggrieved Employees for all wages
9 owed at the time their employment ended because Defendant did not compensate Plaintiff and
10 Aggrieved Employees for all hours worked due to Defendant's rounding practice, Defendant's
11 pre-shift COVID-19 screening requirement, and Defendant's failure to pay meal period and rest
12 period premiums owed.

13 31. Plaintiff, by virtue of his employment with Defendant, is an aggrieved employee
14 with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve
15 as a representative of the general public to enforce California's labor laws, and the penalty
16 provisions identified in Labor Code section 2699.5. Plaintiff seeks to recover any and all penalties
17 for each and every violation shown to exist or to have occurred during the PAGA Period, in an
18 amount according to proof. Funds recovered will be distributed in accordance with the PAGA.
19 Additionally, Plaintiff and Aggrieved Employees are entitled to attorneys' fees and costs pursuant
20 to Labor Code section 2699, subdivision (g), and any other statutory basis.

21 **FIRST CAUSE OF ACTION**

22 **PAGA PENALTIES FOR FAILURE TO TIMELY PAY ALL WAGES**

23 **(Lab. Code, §§ 201.3 204, 510, 1194, and 1197)**

24 **(Plaintiff Against All Defendants)**

25 32. Plaintiff and Aggrieved Employees reallege and incorporate by reference all
26 preceding paragraphs as if fully set forth herein.

27 33. Labor Code section 1194 mandates that employers pay employees no less than the
28 minimum wage for each hour worked, and Labor Code section 1197 holds that "the payment of

1 a lower wage than the minimum so fixed is unlawful.”

2 34. Labor Code section 1197.1 provides that “[a]ny employer ... who pays or causes
3 to be paid to any employee a wage less than the minimum fixed by an applicable state or local
4 law, or by an order of the commission shall be subject to a civil penalty ... as follows: (1) For any
5 initial violation that is intentionally committed, one hundred dollars (\$100.00) for each underpaid
6 employee for each pay period for which the employee is underpaid ... (2) For each subsequent
7 violation for the same specific offense, two hundred fifty dollars (\$250.00) for each underpaid
8 employee for each pay period for which the employee is underpaid regardless of whether the
9 initial violation is intentionally committed.”

10 35. Labor Code section 558, subdivision (a), imposes civil penalties on employers for
11 violating “any provision regulating hours and days of work” of fifty dollars (\$50) for the initial
12 violation and one hundred dollars (\$100) for each subsequent violation “for each underpaid
13 employee for each pay period for which the employee was underpaid in addition to an amount
14 sufficient to recover underpaid wages.”

15 36. Pursuant to Labor Code sections 201.3 and 204, an employee’s wages are due and
16 payable no less frequently than weekly for an employee of a temporary services employer, and
17 twice during each calendar month for other employees.

18 37. Defendant failed to compensate Plaintiff and the Aggrieved Employees for all
19 hours worked because Defendant’s unlawful rounding practice and Defendant’s pre-shift
20 COVID-19 screening requirements did not capture all hours actually worked by Plaintiff and
21 Aggrieved Employees or compensate Plaintiff and Aggrieved Employees for all time spent under
22 Defendant’s direction and control. In addition, Defendant has a pattern and practice of failing to
23 pay meal and rest period premiums lawfully owed to Plaintiff and the Aggrieved Employees.
24 Therefore, Defendant failed to pay Plaintiff and the Aggrieved Employees all wages owed,
25 including minimum wages, in a timely manner, in violation of the Labor Code sections listed
26 above and entitling Plaintiff to recover penalties under the PAGA.

27 38. The amount of civil penalties due from Defendant is presently unknown, but will
28 be ascertained according to proof at trial.

SECOND CAUSE OF ACTION

**PAGA PENALTIES FOR FAILURE TO PROVIDE MEAL PERIODS OR PREMIUM
COMPENSATION IN LIEU THEREOF**

(Lab. Code, §§ 226.7 and 512)

(Plaintiff Against All Defendants)

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

40. Labor Code sections 226.7 and 512 and Industrial Welfare Commission (IWC) Wage Order 4–2001 and IWC Wage Order 15–2001 provide that no employer shall employ any person for a work period of more than five (5) hours without providing an uninterrupted meal period of at least thirty (30) minutes.

41. Labor Code section 226.7 provides that if an employer fails to provide an employee a meal period 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 meal period is not provided in accordance with this section.

42. Plaintiff and Aggrieved Employees were and are non-exempt hourly employees of Defendant who worked six (6) or more hours per shift on average.

43. Defendant required and requires Plaintiff and the Aggrieved Employees to work during their meal periods because they are solely responsible for their patients and need to be with them at all times, which forces them to take on-premises meal breaks or skip their meal breaks entirely. As a result, Plaintiff and the Aggrieved Employees typically work through their meal breaks or take their meal breaks after the end of the fifth hour of work. Defendant did not execute any written agreements with Plaintiff or the Meal Break Aggrieved Employees for “on duty” meal periods, neither did Plaintiff or the Meal Break Aggrieved Employees sign meal period waivers. Furthermore, Defendant did not, and does not, compensate Plaintiff or the Meal Break Aggrieved Employees for their skipped or untimely meal breaks with premium pay as required by Labor Code section 226.7.

44. As such, Defendant denied meal periods and meal period premiums to Plaintiff and Aggrieved Employees in violation of Labor Code sections 226.7 and 512 and IWC Wage

Order 4–2001 and IWC Wage Order 15–2001 and is subject to penalties under PAGA.

45. Pursuant to Labor Code section 2699, subdivision (f)(2), Plaintiff and Aggrieved Employees are entitled to civil penalties in the amount of one hundred dollars (\$100.00) for the first initial violations and two hundred dollars (\$200.00) per pay period for each subsequent violation.

46. The amount of civil penalties due from Defendant is presently unknown, but will be ascertained according to proof at trial.

THIRD CAUSE OF ACTION

PAGA PENALTIES FOR FAILURE TO PROVIDE REST PERIODS OR PREMIUM COMPENSATION IN LIEU THEREOF

(Lab. Code, § 226.7)

(Plaintiff Against All Defendants)

47. Plaintiff and Aggrieved Employees reallege and incorporate by reference all preceding paragraphs as if fully set forth herein.

48. Labor Code section 226.7 and IWC Wage Order 4–2001 and IWC Wage Order 15–2001, requires Defendant to authorize and permit all employees to take a ten (10) minute rest period for every four (4) hours worked, or major fraction thereof. Further, when an employer fails to provide an employee with required rest periods, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday that a required rest period is not provided.

49. During the PAGA Period, Plaintiff and Aggrieved Employees were and are non-exempt hourly employees of Defendant who typically worked more than four (4) hours in a workday.

50. Defendant did not, and does not have or enforce a policy authorizing or permitting Plaintiff or the Rest Break Aggrieved Employees to take timely, uninterrupted, duty free, ten-minute rest periods. Plaintiff and Aggrieved employees are required by Defendant to be with their patients at all times and, therefore, are constantly forced to skip their rest breaks. Furthermore, Defendant did not, and does not, compensate Plaintiff or the Rest Break Aggrieved Employees for

1 their skipped or untimely rest breaks with premium pay as required by Labor Code section 226.7.

2 51. The amount of civil penalties due from Defendant is presently unknown, but will
3 be ascertained according to proof at trial.

4 **FOURTH CAUSE OF ACTION**

5 **PAGA PENALTIES FOR FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE**
6 **STATEMENTS**

7 **(Lab. Code, §§ 226 and 1174)**

8 **(Plaintiff Against All Defendants)**

9 52. Plaintiff and Aggrieved Employees reallege and incorporate by reference all
10 preceding paragraphs as if fully set forth herein.

11 53. Labor Code section 1174 requires employers to keep accurate payroll records.
12 Labor Code section 226, subdivision (a), requires that “at the time of each payment of wages,”
13 employers furnish employees with “an accurate itemized statement” that includes, *inter alia*,
14 gross wages earned, total hours worked, net wages earned, and all applicable hourly rates in effect
15 during the pay period and the corresponding number of hours worked at each hourly rate.

16 54. Labor Code section 226(e) provides that an employee suffering injury as a result
17 of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to
18 recover \$50 for the initial pay period in which a violation of Section 226 occurs and \$100 for each
19 subsequent pay period, not to exceed \$4,000, as well as an award of costs and reasonable
20 attorney’s fees.

21 55. An employee is deemed to suffer injury if the employer fails to provide accurate
22 and complete information as required by any one or more of items (1) to (9), inclusive, of
23 subdivision (a) of Section 226 and the employee cannot promptly and easily determine from the
24 wage statement alone, the amount of the gross wages or net wages paid to the employee during
25 the pay period or any of the other information required to be provided on the itemized wage
26 statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a)..

27 56. Plaintiff and the Aggrieved Employees did not receive wage statements which
28 included all of the required information under Labor Code section 226(a), including all meal and

1 rest period premiums owed, and including all actual time worked by Plaintiff and the Aggrieved
2 Employees, due to Defendant's time rounding practice and Defendant's pre-shift COVID-19
3 screening requirements, and thus the wage statements issued to these individuals failed to include
4 the correct amount of gross wages earned, the net wages earned, all applicable hourly rates in
5 effect during the pay period, and the corresponding number of hours worked at each hourly rate
6 in violation of Labor Code § 226(a)(1), (2), (5) and (9).

7 57. The amount of civil penalties due from Defendant is presently unknown, but will
8 be ascertained according to proof at trial.

9 **FIFTH CAUSE OF ACTION**

10 **PAGA PENALTIES FOR FAILURE TO PAY ALL WAGES DUE UPON**

11 **TERMINATION OF EMPLOYMENT**

12 **(Lab. Code, §§ 201, 203)**

13 **(Plaintiff Against All Defendants)**

14 58. Plaintiff and Aggrieved Employees reallege and incorporate by reference all
15 preceding paragraphs as if fully set forth herein.

16 59. Labor Code section 201, subdivision (a), states that "[i]f an employer discharges
17 an employee, the wages earned and unpaid at the time of discharge are due and payable
18 immediately."

19 60. Pursuant to Labor Code section 202, subdivision (a), "[i]f an employee not having
20 a written contract for a definite period quits his or her employment, his or her wages shall become
21 due and payable not later than 72 hours thereafter, unless the employee has given 72 hours
22 previous notice of his or her intention to quit, in which case the employee is entitled to his or her
23 wages at the time of quitting."

24 61. Because of Defendant's unlawful rounding practice, pre-shift COVID-19
25 screening requirements, and failure to pay meal and rest period premiums as described above,
26 Defendant failed to pay Plaintiff and the Aggrieved Employees' all wages due and owing to them
27 at the time they quit or were discharged, in violation of Labor Code section 201 and 202.

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62. Pursuant to Labor Code section 2699, subdivision (f)(2), Plaintiff and Aggrieved Employees are entitled to civil penalties in the amount of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

63. Pursuant to Labor Code section 203, subdivision (a), “[i]f an employer willfully fails to pay ... any wages of any 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.”

64. The amount of civil penalties due from Defendant is presently unknown, but will be ascertained according to proof at trial.

SIXTH CAUSE OF ACTION

PAGA PENALTIES FOR FAILURE TO REIMBURSE BUSINESS EXPENSES

(Lab. Code § 2802)

(Plaintiff Against All Defendants)

65. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraph.

66. Pursuant to Labor Code § 2802(a) “[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....” The purpose of this statute is “to prevent employers from passing their operating expenses on to their employees.” *Gattuso v. Harte-Hanks Shoppers, Inc.*, 42 Cal.4th 554, 562 (2007) (quoting legislative history from the 2000 amendment to the statute). Labor Code Section 2802(c) also clarifies that “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 this section.”

67. Specifically, under Labor Code § 2802, employers must reimburse employees for required work-related use of personal cell phones, regardless of whether they incur any additional out-of-pocket expense from that work-related use. *See Cochran v. Schwan’s Home*

1 Service, 228 Cal. App. 4th 1137 (2014) (reversing denial of class certification in cell phone
2 reimbursement class action). *Cochran* held that “[i]f an employee is required to make work-
3 related calls on a personal cell phone, then he or she is incurring an expense for the purposes
4 of section 2802. It does not matter whether the phone bill is paid for by a third person, or at
5 all. . . . It is irrelevant whether the employee changed plans to accommodate work-related cell
6 phone usage. . . . To show liability under section 2802, an employee need only show that he
7 or she was required to use a personal cell phone to make work-related calls, and he or she was
8 not reimbursed.” *Id.* at 1144-45; *see also Aguilar v. Zep, Inc.*, 2014 WL 4245988 *17 (N.D.
9 Cal. Aug. 27, 2014) (granting plaintiffs’ motion for partial summary judgment on the
10 plaintiffs’ cell phone reimbursement claim); *Ritchie v. Blue Shield of California*, 2014 WL
11 6982943, at *21 (N.D. Cal. Dec. 9, 2014) (Hon. Edward Chen) (certifying class of cell phone
12 reimbursement claim and adopting the logic of *Cochran*).

13 68. The employer’s obligation to reimburse business-related expenses arises when
14 the employer “knew or should have known” that its employees have incurred a business-
15 related expense. *Stuart v. RadioShack Corp.*, 641 F. Supp. 2d 901, 903 (N.D. Cal. 2009) (Hon.
16 Edward Chen); *Wilson v. Kiewit Pacific Co.*, 2010 WL 5059522 (N.D. Cal. Dec. 6, 2010)
17 (Hon. Susan Illston) (adopting the “knew or should have known” standard from *RadioShack*).
18 Notably, these claims are not waivable per Section 2804 of the Labor Code.

19 69. Plaintiff and the Aggrieved Employees were required to use their personal cell
20 phones to download and use an app for all shifts to clock in and out of work. Plaintiff and the
21 Aggrieved Employees were also required to use their cell phones to communicate with patients
22 and management and to take patient notes. However, Defendant failed to indemnify or
23 reimburse Plaintiff and Aggrieved Employees for their necessary work-related cell phone
24 expenditures incurred in the discharge of their duties.

25 70. The amount of civil penalties due from Defendant is presently unknown, but
26 will be ascertained according to proof at trial.

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1. For civil penalties for each Labor Code violation suffered by Plaintiff and the Aggrieved Employee as provided by PAGA and according to proof;
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.

Respectfully,



Amir Seyedfarshi
Tatiana Hernandez
Counsel for Plaintiff, and the Aggrieved
Employees

EXHIBIT A



Employment Rights Lawyers, APC
6380 Wilshire Blvd., Suite 1602
Los Angeles, CA 90048
424-777-0964
amir@employmentrightslawyers.com

September 8, 2023

Via Online Filing with the LWDA & Defendant's Attorney of Record

POST ACUTE CARE PARTNERS INC.
C/O Liz Murphy, Esq.
Defendant's attorney of Record

**Re: NOTICE OF INTENT TO FILE SUIT (Labor Code § 2699.3)
*Rosario Zavala v. POST ACUTE CARE PARTNERS INC.***

Dear Gentleperson:

This letter is the written notice ("Notice") required by the California Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code section 2698 *et seq.*, including without limitation Labor Code sections 2699.3 (a)(1) and/or any other applicable provision of statute, rule, or law. This letter is being sent simultaneously via online filing with the California Labor and Workforce Development Agency ("LWDA"). This letter is an important formal legal notice which may lead to action against you and/or POST ACUTE CARE PARTNERS INC ("Defendant") in a court of law and/or in administrative proceedings; and to the imposition of substantial penalties, damages, and/or other orders against you and/or Defendant.

My office, along with my co-counsel, Tatiana Hernandez, Esq. of Law Office of Tatiana Hernandez, P.C., represents Plaintiff Rosario Zavala ("Plaintiff") and a proposed group of current and former Aggrieved Employees of Defendant or any affiliated entities of Defendant, including but not limited to any of its co-employers, successors in interest, and/or merged entities ("Defendant") in connection with Plaintiff's individual and/or PAGA representative action claims for, *inter alia*, civil penalties based on, without limitation, the following ("PAGA Claims"):

- (1) Defendant's rounding policy and failure to pay minimum wages to all employees in violation of Labor Code section 1197;
- (2) Defendant's failure to provide timely duty-free rest periods within the first four (4) hours or major fraction thereof, and/or pay rest period premiums for late, on-duty, or missed rest breaks in violation of Labor Code sections 226.7 and 512.1

and Section 12 of the applicable IWC Wage Order;

- (3) Defendant's failure to provide timely duty-free meal periods and/or pay meal period premiums for late, on-duty, or missed meal breaks in violation of Labor Code sections 226.7 and 512 and Section 11 of the applicable IWC Wage Order;
- (4) Defendant's failure to provide accurate itemized wage statements in violation of Labor Code section 226 for failure to include: (a) all hours worked; and (b) rest and meal period premiums owed on Defendant's wage statements issued to Plaintiff and the Wage Statement Aggrieved Employees;
- (5) Statutory penalties based upon the foregoing, pursuant to Labor Code section 226;
- (6) Defendant's failure to timely pay employees all wages and failure to pay wages and meal and rest period premiums due on a bi-monthly basis when other wages were paid as required by Labor Code sections 204 and 210; and
- (7) Statutory penalties under PAGA based upon the foregoing, pursuant to Labor Code sections 2698 *et seq.*
- (8) failure to reimburse employees for their expenses incurred in connection with work-related usage of their personal items such as cell phones, in violation of Labor Code section 2802;
- (9) Defendants' failure to pay all minimum wages due for time spent filling out pre-shift COVID screening forms (Cal. Labor Code §§ 1194, 1197, 1197.1, 1198, 1199);

In connection with these PAGA Claims, Plaintiff and the Aggrieved Employees seek PAGA penalties from at least one year prior to the date of this Notice and ongoing (the "PAGA Period"). Plaintiff seeks to represent the following groups of Aggrieved Employees:

- (1) "Aggrieved Employees": All current or former hourly, non-exempt employees who worked for Defendant in California during the PAGA period;
- (2) "Meal Break Aggrieved Employees": All Aggrieved Employees who worked at least 6 hours in a shift for Defendant during the PAGA Period;
- (3) "Rest Break Aggrieved Employees": All Aggrieved Employees who worked at least 3.5 hours in a shift for Defendant during the PAGA Period; and
- (4) "Wage Statement Aggrieved Employees": All Aggrieved Employees who were issued at least one wage statement from Defendant during the PAGA Period;

This notice is hereby given to and is made against Defendant, and all related and/or alter ego companies, corporations, partnerships, and /or business entities, as well as against any and all officers, owners, directors managers, managing agents, or entities who are or may be liable under law for any of the alleged violations as to the Aggrieved Employees who worked at any location of Defendant at any time during the PAGA Period in the State of California.

I. FACTUAL BACKGROUND

Plaintiff is a former employee of Defendant, who was hired in or around May 2022, and was employed by Defendant until June 30, 2023. Plaintiff worked as a caregiver five days per week, six hours per day, and was compensated at \$18.00 per hour.

From the commencement of Plaintiff's employment, Defendant did not have or enforce a policy for Plaintiff or the Meal Break Aggrieved Employees to take timely, uninterrupted, duty free, thirty-minute meal periods. Defendant knew that Defendant's employees could not possibly take a duty-free meal break because Defendant told Plaintiff and the Meal Break Aggrieved Employees that they were solely responsible for their patients and needed to be with them at all times, which forced them to take on-premises meal breaks or skip their meal breaks entirely. As a result, most employees typically worked through their meal breaks or took their meal breaks after the end of the fifth hour of work. Furthermore, Defendant did not compensate Plaintiff or the Meal Break Aggrieved Employees for their missed or late meal breaks.

Furthermore, from the commencement of Plaintiff's employment, Defendant did not have or enforce a policy for Plaintiff or the Rest Break Aggrieved Employees to take timely, uninterrupted, duty free, ten-minute rest periods. Due to the nature of their job, Plaintiff and Aggrieved employees needed to be with their patients at all times, and were constantly forced to skip their rest breaks, without any compensation. Even though the Defendant knew Plaintiff or the Aggrieved Employees nature of the job was such that they could not leave their patients, Defendant never paid Plaintiff or the Aggrieved Employees the one hour of additional pay at their regular rate for being required to skip, work through, or untimely take their meal and/or rest periods, as required by California law.

Additionally, Plaintiff and the Aggrieved Employees are or were required to use their personal cell phones to download and use an app for all shifts to clock in and out of work, for which they were never compensated. Plaintiff and the Aggrieved Employees also used their cell phones to communicate with patients and management, and to take patient notes. Therefore, Defendant failed to reimburse Plaintiff and Aggrieved Employees for all work-related cell phone charges they incurred in the performance of their job duties.

Furthermore, before clocking into their shift, Plaintiff and the Aggrieved Employees are or were required to spend ten to fifteen minutes every shift filling out a COVID-19 screening form via the work app on their cell phones without receiving any compensation for the time spent filling out the screening form.

Finally, Defendant has a history, pattern, and practice of rounding Plaintiff and the Aggrieved Employees' time punches in a way that fails to capture all actual time worked. This consistently results, and has resulted, in Plaintiff and other Aggrieved Employees being underpaid for their actual time worked. The total amounts of uncaptured time due to Defendant's rounding practice add up to significant amounts of unpaid wages for Plaintiff and each Aggrieved Employee.

II. PAGA Claims

A. Non-Compliant Meal Periods

Pursuant to Labor Code section 512, no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. *Id.* at subd. (a). However, if the total work period for that day is no more than six hours, then the meal period may be waived by mutual consent. *Id.* The first meal period must start prior to the end of the employee's fifth hour of work. *Brinker Restaurant Corp., supra*, 53 Cal. 4th at 1041. During the meal period, the employee is to be completely free of the employer's control and must not be required to perform any work for the employer. *Id.* at 1040-1041. If an employer fails to provide a legally compliant, duty-free meal period, the employee is entitled to one hour of "premium pay," or an additional hour of pay at the employee's regular rate of compensation for each workday that the meal period was not provided. Lab. Code § 226.7(c); IWC Wage Order 5-2001 § 11.

Here, Defendants violated and continue to violate Labor Code § 512 and IWC Wage Order 5-2002 § 11 by, among other things, failing to provide duty-free meal breaks to the Meal Break Aggrieved Employees, failing to advise Meal Break Aggrieved Employees of their meal break rights, failing to provide Meal Break Aggrieved Employees with timely thirty-minute, uninterrupted meal periods, and failing to pay meal break premiums.

As a result of Post Acute's failure to have or enforce a compliant meal period policy, most employees typically skipped or took their meal periods after the end of the fifth hour of work. In all of their shifts, Plaintiff and the Meal Break Aggrieved Employees did not clock out for lunch and essentially missed all meal breaks during each shift. *See Brinker Restaurant Corp., supra*, 53 Cal. 4th at 1041. Despite the foregoing, Plaintiff and the Meal Break Aggrieved Employees were never paid a meal period premium for every day that they did not receive a compliant meal period, in violation of the Labor Code.

B. Non-Compliant Rest Periods

California law requires an employer to provide its employees with an uninterrupted, duty-free rest period of not less than ten (10) minutes for each four hours worked or a "major fraction thereof." Lab. Code § 226.7; IWC Wage Order 4-2001 § 12. The Division of Labor Standards Enforcement ("DLSE") has interpreted the phrase "major fraction thereof", as applied to a four-hour period, to mean any amount of time in excess of two hours—i.e., any fraction greater than half. *Brinker* at 1029, citing Dept. Industrial Relations, DLSE Opn. Letter No. 1999.02.16 (Feb. 16, 1999) p. 1. "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 . . ." Lab. Code § 226.7(b). If an employer fails to provide a legally compliant, duty-free rest period, the employee is entitled to one hour of "premium pay," or an additional hour of pay at the employee's regular rate of compensation for each workday that the rest period was not provided. Lab. Code § 226.7(c). The *Brinker* Court

explained in the context of rest breaks that employer liability attaches from adopting an unlawful policy:

An employer is required to authorize and permit the amount of rest break time called for under the wage order for its industry. If it does not—if, for example, it adopts a uniform policy authorizing and permitting only one rest break for employees working a seven-hour shift when two are required—***it has violated the wage order and is liable.***

Brinker Rest. Corp. v. Sup. Ct. (2012) 53 Cal.4th 1004, 1033 (emphasis added).

Here, Plaintiff and the Rest Break Aggrieved Employees were not provided their timely ten-minute duty-free rest periods every four hours or major fraction thereof. On the contrary, for all of their shifts, Plaintiff and the Rest Break Aggrieved Employees were or are not permitted to take their first or second ten-minute rest breaks during work shifts of more than six hours. This is a regular practice and is essentially Post Acute’s unwritten policy. Because Plaintiff and the Rest Break Aggrieved Employees did not receive compliant rest breaks, they were entitled to receive rest period premium pay for each day that they did not receive a compliant rest break, yet Post Acute failed to pay rest period premiums, in violation of Labor Code section 226.7.

C. Violation of Labor Code Sections 200, 204 & 210

Pursuant to Labor Code section 200, “wages” include “all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.” The term “wages” includes meal and rest break premiums. *See Naranjo v. Spectrum Security Services, Inc.* (2022) 13 Cal. 5th 93, 110-118 (California Supreme Court held that unpaid meal and rest break premiums are “wages” that can be the basis of derivative claims for waiting time penalties and wage statement penalties). Labor Code section 204 expressly requires that “[a]ll 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.” *Id.* at subd. (a). Additionally, Labor Code section 210(a), provides that, in addition to, and entirely independent and apart from, any other penalty provided under the Labor Code, every person who fails to pay wages pursuant to section 204 shall be subject to a civil penalty as follows:

- (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee;
- (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25% of the amount unlawfully withheld.”

Here, due to Post Acute’s failure to pay Plaintiff and the applicable Aggrieved Employees the meal period and rest period premiums that they were owed, and because Post Acute’s time rounding practice fails to capture all actual time worked by Plaintiff and the Aggrieved Employees, it follows that Post Acute also failed to pay them all applicable wages on a timely

and bi-monthly basis, giving rise to a viable claim for unpaid wages and civil penalties pursuant to Labor Code sections 200, 204, and 210.

D. Inaccurate Wage Statement Claim

Pursuant to Labor Code section 226, employers are obligated to furnish an itemized wage statement showing: (1) gross wages earned; (2) total hours worked; (3) the number of piece-rate units earned and any applicable piece rate (if applicable); (4) all deductions; (5) net wages earned; (6) the inclusive dates of the pay period; (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number; (8) the legal name and address of employer; and (9) all applicable hourly rates in effect and the corresponding number of hours worked at each rate during the pay period. *Id.* at subd. (a). An employer has an affirmative duty to track employee's hours worked and meal periods. *See* IWC Wage Order section 7(A) ("Every employer shall keep accurate information with respect to each employee including . . . time records showing when the employee begins each work period[,] [m]eal periods[,] and total daily worked shall also be recorded."); *See also Naranjo, supra*, 13 Cal. 5th at at 110-111, 117-118 (meal and rest break premiums are wages that can be the basis of derivative claims for wage statement penalties). Additionally, if an employer does not keep such records, as is the case here, the burden shifts to the employer to show that proper timekeeping procedures were maintained. *See Hernandez v. Mendoza* (1988) 199 Cal. App. 3d 721, 727 (burden shifted to employer to produce evidence either of the precise amount of work or evidence to negate the reasonableness of the inference to be drawn from the employee's evidence).

Labor Code section 226(e) provides that an employee is entitled to recover \$50 for initial pay period in which a violation of Section 226 occurs and \$100 for each subsequent pay period, not to exceed \$4,000, as well as an award of costs and reasonable attorney's fees, for all pay periods in which the employer fails to provide accurate itemized statements to the employee causing the employee to suffer injury.

Here, Plaintiff and the Wage Statement Aggrieved Employees did not receive wage statements which included all of the required information under Labor Code section 226(a), including all meal and rest period premiums owed, and including all actual time worked by Plaintiff and the Aggrieved Employees due to Post Acute's time rounding practice, and thus the wage statements issued to these individuals failed to include the correct amount of gross wages earned, the net wages earned, all applicable hourly rates in effect during the pay period, and the corresponding number of hours worked at each hourly rate in violation of Labor Code § 226(a)(1), (2), (5) and (9). Furthermore, Post Acute's failure to furnish accurate itemized wage statements has caused Plaintiff and the Wage Statement Aggrieved Employees to incur economic damages in that they were not aware of what they were owed, due to not being paid compensation for their time spent on non-compliant meal and rest periods. *See Cicairos v. Summit Logistics, Inc.* (2005) 133 Cal.App.4th 949, 960-961 (reversing summary judgment for defendants where wage statements did not "give an accurate report of the hours plaintiff worked, at least not on its face"). "If it is left to the employee to add up the daily hours shown on the timecards or other records so that the

employee must perform arithmetic computations to determine the total hours worked during the pay period, the requirements of section 226 would not be met.” *Id.* at 955; *see also* Lab. Code § 226(e)(2)(B) (clarifying that injury is established where the wage statement violated Section 226(a)(1), (2), or (5), among other provisions, and where employees cannot easily determine the gross or net wages earned by the employee during the pay period).

E. Failure to Reimburse Business Expenses Claim

Pursuant to Labor Code § 2802(a) “[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....” The purpose of this statute is “to prevent employers from passing their operating expenses on to their employees.” *Gattuso v. Harte-Hanks Shoppers, Inc.*, 42 Cal.4th 554, 562 (2007) (quoting legislative history from the 2000 amendment to the statute). Labor Code Section 2802(c) also clarifies that “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 this section.”

The employer’s obligation to reimburse business-related expenses arises when the employer “knew or should have known” that its employees have incurred a business-related expense. *Stuart v. RadioShack Corp.*, 641 F. Supp. 2d 901, 903 (N.D. Cal. 2009) (Hon. Edward Chen); *Wilson v. Kiewit Pacific Co.*, 2010 WL 5059522 (N.D. Cal. Dec. 6, 2010) (Hon. Susan Illston) (adopting the “knew or should have known” standard from *RadioShack*). Notably, these claims are not waivable per Section 2804 of the Labor Code.

Under Labor Code § 2802, if an employer requires its employees to use their cell phone for work, then the employer must reimburse its employees for a reasonable portion of their monthly cell phone bills. Here, Plaintiff and the Aggrieved Employees were expected to use their cell phones on a daily basis and their work-related cell phone usage was not reimbursed by Defendants.

Accordingly, Defendants violated Labor Code § 2802 and continue to do so by failing to reimburse Plaintiff and Aggrieved Employees for all work-related cell phone charges they incurred in the performance of their job duties.

This notice is hereby given to and is made against Defendants, and all related and/or alter ego companies, corporations, partnerships, and /or business entities, as well as against any and all officers, owners, directors managers, managing agents, or entities who are or may be liable under law for any of these alleged violations as to any Aggrieved Employees who worked at any time in the state of California during the PAGA Period.

F. Minimum Wage Violations

Labor Code § 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. Similarly, Labor Code § 1194 entitles “any employee receiving less than the legal minimum wage...to recover in a civil action the unpaid balance of the full amount of this minimum

wage.” IWC Wage Order 5-2001 also obligates employers to pay each employee minimum wages *for all hours worked*. These minimum wage standards apply to each hour employees worked for which they were not paid. Therefore, an employer’s failure to pay for any particular hour of time worked by an employee is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.

Furthermore, pursuant to Labor Code § 1198, “[t]he 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.”

During the relevant time period, Plaintiff and the Aggrieved Employees were paid on an hourly basis by the Defendants in the state of California.

Here, Defendants required Plaintiff and all Aggrieved Employees to regularly perform work-off-the-clock for which they did not receive any compensation. Specifically, as part of the Aggrieved Employees’ employment, Defendants required and continues to require Plaintiff and all Aggrieved Employees to fill out COVID-19 screening forms which last ten to fifteen minutes, before the start of their shift, and before they “clock in.” As a result, Plaintiff and Aggrieved Employees are and were required to use their personal cell phones to conduct work related business before clocking in. Therefore, during those regular instances where Plaintiff and all Aggrieved Employees were required to work before being able to clock in, they were deprived of minimum wages for all hours worked during that shift. In addition, because Post Acute’s time rounding practice fails to capture all actual time worked, Plaintiff and the Aggrieved Employees, were regularly deprived of minimum wages for all hours worked during their shifts.

Labor Code § 1194 provides, in part, that any employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the minimum wage, including interest thereon, reasonable attorney’s fees, and costs of suit.

Plaintiff and the other Aggrieved Employees suffered and continue to suffer losses related to the use and enjoyment of compensation due and owing to them as a direct result of Defendants’ unlawful acts and Labor Code violations.

III. CONCLUSION

Based on the foregoing, we write to inform Defendant and the LWDA, with whom this PAGA Notice has been filed, of our intent to pursue a PAGA representative action (and a class action) against Defendant seeking, *inter alia*, PAGA penalties under Labor Code section 2699, to be brought by Plaintiff individually, on a class basis, and on behalf of the Aggrieved Employees as defined above.

Nevertheless, it is the policy of this firm to attempt to negotiate an early resolution of all matters where possible and beneficial to the putative class and the Aggrieved Employees. If Defendant is interested in attempting to resolve this matter, please have counsel contact us by **September 20**,

2023, so that we may discuss an informal discovery plan and the possibility of early resolution through mediation.

You may contact Amir Seyedfarshi at Amir@employmentrightslaw.com or by calling (424) 777-0964, or Tatiana Hernandez at Tatiana@thlawpc.com or by calling (213) 909-4248. We look forward to your response.

Regards,


Amir Seyedfarshi, Esq.

Tatiana Hernandez, Esq.
*Attorneys for Plaintiff and the
Aggrieved Employees*

EXHIBIT B

Client Name	Caregiver Name	Official Clock In	Official Clock Out		Actual Clock In	Actual Clock Out		Scheduled Clock In	Scheduled Clock Out	Clock Out - Method	Clock In - Method
n	Rosario Zavala	05/24/2022 10:15 AM	05/24/2022 10:30 AM		05/24/2022 10:12 AM	05/24/2022 10:25 AM		05/24/2022 10:05 AM	05/24/2022 12:05 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/01/2022 09:30 AM	06/01/2022 03:30 PM		06/01/2022 09:30 AM	06/01/2022 03:34 PM		06/01/2022 09:30 AM	06/01/2022 03:30 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	06/03/2022 07:30 AM	06/03/2022 01:30 PM		06/03/2022 07:38 AM	06/03/2022 12:32 PM		06/03/2022 07:30 AM	06/03/2022 01:30 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/04/2022 09:00 AM	06/04/2022 03:00 PM		06/04/2022 08:55 AM	06/04/2022 02:59 PM		06/04/2022 09:00 AM	06/04/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	06/06/2022 07:30 AM	06/06/2022 03:30 PM		06/06/2022 07:24 AM	06/06/2022 03:30 PM		06/06/2022 07:30 AM	06/06/2022 03:30 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/07/2022 10:00 AM	06/07/2022 02:00 PM		06/07/2022 09:55 AM	06/07/2022 02:02 PM		06/07/2022 10:00 AM	06/07/2022 02:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	06/08/2022 09:00 AM	06/08/2022 03:00 PM		06/08/2022 08:56 AM	06/08/2022 03:01 PM		06/08/2022 09:00 AM	06/08/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/09/2022 08:00 AM	06/09/2022 09:30 AM		06/09/2022 07:58 AM	06/09/2022 09:36 AM		06/09/2022 08:00 AM	06/09/2022 09:30 AM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	06/09/2022 10:00 AM	06/09/2022 02:00 PM		06/09/2022 09:56 AM	06/09/2022 02:03 PM		06/09/2022 10:00 AM	06/09/2022 02:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/10/2022 09:00 AM	06/10/2022 01:00 PM		06/10/2022 09:00 AM	06/10/2022 01:00 PM		06/10/2022 09:00 AM	06/10/2022 01:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	06/13/2022 09:00 AM	06/13/2022 03:00 PM		06/13/2022 08:59 AM	06/13/2022 03:02 PM		06/13/2022 09:00 AM	06/13/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/16/2022 09:00 AM	06/16/2022 03:00 PM		06/16/2022 09:01 AM	06/16/2022 03:00 PM		06/16/2022 09:00 AM	06/16/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	06/17/2022 12:00 PM	06/17/2022 04:00 PM		06/17/2022 11:59 AM	06/17/2022 04:02 PM		06/17/2022 12:00 PM	06/17/2022 04:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/21/2022 09:00 AM	06/21/2022 03:00 PM		06/21/2022 08:55 AM	06/21/2022 03:03 PM		06/21/2022 09:00 AM	06/21/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	06/24/2022 09:00 AM	06/24/2022 01:00 PM		06/24/2022 09:02 AM	06/24/2022 01:03 PM		06/24/2022 09:00 AM	06/24/2022 01:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/27/2022 09:00 AM	06/27/2022 03:00 PM		06/27/2022 08:56 AM	06/27/2022 03:03 PM		06/27/2022 09:00 AM	06/27/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	06/28/2022 09:00 AM	06/28/2022 03:00 PM		06/28/2022 09:00 AM	06/28/2022 03:00 PM		06/28/2022 09:00 AM	06/28/2022 03:00 PM	Converted Care Log	Converted Care Log
	Rosario Zavala	06/29/2022 09:00 AM	06/29/2022 03:00 PM		06/29/2022 09:00 AM	06/29/2022 03:00 PM		06/29/2022 09:00 AM	06/29/2022 03:00 PM	Converted Care Log	Converted Care Log
n	Rosario Zavala	07/08/2022 09:00 AM	07/08/2022 01:15 PM		07/08/2022 09:02 AM	07/08/2022 01:09 PM		07/08/2022 09:00 AM	07/08/2022 01:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	07/11/2022 07:00 AM	07/11/2022 03:00 PM		07/11/2022 07:01 AM	07/11/2022 03:03 PM		07/11/2022 07:00 AM	07/11/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	08/12/2022 10:00 AM	08/12/2022 04:00 PM		08/12/2022 09:57 AM	08/12/2022 04:00 PM		08/12/2022 10:00 AM	08/12/2022 04:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	08/18/2022 10:00 AM	08/18/2022 03:00 PM		08/18/2022 09:58 AM	08/18/2022 03:01 PM		08/18/2022 10:00 AM	08/18/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	08/19/2022 10:15 AM	08/19/2022 03:15 PM		08/19/2022 10:15 AM	08/19/2022 03:12 PM		08/19/2022 10:15 AM	08/19/2022 03:15 PM	Mobile App Clock In/Out	Agency Admin
	Rosario Zavala	08/26/2022 09:00 AM	08/26/2022 03:00 PM		08/26/2022 09:00 AM	08/26/2022 03:00 PM		08/26/2022 09:00 AM	08/26/2022 03:00 PM	Agency Admin	Agency Admin
n	Rosario Zavala	09/01/2022 08:00 AM	09/01/2022 02:00 PM		09/01/2022 08:03 AM	09/01/2022 02:07 PM		09/01/2022 08:00 AM	09/01/2022 02:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	09/30/2022 09:00 AM	09/30/2022 03:00 PM		09/30/2022 08:58 AM	09/30/2022 03:01 PM		09/30/2022 09:00 AM	09/30/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	10/06/2022 10:00 AM	10/06/2022 03:00 PM		10/06/2022 09:57 AM	10/06/2022 02:59 PM		10/06/2022 10:00 AM	10/06/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	10/07/2022 09:00 AM	10/07/2022 03:00 PM		10/07/2022 08:53 AM	10/07/2022 02:58 PM		10/07/2022 09:00 AM	10/07/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	10/20/2022 10:00 AM	10/20/2022 03:00 PM		10/20/2022 09:57 AM	10/20/2022 03:02 PM		10/20/2022 10:00 AM	10/20/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	10/21/2022 09:00 AM	10/21/2022 03:00 PM		10/21/2022 08:58 AM	10/21/2022 03:02 PM		10/21/2022 09:00 AM	10/21/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	10/26/2022 10:00 AM	10/26/2022 03:00 PM		10/26/2022 09:55 AM	10/26/2022 03:03 PM		10/26/2022 10:00 AM	10/26/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	10/27/2022 10:00 AM	10/27/2022 03:00 PM		10/27/2022 09:59 AM	10/27/2022 03:03 PM		10/27/2022 10:00 AM	10/27/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	10/28/2022 09:00 AM	10/28/2022 03:00 PM		10/28/2022 08:59 AM	10/28/2022 03:00 PM		10/28/2022 09:00 AM	10/28/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	11/03/2022 10:00 AM	11/03/2022 03:00 PM		11/03/2022 10:00 AM	11/03/2022 03:02 PM		11/03/2022 10:00 AM	11/03/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	11/04/2022 09:00 AM	11/04/2022 03:00 PM		11/04/2022 08:55 AM	11/04/2022 03:05 PM		11/04/2022 09:00 AM	11/04/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	11/11/2022 09:00 AM	11/11/2022 03:00 PM		11/11/2022 09:33 AM	11/11/2022 03:00 PM		11/11/2022 09:00 AM	11/11/2022 03:00 PM	Agency Admin	Mobile App Clock In/Out
n	Rosario Zavala	11/15/2022 08:00 AM	11/15/2022 02:15 PM		11/15/2022 08:03 AM	11/15/2022 02:09 PM		11/15/2022 08:00 AM	11/15/2022 02:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	11/16/2022 08:00 AM	11/16/2022 03:15 PM		11/16/2022 08:01 AM	11/16/2022 03:08 PM		11/16/2022 08:00 AM	11/16/2022 02:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	11/17/2022 10:00 AM	11/17/2022 03:00 PM		11/17/2022 09:58 AM	11/17/2022 03:01 PM		11/17/2022 10:00 AM	11/17/2022 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	11/21/2022 08:00 AM	11/21/2022 02:00 PM		11/21/2022 08:00 AM	11/21/2022 02:00 PM		11/21/2022 08:00 AM	11/21/2022 02:00 PM	Converted Care Log	Converted Care Log
n	Rosario Zavala	11/24/2022 10:00 AM	11/24/2022 03:00 PM		11/24/2022 10:00 AM	11/24/2022 03:00 PM		11/24/2022 10:00 AM	11/24/2022 03:00 PM	Converted Care Log	Converted Care Log
	Rosario Zavala	02/09/2023 09:00 AM	02/09/2023 03:00 PM		02/09/2023 09:00 AM	02/09/2023 03:00 PM		02/09/2023 09:00 AM	02/09/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
n	Rosario Zavala	02/10/2023 09:00 AM	02/10/2023 01:00 PM		02/10/2023 09:03 AM	02/10/2023 12:57 PM		02/10/2023 09:00 AM	02/10/2023 01:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	02/16/2023 09:00 AM	02/16/2023 03:00 PM		02/16/2023 08:53 AM	02/16/2023 03:00 PM		02/16/2023 09:00 AM	02/16/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
n	Rosario Zavala	03/10/2023 07:00 AM	03/10/2023 02:15 PM		03/10/2023 07:05 AM	03/10/2023 02:21 PM		03/10/2023 07:00 AM	03/10/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	03/17/2023 09:00 AM	03/17/2023 04:00 PM		03/17/2023 08:56 AM	03/17/2023 04:03 PM		03/17/2023 09:00 AM	03/17/2023 04:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	03/20/2023 09:00 AM	03/20/2023 03:00 PM		03/20/2023 08:56 AM	03/20/2023 03:02 PM		03/20/2023 09:00 AM	03/20/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	03/21/2023 09:00 AM	03/21/2023 03:00 PM		03/21/2023 08:56 AM	03/21/2023 03:03 PM		03/21/2023 09:00 AM	03/21/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	03/22/2023 09:00 AM	03/22/2023 03:00 PM		03/22/2023 08:54 AM	03/22/2023 03:00 PM		03/22/2023 09:00 AM	03/22/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	03/23/2023 09:00 AM	03/23/2023 01:00 PM		03/23/2023 08:54 AM	03/23/2023 12:59 PM		03/23/2023 09:00 AM	03/23/2023 01:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	03/24/2023 09:00 AM	03/24/2023 03:00 PM		03/24/2023 08:54 AM	03/24/2023 03:00 PM		03/24/2023 09:00 AM	03/24/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	03/27/2023 09:00 AM	03/27/2023 03:00 PM		03/27/2023 08:54 AM	03/27/2023 02:59 PM		03/27/2023 09:00 AM	03/27/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	03/28/2023 09:00 AM	03/28/2023 03:00 PM		03/28/2023 09:10 AM	03/28/2023 03:00 PM		03/28/2023 09:00 AM	03/28/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	03/29/2023 09:00 AM	03/29/2023 03:00 PM		03/29/2023 08:54 AM	03/29/2023 02:56 PM		03/29/2023 09:00 AM	03/29/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
n	Rosario Zavala	03/30/2023 09:00 AM	03/30/2023 03:00 PM		03/30/2023 08:53 AM	03/30/2023 02:59 PM		03/30/2023 09:00 AM	03/30/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out

Client Name	Caregiver Name	Official Clock In	Official Clock Out		Actual Clock In	Actual Clock Out		Scheduled Clock In	Scheduled Clock Out	Clock Out - Method	Clock In - Method
Rosario Zavala	Rosario Zavala	03/31/2023 09:00 AM	03/31/2023 03:00 PM		03/31/2023 08:54 AM	03/31/2023 02:57 PM		03/31/2023 09:00 AM	03/31/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	04/03/2023 09:00 AM	04/03/2023 03:00 PM		04/03/2023 08:53 AM	04/03/2023 02:58 PM		04/03/2023 09:00 AM	04/03/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	04/04/2023 09:00 AM	04/04/2023 03:00 PM		04/04/2023 08:53 AM	04/04/2023 02:58 PM		04/04/2023 09:00 AM	04/04/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	04/05/2023 09:00 AM	04/05/2023 03:00 PM		04/05/2023 08:54 AM	04/05/2023 03:01 PM		04/05/2023 09:00 AM	04/05/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	04/06/2023 09:00 AM	04/06/2023 03:00 PM		04/06/2023 08:53 AM	04/06/2023 02:58 PM		04/06/2023 09:00 AM	04/06/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	04/07/2023 09:00 AM	04/07/2023 03:00 PM		04/07/2023 08:53 AM	04/07/2023 03:00 PM		04/07/2023 09:00 AM	04/07/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	04/10/2023 09:00 AM	04/10/2023 03:00 PM		04/10/2023 08:53 AM	04/10/2023 02:59 PM		04/10/2023 09:00 AM	04/10/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	04/11/2023 09:00 AM	04/11/2023 03:00 PM		04/11/2023 08:58 AM	04/11/2023 03:00 PM		04/11/2023 09:00 AM	04/11/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	04/12/2023 09:00 AM	04/12/2023 03:00 PM		04/12/2023 08:59 AM	04/12/2023 03:03 PM		04/12/2023 09:00 AM	04/12/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	04/13/2023 09:00 AM	04/13/2023 03:00 PM		04/13/2023 08:53 AM	04/13/2023 03:00 PM		04/13/2023 09:00 AM	04/13/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	04/14/2023 09:00 AM	04/14/2023 03:00 PM		04/14/2023 08:54 AM	04/14/2023 02:57 PM		04/14/2023 09:00 AM	04/14/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	04/17/2023 09:00 AM	04/17/2023 03:00 PM		04/17/2023 08:53 AM	04/17/2023 03:00 PM		04/17/2023 09:00 AM	04/17/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	04/18/2023 09:00 AM	04/18/2023 03:00 PM		04/18/2023 08:54 AM	04/18/2023 03:00 PM		04/18/2023 09:00 AM	04/18/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	04/19/2023 09:00 AM	04/19/2023 03:00 PM		04/19/2023 09:05 AM	04/19/2023 03:03 PM		04/19/2023 09:00 AM	04/19/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	04/20/2023 09:00 AM	04/20/2023 03:00 PM		04/20/2023 08:53 AM	04/20/2023 03:00 PM		04/20/2023 09:00 AM	04/20/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	04/21/2023 09:00 AM	04/21/2023 03:00 PM		04/21/2023 08:54 AM	04/21/2023 03:00 PM		04/21/2023 09:00 AM	04/21/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	04/24/2023 09:00 AM	04/24/2023 03:00 PM		04/24/2023 08:56 AM	04/24/2023 03:01 PM		04/24/2023 09:00 AM	04/24/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	04/25/2023 09:00 AM	04/25/2023 03:00 PM		04/25/2023 08:56 AM	04/25/2023 03:02 PM		04/25/2023 09:00 AM	04/25/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	04/26/2023 09:00 AM	04/26/2023 03:00 PM		04/26/2023 08:57 AM	04/26/2023 02:59 PM		04/26/2023 09:00 AM	04/26/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	04/27/2023 09:00 AM	04/27/2023 03:00 PM		04/27/2023 08:54 AM	04/27/2023 02:59 PM		04/27/2023 09:00 AM	04/27/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	04/28/2023 09:00 AM	04/28/2023 03:00 PM		04/28/2023 09:04 AM	04/28/2023 03:00 PM		04/28/2023 09:00 AM	04/28/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	05/01/2023 09:00 AM	05/01/2023 03:00 PM		05/01/2023 08:59 AM	05/01/2023 03:00 PM		05/01/2023 09:00 AM	05/01/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	05/02/2023 09:00 AM	05/02/2023 03:00 PM		05/02/2023 08:58 AM	05/02/2023 03:00 PM		05/02/2023 09:00 AM	05/02/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	05/03/2023 09:00 AM	05/03/2023 03:00 PM		05/03/2023 08:56 AM	05/03/2023 03:00 PM		05/03/2023 09:00 AM	05/03/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	05/04/2023 09:00 AM	05/04/2023 03:00 PM		05/04/2023 08:53 AM	05/04/2023 03:00 PM		05/04/2023 09:00 AM	05/04/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	05/05/2023 09:00 AM	05/05/2023 03:00 PM		05/05/2023 09:00 AM	05/05/2023 03:00 PM		05/05/2023 09:00 AM	05/05/2023 03:00 PM	Converted Care Log	Converted Care Log
	Rosario Zavala	05/08/2023 09:00 AM	05/08/2023 03:00 PM		05/08/2023 08:56 AM	05/08/2023 03:01 PM		05/08/2023 09:00 AM	05/08/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	05/09/2023 09:00 AM	05/09/2023 03:00 PM		05/09/2023 08:55 AM	05/09/2023 02:55 PM		05/09/2023 09:00 AM	05/09/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	05/10/2023 09:00 AM	05/10/2023 03:00 PM		05/10/2023 09:01 AM	05/10/2023 03:00 PM		05/10/2023 09:00 AM	05/10/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	05/11/2023 09:00 AM	05/11/2023 03:00 PM		05/11/2023 08:54 AM	05/11/2023 03:02 PM		05/11/2023 09:00 AM	05/11/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	05/12/2023 09:00 AM	05/12/2023 03:00 PM		05/12/2023 08:54 AM	05/12/2023 03:00 PM		05/12/2023 09:00 AM	05/12/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	05/15/2023 09:00 AM	05/15/2023 03:00 PM		05/15/2023 08:54 AM	05/15/2023 03:00 PM		05/15/2023 09:00 AM	05/15/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	05/16/2023 09:00 AM	05/16/2023 03:00 PM		05/16/2023 08:54 AM	05/16/2023 03:00 PM		05/16/2023 09:00 AM	05/16/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	05/17/2023 09:00 AM	05/17/2023 03:00 PM		05/17/2023 08:56 AM	05/17/2023 03:00 PM		05/17/2023 09:00 AM	05/17/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	05/18/2023 09:00 AM	05/18/2023 03:00 PM		05/18/2023 08:57 AM	05/18/2023 02:59 PM		05/18/2023 09:00 AM	05/18/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	05/19/2023 09:00 AM	05/19/2023 03:00 PM		05/19/2023 08:55 AM	05/19/2023 03:00 PM		05/19/2023 09:00 AM	05/19/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	05/22/2023 09:00 AM	05/22/2023 03:00 PM		05/22/2023 09:04 AM	05/22/2023 03:00 PM		05/22/2023 09:00 AM	05/22/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
	Rosario Zavala	05/23/2023 09:00 AM	05/23/2023 03:00 PM		05/23/2023 09:03 AM	05/23/2023 03:05 PM		05/23/2023 09:00 AM	05/23/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	05/24/2023 09:00 AM	05/24/2023 03:00 PM		05/24/2023 09:00 AM	05/24/2023 03:00 PM		05/24/2023 09:00 AM	05/24/2023 03:00 PM	Converted Care Log	Converted Care Log
	Rosario Zavala	05/25/2023 09:00 AM	05/25/2023 03:00 PM		05/25/2023 09:03 AM	05/25/2023 03:00 PM		05/25/2023 09:00 AM	05/25/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out
Rosario Zavala	05/26/2023 09:00 AM	05/26/2023 03:00 PM		05/26/2023 08:53 AM	05/26/2023 02:53 PM		05/26/2023 09:00 AM	05/26/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out	
Rosario Zavala	05/29/2023 09:00 AM	05/29/2023 03:00 PM		05/29/2023 09:00 AM	05/29/2023 03:00 PM		05/29/2023 09:00 AM	05/29/2023 03:00 PM	Converted Care Log	Converted Care Log	
Rosario Zavala	05/30/2023 09:00 AM	05/30/2023 03:00 PM		05/30/2023 09:05 AM	05/30/2023 03:03 PM		05/30/2023 09:00 AM	05/30/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out	
Rosario Zavala	05/31/2023 09:00 AM	05/31/2023 03:00 PM		05/31/2023 08:54 AM	05/31/2023 03:00 PM		05/31/2023 09:00 AM	05/31/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out	
Rosario Zavala	06/01/2023 09:00 AM	06/01/2023 03:00 PM		06/01/2023 08:58 AM	06/01/2023 03:01 PM		06/01/2023 09:00 AM	06/01/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out	
Rosario Zavala	06/02/2023 09:00 AM	06/02/2023 03:00 PM		06/02/2023 08:56 AM	06/02/2023 03:00 PM		06/02/2023 09:00 AM	06/02/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out	
Rosario Zavala	06/05/2023 09:00 AM	06/05/2023 03:00 PM		06/05/2023 08:56 AM	06/05/2023 02:55 PM		06/05/2023 09:00 AM	06/05/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out	
Rosario Zavala	06/06/2023 09:00 AM	06/06/2023 03:00 PM		06/06/2023 09:02 AM	06/06/2023 03:00 PM		06/06/2023 09:00 AM	06/06/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out	
Rosario Zavala	06/07/2023 09:00 AM	06/07/2023 03:00 PM		06/07/2023 08:57 AM	06/07/2023 02:57 PM		06/07/2023 09:00 AM	06/07/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out	
Rosario Zavala	06/08/2023 09:00 AM	06/08/2023 03:00 PM		06/08/2023 08:54 AM	06/08/2023 03:00 PM		06/08/2023 09:00 AM	06/08/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out	
Rosario Zavala	06/09/2023 09:00 AM	06/09/2023 03:00 PM		06/09/2023 08:54 AM	06/09/2023 03:00 PM		06/09/2023 09:00 AM	06/09/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out	
Rosario Zavala	06/12/2023 09:00 AM	06/12/2023 03:00 PM		06/12/2023 09:07 AM	06/12/2023 03:04 PM		06/12/2023 09:00 AM	06/12/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out	
Rosario Zavala	06/13/2023 09:00 AM	06/13/2023 03:00 PM		06/13/2023 08:53 AM	06/13/2023 02:53 PM		06/13/2023 09:00 AM	06/13/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out	
Rosario Zavala	06/13/2023 03:30 PM	06/13/2023 03:45 PM	0:15	06/13/2023 03:31 PM	06/13/2023 03:39 PM		06/13/2023 03:30 PM	06/13/2023 03:45 PM	Mobile App Clock In/Out	Mobile App Clock In/Out	
Rosario Zavala	06/14/2023 09:00 AM	06/14/2023 03:00 PM	6:00	06/14/2023 08:56 AM	06/14/2023 03:00 PM	0:04	06/14/2023 09:00 AM	06/14/2023 03:00 PM	Agency Admin	Mobile App Clock In/Out	

Client Name	Caregiver Name	Official Clock In	Official Clock Out		Actual Clock In	Actual Clock Out		Scheduled Clock In	Scheduled Clock Out	Clock Out - Method	Clock In - Method
	Rosario Zavala	06/15/2023 09:00 AM	06/15/2023 03:00 PM		06/15/2023 08:58 AM	06/15/2023 03:00 PM		06/15/2023 09:00 AM	06/15/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/16/2023 09:00 AM	06/16/2023 03:00 PM		06/16/2023 08:53 AM	06/16/2023 03:00 PM		06/16/2023 09:00 AM	06/16/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/19/2023 09:00 AM	06/19/2023 03:00 PM		06/19/2023 08:58 AM	06/19/2023 03:00 PM		06/19/2023 09:00 AM	06/19/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/20/2023 09:00 AM	06/20/2023 03:00 PM		06/20/2023 08:56 AM	06/20/2023 03:03 PM		06/20/2023 09:00 AM	06/20/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/21/2023 09:00 AM	06/21/2023 03:00 PM		06/21/2023 08:58 AM	06/21/2023 02:58 PM		06/21/2023 09:00 AM	06/21/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/22/2023 09:00 AM	06/22/2023 03:00 PM		06/22/2023 08:56 AM	06/22/2023 03:06 PM		06/22/2023 09:00 AM	06/22/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/23/2023 09:00 AM	06/23/2023 03:00 PM		06/23/2023 08:53 AM	06/23/2023 02:54 PM		06/23/2023 09:00 AM	06/23/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/26/2023 09:00 AM	06/26/2023 03:00 PM		06/26/2023 09:00 AM	06/26/2023 02:59 PM		06/26/2023 09:00 AM	06/26/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/27/2023 09:00 AM	06/27/2023 03:15 PM		06/27/2023 08:58 AM	06/27/2023 03:08 PM		06/27/2023 09:00 AM	06/27/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/28/2023 09:00 AM	06/28/2023 03:00 PM		06/28/2023 09:01 AM	06/28/2023 03:01 PM		06/28/2023 09:00 AM	06/28/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/29/2023 09:00 AM	06/29/2023 03:00 PM		06/29/2023 08:58 AM	06/29/2023 03:00 PM		06/29/2023 09:00 AM	06/29/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out
	Rosario Zavala	06/30/2023 09:00 AM	06/30/2023 03:15 PM		06/30/2023 09:02 AM	06/30/2023 03:08 PM		06/30/2023 09:00 AM	06/30/2023 03:00 PM	Mobile App Clock In/Out	Mobile App Clock In/Out



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Tatiana Hernandez, Esq (SBN 255322) EMPLOYMENT RIGHTS LAWYERS, APC. Law Office of Tatiana Hernandez, P.C. 6380 Wilshire Blvd., #1602 Los Angeles, CA 90048 315 S. Beverly Drive, Suite 504, Beverly Hills, CA 900212 Employment Rights Lawyers, APC. TELEPHONE NO.: 213-909-4248 FAX NO.: ATTORNEY FOR (Name): Rosario Zavala Lopez		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 751 W Santa Ana Blvd. MAILING ADDRESS: 751 W Santa Ana Blvd., CITY AND ZIP CODE: Santa Ana, CA 92701 BRANCH NAME: Civil Complex Center		
CASE NAME: Zavala v. Post Acute Care Partners		
CIVIL CASE COVER SHEET ☒ Unlimited (Amount demanded exceeds \$25,000)	☐ Limited (Amount demanded is \$25,000 or less)	Complex Case Designation ☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER: 30-2023-01362792-CU-OE-CXC JUDGE: Judge Melissa R. McCormick DEPT: CX104

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort ☐ Auto (22) ☐ Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort ☐ Asbestos (04) ☐ Product liability (24) ☐ Medical malpractice (45) ☐ Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort ☐ Business tort/unfair business practice (07) ☐ Civil rights (08) ☐ Defamation (13) ☐ Fraud (16) ☐ Intellectual property (19) ☐ Professional negligence (25) ☐ Other non-PI/PD/WD tort (35) Employment ☐ Wrongful termination (36) ☒ Other employment (15)	Contract ☐ Breach of contract/warranty (06) ☐ Rule 3.740 collections (09) ☐ Other collections (09) ☐ Insurance coverage (18) ☐ Other contract (37) Real Property ☐ Eminent domain/Inverse condemnation (14) ☐ Wrongful eviction (33) ☐ Other real property (26) Unlawful Detainer ☐ Commercial (31) ☐ Residential (32) ☐ Drugs (38) Judicial Review ☐ Asset forfeiture (05) ☐ Petition re: arbitration award (11) ☐ Writ of mandate (02) ☐ Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) ☐ Antitrust/Trade regulation (03) ☐ Construction defect (10) ☐ Mass tort (40) ☐ Securities litigation (28) ☐ Environmental/Toxic tort (30) ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment ☐ Enforcement of judgment (20) Miscellaneous Civil Complaint ☐ RICO (27) ☐ Other complaint (not specified above) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties | d. ☐ Large number of witnesses |
| b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. ☐ Substantial amount of documentary evidence | f. ☐ Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 6
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 11/17/2023

Tatiana Hernandez

(TYPE OR PRINT NAME)



Tatiana Hernandez

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

ALTERNATIVE DISPUTE RESOLUTION (ADR)
INFORMATION PACKAGE

NOTICE TO PLAINTIFF(S) AND/OR CROSS-COMPLAINANT(S):

Rule 3.221(c) of the California Rules of Court requires you to serve a copy of the ADR Information Package along with the complaint and/or cross-complaint.

California Rules of Court – Rule 3.221
Information about Alternative Dispute Resolution (ADR)

(a) Each court shall make available to the plaintiff, at the time of filing of the complaint, an ADR Information Package that includes, at a minimum, all of the following:

- (1) General information about the potential advantages and disadvantages of ADR and descriptions of the principal ADR processes.
- (2) Information about the ADR programs available in that court, including citations to any applicable local court rules and directions for contacting any court staff responsible for providing parties with assistance regarding ADR.
- (3) Information about the availability of local dispute resolution programs funded under the Dispute Resolutions Program Act (DRPA), in counties that are participating in the DRPA. This information may take the form of a list of the applicable programs or directions for contacting the county's DRPA coordinator.
- (4) An ADR stipulation form that parties may use to stipulate to the use of an ADR process.

(b) A court may make the ADR Information Package available on its website as long as paper copies are also made available in the clerk's office.

(c) The plaintiff must serve a copy of the ADR Information Package on each defendant along with the complaint. Cross-complainants must serve a copy of the ADR Information Package on any new parties to the action along with the cross-complaint.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

ADR Information

Introduction.

Most civil disputes are resolved without filing a lawsuit, and most civil lawsuits are resolved without a trial. The courts and others offer a variety of Alternative Dispute Resolution (ADR) processes to help people resolve disputes without a trial. ADR is usually less formal, less expensive, and less time-consuming than a trial. ADR can also give people more opportunity to determine when and how their dispute will be resolved.

BENEFITS OF ADR.

Using ADR may have a variety of benefits, depending on the type of ADR process used and the circumstances of the particular case. Some potential benefits of ADR are summarized below.

Save Time. A dispute often can be settled or decided much sooner with ADR; often in a matter of months, even weeks, while bringing a lawsuit to trial can take a year or more.

Save Money. When cases are resolved earlier through ADR, the parties may save some of the money they would have spent on attorney fees, court costs, experts' fees, and other litigation expenses.

Increase Control Over the Process and the Outcome. In ADR, parties typically play a greater role in shaping both the process and its outcome. In most ADR processes, parties have more opportunity to tell their side of the story than they do at trial. Some ADR processes, such as mediation, allow the parties to fashion creative resolutions that are not available in a trial. Other ADR processes, such as arbitration, allow the parties to choose an expert in a particular field to decide the dispute.

Preserve Relationships. ADR can be a less adversarial and hostile way to resolve a dispute. For example, an experienced mediator can help the parties effectively communicate their needs and point of view to the other side. This can be an important advantage where the parties have a relationship to preserve.

Increase Satisfaction. In a trial, there is typically a winner and a loser. The loser is not likely to be happy, and even the winner may not be completely satisfied with the outcome. ADR can help the parties find win-win solutions and achieve their real goals. This, along with all of ADR's other potential advantages, may increase the parties' overall satisfaction with both the dispute resolution process and the outcome.

Improve Attorney-Client Relationships. Attorneys may also benefit from ADR by being seen as problem-solvers rather than combatants. Quick, cost-effective, and satisfying resolutions are likely to produce happier clients and thus generate repeat business from clients and referrals of their friends and associates.

DISADVANTAGES OF ADR.

ADR may not be suitable for every dispute.

Loss of protections. If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court.

Less discovery. There generally is less opportunity to find out about the other side's case with ADR than with litigation. ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.

Additional costs. The neutral may charge a fee for his or her services. If a dispute is not resolved through ADR, the parties may have to put time and money into both ADR and a lawsuit.

Effect of delays if the dispute is not resolved. Lawsuits must be brought within specified periods of time, known as statutes of limitation. Parties must be careful not to let a statute of limitations run out while a dispute is in an ADR process.

TYPES OF ADR IN CIVIL CASES.

The most commonly used ADR processes are arbitration, mediation, neutral evaluation and settlement conferences.

Arbitration. In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed. Arbitration may be either "binding" or "nonbinding." Binding arbitration means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. Generally, there is no right to appeal an arbitrator's decision. Nonbinding arbitration means that the parties are free to request a trial if they do not accept the arbitrator's decision.

Cases for Which Arbitration May Be Appropriate. Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

Cases for Which Arbitration May Not Be Appropriate. If parties want to retain control over how their dispute is resolved, arbitration, particularly binding arbitration, is not appropriate. In binding arbitration, the parties generally cannot appeal the arbitrator's award, even if it is not supported by the evidence or the law. Even in nonbinding arbitration, if a party requests a trial and does not receive a more favorable result at trial than in arbitration, there may be penalties.

Mediation. In mediation, an impartial person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties.

Cases for Which Mediation May Be Appropriate. Mediation may be particularly useful when parties have a relationship they want to preserve. So when family members, neighbors, or business partners have a dispute, mediation may be the ADR process to use. Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can hear the parties out and help them communicate with each other in an effective and nondestructive manner.

Cases for Which Mediation May Not Be Appropriate. Mediation may not be effective if one of the parties is unwilling to cooperate or compromise. Mediation also may not be effective if one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

Neutral Evaluation. In neutral evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is

often an expert in the subject matter of the dispute. Although the evaluator's opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.

Cases for Which Neutral Evaluation May Be Appropriate. Neutral evaluation may be most appropriate in cases in which there are technical issues that require special expertise to resolve or the only significant issue in the case is the amount of damages.

Cases for Which Neutral Evaluation May Not Be Appropriate. Neutral evaluation may not be appropriate when there are significant personal or emotional barriers to resolving the dispute.

Settlement Conferences. Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or a neutral person called a "settlement officer" to discuss possible settlement of their dispute. The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement conferences are appropriate in any case where settlement is an option. Mandatory settlement conferences are often held close to the date a case is set for trial.

ADDITIONAL INFORMATION.

In addition to mediation, arbitration, neutral evaluation, and settlement conferences, there are other types of ADR, including conciliation, fact finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR types. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute.

To locate a dispute resolution program or neutral in your community:

- Contact the California Department of Consumer Affairs, Consumer Information Center, toll free, at 1-800-852-5210
- Contact the Orange County Bar Association at (949) 440-6700
- Look in the telephone directories under "Arbitrators" or "Mediators"

Low cost mediation services are provided under the Orange County Dispute Resolution Program Act (DRPA). For information regarding DRPA, contact:

- OC Human Relations (714) 480-6575, mediator@ochumanrelations.org
- Waymakers (949) 250-4058

For information on the Superior Court of California, County of Orange court ordered arbitration program, refer to Local Rule 360.

The Orange County Superior Court offers programs for Civil Mediation and Early Neutral Evaluation (ENE). For the Civil Mediation program, mediators on the Court's panel have agreed to accept a fee of \$300 for up to the first two hours of a mediation session. For the ENE program, members of the Court's panel have agreed to accept a fee of \$300 for up to three hours of an ENE session. Additional information on the Orange County Superior Court Civil Mediation and Early Neutral Evaluation (ENE) programs is available on the Court's website at www.occourts.org.

