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Attorneys for Plaintiff JESSICA HERRIGAN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

JESSICA HERRIGAN, an individual, on
behalf of herself and on behalf of all persons
similarly situated,

Plaintiffs,

v.

CHILDREN'S SPECIALISTS OF SAN
DIEGO, A MEDICAL GROUP, INC., a
California Corporation; and DOES 1-50,
Inclusive,

Defendants.

Case No. 37-2021-00014044-CU-OE-CTL

**DECLARATION OF JEAN-CLAUDE
LAPUYADE, ESQ. IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: July 22, 2022

Time: 9:00 a.m.

Reservation No.: 2840069

Judge: Hon. Joel Wohlfeil

Dept.: 73

1 I, Jean-Claude Lapuyade, Esq., declare as follows:

2 1. I am over eighteen years of age and if called as a witness, I could and would competently
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner
4 of the law firm of JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am co-counsel of record for
5 Plaintiff JESSICA HERRIGAN (hereafter "Plaintiff") in this wage and hour class action filed against
6 CHILDREN'S SPECIALISTS OF SAN DIEGO, A MEDICAL GROUP, INC. (hereinafter
7 "Defendant").

8 2. This declaration is being submitted in support of Plaintiff's Motion for Preliminary
9 Approval of Class Action and PAGA Settlement.

10 **I. EXHIBITS**

11 3. Attached hereto as **Exhibit "1"** is a true and correct copy of the fully executed Stipulation
12 of Settlement of Class and PAGA Action Claims and Release of Claims ("Agreement" or "Settlement
13 Agreement"). Attached as **Exhibit "A"** to the Agreement is a true and correct copy of the proposed
14 Class Notice.

15 4. Attached hereto as **Exhibit "2"** is a true and correct copy of the proof of filing with the
16 Labor and Workforce Development Agency notice of this settlement with the Settlement Agreement
17 and Motion for Preliminary Approval of Class and PAGA Action Claims and Release of Claims
18 evidencing Class Counsel's compliance with California Labor Code Section 2699(1)(2).

19 5. Attached hereto as **Exhibit "3"** is a true and correct copy of the bid for settlement
20 administration submitted by ILYM Group, Inc., in the amount of \$7,850.

21 **II. INTRODUCTION**

22 6. An objective evaluation of the Settlement confirms that the relief negotiated on behalf of
23 the Class is fair, reasonable, and adequate. The Settlement was negotiated by the Parties at arm's length.
24 The Settlement confers substantial benefits to the Settlement Class. The relief offered by the Settlement
25 is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage
26 and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Class Members will
27 not have to wait (possibly years) for relief, nor will they have to bear the risk of class certification being
28

1 denied or of Defendant prevailing at trial. Given that there are approximately 127 Class Members, the
2 average gross recovery is approximately \$2,430.44 (Net Settlement Amount divided by Class
3 Members).

4 7. As discussed below, the proposed Settlement satisfies all criteria for preliminary
5 settlement approval and falls within the range of reasonableness. The average Individual Settlement
6 Share to the Settlement Class meets or exceeds awards in similar wage and hour class actions.
7 Moreover, the proposed Settlement Class is appropriate for provisional certification. Accordingly,
8 Plaintiff respectfully requests the Court grant preliminary approval of the Settlement.

9 **III. FACTS AND PROCEDURE**

10 **A. Overview of the Litigation**

11 8. Defendant provides medical services and specializes in providing postpartum medical
12 care to high-risk patients. Defendant operates facilities throughout California, including the San Diego,
13 California location where Plaintiff worked. This action asserts claims on behalf of Defendant's non-
14 exempt employees who are or previously were employed in California. Plaintiff worked for Defendant
15 as a non-exempt employee in California since October of 2015. At all times during her employment,
16 Plaintiff earned an hourly wage and was entitled to legally compliant meal and/or rest periods, and
17 minimum, regular and overtime wages for all hours worked. Throughout her employment, Plaintiff
18 was subject to Defendant's written policies and procedures contained in, among other documents, the
19 "Meal and Rest Period Policy" and "Timekeeping" policy.

20 9. Generally, Plaintiff claims that Defendant failed to pay for all time worked, failed to
21 provide compliant meal and rest periods, failed to furnish accurate itemized wage statements, and failed
22 to reimburse for required business expenses. Defendant forcefully denies liability for each of Plaintiff's
23 claims. Further, Defendant asserts that it fully complied with all applicable employment laws and raised
24 several other significant defenses to Plaintiff's claims, including but not limited to, facially compliant
25 meal and rest period polices, compliant wage statements, and reimbursed for all required business
26 expenses.

10. On January 21, 2021, Plaintiff served Defendant and the Labor and Workforce Development Agency (“LWDA”) with a Notice of Violations (“PAGA Notice”). Plaintiff’s PAGA Notice set forth the facts and theories supporting Defendant’s alleged violations of various provisions of the California Labor Code and applicable Industrial Welfare Commissions (“IWC”) Wage Order and of her intent to pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab. Code Sections 2698 et seq (“PAGA”).

11. On March 30, 2021, Plaintiff filed a class action complaint in the San Diego Superior Court, Case Number 37-2021-00014044-CU-OE-CTL (the “Action”). The Action alleged eight causes of action against Defendant for: (1) Unfair Competition in Violation of California Business and Professions Code §§ 17200; (2) Failure to Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197 and 1197.1; (3) Failure to Pay Overtime Wages in Violation of Cal. Lab. Code §§ 510 *et seq.*; (4) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 and 512; (5) Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 and 512; (6) Failure to Provide Accurate Itemized Wage Statements in Violation of Cal. Lab. Code § 226; (7) Failure to Reimburse Employees for Required Business Expenses in Violation of Cal. Lab. Code § 2802; and (8) Violations of the Private Attorney General Act at Lab. Code §§ 2698 *et. seq.* (“Class Claims”).

12. Plaintiff commenced written discovery in May 2021. Defendant commenced written discovery in June 2021. After answering each party's respective written discovery, the Parties agreed to mediate the Action. To prepare for mediation, the Parties agreed to informally produce additional documents and data points subject to the mediation privilege, including but not limited to, the Class Members' time data and certain payroll data points. As discussed *infra*, Plaintiff's counsel retained the forensic consultants at Berger Consulting Group ("BCG") to analyze Defendant's time and payroll data.

13. On January 18, 2022 the Parties participated in a full day mediation with highly regarded wage and hour mediator Hon. Steven Denton (Ret.). After arms-length negotiations and bargaining, the Parties reached an agreement to settle and signed a Memorandum of Understanding. After reaching an agreement in principle, the Parties drafted and negotiated a long-form settlement agreement, which is the subject of the instant motion.

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14. Months before filing any one of the Actions, Class Counsel began its pre-filing investigation into the Plaintiff's complaints. Class Counsel's investigation started with several lengthy interviews with Plaintiff. As part of the interview process, the Plaintiff produced documents related to her employment, including time and payroll records. At the conclusion of the interviews, Class Counsel determined that each of Plaintiff's complaints appeared to substantiate Plaintiff's claim that Defendant's failed to, among other things, pay for all time worked and to provide compliant meal and rest periods.

15. Considering the many anticipated factual disputes, the Parties agreed, relatively early in the litigation, that it would be in the best interest of both Parties to mediate the matter. To prepare for mediation, Class Counsel requested documents and data points to further evaluate Plaintiff's claims and Defendant's liability exposure to the Class Members. In response to Class Counsel's request, Defendant produced the time records for the Class Members, aggregate workweek and pay period data for the Class Members, wage statements for the Class Members, and copies of applicable handbooks, policies, and agreements containing, *inter alia*, compensation, timekeeping and meal and rest period policies. In total, Defendant produced over 8,500 pages of pertinent policy documents, time records for Class Members, and more than 690,000 unique cells of payroll data for Class Counsel to analyze.

16. Class Counsel then retained the statisticians and economists at BCG to evaluate the Class Members' payroll and time data. BCG provides data analysis and damage modeling consulting services specializing in wage and hour class actions. BCG's team of financial and data analysts are credentialed and experienced experts in their fields and have provided their expertise on thousands of cases. Stated differently, the BCG is uniquely qualified to analyze Defendant's time and payroll data.

17. BCG analyzed Defendant's time and payroll data to assist in the development of various damage models. Among other things, BCG determined the approximate number of work shifts, workweeks, pay periods, average length of shift and average number of hours worked per week and pay periods during the Class Period. BCG also estimated the number of missed, late or truncated meal and rest periods, the amount of paid missed meal period premiums paid during the Class Period, and the amount of off-the-clock work performed by the Class Members during the Class Period. BCG

1 calculated and created a damage model for Defendant's potential liability exposure while accounting
2 for the uncertainties of continued litigation. The damage model informed and guided Class Counsel
3 during the mediated settlement discussions.

4 18. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1)
5 determining Plaintiff's suitability as a putative class representative through interviews, background
6 investigations, and analysis of her employment files; (2) evaluating all of Plaintiff's potential claims;
7 (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions,
8 and the type of employer; (4) analyzing the Settlement Class' time and payroll records; (5) analyzing
9 Defendant's labor policies and practices; (6) researching settlements in similar cases as well as
10 outstanding issues which could affect settlement approval; (7) evaluating Plaintiff's claims and
11 estimating Defendant's liability for purposes of settlement; (8) drafting the mediation brief; and (9)
12 participating in the mediation. This investigation allowed Class Counsel to fully assess the nature and
13 magnitude of the claims being settled, as well as the impediments to recovery, such as to make an
14 independent assessment of the reasonableness of the terms to which the Parties have agreed.

15 19. Class Counsel conducted a very thorough investigation into the factual and legal issues
16 in dispute. In addition to formal and informal discovery, witness interviews, document review, data
17 analysis and legal research, Class Counsel also researched similar wage and hour actions. The
18 investigation allowed to Class Counsel to realistically assess the value of the claims and intelligently
19 engage defense counsel in settlement discussions that culminated in the proposed settlement now before
20 the Court.

21 20. Class Counsel only agreed to enter the Settlement following their thorough investigation
22 and evaluation of Plaintiff's claims. Based on their investigation of the facts, applicable law, and
23 marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated
24 with litigation, and the various defenses asserted by Defendant, Class Counsel firmly believes this
25 Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair,
26 reasonable, and adequate, the Court should preliminarily approve the Settlement.

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1 ‘ballpark of reasonableness.’ ” (*Id.* (emphasis added).) For this analysis, courts do “not require any such
2 explicit statement of value; [they] require[] a record which allows an understanding of the amount that
3 is in controversy and the realistic range of outcomes of the litigation. ” (*Munoz v. BCI Coca-Cola*
4 *Bottling Co.* (2010) 186 Cal.App.4th 399, 409 (internal citation omitted).) The reasonableness of a
5 settlement is not dependent upon its actual value approaching the potential recovery plaintiffs might
6 have received if they had succeeded at trial.¹ Indeed, “[t]he determination whether a settlement is
7 reasonable does not involve the use of a ‘mathematical equation yielding a particularized sum.’ ” (*Frank*
8 *v. Eastman Kodak Co.* (W.D.N.Y. 2005) 228 FRD. 174, 186 (*quoting In re Michael Milken and Assoc.*
9 *Sec. Litig.* (S.D.N.Y. 1993) 150 F.R.D. 57, 66).).

10 24. In conclusion, the settlement of \$550,000.00 represents approximately 19.08% of the
11 value of the maximum potential *damages* at issue. Even when including the penalties for Plaintiff’s
12 claim for wage statement violations and waiting time penalties under *Labor Code* Sections 203 and 226,
13 the settlement represents up to 15.5% of the maximum potential liability, assuming all of these amounts
14 could be proved at trial. This is well within the bounds of reasonableness. (*See Vicerol v. Mistras Grp.,*
15 *Inc.* (N.D. Cal. 2016) 2016 WL 5907869, at *3, 7 (approving a California wage and hour settlement
16 where the class received 11.6% of the estimated total liability); *Leverage v. Traeger Pellet Grills, LLC*
17 (N.D. Cal. 2017) 2017 WL 2797811, at *7 (Approving a California wage and hour settlement where
18 the class received 18% of the estimated total liability); *Stovall-Gusman v. W.W. Granger, Inc.*, (N.D.
19 Cal. 2015) 2015 WL 3776765 at * 4 (Approving California wage and hour misclassification settlement
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22 ¹ Federal district courts recognize that there is an inherent “range of reasonableness” in determining whether to approve a
23 settlement “which recognizes the uncertainties of law and fact in any particular case and the concomitant risks and costs
24 necessarily inherent in taking any litigation to completion.” *Newman v. Stein* (2d. Cir. 2002) 464 F.2d 689, 693; *see In re*
25 *Omnivision Tech, Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036; *see also Nat’l Rural Telecomm. Coop. v. Directv. Inc.* (C.D.
26 Cal. 2004) 221 F.R.D. 523, 527 (“well settled law that a proposed settlement may be acceptable even though it amounts to
27 only a fraction of the potential recovery”); *In re Global Crossing Sec. and ERISA Litig.* (S.D.N.Y 2004) 225 F.R.D. 436,
28 460 (“settlement amount’s ratio to the maximum potential recovery need not be the sole, or even dominant, consideration
when assessing settlements fairness”); *In re IKON Office Solutions, Inc Sec Litig.* (E.D. Pa. 2000) 194 F.R.D. 166, 184
 (“the fact that a proposed settlement constitutes a relatively small percentage of the most optimistic estimate does not, in
itself, weigh against the settlement; rather the percentage should be considered in light of strength of the claims”); *Officers*
for Justice v. Civil Serv. Comm. (9th Cir. 1982) 688 F.2d 615, 628 (it is “the complete package, taken as a whole rather
than the individual component parts, that must be examined for overall fairness”).

1 where the class received approximately 7.3% of the estimated trial award was within the “range of
2 reasonableness.”.)The following summarizes Defendant’s estimated exposure.

3 25. Plaintiff’s primary claim in the Actions was that Defendant failed to pay for all hours
4 worked. Specifically, Plaintiff asserted that Defendant required Plaintiff to work while clocked out
5 during what was supposed to be Plaintiff’s off-duty meal break, as well as before Plaintiff’s shift started
6 and after it ended. Plaintiff contends that Defendant maintained a similar policy at its locations
7 throughout California during the Class Period.

8 26. Defendant vigorously denied liability for claim. In preparation for mediation, Defendant
9 produced several California specific operation manuals and policies. Collectively, Defendant asserted
10 that these written policies and procedures directed its respective department leadership to ensure all
11 work is conducted while on-the-clock. Defendant asserted that any deviation from these written policies
12 were location specific and, thus, created individualized issues of liability unsuitable for class treatment.

13 27. Notwithstanding Defendant’s arguments, Plaintiff perceived the off-the-clock as the
14 strongest claim in the Actions. Assuming ten (10) minutes of unpaid compensable time per shift worked
15 by the Class Members during the Class Period, BCG estimated Defendant’s exposure for this claim at
16 \$139,663.

17 28. Plaintiff also alleges that Defendant failed to provide compliant meal periods. Plaintiff
18 contended that because of Plaintiff and Class Members’ rigorous work requirements, the Class
19 Members were often denied complaint meal periods.

20 29. Conversely, Defendant again argued that its policies and procedures required
21 uninterrupted, statutorily compliant meal breaks. Similarly, Defendant argued any divergence from
22 these written policies were not systematic and, if they existed at all, were location specific. Defendant
23 also asserted that it maintained facially compliant meal period policies and practices throughout the
24 Class Period. Thus, Defendant argued that there was no potential liability for Plaintiff’s alleged meal
25 period violations.

26 30. Plaintiff’s meal period claim (together with the rest period claim) likely represented the
27 most factually contested claim in the Actions. Accounting for the strength of Defendant’s defenses,

1 and the arguably individualized nature of the claim, Plaintiff heavily discounted Defendant's potential
2 liability for meal period violations. Plaintiff estimated the damages for this claim at \$680,991.

3 31. Plaintiff also alleged that Defendant failed to provide compliant rest periods. Specifically,
4 Plaintiff alleged that because of their rigorous work schedule they were not able to take timely and duty-
5 free rest periods.

6 32. Again, Defendant denied liability and asserted that it maintained legally compliant rest period
7 policies and practices throughout the Class Period. Moreover, Plaintiff recognizes the evidentiary burdens
8 establishing this claim. Establishing Plaintiff's rest period claim would rely, almost entirely, on Class
9 Member testimony, making it a riskier claim at class certification and liability stages. Defendant likely
10 would have argued that only a small number of Class Members missed their rest breaks. Certification likely
11 would have required depositions of Class Members who provided declarations, and Defendant surely would
12 have obtained opposing declarations stating either rest breaks were taken, or rest breaks were voluntarily
13 waived. *See, e.g., Ordonez v. Radio Shack, Inc.* (C.D. Cal. Jan. 17, 2013) 2013 WL 210223, at *11 ("Because
14 of the competing testimony before the Court, plaintiff's evidence that defendant may have an illegal, written
15 rest break policy is insufficient for this Court to find that common issues predominate."); *Villa v. United*
16 *Site Servs. of California, Inc.* (N.D. Cal. Nov. 13, 2012) 2012 WL 5503550, at *8 ("Indeed, Plaintiff's own
17 evidence confirms that the written policy does not generate uniform practices."). Plaintiff's own evidence
18 confirms that the written policy does not generate uniform practices."). Accordingly, the rest break claim
19 was heavily discounted in Plaintiff's valuation of the case and was estimated at \$1,749,774.

20 33. Plaintiff alleged that Defendant required the Settlement Class Members to incur personal
21 expenses for the use of their personal cell phones. California employers who require employees to incur
22 personal business expenses for work purposes must reimburse the employee for the cost incurred. (See
23 Cal. Labor Code § 2802(a), providing that "An employer shall indemnify his or her employee for all
24 necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his
25 or her duties, or of his or her obedience to the directions of the employer..."). Specifically, Plaintiff
26 alleged Defendant required Plaintiff and Class Members to use their personal cell phones in order to
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1 perform work-related tasks, but Defendant failed to reimburse Plaintiff and Class Members for the
2 required business expenses in violation of Labor Code Section 2802.

3 34. Again, Defendant vigorously denied any liability for this claim. Defendant argued that
4 on the rare occasions where employees did incur business expenses, these expenses were fully
5 reimbursed. Defendant also offered evidence that it provides all supplies and equipment for employees
6 to do their jobs. This claim was also heavily discounted based on Defendant's defenses. Plaintiff
7 estimated Defendant's exposure for this claim at \$112,650.

8 35. Further, Plaintiff alleges that Defendant's alleged violations resulted in derivative
9 violations of Labor Code sections 203 and 226(a). Class Counsel considered these penalties and
10 weighed the potential recoveries against probable defenses. Specifically, Defendant could argue that
11 Plaintiff could not prove the "willful" prong needed to obtain waiting time penalties under Labor Code
12 section 203. Additionally, Defendant could argue that Plaintiff could not show that Class Members
13 suffered an "injury" because of wage statement violations, as required by Labor Code section 226.
14 Defendant could also argue that that meal and rest period violations do not entitle employees like
15 Plaintiff and the Class Members to pursue the derivative waiting time and itemized wage statement
16 penalties. (*See Naranjo v. Spectrum Security Services, Inc.*, (2019) 40 Cal. App. 5th 444 (review
17 granted); *Maldonado v. Epsilon Plastics, Inc.* (2018) 22 Cal.App.5th 1308.) Plaintiff would have to
18 overcome precedent to prove the Class deserved the penalties. *See, e.g., Howard v. CVS Caremark*
19 *Corp.*, 2014 U.S. Dist. LEXIS 172406 (C.D. Cal. Dec. 9, 2014) (denying class certification for the same
20 penalty claims); *Alonzo v. Maximus, Inc.*, 832 F. Supp. 2d 1122, 1134-1137 (C.D. Cal. 2011) (finding
21 insufficient evidence of bad faith or actual injury). These claims represented Plaintiff's most legally
22 precarious and uncertain claims. Notwithstanding the uncertain nature of the claims, Plaintiff estimated
23 Defendant's *maximum* exposure for these claims at approximately \$656,905 (approximately \$349,605
24 for waiting time and \$307,300 for wage statement).

25 36. Class Counsel's damage models also estimated Defendant's exposure for PAGA
26 penalties. At the time of mediation, Plaintiff estimated Defendant's PAGA exposure was approximately
27 \$2.9 million dollars.

1 37. In order to recover any PAGA penalties, Plaintiff would be required at trial to prove each
2 of the underlying Labor Code violations. See *Cardenas v. McLane Foodservice, Inc.*, 2011 U.S. Dist.
3 LEXIS 13126, *10 (C.D. Cal. 2011) ("Given the statutory language [of PAGA], a plaintiff cannot
4 recover on behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor
5 Code by the defendant."). Here, Plaintiff would need to prove that each Aggrieved Employee suffered
6 a violation for each pay period the employee worked. Again, Defendant raised several defenses that
7 presented serious threats to the claims of the Plaintiff and the Aggrieved Employees. Defendant asserted
8 that its employment practices complied with all applicable Labor Laws. In addition to those arguments
9 discussed *supra*, Defendant also argued that the Court of Appeals decision in *Cacho v. Eurostar, Inc.*
10 (2019) 43 Cal.App.5th 885, weakened Plaintiff's claims, on liability, value, and manageability as to the
11 rest period claims. In all, Plaintiff's PAGA liability exposure is hotly contested.

12 **B. Litigation Risks**

13 38. Although Plaintiff is confident about the strength of her claims, it would be foolish to
14 ignore the most immediate risk to continued litigation, i.e., class certification. With respect to this most
15 immediate challenge, the risks attendant to the certification of similar wage and hour claims are
16 demonstrated by *Magadia v. Wal-Mart Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth
17 Circuit, vacated reversed and remanded a \$110 million judgement against an employer for, *inter alia*,
18 inaccurately paying overtime, and directed the trial court to enter judgement in favor of the employer.
19 See also *O'Conner v. Uber Technologies, Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage
20 and hour misclassification action); see also *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th
21 1, 31 (reversing a trial verdict in favor plaintiffs in a wage and hour class action)); *Tien v. Tenet*
22 *Healthcare Corp.* (2012) 209 Cal.App.4th 1077, 1088 ("[T]he reason, if any, that employees might not
23 take their breaks were predominantly individualized questions of fact not susceptible to class
24 treatment."); *Ali v. U.S.A. Cab Ltd.* (2009) 176 Cal.App.4th 1333, 1341 (affirming denial of certification
25 because employees' declarations attesting to having taken meal and rest breaks demonstrated that
26 individualized inquiries were required to show harm); *Campbell v. Best Buy Stores, L.P.*, (C.D. Cal.
27 2013) 2013 WL 5302217 at *11-13 (following *Brinker* and denying certification of proposed off-the-

1 clock and rest and meal break classes due to lack of uniform policy); *Brown v. Fed Express Corp.* (C.D.
2 Cal. 2008) 249 F.R.D. 580, 587-88 (denying certification of driver meal and rest period claims based
3 on the predominance of individual issues). Collectively, the examples cited above illustrate the
4 uncertain nature of class litigation. Consequently, the uncertainty of obtaining certification through a
5 contested motion is a significant risk factor favoring settlement.

6 39. Plaintiff recognizes that Defendant has factual and legal defenses that, if successful,
7 would potentially defeat or substantially impair the value of Plaintiff's lawsuit. Collectively, the
8 examples cited in Plaintiff's brief illustrate the uncertain nature of class litigation. Consequently, the
9 uncertainty of obtaining certification through a contested motion is a significant risk factor favoring
10 settlement.

11 40. Finally, continuing to litigate this action would require continued and extensive resources
12 coupled with significant Court time to proceed through trial and post-trial motions; which can often
13 take years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates
14 extensive expert testimony, particularly with regards to damages. But even if Plaintiff is successful at
15 trial, Plaintiff is acutely aware that a judgment does not end the litigation. Plaintiff fully expects that
16 Defendant would appeal any favorable judgment.

17 41. In this matter, Class Counsel negotiated a Gross Settlement Amount of \$550,000 that is
18 roughly 19.08% of Defendants' liability exposure for damages, and 15.5% of Defendants' liability
19 exposure for damages and penalties. Given the amount of the settlement here, as compared to potential
20 value of the claims, offset by the various inherent risks to continued litigation, the settlement is fair and
21 reasonable.

22 **B. Proposed Notice Informs the Class About the Case and Settlement**

23 42. The Parties jointly drafted the Class Notice which fairly and neutrally informs the Class
24 Members of their rights and remedies. The Settlement Administrator will first verify addresses, then
25 mail the proposed Class Notice to all Class Members. The Notice will include information regarding
26 the nature of the lawsuit, a summary of the substance of the Settlement's terms, the class definition, the
27 procedure and time period within which to requests for exclusions or objections to the Settlement, the

1 date for the final approval hearing, the formula used to calculate settlement payments, and the terms
2 and scope of the Released Claims. Agreement at §III(L). This method was negotiated by the Parties to
3 ensure delivering the most reasonable method of notice to the Class Members while ensuring cost
4 effective administration of the Settlement.

5 43. As detailed in the Agreement, the method of disseminating the proposed Class Notice and
6 contents of the Proposed Class Notice satisfy due process and the California Rule of Court 3.766.

7 **C. The Court Should Preliminarily Approve the Enhancement Award**

8 44. The 127 Class Members will share in the Net Settlement Amount due entirely to the effort
9 and commitment of Plaintiff. Subject to Court approval, therefore, the Settlement provides for a Class
10 Representative Service Award of \$10,000² for Plaintiff. The service award is fair and reasonable
11 compensation for the Plaintiff's efforts bringing the action, assisting Class Counsel with the litigation
12 and settlement, regularly conferring with Class Counsel on the status of her case and the strategies for
13 prosecuting the claims, responding to Defendant's written discovery, reviewing the proposed

14 ² The amount of the requested enhancement payment-\$10,000-is reasonable by reference to the amounts that California courts (both
15 federal and state) have repeatedly found to be reasonable for wage and hour class action settlements: *See Baker v. LA. Fitness Int'l, LLC*,
16 No. BC438654 (L.A. County Super. Ct. Dec. 12, 2012) (awarding \$10,000 enhancement payments to three of the named plaintiffs); *Blue*
17 *v. Codwell Banker Residential Brokerage Co.*, No. BC417335 (L.A. County Super. Ct. Mar. 21, 2011) (awarding \$10,000 enhancement
18 payment); *Buckmire v. Jo-Ann Stores, Inc.*, No. BC394795 (L.A. County Super. Ct. June 11, 2010) (awarding \$10,000 enhancement
19 payments to the named plaintiff); *Coleman v. Estes Express Lines, Inc.*, No. BC429042 (L.A. County Super. Ct. Oct. 3, 2013) (awarding
20 \$10,000 enhancement payment); *Ethridge v. Universal Health Services, Inc.*, No. BC391958 (L.A. County Super. Ct. May 27, 2011)
21 (awarding \$10,000 enhancement payment); *Hickson v. South Coast Auto Insurance Marketing, Inc.*, No. BC390395 (L.A. County Super.
22 Ct. Mar. 27, 2012) (awarding \$10,000 enhancement payment); *Hill v. Sunglass Hut Int'l, Inc.*, No. BC422934 (L.A. County Super. Ct. July
23 2, 2012) (awarding \$10,000 enhancement payments to the named plaintiffs); *Kabamba v. Victoria's Secret Stores, LLC*, No. BC368528
24 (L.A. County Super. Ct. Aug. 19, 2011) (awarding enhancement payments of \$ 10,000 to the named plaintiffs along with additional
25 compensation for their general release of claims); *Magee v. American Residential Services, LLC*, No. BC423798 (L.A. County Super. Ct.
26 Apr. 21, 2011) (awarding \$15,000 enhancement payment); *Mares v. BFS Retail & Commercial Operations, LLC*, No. BC375967 (L.A.
27 County Super. Ct. June 24, 2010) (awarding \$15,000 enhancement payments to the named plaintiffs); *Nevarez v. Trader Joe's Co.*, No.
28 BC373910 (L.A. County Super. Ct. Jan. 29, 2010) (awarding \$10,000 enhancement payment); *Ordaz v. Rose Hills Mortuary, LP.*, No.
BC386500 (L.A. County Super. Ct. Mar. 19, 2010) (awarding 10,000 enhancement payments to the named plaintiffs); *Sheldon v. AHMC*
Monterey Park Hospital LP, No. BC440282 (L.A. County Super. Ct. Feb. 22, 2013) (awarding \$10,000 enhancement payment); *Silva v.*
Catholic Moray Services, Inc., No. BC408054 (L.A. County Super. Ct. Feb. 8, 2011) (awarding \$10,000 enhancement payments to the
named plaintiffs); *Weisbarth v. Banc West Investment Services, Inc.*, No. BC422202 (L.A. County Super. Ct. May 24, 2013) (awarding
\$10,000 enhancement payment); *Zamora v. Balboa Life & Casualty LLC*, No. BC360026 (L.A. County Super. Ct. Mar. 7, 2013) (awarding
\$25,000 enhancement payments to the named plaintiffs); *Acheson v. Express, LLC*, No. 109CV135335 (Santa Clara County Super. Ct.
Sep. 13, 2011) (awarding \$10,000 enhancement payment); *Aguiar v. Cingular Wireless, LLC*, No. CV 06-8197 DDP (AJWx) (C.D. Cal.
Mar. 17, 2011) (awarding \$14,767 enhancement payment); *Bejarano v. Amerisave Mortgage Corp.*, No. EDCV 08-00599 SGL (OpX)
(C.D. Cal. June 22, 2010) (awarding \$10,000 enhancement payment); *Carbajal v. Sally Beauty Supply LLC*, No. CIVVS 1004307 (San
Bernardino Super. Ct. Aug. 6, 2012) (awarding \$10,000 enhancement payments to the named Plaintiffs); *Contreras v. Serco Inc.*, No. 10-
cv-04526-CAS-JEMx (CD. Cal. Sep. 10, 2012) (awarding \$10,000 enhancement payment); *Guerrero v. R.R. Donnelley & Sons Co.*, No.
RIC 10005196 (Riverside Super. Ct. July 16, 2013) (awarding \$10,000 enhancement payment); *Kisliuk v. ADT Security Services, Inc.*, No.
CV08-0324 DSF (RZx) (C.D. Cal. Jan. 10, 2011) (awarding \$10,000 enhancement payment); *Morales v. BCBG Maxaria Int'l Holdings,*
Inc., No. JCCP 4582 (Orange County Super. Ct. Jan. 24, 2013) (awarding \$10,000 enhancement payment); and *Barrett v. Doyon Security*
Services, LLC, Nos. BS900199, BS900517 (San Bernardino County Super. Ct. Apr. 23, 2010) (awarding \$10,000 enhancement payment).

1 Settlement to ensure that its terms are fair and provide adequate relief for the Settlement Class, and
2 agreeing to provide Defendant a general release of all claims arising out of her employment.

3 45. Class Counsel on behalf of Plaintiff will file a formal motion for the negotiated Class
4 Representative Service Award once preliminary approval of the Settlement is granted. Plaintiff
5 respectfully submits that the above showing is sufficient for preliminary approval of the negotiated
6 Class Representative Service Award.

7 **D. The Court Should Preliminary Approve the Negotiated Class Counsel Award**

8 46. Class Counsel took this matter on a contingency fee basis and invested significant time
9 and expense successfully prosecuting Plaintiff's claims. As discussed *supra*, the estimated average
10 Individual Settlement Payment illustrates the demonstrably positive outcome for the Settlement Class
11 Members. Considering the positive outcome for the Class Members, and in light of the supporting
12 authority, the proposed Class Counsel award is fair and reasonable.

13 47. Plaintiff will file a formal motion for the negotiated Class Counsel Award once
14 preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing
15 is sufficient for preliminary approval of the negotiated attorneys' fees.

16 **E. The Court Should Provisionally Certify the Settlement Class**

17 48. For Settlement, Plaintiff contends, and Defendant does not dispute, that provisional
18 certification of the Class is appropriate.

19 49. Because all Class Members are Defendant's current and former employees, the class is
20 readily ascertainable from Defendant's regular business records, i.e., payroll records.

21 50. The statutes relating to each of Plaintiff's claims apply with equal force and effect to the
22 entire Settlement Class. Factually, Defendant's policies and practices apply class-wide and Defendant's
23 liability can be determined by facts common to all members of the class. The wage and hour issues are
24 both numerous and substantial, and a class action is the most advantageous method of dealing with the
25 claims of the Settlement Class.

26 51. Plaintiff's wage and hour claims are typical of the proposed Settlement Class because
27 they arise from the same factual basis and are based on the same legal theories applicable to the other
28

1 Class Members. Likewise, Plaintiff's interests are entirely coextensive with the interests of the
2 Settlement Class. Plaintiff alleges that she was injured by the same company-wide practices to which
3 the proposed Class Members were subject to and seek the same relief. Plaintiff has already demonstrated
4 her ability to advocate for the interests of the Class Members by initiating this litigation, undertaking
5 extensive class discovery, and evaluating the proposed settlement to assure that it is fair.

6 52. A class action is superior to a multitude of individual lawsuits. Given the size and amount
7 of each individual claim, the Class Members likely have little incentive to litigate their claims on an
8 individual basis because the out-of-pocket expense and personal commitment necessary to litigate each
9 claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-case
10 adjudication.

11 **F. Class Counsel's Experience**

12 53. Plaintiff, the Settlement Class Members and the Aggrieved Employees are represented
13 by competent and experienced counsel to pursue their claims. I established the JCL Law Firm, APC
14 ("Firm"), in 2010. The Firm is a boutique plaintiff firm representing aggrieved employees and
15 consumers throughout California in wage and hour class actions, PAGA Actions and complex multi-
16 party product liability matters. The Firm currently consists of myself, Jean-Claude Lapuyade, Esq.
17 (Partner/Owner), Eduardo Garcia, Esq. (Associate Attorney), Sydney Castillo-Johnson, Esq. (Associate
18 Attorney), Tesla Stone (Paralegal), Jennifer Heming (Legal Assistant), Sara Christensen (Legal
19 Secretary).

20 54. I am qualified to represent the Plaintiff, the State of California and the Aggrieved
21 Employees. I have extensive experience with wage and hour class and representative actions litigation
22 like this matter, and employment matters in general. Additionally, I have extensive complex mass tort
23 litigation experience and complex construction product liability experience. I can, will and have
24 adequately represented the interests of the Plaintiff, the State of California and the Aggrieved
25 Employees throughout this action.

55. I have represented consumers and employees in California class actions, and complex multi-party product liability actions exclusively for more than 15 years. I have been in practice as a plaintiffs' civil litigation attorney since April 2007.

56. I have significant class counsel and collective action counsel experience. I served as class and/or collective (PAGA) counsel in the following matters:

a. *Nunes v. Home Depot U.S.A., Inc.* San Joaquin Superior Court Case No. Case No. STK-CV-UOE-2020-0011011 (October 20, 2021 – Hon. Roger Ross appointed the Jean-Claude Lapuyade, Esq. as Class Counsel and approved a \$1.5 million dollar wage and hour class and PAGA action settlement for, among things, unpaid off-the-clock work.

b. *Munoz v. AMTCR, Inc.*, San Bernardino Superior Court Case No. CIVDS2001914 (August 24, 2021 – Hon. David Cohn approved a \$1.85 million dollar wage and hour class and PAGA action for, among other things, inaccurate itemized wage statements, and appointed the JCL Law Firm, APC as Class Counsel.)

c. *Rodriguez v. RSI Home Products, Inc.*, San Bernardino Superior Court Case No. CIVDS2023354 (July 30, 2021 – Hon. David Cohn approved a \$1.45 million class and PAGA settlement for, *inter alia*, failure to comply with piece-rate laws, and appointed the JCL Law Firm, APC as Class Counsel)

d. *Jer Vang v. Bridge Property Management*, Alameda County Superior Court, Case No RG19047434 (January 8, 2021 – Hon. Winifred Smith approved a class and PAGA settlement for, *inter alia*, unpaid off the clock work. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)

e. *Johnson v. Volt Management Corp., Inc. et al.*, Los Angeles County Superior Court, Case No. 19STCV16466 (December 11, 2020 – Hon. Amy Hogue approved a PAGA Settlement negotiated on behalf of the State of California and the aggrieved employees by the JCL Law Firm, APC.)

1 f. *Salazar v. Frontier Auto Sales Inc., dba Frontier Toyota*, Los Angeles Superior
2 Court, Case No. 19STCV20382 (November 24, 2020 – Hon. John P. Doyle appointed
3 the JCL Law Firm, APC as class counsel and approved a class and PAGA settlement
4 for, *inter alia*, missed meal and rest periods.)

5 g. *Villalobos v. Alterra Group, LLC et al.*, Los Angeles County Superior Court,
6 Case No. 19STCV19448 (November 11, 2020 – Hon. Richard Fruin approved a PAGA
7 Settlement for, *inter alia*, unreimbursed business expenses. The JCL Law Firm, APC
8 acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.)

9 h. *Stevens et al., v. Bank of England*, San Diego County Superior Court Case No.
10 37-2019-00018662-CU-OE-CTL (October 16, 2020 – Hon. John Meyer appointed JCL
11 Law Firm as Class Counsel and granted final approval of wage and hour class action for,
12 *inter alia*, off-the-clock work.)

13 i. *Frazier v. ASA Carlton, Inc.*, San Diego Superior Court Case No. 37-2019-
14 00036147 (October 9, 2020 Hon. Kenneth Medel appointed the JCL Law Firm as Class
15 Counsel and granted final approval of wage and hour class action for off-the-clock
16 work.)

17 j. *Krake et al., v. Central Valley Diner, Inc.*, Placer County Superior Court Case
18 No. SCV0041645 (September 4, 2020 – Hon. Michael Jones appointed JCL Law Firm
19 as class counsel and granted final approval of wage and hour class action for meal period
20 violations.)

21 k. *Conner v. Ascendant Marketing, LLC et al.*, San Diego Superior Court Case No.
22 37-2019-00026864-CU-OE-CTL (July 24, 2020 Hon. Joel Wohlfeil granted approval of
23 PAGA Settlement for, among other things, off-the-clock work. JCL Law Firm, APC
24 acted as lead counsel.)

25 l. *Guerrero v. Estancia Operations, LLC.*, San Diego Superior Court Case No. 37-
26 2019-00028963 (August 25, 2020 – Hon. Katherine Bacal approved PAGA Settlement
27
28

1 for, *inter alia*, missed meal and rest periods. JCL LAW Firm, APC, acted as lead
2 counsel.)

3 m. *Moreno v. Dash Lube, et al.*, United States District Court, Southern District of
4 California, Case No. 18cv1922 DMS (AHG) (December 13, 2019 – Granted class
5 certification of Labor Code Section 226 claim and appointed JCL Law Firm, APC, as
6 Class Counsel.)

7 n. *Perkins et al., v. Tahiti Enterprises, Inc., et al.*, Orange County Superior Court
8 Case No. 30-2016-00863095 (October 22, 2019 – Hon. Peter Wilson appointed JCL Law
9 Firm, APC, as Class Counsel and granted final approval for an unlawful housing class
10 action settlement arising out of Civil Code Section 1940.1.)

11 o. *Hill v. Stemak Holdings, Ltd.*, San Diego Superior Court Case No., 37-2018-
12 00000747 (January 28, 2020 – Hon. Kenneth Medel appointed JCL Law Firm, APC as
13 class counsel and granted final approval of wage and hour class action for unpaid
14 overtime.)

15 p. *Shachno et al., v. KT Hotels, LLC, et al.* San Diego Superior Court Case No Case
16 No. 37-2018-00043601 (May 31, 2019 – Hon, Gregory Pollack appointed JCL Law
17 Firm, APC, as Class Counsel and granted preliminary approval for the wage and hour
18 class action settlement involving nearly 900 current and former employees. Final
19 approval scheduled for October 4, 2019)

20 q. *Almanza v. The Express Group, Inc.*, San Bernardino Superior Court Case No.
21 CIVDS1722542 (April 19, 2019 – Hon. David Cohn appointed the JCL Law Firm, APC,
22 as Class Counsel and granted final approval for a wage and hour class action settlement
23 for *inter alia*, missed meal and rest periods and independent contractor
24 misclassification.)

25 r. *Moschetto v. Pillow Global, Inc. San Diego Superior Court*, Case No. 37-2017-
26 00024031-CU-OE-CTL (April 5, 2019 – Hon. John S. Meyer appointed JCL LAW Firm,
27
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1 APC, as Class Counsel and granted final approval for a wage and hour wage class action
2 settlement involving misclassified house cleaners.)

3 s. *Burke v. Friendship Hotel, LLC*, San Diego County Superior Court Case No. 37-
4 2017-00022517-CU-OE-CTL (March 10, 2019 – final approval granted on for an
5 unlawful housing class action arising under Civil Code Section 1940.2)

6 t. *Terrado et al., v. Accredited Debt Relief, LLC*, San Diego County Superior Court
7 Case No. 37-2018-00014181-CU-OE-CTL (February 8, 2019 – Hon. Gregory W.
8 Pollock appointed JCL Law Firm, APC as Class Counsel and granted final approval for
9 a wage and hour class action settlement for meal and rest period violations);

10 u. *Macaspac v. San Antonio Regional Hospital*, San Bernardino Superior Court
11 Case No. CIVDS1512625, (July 27, 2018 – Hon. Thomas S. Garza appointed JCL Law
12 Firm, APC, as Class Counsel and granted final approval for a wage and hour class action
13 settlement involving claims for on duty meal and rest periods.);

14 v. *Summerlin et al. v. Maplebear, Inc. dba Instacart*, Los Angeles Superior Court
15 Case No. BC603030 (2018 - certified and settled wage and hour class action.)

16 w. *Ortega v. Prime Healthcare*, San Diego Superior Court Case No. 37-2014-
17 00011240-CU-OE-CTL (2018 – Approved PAGA only settlement for on duty meal and
18 rest periods)

19 x. *Engstrom v. Bender-Rosenthal, Inc.* San Diego Superior Court Case No. 37-
20 2016-00012373-CU-OE-CTL (2017 - Certified and settled class action for employee
21 misclassification);

22 y. *Crawford v. Outlook Amusements, Inc.*, Los Angeles Superior Court Case No.
23 BC617160 (2017 - Certified and settled wage and hour class action.);

24 z. *Hernandez v. Sunglass Hut Trading, LLC*, San Bernardino Superior Court Case
25 No. CIVDS1505181 (2016 - Certified and settled wage and hour class action);
26
27
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1 aa. *Burns v. Shalom, LLC*, San Diego Superior Court, Case No., 37-2013-00058356-
2 CU-BT-CTL (2015 - certified and settled class action for unlawful housing practices
3 arising out of Civil Code Section 1940.1);

4 57. Since 2010, my firm has successfully resolved more than sixty (65) cases and recovered
5 in excess of \$75 million on behalf of the Firm's clients.

6 58. Since 2010, I have successfully tried two (2) cases to conclusion, each resulting in a
7 favorable verdict for the firm's clients.

8 59. Finally, I have published appellate experience in *William Blanchette et al., v. The*
9 *Superior Court of Imperial County, (GHA Enterprises)*, 8 Cal.App.5th 521.

10 60. Consequently, I was named to the prestigious Thomson Reuters, Super Lawyers, Rising
11 Star in 2015, 2016, 2017 and, again, in 2018. According to Thomson Reuters, the Super Lawyers, Rising
12 Star list recognizes the top 2.5% of eligible attorneys. (see
13 https://www.superlawyers.com/about/selection_process.html.)

14 I declare under the penalty of perjury under the laws of the State of California that the foregoing
15 is true and correct. Executed this 15th day of June 2022, at San Diego, California.

16 **JCL LAW FIRM, APC**

17 By: 
18 Jean-Claude Lapuyade
19 Attorneys for Plaintiff
20
21
22
23
24
25
26
27

EXHIBIT 1

ZAKAY LAW GROUP, APLC

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ATTORNEYS FOR PLAINTIFF

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

JESSICA HORRIGAN, an individual, on
behalf of herself and on behalf of all persons
similarly situated,

PLAINTIFF,

vs.

CHILDREN'S SPECIALISTS OF SAN
DIEGO, A MEDICAL GROUP, INC., a
California Corporation; and DOES 1 through
50, Inclusive;
DEFENDANTS.

Case No. 37-2021-00014044-CU-OE-CTL

[Action Filed 03/30/2021]

**STIPULATION OF SETTLEMENT OF
CLASS AND PAGA ACTION CLAIMS
AND RELEASE OF CLAIMS**

Judge: Honorable Joel R. Wohlfeil
Dept.: C-73

This Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims is entered into by and between plaintiff JESSICA HERRIGAN (hereinafter "Plaintiff"), individually and on behalf of the putative class and the State of California as a private attorney general, and defendant CHILDREN'S SPECIALISTS OF SAN DIEGO, A MEDICAL GROUP, INC., a California Corporation (hereinafter "Defendant"):

I. DEFINITIONS

- A. "Action" shall mean the putative class action lawsuit designated *Herrigan v. Children's Specialists of San Diego, a Medical Group, Inc.*, San Diego County Superior Court, Case No. 37-2021-00014044-CU-OE-CTL, filed March 30, 2021 (hereinafter "the Action")
- B. "Aggrieved Employees" shall mean all employees who are or previously were employed by Defendant in California and who were classified as non-exempt employees during the PAGA Period.
- C. "Agreement" or "Settlement Agreement" means this Stipulation of Settlement of Class Action and Release of Claims.
- D. "Class Counsel" shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC and Shani Zakay, Esq. of Zakay Law Group, APLC.
- E. "Class Counsel Award" means the award of fees and expenses that the Court authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff and the Class in the Actions, consisting of attorneys' fees currently not to exceed one-third of the Gross Settlement Amount currently estimated to be \$183,333.33 out of \$550,000 plus costs and expenses in the amount of \$20,000. Class Counsel's award for attorneys' fees will be divided equally between Class Counsel (50% to JCL Law Firm, APC and 50% to Zakay Law Group, APLC).
- F. "Class Data" means information regarding Class Members that Defendant will in good faith compile from its records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class

Member's full name; last known address; Social Security Number; start dates and end dates of employment.

G. "Class Members" or the "Class" means all non-exempt employees who are or previously were employed by Defendant in California during the Class Period.

H. "Class Period" means the period between March 30, 2017 to January 18, 2022.

I. "Class Representative Service Award" means the amount that the Court authorizes to be paid to the Class Representative, in addition to her Individual Settlement Payment and her pro-rata share of the PAGA Settlement, in recognition of her efforts and risks in assisting with the prosecution of the Actions and in exchange for executing a General Release of Defendant.

J. "Class Representative" shall mean plaintiff JESSICA HERRIGAN.

K. "Court" means the Superior Court for the State of California, County of San Diego currently presiding over the Action.

L. "Defendant" shall mean Children's Specialists of San Diego, a Medical Group, Inc.

M. "Defendant's Counsel" shall mean Marilyn R. Moriarty and Whitney J. Betts of Lewis Brisbois Bisgaard & Smith LLP.

N. "Effective Date" means the date of entry by the Court of an order and judgment finally approving this Settlement.

O. "Funding Date" shall mean sixty-five (65) calendar days after the Effective Date and is the date Defendant transfers the Gross Settlement Amount into the QSF in accord with the terms of this Agreement.

P. "Individual Settlement Payment" means the amount payable from the Net Settlement Amount to each Settlement Class Member and excludes any amounts distributed to Aggrieved Employees pursuant to PAGA.

Q. "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less Class Counsel Award, Class Representative Service Award, PAGA Settlement, and Settlement Administration Costs.

- 1 R. "Notice Packet" means the Class Notice to be provided to the Class Members by the
2 Settlement Administrator in the form set forth as Exhibit A to this Agreement (other
3 than formatting changes to facilitate printing by the Settlement Administrator).
- 4 S. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
5 Labor Code § 2698 *et seq.*
- 6 T. "PAGA Payment Ratio" means the respective pay periods during the PAGA Period
7 for each Aggrieved Employee divided by the sum total of the pay periods for all
8 Aggrieved Employees during the PAGA Period.
- 9 U. "PAGA Period" means the period between January 1, 2020 until January 18, 2022
10 (the "PAGA Period").
- 11 V. "PAGA Settlement" shall mean Twenty Thousand Dollars (\$20,000) to be allocated
12 from the Gross Settlement Amount.
- 13 W. "Parties" means Plaintiff and Defendant, collectively, and "Party" shall mean either
14 Plaintiff or Defendant, individually.
- 15 X. "Class Payment Ratio" means the respective Workweeks for each Class Member
16 divided by the sum total Workweeks for all Class Members.
- 17 Y. "Plaintiff" shall mean JESSICA HARRIGAN.
- 18 Z. "QSF" means the Qualified Settlement Fund established, designated and maintained
19 by the Settlement Administrator to fund the Gross Settlement Amount.
- 20 AA. "Released Class Claims" means all class claims alleged in the operative complaint,
21 including claims for violations of Labor Code section 203, which occurred during the
22 Class Period, and expressly excluding all other claims, including claims for vested
23 benefits, wrongful termination, unemployment insurance, disability, social security,
24 workers' compensation, and class claims outside of the Class Period.
- 25 BB. "Released PAGA Claims" means all PAGA claims alleged in the operative complaint
26 and Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period,
27 and expressly excluding all other claims, including claims for vested benefits,
28

wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

CC. "Released Parties" shall mean Defendant, as well as any other present or former physicians, officers, agents, attorneys, affiliates, management, successors, assigns and all other representatives of CSSD including, Rady Children's Hospital – San Diego.

DD. "Response Deadline" means the date forty-five (45) days after the Settlement Administrator mails Notice Packets to Class Members and the last date on which Class Members may submit requests for exclusion or objections to the Settlement.

EE. "Settlement" means the disposition of the Actions pursuant to this Agreement.

FF. "Settlement Administrator" means ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. The Settlement Administrator establishes, designates and maintains, as a QSF under Internal Revenue Code section 468B and Treasury Regulation section 1.468B-1, into which the amount of the Gross Settlement Amount is deposited for the purpose of resolving the claims of Settlement Class Members. The Settlement Administrator shall maintain the funds until distribution in an account(s) segregated from the assets of Defendant and any person related to Defendant. *All accrued interest shall be paid and distributed to the Settlement Class Members as part of their respective Individual Settlement Payment.*

GG. "Settlement Class Members" or "Settlement Class" means all Class Members who have not submitted a timely and valid request for exclusion as provided in this Agreement.

HH. "Gross Settlement Amount" means Five Hundred Fifty Thousand Dollars (\$550,000.00) that Defendant must pay into the QSF in connection with this Settlement, inclusive of the sum of the Individual Settlement Payments, the Class Representative Service Award, the Class Counsel Award, PAGA Settlement and the

Settlement Administration Costs and *exclusive* of the employer's share of payroll tax, if any, triggered by any payment under this Settlement.

II. "Workweeks", for purposes of calculating the distribution of the Net Settlement Amount, means the number of weeks of employment during the Class Period that each Class Member was employed by Defendant in California, excluding weeks during which the Class Member did not perform any work for Defendant.

JJ. "PAGA Pay Periods", for purposes of calculating the distribution of the Aggrieved Employee Payment, as defined herein, means the number of pay periods of employment during the PAGA Period that each Aggrieved Employee worked in California.

II. RECITALS

A. On January 21, 2021, Plaintiff filed a Notice of Violations with the Labor and Workforce Development Agency (LWDA) and served the same on Defendant.

B. On March 30, 2021, Plaintiff filed the Class Action lawsuit for:

1. Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq*;
2. Failure to pay minimum wages in violation of California Labor Code sections 1194, 1197 and 1197.1;
3. Failure to pay overtime wages in violation of California Labor Code sections 204, 510, 1194, and 1198;
4. Failure to provide required meal periods in violation of California Labor Code sections 226.7 and 512 and the applicable IWC wage order;
5. Failure to provide required rest periods in violation of California Labor Code sections 226.7 and 512 and the applicable IWC wage order;
6. Failure to provide accurate itemized wage statements in violation of California Labor Code section 226;

1 7. Failure to reimburse Employees for required expenses in violation of
2 California Labor Code section 2802; and

3 8. Violation of the Private Attorneys General Act [Labor Code section 2698].

4 C. The Class Representative believes she has meritorious claims based on alleged
5 violations of the California Labor Code, and the Industrial Wage Commission
6 Orders, and that class certification is appropriate because the prerequisites for class
7 certification can be satisfied in the Action, and this action is manageable as a PAGA
8 representative action.

9 D. Defendant denies any liability or wrongdoing of any kind associated with the claims
10 alleged in the Action, disputes any wages, damages and penalties claimed by the
11 Class Representative are owed, and further contends that, for any purpose other than
12 this settlement, the Action is not appropriate for class or representative action
13 treatment. Defendant contends, among other things, that at all times they complied
14 with the California Labor Code and the Industrial Wage Commission Orders.

15 E. The Class Representative is represented by Class Counsel. Class Counsel conducted
16 an investigation into the facts relevant to the Action, including conducting an
17 independent investigation as to the allegations, reviewing documents and
18 information exchanged through informal discovery, and reviewing documents and
19 information provided by Defendant pursuant to informal requests for information to
20 prepare for mediation. Defendant produced for the purpose of settlement
21 negotiations certain employment data concerning the Settlement Class, which Class
22 Counsel reviewed and analyzed. Based on their own independent investigation and
23 evaluation, Class Counsel are of the opinion that the Settlement with Defendant is
24 fair, reasonable and adequate, and is in the best interest of the Settlement Class in
25 light of all known facts and circumstances, including the risks of significant delay,
26 defenses asserted by Defendant, uncertainties regarding class certification, and
27 numerous potential appellate issues. Although it denies any liability, Defendant is

1 agreeing to this Settlement solely to avoid the inconveniences and cost of further
2 litigation. The Parties and their counsel have agreed to settle the claims on the terms
3 set forth in this Agreement.

4 F. On January 18, 2022, the Parties participated in mediation presided over by Hon.
5 Steven Denton (Ret.), a jurist and mediator of wage and hour class actions. The
6 mediation concluded with a settlement after both sides agreed to a Mediator's
7 proposal which was subsequently memorialized in the form of a Memorandum of
8 Understanding ("MOU").

9 G. This Agreement replaces and supersedes the MOU and any other agreements,
10 understandings, or representations between the Parties. This Agreement represents
11 a compromise and settlement of highly disputed claims. Nothing in this Agreement
12 is intended or will be construed as an admission by Defendant that the claims in the
13 Actions of Plaintiff or the Class Members have merit or that Defendant bears any
14 liability to Plaintiff or the Class on those claims or any other claims, or as an
15 admission by Plaintiff that Defendant's defenses in the Actions have merit.

16 H. The Parties believe that the Settlement is fair, reasonable and adequate. The
17 Settlement was arrived at through arm's-length negotiations, taking into account all
18 relevant factors. The Parties recognize the uncertainty, risk, expense and delay
19 attendant to continuing the Action through trial and any appeal. Accordingly, the
20 Parties desire to fully, finally, and forever settle, compromise and discharge all
21 disputes and claims arising from or relating to the Action.

22 I. The Parties agree to certification of the Class for purposes of this Settlement only.
23 If for any reason the settlement does not become effective, Defendant reserves the
24 right to contest certification of any class for any reason and reserves all available
25 defenses to the claims in the Action.

26 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

1 **III. TERMS OF AGREEMENT**

2 A. Settlement Consideration and Settlement Payments by Defendant.

3 1. Settlement Consideration. In full and complete settlement of the Actions, and
4 in exchange for the releases set forth below, Defendant and the Released
5 Parties will pay the sum of the Individual Settlement Payment, the Class
6 Representative Service Award, the Class Counsel Award, PAGA Settlement,
7 and the Settlement Administration Costs, as specified in this Agreement, equal
8 to the Gross Settlement Amount of Five Hundred Fifty Thousand Dollars
9 (\$550,000.00). The Parties agree that this is a non-reversionary Settlement and
10 that no portion of the Gross Settlement Amount shall revert to Defendant.
11 Other than the Defendant's share of employer payroll taxes, Defendant shall
12 not be required to pay more than the Gross Settlement Amount, except as
13 provided for hereinbelow.

14 2. Class Size. At the time of mediation, Defendant estimated that the Settlement
15 Class was comprised of 127 individuals who collectively worked
16 approximately 14,694 Workweeks ("Projected Workweeks") during the Class
17 Period. In regard hereto, Defendant will provide a declaration under penalty
18 of perjury before the deadline for the filing of the motion for preliminary
19 approval of the settlement, confirming the number of Class Members and
20 workweeks they worked during the applicable Class Period. If the workweek
21 number increases by more than 15% of the estimate stated herein, the
22 Settlement Amount will increase proportionally for the number of workweeks
23 over 15%.

24 3. Settlement Payment. Defendant and the Released Parties, and each of them,
25 are jointly and severally liable for payment of the Gross Settlement Amount.
26 Defendant shall pay the Gross Settlement Amount to the Settlement
27 Administrator on the Funding Date.

1 4. Defendant's Share of Payroll Taxes. Defendant's share of employer side
2 payroll taxes is in addition to the Gross Settlement Amount and shall be paid
3 together with the Gross Settlement Amount.

4 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
5 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members
6 release the Released Parties from the Released Class Claims for the Class Period.

7 C. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
8 consideration set forth in this Agreement, the Plaintiff, the LWDA and the State of
9 California release the Released Parties from the PAGA Released Claims for the PAGA
10 Period.

11 D. General Release by Plaintiff. As of the Funding Date, for the consideration set forth
12 in this Agreement, Plaintiff waives, releases, acquits and forever discharges the
13 Released Parties from any and all claims, whether known or unknown, which exist or
14 may exist on her behalf as of the date of this Agreement, including but not limited to
15 any and all tort claims, contract claims, wage claims, wrongful termination claims,
16 disability claims, benefit claims, public policy claims, retaliation claims, statutory
17 claims, personal injury claims, emotional distress claims, invasion of privacy claims,
18 defamation claims, fraud claims, quantum meruit claims, and any and all claims
19 arising under any federal, state or other governmental statute, law, regulation or
20 ordinance, including, but not limited to claims for violation of the Fair Labor
21 Standards Act, the California Labor Code, the Wage Orders of California's Industrial
22 Welfare Commission, other state wage and hour laws, the Americans with
23 Disabilities Act, the Age Discrimination in Employment Act (ADEA), the Employee
24 Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the
25 California Fair Employment and Housing Act, the California Family Rights Act, the
26 Family Medical Leave Act, California's Whistleblower Protection Act, California
27 Business & Professions Code Section 17200 et seq., and any and all claims arising
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1 under any federal, state or other governmental statute, law, regulation or ordinance.
2 Plaintiff also waives and relinquishes any and all claims, rights or benefits that she
3 may have under California Civil Code § 1542, which provides as follows:

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

10 Thus, notwithstanding the provisions of section 1542, and to implement a full and
11 complete release and discharge of the Released Parties, Plaintiff expressly
12 acknowledges this Settlement Agreement is intended to include in its effect, without
13 limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff's favor at
14 the time of signing this Settlement Agreement, and that this Settlement Agreement
15 contemplates the extinguishment of any such claims. Plaintiff warrants that Plaintiff
16 has read this Settlement Agreement, including this waiver of California Civil Code
17 section 1542, and that Plaintiff has consulted with or had the opportunity to consult
18 with counsel of Plaintiff's choosing about this Settlement Agreement and specifically
19 about the waiver of section 1542, and that Plaintiff understands this Settlement
20 Agreement and the section 1542 waiver, and so Plaintiff freely and knowingly enters
21 into this Settlement Agreement. Plaintiff further acknowledges that Plaintiff later may
22 discover facts different from or in addition to those Plaintiff now knows or believes to
23 be true regarding the matters released or described in this Settlement Agreement, and
24 even so Plaintiff agrees that the releases and agreements contained in this Settlement
25 Agreement shall remain effective in all respects notwithstanding any later discovery
26 of any different or additional facts. Plaintiff expressly assumes any and all risk of any
27 mistake in connection with the true facts involved in the matters, disputes, or
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1 controversies released or described in this Settlement Agreement or with regard to any
2 facts now unknown to Plaintiff relating thereto.

3 E. Conditions Precedent: This Settlement will become final and effective only upon the
4 occurrence of all of the following events:

- 5 1. The Court enters an order granting preliminary approval of the Settlement;
- 6 2. The Court enters an order granting final approval of the Settlement and a Final
7 Judgment;
- 8 3. If an objector appears at the final approval hearing, the time for appeal of the
9 Final Judgment and Order Granting Final Approval of Class Action
10 Settlement expires; or, if an appeal is timely filed, there is a final resolution of
11 any appeal from the Judgment and Order Granting Final Approval of Class
12 Action Settlement; and
- 13 4. Defendant fully funds the Gross Settlement Amount.

14 F. Nullification of Settlement Agreement. In the event that this Settlement Agreement is
15 not preliminarily or finally approved by the Court, fails to become effective, or is
16 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
17 Defendant from obtaining a complete resolution of the Released Claims, or if
18 Defendant fails to fully fund the Gross Settlement Amount:

- 19 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
20 and shall not be admissible in any judicial, administrative or arbitral
21 proceeding for any purpose or with respect to any issue, substantive or
22 procedural;
- 23 2. The conditional class certification (obtained for any purpose) shall be void *ab*
24 *initio* and of no force or effect, and shall not be admissible in any judicial,
25 administrative or arbitral proceeding for any purpose or with respect to any
26 issue, substantive or procedural; and

1 3. None of the Parties to this Settlement will be deemed to have waived any
2 claims, objections, defenses or arguments in the Actions, including with
3 respect to the issue of class certification.

4 4. If Defendant fails to fully fund the Gross Settlement Amount, Defendant shall
5 bear the sole responsibility for any cost to issue or reissue any curative notice
6 to the Settlement Class Members and all Settlement Administration Costs
7 incurred to the date of nullification.

8 G. Certification of the Settlement Class. The Parties stipulate to conditional class
9 certification of the Class for the Class Period for purposes of this settlement only. In
10 the event that this Settlement is not approved by the Court, fails to become effective,
11 or is reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
12 Defendant from obtaining a complete resolution of the Released Claims, the
13 conditional class certification (obtained for any purpose) shall be void *ab initio* and of
14 no force or effect, and shall not be admissible in any judicial, administrative or arbitral
15 proceeding for any purpose or with respect to any issue, substantive or procedural.

16 H. Tax Liability. The Parties make no representations as to the tax treatment or legal
17 effect of the payments called for, and Class Members and/or Aggrieved Employees are
18 not relying on any statement or representation by the Parties in this regard. Class
19 Members and/or Aggrieved Employees understand and agree that they will be
20 responsible for the payment of any taxes and penalties assessed on the Individual
21 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
22 Settlement described and will be solely responsible for any penalties or other
23 obligations resulting from their personal tax reporting of Individual Settlement
24 Payments and/or Aggrieved Employees' individual shares of the PAGA Settlement.

25 I. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
26 the "acknowledging party" and each Party to this Agreement other than the
27 acknowledging party, an "other party") acknowledges and agrees that: (1) no provision
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1 of this Agreement, and no written communication or disclosure between or among the
2 Parties or their attorneys and other advisers, is or was intended to be, nor shall any
3 such communication or disclosure constitute or be construed or be relied upon as, tax
4 advice within the meaning of United States Treasury Department circular 230 (31 CFR
5 part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his,
6 her or its own, independent legal and tax counsel for advice (including tax advice) in
7 connection with this Agreement, (b) has not entered into this Agreement based upon
8 the recommendation of any other Party or any attorney or advisor to any other Party,
9 and (c) is not entitled to rely upon any communication or disclosure by any attorney
10 or adviser to any other party to avoid any tax penalty that may be imposed on the
11 acknowledging party, and (3) no attorney or adviser to any other Party has imposed
12 any limitation that protects the confidentiality of any such attorney's or adviser's tax
13 strategies (regardless of whether such limitation is legally binding) upon disclosure by
14 the acknowledging party of the tax treatment or tax structure of any transaction,
15 including any transaction contemplated by this Agreement.

16 J. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file with
17 the Court a Motion for Order Granting Preliminary Approval and supporting papers,
18 which shall include this Settlement Agreement. Plaintiff will provide Defendant with
19 a draft of the Motion at least 3 business days prior to the filing of the Motion to give
20 Defendant an opportunity to propose changes or additions to the Motion.

21 K. Settlement Administrator. The Settlement Administrator shall be responsible for:
22 establishing and administering the QSF; calculating, processing and mailing payments
23 to the Class Representative, Class Counsel, LWDA and Class Members; printing and
24 mailing the Notice Packets to the Class Members as directed by the Court; receiving
25 and reporting the objections and requests for exclusion; calculating, deducting and
26 remitting all legally required taxes from Individual Settlement Payments and
27 distributing tax forms for the Wage Portion and Non-Wage Portion of the Individual
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1 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
2 Settlement; processing and mailing tax payments to the appropriate state and federal
3 taxing authorities; providing declaration(s) as necessary in support of preliminary
4 and/or final approval of this Settlement; and other tasks as the Parties mutually agree
5 or the Court orders the Settlement Administrator to perform. The Settlement
6 Administrator shall keep the Parties timely apprised of the performance of all
7 Settlement Administrator responsibilities by among other things, sending a weekly
8 status report to the Parties' counsel stating the date of the mailing, the of number of
9 Elections Not to Participate in Settlement it receives (including the numbers of valid
10 and deficient), and number of objections received.

11 L. Notice Procedure.

12 1. Class Data. No later than ten (10) business days after the Preliminary
13 Approval Date, Defendant shall provide the Settlement Administrator with the
14 Class Data for purposes of preparing and mailing Notice Packets to the Class
15 Members.

16 2. Notice Packets.

17 a) The Notice Packet shall contain the Notice of Class Action Settlement
18 in a form substantially similar to the form attached as Exhibit A. The
19 Notice of Class Action Settlement shall inform Class Members and
20 Aggrieved Employees that they need not do anything in order to
21 receive an Individual Settlement Payment and/or Aggrieved
22 Employees' individual shares of the PAGA Settlement and to keep the
23 Settlement Administrator apprised of their current mailing address, to
24 which the Individual Settlement Payments and/or Aggrieved
25 Employees' individual shares of the PAGA Settlement will be mailed
26 following the Funding Date. The Notice of Class Action Settlement
27 shall set forth the release to be given by all members of the Class who
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do not request to be excluded from the Settlement Class and/or Aggrieved Employees' in exchange for an Individual Settlement Payment and/or Aggrieved Employees' individual shares of the PAGA Settlement, the number of Workweeks worked by each Class Member during the Class Period and PAGA Period, if any, and the estimated amount of their Individual Settlement Payment if they do not request to be excluded from the Settlement and each Aggrieved Employee's share of the PAGA Settlement, if any. The Settlement Administrator shall use the Class Data to determine Class Members' Workweeks and PAGA Workweeks. The Notice will also advise the Aggrieved Employees that they will release the Released PAGA Claims and will receive their share of the PAGA Settlement regardless of whether they request to be excluded from the Settlement.

b) The Notice Packet's mailing envelope shall include the following language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE ENTITLED TO PARTICIPATE IN A CLASS ACTION SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED NOTICE."

3. Notice by First Class U.S. Mail and Email. Upon receipt of the Class Data, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes. No later than fourteen (14) calendar days after receiving the Class Data from Defendant, the Settlement Administrator shall mail and email copies of the Notice Packet to all Class Members via regular First-Class U.S. Mail and electronic mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Class Member.

1 The address identified by the Settlement Administrator as the current mailing
2 address shall be presumed to be the best mailing address for each Class
3 Member.

- 4 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
5 Administrator as non-delivered on or before the Response Deadline shall be
6 re-mailed to any forwarding address provided. If no forwarding address is
7 provided, the Settlement Administrator shall promptly attempt to determine a
8 correct address by lawful use of skip-tracing, or other search using the name,
9 address and/or Social Security number of the Class Member involved, and
10 shall then perform a re-mailing, if another mailing address is identified by the
11 Settlement Administrator. In addition, if any Notice Packets, which are
12 addressed to Class Members who are currently employed by Defendant, are
13 returned to the Settlement Administrator as non-delivered and no forwarding
14 address is provided, the Settlement Administrator shall notify Defendant.
15 Defendant will request that the currently employed Class Member provide a
16 corrected address, and transmit to the Administrator any corrected address
17 provided by the Class Member. Class Members who received a re-mailed
18 Notice Packet shall have their Response Deadline extended fifteen (15) days
19 from the original Response Deadline.

- 20 5. Disputes Regarding Individual Settlement Payments. Class Members will
21 have the opportunity, should they disagree with Defendant's records regarding
22 the start and end dates of employment to provide documentation and/or an
23 explanation to show contrary dates. If there is a dispute, the Settlement
24 Administrator will consult with the Parties to determine whether an
25 adjustment is warranted. The Settlement Administrator shall determine the
26 eligibility for, and the amounts of, any Individual Settlement Payments under
27 the terms of this Agreement. The Settlement Administrator's determination
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1 of the eligibility for and amount of any Individual Settlement Payment shall
2 be binding upon the Class Member and the Parties.

3 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
4 by the Settlement Administrator concerning the administration of the
5 Settlement will be resolved by the Court under the laws of the State of
6 California. Before any such involvement of the Court, counsel for the Parties
7 will confer in good faith to resolve the disputes without the necessity of
8 involving the Court.

9 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
10 Packet shall state that Class Members who wish to exclude themselves from
11 the Settlement must submit a written request for exclusion by the Response
12 Deadline. The written request for exclusion must state that the Class Member
13 wishes to exclude himself or herself from the Settlement and (1) must contain
14 the name, address, and the last four digits of the Social Security number of the
15 person requesting exclusion; (2) must be signed by the Class Member; (3)
16 must be postmarked or fax stamped by the Response Deadline and returned to
17 the Settlement Administrator at the specified address or fax telephone number;
18 and (4) contain a typewritten or handwritten notice stating in substance: "I
19 wish to opt out of the settlement of the class action lawsuit entitled *Horrigan*
20 *v. Children's Specialists of San Diego, a Medical Group, Inc.*, currently
21 pending in the Superior Court for the County of San Diego, Case No. 37-
22 2021-00014044-CU-OE-CTL . I understand that by requesting to be excluded
23 from the settlement, I will receive no money from the Settlement described in
24 this Notice." The request for exclusion will not be valid if it is not timely
25 submitted, if it is not signed by the Class Member, or if it does not contain the
26 name and address and last four digits of the Social Security number of the
27 Class Member. The date of the postmark on the mailing envelope or fax stamp
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1 on the request for exclusion shall be the exclusive means used to determine
2 whether the request for exclusion was timely submitted. Any Class Member
3 who requests to be excluded from the Settlement Class will not be entitled to
4 an Individual Settlement Payment and will not be otherwise bound by the
5 terms of the Settlement or have any right to object, appeal or comment
6 thereon. However, any Class Member that submits a timely request for
7 exclusion that is also a member of the Aggrieved Employees will still receive
8 his/her pro rata share of the PAGA Settlement, as specified below, and in
9 consideration, will be bound by the Release by the Aggrieved Employees as
10 set forth herein. Settlement Class Members who fail to submit a valid and
11 timely written request for exclusion on or before the Response Deadline shall
12 be bound by all terms of the Settlement and any final judgment entered in this
13 Action if the Settlement is approved by the Court. No later than fourteen (14)
14 calendar days after the Response Deadline, the Settlement Administrator shall
15 provide counsel for the Parties with a final list of the Class Members who have
16 timely submitted written requests for exclusion. At no time shall any of the
17 Parties or their counsel seek to solicit or otherwise encourage members of the
18 Class to submit requests for exclusion from the Settlement.

- 19 8. Objections. The Notice of Class Action Settlement contained in the Notice
20 Packet shall state that Class Members who wish to object to the Settlement
21 may submit to the Settlement Administrator a written statement of objection
22 (“Notice of Objection”) by the Response Deadline. The postmark date of
23 mailing shall be deemed the exclusive means for determining that a Notice of
24 Objection was served timely. The written Notice of Objection must be signed
25 by the Settlement Class Member and state: (1) the case name and number; (2)
26 the name of the Settlement Class Member; (3) the address of the Settlement
27 Class Member; (4) the last four digits of the Settlement Class Member’s Social
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1 Security number; (4) the basis for the objection; and (5) if the Settlement Class
2 Member intends to appear at the Final Approval/Settlement Fairness Hearing.
3 Class Members who fail to make objections in writing in the manner specified
4 above may still make their objections orally at the Final Approval/Settlement
5 Fairness Hearing with the Court's permission. Settlement Class Members will
6 have a right to appear at the Final Approval/Settlement Fairness Hearing to
7 have their objections heard by the Court. At no time shall any of the Parties
8 or their counsel seek to solicit or otherwise encourage Class Members to file
9 or serve written objections to the Settlement or appeal from the Order and
10 Final Judgment. Class Members who submit a written request for exclusion
11 may not object to the Settlement. Class Members may not object to the PAGA
12 Settlement

13 M. Funding and Allocation of the Gross Settlement Amount. Defendant is required to pay
14 the Gross Settlement Amount on or before the Funding Date, plus any employer's
15 share of payroll taxes as mandated by law within the time specified herein.

16 1. Individual Settlement Payments. Individual Settlement Payments shall be
17 paid from the Net Settlement Amount and shall be paid pursuant to the
18 formula set forth herein. Using the Class Data, the Settlement Administrator
19 shall add up the total number of Workweeks for all Class Members. The
20 respective Workweeks for each Class Member will be divided by the total
21 Workweeks for all Class Members, resulting in the Payment Ratio for each
22 Class Member. Each Class Member's Payment Ratio will then be multiplied
23 by the Net Settlement Amount to calculate each Class Member's estimated
24 Individual Settlement Payments. Each Individual Settlement Payment will be
25 reduced by any legally mandated employee tax withholdings (e.g., employee
26 payroll taxes, etc.). Individual Settlement Payments for Class Members who
27 submit valid and timely requests for exclusion will be redistributed to
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1 Settlement Class Members who do not submit valid and timely requests for
2 exclusion on a pro rata basis based on their respective Payment Ratios.

3 2. Calculation of Individual Payments to the Aggrieved Employees. Using the
4 Class Data, the Settlement Administrator shall add up the total number of
5 PAGA pay periods for all Aggrieved Employees during the PAGA Period.
6 The respective PAGA pay periods for each Aggrieved Employee will be
7 divided by the total PAGA pay periods for all Aggrieved Employees, resulting
8 in the "PAGA Payment Ratio" for each Aggrieved Employee. Each
9 Aggrieved Employee's PAGA Payment Ratio will then be multiplied by the
10 Aggrieved Employee Payment to calculate each Aggrieved Employee's
11 estimated share of the PAGA Settlement.

12 3. Allocation of Individual Settlement Payments. For tax purposes, Individual
13 Settlement Payments shall be allocated and treated as follows: 10% as wages
14 ("Wage Portion"); 90% as penalties and interest ("Non-Wage Portion"). The
15 Wage Portion is subject to wage withholdings and shall be reported on IRS
16 Form W-2. The Non-Wage Portion shall not be subject to wage withholdings
17 and shall be reported on IRS Form 1099 issued by the Settlement
18 Administrator.

19 4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
20 Employee Settlement Payments shall be allocated and treated as 100%
21 penalties and shall be reported on IRS Form 1099.

22 5. No Credit Toward Benefit Plans. The Individual Settlement Payments and
23 individual shares of the PAGA Settlement made to Settlement Class Members
24 and/or Aggrieved Employees under this Settlement Agreement, as well as any
25 other payments made pursuant to this Settlement Agreement, will not be
26 utilized to calculate any additional benefits under any benefit plans to which
27 any Class Members may be eligible, including, but not limited to profit-

1 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
2 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
3 Parties' intention that this Settlement Agreement will not affect any rights,
4 contributions, or amounts to which any Class Members may be entitled under
5 any benefit plans.

6 6. All monies received by Settlement Class Members under the Settlement which
7 are attributable to wages shall constitute income to such Settlement Class
8 Members solely in the year in which such monies actually are received by the
9 Settlement Class Members. It is the intent of the Parties that Individual
10 Settlement Payments and individual shares of the PAGA Settlement provided
11 for in this Settlement agreement are the sole payments to be made by Defendant
12 to Settlement Class Members and/or Aggrieved Employees in connection with
13 this Settlement Agreement, with the exception of Plaintiff, and that the
14 Settlement Class Members and/or Aggrieved Employees are not entitled to any
15 new or additional compensation or benefits as a result of having received the
16 Individual Settlement Payments and/or their shares of the PAGA Settlement.

17 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
18 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
19 and/or Aggrieved Employees last known mailing address no later than fifteen
20 (15) calendar days after the Funding Date.

21 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
22 Employees shall remain valid and negotiable for one hundred and eighty (180)
23 days from the date of their issuance. If a Settlement Class Member and/or
24 Aggrieved Employee does not cash his or her settlement check within 90 days,
25 the Settlement Administrator will send a letter to such persons, advising that
26 the check will expire after the 180th day, and invite that Settlement Class
27 Member and/or Aggrieved Employee to request reissuance in the event the

1 check was destroyed, lost or misplaced. In the event an Individual Settlement
2 Payment and/or Aggrieved Employee's individual share of the PAGA
3 Settlement check has not been cashed within one hundred and eighty (180)
4 days, all funds represented by such uncashed checks, plus any interest accrued
5 thereon, shall be distributed consistent with California Code of Civil
6 Procedure Section 384 as follows: to The American Academy of Pediatrics,
7 see aap.org . Class Counsel, Defendant's counsel, nor any of the Parties, have
8 any interest, pecuniary or otherwise, in AAP.

- 9 9. Class Representative Service Award. In addition to the Individual Settlement
10 Payment and her individual share of the PAGA Settlement to be paid to
11 Plaintiff, Plaintiff will apply to the Court for an award of not more than
12 \$10,000, as the Class Representative Service Award. Defendant does not
13 presently intend to oppose a Class Representative Service Award of not more
14 than \$10,000 for Plaintiff. The Settlement Administrator shall pay the Class
15 Representative Service Award, either in the amount stated herein if approved
16 by the Court or some other amount as approved by the Court, to Plaintiff from
17 the Gross Settlement Amount no later than fifteen (15) calendar days after the
18 Funding Date. Any portion of the requested Class Representative Service
19 Award that are not awarded to the Class Representative shall be part of the
20 Net Settlement Amount and shall be distributed to Settlement Class Members
21 as provided in this Agreement. The Settlement Administrator shall issue an
22 IRS Form 1099 — MISC to Plaintiff for her Class Representative Service
23 Award. Plaintiff shall be solely and legally responsible to pay any and all
24 applicable taxes on her Class Representative Service Award and shall hold
25 harmless the Released Parties from any claim or liability for taxes, penalties,
26 or interest arising as a result of the Class Representative Service Award. The
27 Class Representative Service Award shall be in addition to Plaintiff's
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1 Individual Settlement Payment as a Settlement Class Member. Approval of
2 this Settlement shall not be conditioned on Court approval of the requested
3 amount of the Class Representative Service Award. In the event that the Court
4 reduces or does not approve the requested Class Representative Service
5 Award, Plaintiff shall not have the right to revoke the Settlement, and it will
6 remain binding.

7 10. Class Counsel Award. Defendant understands a motion by Class Counsel for
8 attorneys' fees not to exceed one-third of the Gross Settlement Amount
9 currently estimated to be \$183,333.33 plus costs and expenses supported by
10 declaration not to exceed Twenty Thousand Dollars (\$20,000), from the Gross
11 Settlement Amount will be filed. Any portion of the requested Class Counsel
12 Award that is not awarded to Class Counsel shall be part of the Net Settlement
13 Amount and shall be distributed to Settlement Class Members as provided in
14 this Agreement. The Settlement Administrator shall allocate and pay the
15 Class Counsel Award to Class Counsel from the Gross Settlement Amount no
16 later than fifteen (15) calendar days after the Funding Date. Class Counsel
17 shall be solely and legally responsible to pay all applicable taxes on the
18 payment made pursuant to this paragraph. The Settlement Administrator shall
19 issue an IRS Form 1099 — MISC to Class Counsel for the payments made
20 pursuant to this paragraph. In the event that the Court reduces or does not
21 approve the requested Class Counsel Award, Plaintiff and Class Counsel shall
22 not have the right to revoke the Settlement, or to appeal such order, and the
23 Settlement will remain binding.

24 11. PAGA Settlement. Twenty Thousand Dollars (\$20,000) shall be allocated
25 from the Gross Settlement Amount for settlement of claims for civil penalties
26 under the Private Attorneys General Act of 2004 ("PAGA Settlement"). The
27 Settlement Administrator shall pay seventy-five percent (75%) of the PAGA
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Settlement (\$15,000) to the California Labor and Workforce Development Agency no later than fifteen (15) calendar days after the Funding Date (hereinafter "LWDA Payment"). Twenty-five percent (25%) of the PAGA Settlement (\$5,000) will be distributed to the Aggrieved Employees as described in this Agreement (hereinafter "Aggrieved Employee Payment"). For purposes of distributing the PAGA Settlement to the Aggrieved Employees, each Aggrieved Employee shall receive their pro-rata share of the Aggrieved Employee Payment using the PAGA Payment Ratio as defined above.

12. Settlement Administration Costs. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement Amount. The estimate of the Settlement Administration Costs is \$8,000.00. The Settlement Administrator shall be paid the Settlement Administration Costs no later than fifteen (15) calendar days after the Funding Date.

N. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Class Representative Service Award, the Class Counsel Award, the PAGA Settlement, and the Settlement Administration Costs. Plaintiff will provide Defendant with a draft of the Motion at least 3 business days prior to the filing of the Motion to give Defendant an opportunity to propose changes or additions to the Motion

1. Declaration by Settlement Administrator. No later than fourteen (14) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to

1 Class Members, the number of undeliverable Notice Packets, the number of
2 timely requests for exclusion, the number of objections received, the amount
3 of the average Individual Settlement Payment and highest Individual
4 Settlement Payment, the Settlement Administration Costs, and any other
5 information as the Parties mutually agree or the Court orders the Settlement
6 Administrator to provide.

7 2. Final Approval Order and Judgment. Class Counsel shall present an Order
8 Granting Final Approval of Class Action Settlement to the Court for its
9 approval, and Judgment thereon, at the time Class Counsel files the Motion
10 for Final Approval.

11 N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
12 an opportunity for Counsel for Defendant to review the Motions for Preliminary and
13 Final Approval, including the Order Granting Final Approval of Class Action
14 Settlement, and Judgment before filing with the Court. The Parties and their counsel
15 will cooperate with each other and use their best efforts to affect the Court's approval
16 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
17 Judgment.

18 O. Cooperation. The Parties and their counsel will cooperate with each other and use
19 their best efforts to implement the Settlement.

20 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Actions,
21 except such proceedings necessary to implement and complete the Settlement, pending
22 the Final Approval/Settlement Fairness Hearing to be conducted by the Court

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

25 R. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
26 Agreement among these Parties, and no oral or written representations, warranties or
27 inducements have been made to any Party concerning this Agreement or its Exhibit

1 other than the representations, warranties and covenants contained and memorialized
2 in this Agreement and its Exhibit.

3 S. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
4 represent they are expressly authorized by the Parties whom they represent to negotiate
5 this Agreement and to take all appropriate Action required or permitted to be taken by
6 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
7 documents required to effectuate the terms of this Agreement. The persons signing
8 this Agreement on behalf of Defendant represents and warrants that he/she is
9 authorized to sign this Agreement on behalf of Defendant. Plaintiff represents and
10 warrants that she is authorized to sign this Agreement and that she has not assigned
11 any claim, or part of a claim, covered by this Settlement to a third-party.

12 T. No Public Comment: The Parties and their counsel agree that they will not issue any
13 press releases, initiate any contact with the press, respond to any press inquiry, or have
14 any communication with the press about the fact, amount or terms of the Settlement
15 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
16 of its terms for any marketing or promotional purposes. Nothing herein will restrict
17 Class Counsel from including publicly available information regarding this settlement
18 in future judicial submissions regarding Class Counsel's qualifications and experience.
19 Further, Class Counsel will not include, reference or use the Settlement Agreement for
20 any marketing or promotional purposes, either before or after the Motion for
21 Preliminary Approval is filed.

22 U. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
23 to the benefit of, the successors or assigns of the Parties, as previously defined.

24 V. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
25 shall be governed by and interpreted according to the laws of the State of California.

26 W. Counterparts. This Agreement may be executed in one or more counterparts. All
27 executed counterparts and each of them shall be deemed to be one and the same
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instrument provided that counsel for the Parties to this Agreement shall exchange among themselves copies or originals of the signed counterparts.

X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement is a fair, adequate and reasonable settlement of this Action and have arrived at this Settlement after extensive arms-length negotiations, taking into account all relevant factors, present and potential.

Y. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with respect to the interpretation, implementation and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement and all orders and judgments entered in connection with this Agreement.

Z. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

AA. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently intend to pursue any claims against the Released Parties, including, but not limited to, any and all claims relating to or arising from Plaintiff's employment with Defendant, regardless of whether Class Counsel is currently aware of any facts or legal theories upon which any claims or causes of action could be brought against Released Parties, including those facts or legal theories alleged in the operative complaint in this Action. The Parties further acknowledge, understand and agree that this representation is essential to the Agreement and that this Agreement would not have been entered into were it not for this representation.

BB. Stipulation to Class Certification. The Parties agree to stipulate to class certification for purposes of this settlement only.

1 CC. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
2 Released Claims have merit and give rise to liability on the part of Defendant.
3 Defendant claims that the Released Claims have no merit and do not give rise to
4 liability. This Agreement is a compromise of disputed claims. Nothing contained in
5 this Agreement and no documents referred to and no action taken to carry out this
6 Agreement may be construed or used as an admission by or against the Defendant or
7 Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other
8 than as may be specifically set forth herein, each Party shall be responsible for and
9 shall bear its/his own attorney's fees and costs.

10 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

11
12 DATED: 3/15/2022

DocuSigned by:



13 JESSICA HERRIGAN

2344205898E95496...

14
15
16 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:

17
18 DATED: March 18, 2022



19 CHILDREN'S SPECIALISTS OF SAN DIEGO, A
20 MEDICAL GROUP, INC.

21 Robin H. Steinhorn, M.D.

22 Printed Name

23 President

24 Title

1 IT IS SO AGREED AS TO FORM BY COUNSEL:
2

3 DATED: 3/15/2022

JCL LAW FIRM, A.P.C.

4 By:

DocuSigned by:

Jean-Claude Lapuyade

0EBC25D5B9CD469...

5 Attorneys for Plaintiff and the Settlement Class
6 Members

7
8 DATED: 3/15/2022

ZAKAY LAW GROUP, APLC

9 By:

DocuSigned by:

[Signature]

4ECDE73A91D4420...

10 Attorneys for Plaintiff and the Settlement Class
11 Members

12
13 DATED: March 21, 2022

MARILYN R. MORIARTY

WHITNEY BETTS

15 LEWIS BRISBOIS BISGAARD & SMITH LLP

16 By:

Whitney J. Betts

17 Attorneys for Defendant
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EXHIBIT A

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND FINAL HEARING DATE**

*(Horrigan v. Children’s Specialists of San Diego, a Medical Group, Inc.,
San Diego County Superior Court Case No. 37-2021-00014044-CU-OE-CTL)*

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<<[REDACTED]>>. See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendant as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of San Diego (the “Court”) has been reached between Plaintiff Jessica Horrigan (“Plaintiff”) and Defendant Children’s Specialists of San Diego, a Medical Group, Inc., a California Corporation (“Defendant”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All employees who are or previously were employed by Defendant in California during the Class Period.

The “Class Period” is the period of time running from March 30, 2017 to January 18, 2022.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On March 30, 2021, Plaintiff filed a Complaint against Defendant in the Superior Court of the State of California, County of San Diego. Plaintiff asserted claims that Defendant: (a) Violated California Business and Professions Code § 17200 *et seq.*; (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (c) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*; (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (f) Failed to provide accurate and complete itemized wage statements in violation of California Labor Code § 226; (g) Failed to reimburse Plaintiff for required expenses in violation of California Labor code 2802; and (h) Violations of the Private Attorney General Act at Labor Code Section 2698, *et seq.*

Defendant denies and disputes all claims asserted in the Actions. Specifically, Defendant contended (and continues to contend) that the Action could not properly be maintained as a class action; that Defendant properly paid members of the class all wages and overtime that was due; that Defendant provided members of the class with all legally required meal breaks and rest breaks; that Defendant paid any members of the class all wages due them at the time of their terminations; that Defendant provided accurate, itemized wage statements to members of the class; that Defendant did not violate California Business and Professions Code section 17200 *et seq.*; that Defendant reimbursed members of the class for required business expenses; and that Defendant is not liable for any of the penalties claimed or that could be claimed in the Actions.

On January 18, 2022, the Parties participated in an all-day mediation with Hon. Steven Denton (Ret.), a jurist and mediator of wage and hour class actions. At the conclusion of the full-day mediation, the Parties reached an agreement for settlement. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Zakay Law Group, APC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an “all in” amount of Five Hundred Fifty Thousand Dollars (\$550,000) (the “Gross Settlement Amount”) to fund the settlement. The Gross Settlement Amount includes the payment of all Settlement Shares to Participating Class Members, Class Counsel’s attorneys’ fees and costs, Settlement Administration Expenses, the LWDA Payment, PAGA Shares, and the Class Representative Service Payments to the Plaintiff.

After the Judgment becomes Final, Defendant will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. “Final” means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed and the Judgment is affirmed.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed **\$8,000.00** for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.

- Attorneys' Fees and Costs. Payment to Class Counsel of an award of a Class Counsel Fees Payment of no more than 1/3 of the Gross Settlement Amount (currently \$183,333.33) and a Class Counsel Litigation Expenses Payment of not more than \$20,000 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Actions on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Class Representative Service Payment. Class Representative Service Payment of up to Ten Thousand Dollars (\$10,000) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate her for services on behalf of the Class in initiating and prosecuting the Action, and for the risks she undertook.
- PAGA Payment. A payment of \$20,000 relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), \$15,000 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$5,000 will be distributed to PAGA Employees as part of the Net PAGA Amount.
- Calculation of Payments to Participating Class Members. After all the above payments of the court-approved Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payments, the LWDA Payment, and the Settlement Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Participating Class Members"). The Settlement Share for each Participating Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Participating Class Members that occurred during the Class Period and multiplying the result by each individual Participating Class Member's workweeks that occurred during the Class Period. A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendant's records, a member of the class worked at least one-day during any such workweek.
- Calculation of PAGA Penalties Payments to PAGA Employees. The Net PAGA Amount shall be distributed to PAGA Employees irrespective of whether they exclude themselves or opt-out. The Net PAGA Amount will be divided by the total number of pay periods worked by all PAGA Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective PAGA Employee during the PAGA Period. "PAGA Employees" means all employees who are or previously were employed by Defendant in California and who were classified as non-exempt employees during the PAGA Period. The PAGA Period means the period between January 1, 2020 until January 18, 2022.

If the Settlement is approved by the Court, you will automatically be mailed a check for your Settlement Share to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to insure you receive your payment.

Tax Matters. 10% of each Settlement Share is allocated to wages. Taxes are withheld from this amount, and each Participating Class Member will be issued an Internal Revenue Service Form W-2 for such payment. 90% of each Settlement Share is allocated to interest, penalties and other non-wage payments, and no taxes will be withheld, and each Participating Class Member will be issued an Internal Revenue Service Form 1099 for such payment. In addition, no taxes will be withheld from the PAGA Penalties paid to PAGA Employees, and each PAGA Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendant's counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement. The Individual Settlement Payments and individual shares of the PAGA Settlement made to Settlement Class Members and/or Aggrieved Employees under this Settlement Agreement, as well as any other

payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon entry of final judgment and funding in full of the Gross Settlement Amount by Defendant, Plaintiff and the Participating Class Members shall release all Released Class Claims that occurred during the Class Period as to the Released Parties. Released Class Claims means all class claims alleged in the operative complaint, including claims for violations of Labor Code section 203, which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period. The Released PAGA Claims shall be released as follows. As of the Settlement Effective Date and upon funding in full of the Gross Settlement Amount by Defendant, all Aggrieved Employees shall release all Released PAGA Claims, irrespective of whether they opted-out of the class settlement, and will be bound by this PAGA Release (the "PAGA Release"). "Released PAGA Claims" means all PAGA claims alleged in the operative complaint and Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

5. How much will my payment be?

Defendant's records reflect that you have << ____ >> Workweeks worked during the Class Period (March 30, 2017 to January 18, 2022).

Based on this information, your estimated Settlement Share is << ____ >>.

Defendant's records reflect that you have << ____ >> pay periods worked during the PAGA Period (January 1, 2020 to January 18, 2022).

Based on this information, your estimated PAGA Payment Share is << ____ >>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than _____ [forty-five (45) days after the Notice or re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: _____. (800) _____.

The Court will hold a hearing on _____ to decide whether to finally approve the Settlement. If

the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at www._____.com

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the Net PAGA Amount.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than _____. The address for the Settlement Administrator is _____. The request for exclusion must state in substance: "I have read the Class Notice and I wish to opt out of the class action and settlement of the case *Horrigan v. Children's Specialists of San Diego, a Medical Group, Inc., Case No. 37-2021-00014044-CU-OE-CTL*." The request for exclusion must contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is *Horrigan v. Children's Specialists of San Diego, a Medical Group, Inc., Case No. 37-2021-00014044-CU-OE-CTL*. You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than _____. The address for the Settlement Administrator is _____.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel.: (619) 599-8292
Fax: (619) 599-2891

Class Counsel:

Shani O. Zakay, Esq.
Zakay Law Group, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: (619) 599-8292
Fax: (619) 599-8291

Counsel for Defendant:

Marilyn Moriarty, Esq.
Whitney J. Betts, Esq.
Lewis Brisbois Bisgaard &
Smith LLP
550 West C Street, Suite 1700
San Diego, CA 92101

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at **00:00 AM/PM on** _____, at the San Diego County Superior Court, Department C-73, located at 330 W. Broadway, San Diego, CA 92101-3827 before Judge Joel R. Wohlfeil. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at _____ or write to *Horrigan v. Children's Specialists of San Diego, a Medical Group, Inc., Case No. 37-2021-00014044-CU-OE-CTL*, Settlement Administrator, c/o _____.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to JCL Law firm, APC, 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121 or by visiting the website listed in this notice.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to the American Academy of Pediatrics . If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 2

EXHIBIT 3

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Horrigan v. Children's Specialist

Tuesday, February 8, 2022

Requesting Law Firm	JCL Law Firm, A.P.C.
Requesting Attorney	Eddie Garcia
E-mail Address	EGarcia@jcl-lawfirm.com
ILYM Contact	Sean Hartranft
E-Mail Address	Sean@ilymgroupclassaction.com
Contact Number	949.690.2564

ESTIMATE FOR ADMINISTRATION SOLUTIONS

Opt-Out

ASSUMPTIONS	
Total Estimated Number of Class Members	127
Estimated Percentage of Undeliverable Mail	20%
NCOA	Yes
Certified Spanish Translation	No
Case Duration (Years)	1

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	2	\$300.00
Programming of Class Database	Hourly	\$175.00	2	\$350.00
*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.				
Subtotal				\$650.00

PROJECT MANAGEMENT				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	5	\$600.00
Staff Hours for Processing Opt-Outs, Disputes & Objection(s)	Hourly	\$70.00	1	\$70.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	0	\$0.00
Report Processing	Hourly	\$70.00	3	\$210.00
NCOA	Per Piece	\$46.00	1	\$46.00
Toll-Free Phone Support	Flat Fee	\$62.88	1	\$62.88
ILYM Group Static Website, Including Hosting	Flat Fee	\$750.00	1	\$750.00
Status Reports	Flat Fee	\$750.00	1	Waived
Subtotal				\$1,738.88

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity	Rate Type	Unit Cost	Volume	Amount
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NOTIFICATION/MAILING

Fulfillment of Notices	Per Piece	\$2.00	127	\$254.00
USPS First Class Postage	Per Piece	\$0.76	127	\$96.52
Remails (Forward/Skip Trace Undeliverables)	Per Piece	\$2.75	25	\$69.85
Storage, Photocopies, Deliveries	Flat Fee	\$300.00	1	\$300.00

Subtotal \$720.37

DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)

Distribution Setup & Management	Hourly	\$150.00	3	\$450.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	3	\$375.00
Check, Stub & Release - Print & Mail (including W2 and/or 1099)**	Per Check	\$1.50	127	\$190.50
Check Mailing Postage	Per Piece	\$0.55	127	\$69.85
Reminder Mailing, Includes Postage	Per Piece	\$2.00	13	\$25.40
Preparation of Taxes	Hourly	\$120.00	12	\$1,440.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

***Additional Bank fees may apply*

Subtotal \$4,050.75

CASE CONCLUSION

Data Manager Final Reporting	Hourly	\$100.00	2	\$200.00
Project Manager Final Reporting	Hourly	\$120.00	2	\$240.00
Declaration	Hourly	\$125.00	2	\$250.00

Subtotal \$690.00

Total Case Estimate: \$7,850.00

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. **Attached here to is Exhibit D:** ILYM hereby incorporates the attached Exhibit D into the terms and conditions herein and Exhibit D shall be a part of this agreement. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.