

HAROUT MESSRELIAN (SBN: 272020)
MESSRELIAN LAW INC.

500 N. Central Ave., Suite 840
Glendale, CA 91203

Telephone: (818) 484-6531

Facsimile: (818) 956-1983

Attorneys for Plaintiff MARICEL BELONIO WATERS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

MARICEL BELONIO WATERS,

Plaintiff,

vs.

COLLEGE VISTA, LLC dba COLLEGE
VISTA POST-ACUTE; SUN-MAR
HEALTH CARE, INC.; SUN-MAR
NURSING CENTERS; and DOES 1 to 25,
inclusive,

Defendant(s).

Case No.: 20STCV23520

**DECLARATION OF HAROUT
MESSRELIAN IN SUPPORT OF MOTION
FOR APPROVAL OF PAGA SETTLEMENT
AND RELEASE**

Action filed: 6/22/2020

Hearing
Date/Time:
September 2, 2022
8:30am

Reservation ID:
264430698207

Department: 26, Hon. Elaine Lu

Submitted Herewith Under Separate Cover:

1. Motion for Approval of PAGA Settlement and Release; and
2. [Proposed] Order

**DECLARATION OF HAROUT MESSRELIAN IN SUPPORT OF
MOTION FOR APPROVAL OF PAGA SETTLEMENT AND RELEASE**

I, HAROUT MESSRELIAN, declare and state as follows:

1. I am an attorney duly licensed to practice before all the Courts of the State of California. I am the managing attorney of Messrelian Law Inc. and the attorney of record for Plaintiff Maricel Belonio Waters (individually, “Waters” or “Plaintiff”) in her lawsuit against Defendant College Vista, LLC dba College Vista Post-Acute (hereinafter “College Vista” or “Defendant”).

2. I am experienced in handling employment law matters and specifically wage and hour cases, including PAGA claims. I have been practicing law since 2010. In my representation of employees, I have handled hundreds of individual and representative cases on behalf of employees with claims of minimum wages, overtime violations, as well as other wage claims, including meal breaks and rest breaks.

3. Except as otherwise indicated, I have personal knowledge of all matters set forth herein and, if called as a witness, could and would competently testify thereto under oath.

Factual and Procedural Background

4. Defendant College Vista operates a post-acute nursing home. Plaintiff was hired to work for Defendant as a Licensed Vocational Nurse (LVN) on or around November 2019. Plaintiff’s employment with Defendant ended on or around March 25, 2020. At all times during her employment, Plaintiff was considered an hourly, non-exempt employee.

5. Plaintiff complied with the procedures of Labor Code § 2699.3 for bringing suit under the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.* (“PAGA”). On March 27, 2020, Plaintiff, on behalf of herself and Defendant’s other current and former non-exempt employees who were employed by Defendant in California (hereafter collectively the “Aggrieved Employees” or “Aggrieved Employee” as singular, defined as all current and former non-exempt employees of Defendant (including, but not limited to, Plaintiff), who were employed by Defendant in California at any time during the “Covered Period” running from April 18, 2019 to January 25, 2022) gave written notice by electronic service to the California Labor and Workforce Development Agency (“LWDA”) and via

1 certified mail to Defendant of her claims against Defendant. In her notice to the LWDA,
2 Plaintiff asserted on behalf of herself and the Aggrieved Employees that Defendant committed
3 the following labor violations against the Aggrieved Employees, including herself: (1) failure
4 to pay all wages for all hours worked, including, but not limited to, minimum wages; (2) failure
5 to pay all overtime; (3) failure to provide compliant rest periods; (4) failure to provide
6 compliant meal periods; (5) failure to timely pay all wages during employment as required by
7 applicable law; (6) failure to timely pay all wages at termination, and failure to pay applicable
8 waiting time penalties; (7) failure to provide compliant, complete and accurate itemized wage
9 statements; (8) failure to maintain accurate and complete timekeeping and payroll records; and
10 (9) failure to reimburse all necessary business expenses, losses and/or costs. Attached as
11 **Exhibit 1** to this declaration is a true and correct copy of Plaintiff's PAGA notice to the
12 LWDA. Plaintiff filed her initial lawsuit on June 22, 2020 in the Superior Court for the State of
13 California, County of Los Angeles, Case No. 20STCV23520 with one cause of action for
14 penalties under PAGA under the following legal theories: (1) failure to pay all wages for all
15 hours worked, including, but not limited to, minimum wages; (2) failure to pay all overtime; (3)
16 failure to provide compliant rest periods; (4) failure to provide compliant meal periods; (5)
17 failure to timely pay all wages during employment as required by applicable law; (6) failure to
18 timely pay all wages at termination, and failure to pay applicable waiting time penalties; (7)
19 failure to provide compliant, complete and accurate itemized wage statements; (8) failure to
20 maintain accurate and complete timekeeping and payroll records; and (9) failure to reimburse
21 all necessary business expenses, losses and/or costs.

22 6. According to Defendant's records, it has employed approximately 260
23 Aggrieved Employees from April 18, 2019 through January 25, 2022, and it is estimated that
24 these Aggrieved Employees worked approximately 6842 pay periods for that same time
25 period.

26 7. Defendant denies any liability or wrongdoing of any kind whatsoever
27 associated
28 with the lawsuit and the Representative PAGA Claim. It is the desire of the Parties to fully,
finally, and forever compromise, and discharge all claims known or unknown related to those

alleged in Plaintiff's lawsuit.

8. On January 25, 2022, the Parties attended a full day mediation session with experienced wage-and-hour mediator Kelly Knight. At the mediation, the Parties agreed to settle the Representative PAGA claim for violation of Labor Code § 2698, *et seq.* Before agreeing to the terms of the Settlement, the Parties engaged in informal discovery regarding Defendant's policies, practices, operations, time and payroll information and other topics. In advance of mediation, Defendant produced Plaintiff's personnel file, including time and payroll data for Plaintiff and also produced the time records and payroll records for 191 aggrieved employees. Through extensive arm's length negotiations at the mediation and only after discovery and investigation were performed, the Parties agreed to settlement terms. A true and correct copy of the PAGA Settlement Agreement reached between the parties is attached to this declaration as **Exhibit 2**.

9. The Parties conducted investigation of the facts and law both before and after the lawsuit was filed. Counsel for the Parties have further investigated the applicable law as applied to the facts discovered regarding Plaintiff's claims, the defenses thereto, and the Labor Code violations claimed by Plaintiff. Based on their own independent investigations and evaluations, the Parties and their respective counsel are of the opinion that the Settlement for the consideration and on the terms set forth in this PAGA settlement agreement are fair, reasonable and adequate and are in the best interests of the State of California, Plaintiff, and the Aggrieved Employees in light of all known facts and circumstances and the risks inherent in litigation, especially in light of the *Viking River* ruling, which will be discussed further below.

10. Plaintiff further recognizes that the issues presented in the Representative PAGA Claim are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate to the maximum potential benefits that may be received in connection with the Representative PAGA Claim, especially in light of the pandemic era and the business climate.

11. Plaintiff alleges that the strongest claims are that Plaintiff and other Aggrieved Employees were not provided timely, uninterrupted meal and rest breaks. The meal break claim

1 can be proven on paper based on Defendant's time records, but not the rest break claim. In
2 terms of Plaintiff's other claims for minimum wage violations, failure to compensate for all
3 hours worked, and failure to pay overtime, no rounding or overtime issues were observed in the
4 sample. Furthermore, Defendant's written meal and rest break policies were compliant and the
5 analyzed sample did include meal break premiums being paid to employees. Additionally, the
6 other associated PAGA claims are derivative to the meal/rest break allegations for which
7 Defendant would not have additional liability for inaccurate pay stubs, failure to pay all wages
8 owed, failure to keep accurate payroll records, and failure to pay wages at the end of
employment.

9 12. Plaintiff contends that the civil penalty statutes applicable to the Representative
10 PAGA Claim are Labor Code §§ 210, 226.3, 248.5, 256, 558, 1174.5, 1197.1, 2802 and
11 2699(f)(2). Under these civil penalty statutes, an employee who suffers a Labor Code
12 violation, may be awarded a sum of money for each pay period in which he or she was
13 underpaid. However, under Labor Code § 2699(e)(2), the Court can reduce an award of civil
penalties if the award is unjust, arbitrary, oppressive, or confiscatory.

14 13. Under the civil penalty formulas applicable under PAGA, Plaintiff estimated a
15 **maximum** potential exposure of approximately \$131,450 for civil penalties for what Plaintiff
16 contends are Plaintiff's strongest disputed claims of failure to provide meal and rest. Plaintiff's
17 analysis, which Defendant vehemently disputes, revealed a 14% violation rate for either late,
18 short, or interrupted meal periods for shifts over 6 hours. Since 87.6% of shifts in the sample
19 were over 6 hours, then the applicable pay periods here would be 5,994 pay periods (which
20 87.6% of 6842 pay periods). As such, with the 14% violation rate, the maximum exposure
21 would be \$41,950, which is calculated as \$50 penalty multiplied by 839 pay periods (14% of
22 the 5994 pay periods). It is important to note that Defendant refutes Plaintiff's above analysis
23 and calculations for the meal period violations. Assuming that Plaintiff's calculations and
24 analysis is accurate, the maximum exposure presumes that the Court will not reduce the penalty
25 award as unjust, arbitrary, oppressive, or confiscatory. As far as the claim for rest breaks, since
26 there was no violation rate on paper in that Plaintiff and other employees did not clock in and
27 clock out for rest periods, Plaintiff extrapolated the same 14% meal period violation rate and
28 attributed that to rest periods. Since 93.4% of shifts in the sample were over 3.5 hours, then the
applicable pay periods here for the rest period calculation would be 6,390 pay periods (which

93.4% of 6842 pay periods). As such, with the 14% violation rate attributed for rest breaks, the maximum exposure would be \$89,500, which is calculated as \$100 penalty multiplied by 895 pay periods (14% of the 6390 pay periods). It is important to note that Defendant refutes Plaintiff's above analysis and calculations for the rest period violations. Assuming that Plaintiff's calculations and analysis is accurate, the maximum exposure presumes that the Court will not reduce the penalty award as unjust, arbitrary, oppressive, or confiscatory. In addition, per the analyzed sample, Defendant did pay 1937 meal period premiums for a total of \$44,551, in essence providing Plaintiff and the other aggrieved employees with premium pay when they did in fact miss or take short or late meal periods.

14. Moreover, Plaintiff is aware of no California state courts awarding Plaintiff multiple PAGA penalties for the same violation for the same pay period under different Labor Code provisions. As such, one of the risks Plaintiff faces is that the Court would refuse to "stack" civil penalties arising under the various Labor Code statutes. Furthermore, judges have awarded extremely small sums to PAGA claimants in the past. In addition, Defendant would make an argument that at the time of the mediation in January 2022, under *Naranjo v. Spectrum Security Services, Inc.*, 40 Cal. App. 5th 444 (Cal. App. 2d Dist., Sept. 26, 2019) and other similar cases, that meal period or rest period violations are not a predicate for civil penalties for improper wage statements and untimely final wages under Labor Code secs.201-203, 226, 226.3, and 2699. Defendant also adamantly disputes all of Plaintiff's allegations in the operative Complaint.

15. The source of penalties available is under PAGA, which allows employees to seek civil penalties for certain violations of the Labor Code so long as the penalties are not unjust, arbitrary, oppressive, or confiscatory. There are no State Court decisions under the PAGA to date with substantial awards of civil penalties. There is a substantial risk that the Court could reduce civil penalties to an insignificant amount if it is unpersuaded by Plaintiff's evidence of willful and intentional conduct. The PAGA expressly counsels against such awards. *See Lab. Code* § 2699(e)(2) ("...a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory."). Further, although, class certification is not required for a PAGA claim,

1 Defendant could contend that Plaintiff should show that the PAGA claims are manageable.

2 16. As such, Defendant could also convince the Court to dismiss the claims due to
3 unmanageability. In *Ortiz v. CVS Caremark Corp.*, the court dismissed a PAGA claim because
4 it was unmanageable. 2014 WL 1117614, at *3–4 (N.D. Cal. 2014). The *Ortiz* court cited the
5 “multitude of individualized assessments” that case would have required in ordering dismissal.
6 *Id.* at *4. Several other courts have adopted *Ortiz*, and dismissed PAGA claims where, as here,
7 there are a large number of allegedly aggrieved individuals whose claims require individual
8 assessments. *See, e.g., Litty v. Merrill Lynch & Co.*, 2014 WL 5904904, at *3 (C.D. Cal. 2014);
9 *Bowers v. First Student, Inc.*, 2015 WL 1862914, at *4 (C.D. Cal. 2015); *see also Stafford v.*
10 *Dollar Tree Stores, Inc.*, 2014 WL 6633396, at *2–4 (E.D. Cal. 2014) (bifurcating trial of
11 plaintiff’s claim from representative claims: “in light of the number of potential aggrieved
12 employees, judicial economy favors deferring the representative portion of the PAGA claim”);
13 *Amey v. Cinemark USA Inc.*, 2015 WL 2251504, at *16 (N.D. Cal. May 13, 2015). DS, ¶ 24.
14 The risk of an unmanageable trial is heightened in a representative PAGA claim because the
15 burden of proof rests with the plaintiff to establish violations of the Labor Code “with respect to
16 each and every individual on whose behalf [they] seek[] to recover civil penalties.” *Molina v.*
17 *Dollar Tree Stores, Inc.*, 2013 U.S. Dist. LEXIS 138642, at *33-34 (C.D. Cal. Aug. 9, 2013);
18 *Hibbs-Rines v. Seagate Techs, LLC*, 2009 WL 513496, at *4 (N.D. Cal. Mar. 2, 2009).
19 Moreover, in a PAGA case the plaintiff must prove liability with respect to “each and every
20 individual” through representative evidence – but without sacrificing the defendant’s due
21 process right to present proof of their affirmative defenses. *Elkins v. Superior Court*, 41 Cal. 4th
22 1337, 1357 (2007); *Walmart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2561 (2011); *Duran v. U.S.*
23 *Bank Nat’l Ass’n*, 59 Cal. 4th 1, 33-34 (2014). Plaintiff is required to establish a violation of the
24 Labor Code in each pay period of each and every one of the approximately 260 employees. The
25 Court could find that this is an impractical task and require the aggrieved employees to bring
26 individual claims instead of a PAGA representative claim.

27 17. On or around June 15, 2022, the U.S. Supreme Court issued its decision in

28 *Viking*

River Cruises, Inc. v. Moriana (2022) 596 U.S. 7 [142 S.Ct. 1906]. In construing the Federal

1 Arbitration Act in *Viking River Cruises*, the Court held that the rule of *Iskanian v. CLS*
2 *Transportation Los Angeles, LLC* (2014) 59 Cal.4th 348 is preempted “insofar as it precludes
3 division of PAGA actions into individual and non-individual claims through an agreement to
4 arbitrate.” (142 S.Ct. at p. 1924, brackets added.) The Court concluded that, based on the
5 parties’ arbitration agreement, the defendant-employer “was entitled to enforce the agreement
6 insofar as it mandated arbitration of [the plaintiff’s] individual PAGA claim.” (*Id.* at pp.
7 1924–1925, emphasis added.) With respect to the plaintiff’s non-individual claims brought on
8 behalf of other employees, the Court confirmed that “PAGA provides no mechanism to enable
9 a court to adjudicate nonindividual PAGA claims once an individual claim has been committed
10 to a separate proceeding,” and that, “a plaintiff can maintain non-individual PAGA claims in an
11 action only by virtue of also maintaining an individual claim in that action,” under PAGA’s
12 standing requirement. (142 S.Ct. at p. 1925, citing Lab. Code, § 2699, subds. (a), (c).) Relying
13 on *Kim v. Reins International California, Inc.* (2020) 9 Cal.5th 73, 90, the Court further
14 explained that, “When an employee’s own dispute is pared away from a PAGA action, the
15 employee is no different from a member of the general public, and PAGA does not allow such
16 persons to maintain suit.” (142 S.Ct. at p.1925.) Consequently, the U.S. Supreme Court held
17 that the plaintiff “lacks statutory standing to continue to maintain her non-individual claims in
18 court, and the correct course is to dismiss her remaining claims.” (*Ibid.*)

19 18. The *Viking River* case ended up being another risk factor in this case. Since
20 there
21 was an arbitration agreement executed by the parties in this case that included a representative
22 action waiver, not effectuating a PAGA settlement on a representative basis would have opened
23 the door to the defense filing a motion to compel Plaintiff’s individual PAGA claims to
24 arbitration and asking the Court to dismiss the representative PAGA claims. As such, it ended
25 up being in the best interest of the Plaintiff and the State to move forward with settlement of the
26 PAGA claims on a representative basis.

27 19. Plaintiff further recognizes that the issues presented in the Representative
28 PAGA Claim are likely only to be resolved with extensive and costly pretrial and trial
proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay,
and expense disproportionate to the maximum potential benefits to the Aggrieved Employees
and Plaintiff that may be received in connection with continued litigation of the Representative

1 PAGA claim, especially in light of the *Viking River* decision as discussed above, and in light of
2 the pandemic era where further and extensive litigation may cause businesses to shut down,
3 resulting in no monetary compensation to Plaintiff, Plaintiff's attorneys, other Aggrieved
Employees, and the State of California.

4 20. The settlement of the Representative PAGA Claim involves monetary relief to
5 all
6 Aggrieved Employees, Plaintiff, her attorneys, and the State of California.

7 21. Furthermore, Plaintiff recognizes that continued litigation presents significant
8 risks that support a significant downward departure from Plaintiff's estimated civil penalties
9 amount. In view of the risks, the Settlement represents a fair, adequate, and reasonable
10 compromise amount for these claims and is in the best interest of Plaintiff and Aggrieved
11 Employees and thus, warrants approval. *See Laguna v. Coverall N. Am., Inc.*, Case No. 12-
12 55479
13 (9th Cir. June 3, 2014) 2014 WL 2465049, * 3. The PAGA settlement and its terms are fair,
14 just,
15 reasonable, adequate, and equitable to Defendant, Plaintiff, and the State, especially in light of
16 the current economic climate and legal landscape with *Viking River*, and are the product of
17 good
18 faith, and informed arms-length negotiations between the Parties consistent with public policy
19 and fully comply with applicable provisions of law.

20 22. As such, the settlement of PAGA penalties in the gross sum of \$50,000.00, of
21 which 75% of the net amount after attorney's fees, attorney costs, and settlement administrator
22 fees (\$17,346.81) will be paid to the LWDA and 25% (\$5,782.27) will be distributed to the
23 Aggrieved Employees, is reasonable and appropriate under the circumstances.

24 *Attorneys' Fees and Costs*

25 23. I represent Plaintiff on a straight contingency basis. My firm's request for
26 \$16,650 in attorney fees and \$7,070.92 in litigation costs is fair and reasonable. "Empirical
27 studies show that, regardless of whether the percentage method or the lodestar method is used,
28

1 fee awards in class actions average around one-third of the recovery.

2 Chavez v. Netflix, Inc. (2008) 162 Cal.App.4th 43, 47 fn. 11 (quoting Shaw v. Toshiba America
3 Information Systems, Inc. (E.D. Tex. 2000) 91 F.Supp.2d 942, 972; *See also* Lafitte v. Robert
4 Half Int'l Inc. (Cal. Aug. 11, 2016) 1 Cal.5th 480, 503, 376 P.3d 672, 686 (holding that courts
5 can use the percentage method for the calculation of attorneys' fees). This is also consistent
6 with Plaintiff's Counsel's experience in cases involving PAGA claims. This award is justified
7 here because Plaintiff's counsel achieved a strong result for the Aggrieved Employees and the
8 State while bearing the substantial burdens of contingency representation.

9 24. The litigation costs expended to aid in the representation of the Aggrieved
10 Employees include the following : lawsuit filing fee of \$435.00, PAGA initial filing fee of
11 \$75.00, a mediation fee of \$5,150.00 (for Plaintiff's portion of the mediation); expert data
12 analysis fee of \$1000.00; jury fees of \$161.39; court connect fee of \$15.00; service of lawsuit
13 fee of \$110; misc. court filing fees including stipulations, notice of settlement, and PAGA
14 approval motion reservation of \$124.53. All of these costs are documented and reasonably
15 incurred.

16 ***Notice of Settlement to the LWDA***

17 25. Pursuant to Lab. Code § 2699(l)(2), Plaintiff submitted a copy of the Settlement
18 with the LWDA at the same time the Settlement is being filed with the Court. True and correct
19 copies of Plaintiff's submission with the LWDA and the confirmation email are collectively
20 attached as **Exhibit 3** to this declaration.

21 I declare under the penalty of perjury of the laws of the State of California that the
22 foregoing is true and correct to the best of my knowledge.

23 Executed on 8/11/2022, at Glendale, California.

24 
25 HAROUT MESSRELIAN,
26 Declarant

EXHIBIT

“1”



500 N. Central Avenue, Suite 840
Glendale, California 91203
Tel: (818) 484-6531
Fax: (818) 956-1983

VIA ELECTRONIC FILING

March 27, 2020

California Labor & Workforce Development Agency (LWDA)
Attn. PAGA Administrator
800 Capitol Mall, MIC-55
Sacramento, California 95814

VIA U.S. CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

SUN MAR NURSING CENTERS
c/o William Presnell
3050 Saturn St., Suite 201
Brea, CA 92821

SUN-MAR HEALTH CARE, INC.
c/o William Presnell
3050 Saturn St., Suite 201
Brea, CA 92821

COLLEGE VISTA, LLC
c/o Richard Russakoff
3050 Saturn St., Suite 201
Brea, CA 92821

COLLEGE VISTA POST-ACUTE
4681 N. Eagle Rock Blvd.
Los Angeles, CA 90041

MARICEL WATERS v. SUN MAR NURSING CENTERS; SUN-MAR HEALTH CARE, INC.; COLLEGE VISTA, LLC; COLLEGE VISTA POST-ACUTE

RE: PRIVATE ATTORNEYS GENERAL ACT

To Whom It May Concern:

Please be informed that our client, Ms. Maricel Waters (hereinafter "our client" or "Ms. Waters") seeks penalties on behalf of the State of California and all current and former non-exempt or hourly paid California employees ("aggrieved employees") who worked for SUN MAR NURSING CENTERS; SUN-MAR HEALTH CARE, INC.; COLLEGE VISTA, LLC; and COLLEGE VISTA POST-ACUTE (hereinafter collectively referred to as "COLLEGE VISTA") during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA"). The purpose of this letter is to comply with the



500 N. Central Avenue, Suite 840

Glendale, California 91203

Tel: (818) 484-6531

Fax: (818) 956-1983

statutory requirements of California Labor Code section 2699.3 and shall constitute notice of the same.

Ms. Waters started working for COLLEGE VISTA on or around late November 2019 as a Licensed Vocational Nurse (LVN). Her employment ended on or around March 25, 2020. Ms. Waters was considered an hourly, non-exempt employee.

It is our position that COLLEGE VISTA has violated the following Labor Code Sections against Ms. Waters and other similarly situated aggrieved employees:

COLLEGE VISTA did not provide Ms. Waters and other similarly situated aggrieved employees with the minimum wages to which they were entitled for work performed and as such did not compensate Ms. Waters and others for all hours worked at the minimum wage rate pursuant to California Labor Code sections 1194, 1197 and 1197.1. This is so because Ms. Waters and others would often perform work before clocking in and after clocking out as it was common practice for LVNs at the facility. Management was unequivocally aware of the latter and the fact that Ms. Waters and others were not being paid for all hours worked. Additionally, Ms. Waters and other similarly situated employees would have to "clock out" for a meal period on paper even though they were not relieved of all duty and did not in fact receive an uninterrupted, thirty-minute meal period. Management was unequivocally aware of the latter and the fact that Ms. Waters and others were not being paid for all hours worked. Ms. Waters and others were also not paid for all hours worked in violation of Labor Code Section 1194 and the applicable Industrial Welfare Commission Wage Order due to COLLEGE VISTA not paying proper shift differentials and rounding of the actual hours worked as a part of their business practice, which disproportionately affected the employees and resulted in less working hours and less pay.

Due to the "off the clock" work as alleged above, COLLEGE VISTA violated Labor Code §510 because it failed to pay our client and other similarly situated aggrieved employees overtime, even though they worked more than 8 hours per day, 12 hours per day and/or 40 hours per week throughout their employment. Ms. Waters' and others' actual work hours entitled them to overtime compensation (both daily and weekly), especially due to the "off the clock" as described above, however, they were not paid accurately and fully for their overtime hours worked. In addition, during her employment tenure, Ms. Waters worked a period of 13 days straight, but did not receive the proper compensation for working on the 7th consecutive day.

COLLEGE VISTA also violated Labor Code § 226.7 and the applicable Industrial Welfare Commission Wage Order because it failed to provide our client and others with 10-minute rest periods for every four hours of work, or majority portion thereof, throughout their employment. COLLEGE VISTA did not completely relieve our client and others of all duty during said rest periods. COLLEGE VISTA did not pay to our client and others one additional hour of pay at our client's regular rate of compensation for each workday that one or more statutory rest periods was not provided. It was not company policy and not part of the company culture for employees such as Ms. Waters and others to take rest breaks. They were understaffed and were responsible for taking care of too many patients. Moreover, Ms. Waters and others are not able to walk away from

patients in the middle of their care as they can't leave patients alone. As such, the culture at COLLEGE VISTA did not lend itself to the employees receiving statutory breaks wherein they were relieved of all work duties. It was the normal practice and custom of COLLEGE VISTA not to authorize, permit, and enforce statutory rest periods. As such, the work environment and culture at COLLEGE VISTA was not conducive to receiving statutory rest breaks under California law.

COLLEGE VISTA violated Labor Code §§ 512 and 226.7 along with the applicable Industrial Welfare Commission Wage Order because it failed to provide our client and others the requisite 30-minute, uninterrupted meal periods for every five (5) hours of work throughout their employment. COLLEGE VISTA did not completely relieve our client and others of all duty during said meal periods. COLLEGE VISTA did not pay to our client and others one additional hour of pay at our client's regular rate of compensation for each workday that one or more statutory meal periods was not provided. Furthermore, as alluded to above, and due to the understaffing and the enormous amount of work to be performed, it was common practice and standard for the hourly, non-exempt employees, including Ms. Waters and other similarly situated aggrieved employees to "clock out" for their meal periods and to resume working while "off the clock". Ms. Waters and others would try to then take meal breaks later and after the 5th hour worked. Management unequivocally knew that Ms. Waters and others were working "off the clock" and through their meal breaks and were not receiving timely, statutory meal periods, but only cared that it looked like there were no violations on paper in that Ms. Waters and others were shown clocking out for a meal period before the 5th hour worked. In addition, Ms. Waters was told that for her 11pm to 7am shifts, there were no breaks allowed whatsoever, including meal breaks and she and others did not take any breaks during those shifts. Moreover, Ms. Waters and others did not receive a second, timely, uninterrupted meal period if they worked shifts of 10 hours or more.

Furthermore, during the relevant time period, COLLEGE VISTA failed to pay Ms. Waters and others all wages due to them within any time period specified by California Labor Code section 204. COLLEGE VISTA was also in violation of California Labor Code section 226(a), by failing to include pertinent information on the wage statements, including but not limited to, all hours worked (minimum wages and overtime due to the "off the clock" work), gross wages earned, net wages earned, the correct legal name and address of the employing entity, the correct start and end of the pay period, all applicable hourly rates, and premium pay for the missed meal and rest breaks, among others. As such, COLLEGE VISTA did not provide our client and other similarly situated aggrieved employees with complete, accurate itemized wage statements.

During the relevant time period, COLLEGE VISTA also failed to keep accurate and complete payroll records showing the actual hours worked per day and the wages paid to Ms. Waters and others pursuant to California Labor Code sections 1174(d).

COLLEGE VISTA also violated Labor Code § 203 because it willfully failed to pay Ms. Waters and other similarly situated aggrieved employees earned and due wages upon separation of employment, either immediately upon involuntary termination, or within 72 hours of resignation. After our client's employment with COLLEGE VISTA ended, COLLEGE VISTA failed and refused to pay all wages earned and due upon separation. These earned but unpaid wages include minimum wages, overtime compensation, and premium pay for missed meal and rest breaks.



500 N. Central Avenue, Suite 840
Glendale, California 91203

Tel: (818) 484-6531

Fax: (818) 956-1983

Additionally, during the relevant time period, Ms. Waters and others incurred necessary, business-related expenses and costs that were not reimbursed by COLLEGE VISTA. These costs include, but are not limited to, use of personal cell phones for work purposes, as Ms. Waters and others would have to look up medications on their cell phones. Accordingly, COLLEGE VISTA was in violation of California Labor Code sections 2800 and 2802.

Moreover, COLLEGE VISTA also violated Labor Code sections 98.6 and 1102.5 in terminating Ms. Waters after she complained about not receiving proper overtime as well as statutory breaks as well as reporting illegal conduct at the workplace (other nurses falsifying medical records regarding providing medication to patient) and refusing to engage in illegal conduct (discarding medication without a witness and authoring a fraudulent statement regarding patient care)

Furthermore, we believe COLLEGE VISTA has also violated Labor Code Section 558 and has engaged in business practices which violate Business and Professions Code Section 17200.

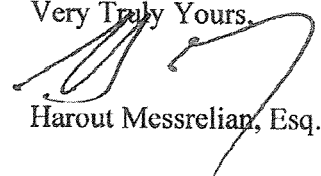
Each of the aforementioned violations, except the violations for inaccurate pay statements under Labor Code section 226(a), is among the enumerated serious violations set forth in Labor Code § 2699.5, for which there is no statutory right to cure.

Please take notice that, based upon the above-mentioned violations, and in addition to the penalties provided by those specific sections themselves, Ms. Waters also intends to seek penalties under the following Labor Code sections which themselves are inviolable but provide for recovery of penalties for violating one or more of the above-mentioned Labor Code sections: Labor Code §§ 558, 226.3, 1197.1.

Should your agency choose not to pursue this matter, this law office intends to vigorously prosecute the aforementioned Labor Code violations on its behalf and vindicate the rights of all employees who have been subjected to these same Labor Code violations by COLLEGE VISTA.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you in advance for your attention to this matter.

Very Truly Yours,



Harout Messrelian, Esq.

EXHIBIT

“2”

PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698 ET SEQ.)
SETTLEMENT AGREEMENT

Maricel Belonio Waters v. College Vista, LLC dba College Vista Post-Acute, et al.
Los Angeles Superior Court Case No. 20STCV23520

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the settlement of the above action shall be effectuated upon and subject to the following terms and conditions. Capitalized terms shall have the meanings set forth in Article I or elsewhere in this Private Attorneys General Act (Labor Code § 2698 *et seq.*) Settlement Agreement (“**Agreement**”).

This Agreement is made by and between Defendant College Vista, LLC dba College Vista Post-Acute (“**Defendant**”) and Plaintiff Maricel Belonio Waters (“**Plaintiff**”), for herself, individually, and on behalf of the State of California and other allegedly aggrieved employees (Defendant, Plaintiff, and Aggrieved Employees, as defined in this Agreement, are sometimes collectively referred to as the “**Parties**”).

The Parties agree that the Litigation shall be, and hereby is, ended, settled, resolved, and concluded by agreement of Defendant to pay the total gross sum of Fifty Thousand U.S. Dollars and no cents (\$50,000.00) (hereinafter referred to as the “**Settlement Sum**”) for settlement of Plaintiff’s Private Attorneys General Act (“**PAGA**”) claims for civil penalties, which shall be inclusive of Plaintiff’s Counsel’s attorneys’ fees and costs and the settlement administrator’s fees and costs.

Article I.

Definitions.

Section 1.01 Definitions.

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- (a) “**Aggrieved Employees**” means all non-exempt employees of College Vista, LLC dba College Vista Post-Acute employed in California at any time between April 18, 2019 and January 25, 2022.
- (b) “**Complaint**” means the operative complaint filed on or about June 22, 2020 in Los Angeles Superior Court, Case No. 20STCV23520.
- (c) “**Court**” means the Superior Court for the State of California, County of Los Angeles.

//

//

(d) **“Defense Counsel”** is:

Melissa T. Daugherty, Esq.
Andrew J. Sokolowski, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP
633 West 5th Street, Suite 4000
Los Angeles, C 90071
melissa.daugherty@lewisbrisbois.com
andrew.sokolowski@lewisbrisbois.com

(e) **“Effective Date”** means the date the Court enters a/an order(s): (1) approving the settlement of the PAGA penalties as described in this Agreement, and (2) dismissing the pending action with prejudice.

(f) **“Plaintiff’s Counsel”** is:

MESSRELIAN LAW INC.
Harout Messrelian, Esq.
500 N. Central Ave., Suite 840
Glendale, California 91203
hmessrelianlaw@gmail.com

(g) **“Release Period”** means the time period between April 18, 2019 and January 25, 2022.

(h) **“Released Claims”** means all claims for PAGA civil penalties that are alleged in the Complaint (including but not limited to unpaid minimum and overtime wages, failure to provide meal periods, failure to provide rest periods, failure to issue accurate and complete wage statements, failure to reimburse reasonably necessary business expenses, and failure to timely pay wages during employment and at separation) and all claims for PAGA penalties that could have been alleged in the Complaint based on the facts alleged therein, that arose during the Release Period.

(i) **“Released Parties”** means Defendant and its past, present, and future representatives, directors, officers, employees, agents, attorneys, affiliates, members and shareholders, as well as all parent companies, affiliated companies, subsidiary companies, affiliates, insurers, and/or assigns and/or any other individual or entity which could be liable for the claims raised in the Complaint. The term Released Parties specifically includes, but is not limited to, named co-defendants Sun-Mar Health Care, Inc. and Sun Mar Nursing Centers.

(j) **“Litigation” or “Action”** means the lawsuit brought by Plaintiff via the Complaint.

(k) **“Settlement Administrator”** means the third-party administrator agreed upon by Parties to administer this Settlement, Phoenix Class Action Administration Solutions.

Article II.

Background.

Section 2.01 Background.

- (a) On or about March 27, 2020, Plaintiff transmitted a letter to the Labor & Workforce Development Agency and Defendant in compliance with the exhaustion requirements of PAGA, articulating claims related to unpaid wages, unpaid overtime, meal and rest period violations, deficient wage statements, unreimbursed expenses, and late payment of final wages at separation of employment.
- (b) On June 22, 2020, Plaintiff filed the Complaint in the Superior Court of the State of California for the County of Los Angeles, entitled *Maricel Belonio Waters v. College Vista, LLC dba College Vista Post-Acute, et al.*, case number 20STCV23520. The Complaint asserted claims on behalf of the State of California and other aggrieved employees, as a PAGA action based on violations of Labor Code including §§ 201, 202, 203, 204, 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, and 2802.
- (c) During the course of the Litigation, the Parties engaged in formal and informal discovery and fully shared the information necessary for all sides to conduct a legitimate investigation into the allegations of the Litigation and potential defenses to Plaintiff's claims. The Parties have reached this Settlement only after discovery and investigation was performed.
- (d) Defendant disputes and denies any liability or wrongdoing of any kind associated with the claims alleged in the Complaint and/or the Litigation. Defendant contends, among other things, that it complied at all times with the local, state, and federal laws, and that the claims alleged in this matter are without merit. Further, Defendant denies that Plaintiff, individually and as a representative of the Aggrieved Employees, is owed any wages or penalties, as alleged, but does recognize that the Litigation will be protracted and expensive. As a result, Defendant has agreed to pay a reasonable amount in order to resolve this matter.
- (e) The Parties believe and agree that this Agreement provides a fair, adequate, and reasonable resolution of Plaintiff's PAGA claims after doing their own independent investigations and evaluations of the claims alleged in this matter. The Parties have taken into account the risk and uncertainty of the outcome inherent in any litigation.
- (f) This Settlement Agreement contemplates the entry of an order (a) approving the settlement of the PAGA penalties as described in this Agreement, and (b) dismissing the pending action with prejudice. The Parties agree that this Agreement shall be binding on Plaintiff individually, and all Aggrieved Employees once the Effective Date occurs, and that all Parties shall bear their own fees and costs, except as expressly stated herein.

Article III.

Approval and Implementation of Settlement.

Section 3.01 Cooperation.

The Parties will cooperate in obtaining through an unopposed motion an Order from the Court approving the payment of PAGA penalties as described in this Agreement at the earliest possible date. Plaintiff's Counsel shall request and be paid up to 33 1/3% of the Settlement Sum for attorneys' fees (i.e. \$16,650.00 based on a Settlement Sum of \$50,000.00) and a reasonable request for reimbursement of actual litigation costs (including filing fees and the cost of mediation) from the Settlement Sum, and Defendant will not oppose these requests. If Plaintiff's Counsel's requests for fees and costs are approved for lesser amounts than contemplated in this Agreement, the difference shall be added to the Employee Net Settlement Amount. The Parties agree to use their best efforts to expedite the preparation and submission of the settlement documents. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to, the approval and implementation of the payment of PAGA penalties as described in this Agreement.

Section 3.02 Court Approval.

The Parties will seek to obtain the Court's approval of the payment of PAGA penalties as described in this Agreement by way of a stipulation or motion to be filed by Plaintiff's counsel as soon as practicable following the execution date of this Agreement but no later than twenty (20) calendar days thereafter. Plaintiff's Counsel will jointly lodge this Agreement with the Court for its approval. The Court's approval of the payment of PAGA penalties as described in this Agreement shall be embodied in a written order. Should the Court not grant approval of the payment of PAGA penalties as described in this Agreement, or should the Effective Date not occur for any reason, then the entirety of this Agreement shall be null and void.

Section 3.03 Settlement Administration.

For the purposes of this Settlement, the Parties stipulate and agree that Phoenix Class Action Administration Solutions shall be retained to serve as Settlement Administrator and shall administer the Settlement Sum under this Agreement pursuant to the terms outlined below.

Section 3.04 Notice to Aggrieved Employees.

(a) Notice to Aggrieved Employees.

Notice shall be provided to the Aggrieved Employees in the following manner:

- (1) No later than ten (10) calendar days after the Effective Date, Defendant shall confidentially provide the settlement administrator with a list of all Aggrieved Employees ("Aggrieved Employees List"). The Aggrieved Employees List shall state the first name

and last name for each Aggrieved Employee, the last known address for each Aggrieved Employee, each Aggrieved Employee's social security number, and the number of pay periods worked by each Aggrieved Employee during the Release Period. The Settlement Administrator shall run all the addresses provided by Defendant through the United States Postal Service NCOA database (which provides updated addresses for any individual who has moved in the previous four years who has notified the U.S. Postal Service of a forwarding address) to verify and/or obtain current address information.

- (2) No later than thirty (30) calendar days after the Effective Date, the settlement administrator shall mail the Notice of PAGA Settlement (attached hereto as Exhibit "A") to all Aggrieved Employees, together with their settlement checks, by first-class United States mail, postage prepaid, to the last known address of each recipient with directions to the Postmaster to forward the Notice of PAGA Settlement and return all undeliverable Notices to the settlement administrator. For each Notice of PAGA Settlement that is returned as undeliverable, the settlement administrator shall promptly attempt to locate the Aggrieved Employee by using an address refresher database. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address and/or Social Security number of the Aggrieved Employee involved and will then perform a single re-mailing.
- (3) All costs incurred by the settlement administrator in connection with the administration of this settlement, including mailing of the Notice of PAGA Settlement described herein, whether foreseen or not, shall be paid out of the Settlement Sum. These costs shall not exceed \$3,150.00; to the extent they fall below this amount, they shall be added to the amount distributable to the Aggrieved Employees and the LWDA.

Section 3.05 Settlement Payment Procedures.

(a) Deposit of Settlement Sum with Settlement Administrator

Defendant shall pay as the Settlement Sum the total gross amount of Fifty Thousand Dollars and zero cents (\$50,000.00) in full and final Settlement of this matter. Defendant shall pay the Settlement Sum to the Settlement Administrator, Phoenix Class Action Administration Solutions, within thirty (30) days of the Effective Date.

The Settlement Sum shall be deposited into a Qualified Settlement Fund ("QSF") within the meaning of Section 468B-1 of the United States Treasury Regulations. The Settlement Administrator shall be responsible for arranging for the establishment of a QSF in order to effectuate the disbursement of the Settlement Sum to the State of California Labor and Workforce Development Agency, to Aggrieved Employees, and to Plaintiff's Counsel in the manner and within the times periods described herein. No disbursements shall be made from the QSF unless and until the Effective Date first occurs.

//

//

(b) Payment of PAGA Penalties.

The total sum available for payment of PAGA penalties shall be calculated by deducting Plaintiff's Counsel's fees and actual litigation costs and the costs of administration referenced in Section 3.04(a)(3) above (no more than \$3,150.00 from the Settlement Sum (this will yield the "Net Settlement Amount").

Seventy-five percent (75%) of the Net Settlement Amount shall be paid to the LWDA; the remaining twenty-five percent (25%) of the Net Settlement Amount (the "Employee Net Settlement Amount") shall be paid to Aggrieved Employees pro rata based on the number of pay periods worked during the Release Period. There are 260 Aggrieved Employees and 6,842.21 total pay periods covered by the Release Period. Each Aggrieved Employee's share of the Employee Net Settlement Amount shall be calculated by dividing the number of pay periods that employee worked during the Release Period by 6,842.12 and multiplying the result by the Employee Net Settlement Amount. 100% of the PAGA payments are considered penalties and will not be subject to local, state, or federal tax withholdings. All Aggrieved Employees who cash their settlement check may receive an IRS Form 1099 for their portion of the settlement, if deemed required by the settlement administrator (in compliance with IRS guidelines).

The settlement checks issued to Aggrieved Employees shall remain valid for one hundred eighty (180) days after issuance. Thereafter, all uncashed checks shall be transmitted to the State of California Controller's Office – Unclaimed Property Fund, to be held in the names of the respective Aggrieved Employees.

(c) Tax Treatment of Settlement Sum.

The Settlement Administrator shall be responsible for preparing and issuing all necessary IRS Form 1099s, including to Plaintiff's Counsel, who shall assume full responsibility and liability for the payment of taxes due on the payments to Plaintiff's Counsel. Aggrieved Employees are solely responsible for all appropriate taxes due and any penalties assessed on any and all amounts paid to them under this Agreement. Aggrieved Employees assume full responsibility and liability for the payment of taxes due on their individual shares of the Settlement Sum. Nothing in this Settlement is intended to constitute legal or tax advice regarding local, state, or federal tax obligations and the parties make no representations or warranties with respect to the tax consequences of any payment under this Agreement.

(d) Attorneys' Fees and Costs, Settlement Administration Expenses, and LWDA Payment

Within ten (10) calendar days of receipt of the payment of the Settlement Sum, the Settlement Administrator shall pay to Plaintiff's Counsel its awarded attorney's fees and costs, to itself the administration fees incurred, not to exceed \$3,150.00, and to the LWDA its full share of the Net Settlement Amount.

//

//

(e) Settlement Administrator Declaration of Compliance.

The Settlement Administrator will send a declaration to Plaintiff's Counsel attesting to the disbursement of the Settlement Sum no later than 240 days after the Effective Date, after the check cashing deadline has passed. If the Court so requires, Plaintiff's Counsel shall file the declaration with the Court within ten (10) calendar days of its receipt from the Settlement Administrator.

Article IV.

Limitations On Use Of This Settlement.

Section 4.01 No Admission.

This Agreement and compliance with this Agreement shall not be construed as an admission by Defendant of any liability whatsoever, or as admission by Defendant of any violations of Plaintiff's or the Aggrieved Employees' rights, violation of any order, law, statute, duty or contract whatsoever. Defendant specifically disclaims any liability to Plaintiff, the Aggrieved Employees, or any other allegedly aggrieved employee for any alleged violation of his/her rights, or for any alleged violation of any order, law, statute, duty or contract.

Section 4.02 Non-Evidentiary Use.

Neither this Agreement nor any of its terms shall be offered or used as evidence by any of the Parties, or their counsel in the Litigation, or in any other action or proceeding; provided, however, this shall not prevent this Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize this Agreement, or to establish that the Released Claims are extinguished.

Section 4.03 Nullification.

Payment of the Settlement Sum is conditioned on the Court's approval of this Agreement. To comply with the requirements of Lab. Code Section 2699(l), Plaintiff shall prepare and submit, after Defendant's approval, a Stipulation or Motion to Approve Settlement Pursuant to the Private Attorneys General Act, together with a supporting declaration, within the time frames required by this Agreement. However:

- (a) If the Court should for any reason fail to approve the payment of PAGA penalties as described in this Agreement, or refuse to dismiss the Action with prejudice, then the Parties shall request leave and work jointly to attempt to revise the Agreement consistent with the Court's expressed concerns, if any, in order to obtain the Court's approval. In the event that the Court does not finally approve the settlement and dismiss the Action with prejudice: (a) this Agreement shall be considered null and void, (b) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect, and (c) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court.

- (b) Invalidation of any material portion of this Agreement shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

Article V.

Release and Waiver of Claims.

Section 5.01 Release by Aggrieved Employees.

Upon the Effective Date, and subject to Defendant's full payment of the Settlement Sum, Plaintiff, all Aggrieved Employees, and the State of California shall be deemed to have fully, finally, and forever released, relinquished, and discharged each and all of the Released Parties from the Released Claims.

The Released Claims do not include any underlying individual claims or causes of action that aggrieved employees may have, and relief that they may seek, against Released Parties with respect to violations of the California Labor Code.

Article VI.

Miscellaneous Provisions.

Section 6.01 Notice, Default, Cure, and Enforcement.

If Defendant fails to pay the Settlement Sum on the date due as set forth in the Agreement, it shall be in default of its obligations under this Agreement. Plaintiff shall e-mail notice of the default to Defense Counsel at the e-mail addresses listed in paragraph 1.01(d) above. Defendant will then have ten (10) days from the date notice is e-mailed to cure the default. If payment is not made within that time, Plaintiff may thereafter move the Court to enforce the judgment contemplated herein, pursuant to Code of Civil Procedure section 664.6 and all other applicable law.

Section 6.02 Voluntariness.

This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of any of the Parties, or of any other person, firm or other entity. All Parties acknowledge that they had the opportunity to consult with legal counsel prior to entering into this Agreement.

Section 6.03 No Other Actions.

Other than the Complaint pending in this Litigation and the related notices filed with the LWDA as well as Plaintiff's individual claims in Arbitration, Plaintiff represents that she has not filed any complaints, claims, or actions against Defendant or the other co-defendants named in the Complaint with any court or administrative agency. If any agency or court has or assumes jurisdiction of any complaint, claim, or action against Defendant or any named co-defendants on

behalf of Plaintiff, the Plaintiff will request that agency or court to withdraw from or dismiss the matter.

Section 6.04 Amendments.

The terms and provisions of this Agreement may be amended only by a written agreement that is both (a) signed by the Plaintiff and Defendant and (b) approved by the Court if necessary. Any waiver of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement unless expressly so indicated otherwise.

Section 6.05 Assignment.

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Aggrieved Employee, Plaintiff's Counsel, or Defense Counsel without the express written consent of each other Party and their respective counsel. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement, and shall not be construed to confer any right or to avail any remedy to any other person. Plaintiff expressly warrants that she has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

Section 6.06 Governing Law.

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California.

Section 6.07 Entire Agreement.

This Agreement contains the entire understanding of the Parties with respect of the subject matter of the Agreement. This Agreement supersedes all prior agreements and understandings among the Parties with respect to the settlement of the Litigation.

Section 6.08 Counterparts.

This Agreement, and any amendments, may be executed in any number of counterparts and any Party and/or their respective counsel hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

Section 6.10 Necessary Acts.

The Parties agree to perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

//

Section 6.11 Electronic Imaging and Signature.

The Parties intend to allow for the electronic imaging and storage of this Agreement, and the admissibility into evidence of such an image in lieu of the original paper version of this Agreement. The Parties stipulate that any computer printout of any such image of this Agreement shall be considered to be an “original” under the applicable court or arbitral rules of evidence when maintained in the normal course of business and shall be admissible as between the Parties to the same extent and under the same conditions as other business records maintained in paper or hard copy form. The Parties further warrant that all DocuSign and/or SignRequest signatures were authorized by the Parties to this Agreement and carry the same weight and legal effect as any wet ink signatures. Any party using DocuSign and/or SignRequest waives any claim that the signature affixed to their name is not authentic for purposes of approval and authorization in the understanding or execution of this Agreement. The Parties agree not to contest, in any proceeding involving the parties in any judicial or other forum, the admissibility, validity, or enforceability of any image of this Agreement because of the fact that such image was stored or handled in electronic form. The Parties agree to allow the use of DocuSign and/or SignRequest, an electronic signature technology, to expedite the execution of this Agreement pursuant to California Civil Code Section 1633.7. Electronic signatures shall be deemed originals.

Section 6.12 Attorneys’ Fees and Costs.

Except as expressly provided herein, Defendant and Plaintiff shall all bear their own attorney’s fees and costs in connection with the Litigation and the negotiation and execution of this Agreement (other than those included in the Settlement Sum or as otherwise provided in this Agreement).

Section 6.13. Ambiguity.

In the event of an ambiguity under this Agreement, such ambiguity shall not be construed against either Party, as this Agreement has been negotiated at arm’s length between the Parties and the Parties have sought and been advised by counsel.

Section 6.14 Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, the Parties agree to submit any such dispute(s) to the Court. To the extent any Party seeks to enforce any of the terms of this Agreement in Court or before the Court, the prevailing party shall be entitled to recover reasonable attorneys’ fees and costs.

Section 6.15 Binding.

This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.

//

Section 6.16 Continuing Jurisdiction.

The Parties agree that upon the occurrence of the entry of judgment in this case pursuant to the terms of this Agreement, this Agreement shall be enforceable by the Court pursuant to Code of Civil Procedure Section 664.6 and all other applicable law, and the Court shall retain exclusive and continuing equity jurisdiction of this Action over all Parties and Aggrieved Employees to interpret and enforce the terms, conditions and obligation of the Agreement.

Section 6.17 Successors and Assigns.

The provisions of this Agreement shall be binding upon and inure to the benefit of the respective Parties and their heirs, executors, administrators, agents, representatives, successors, and assigns.

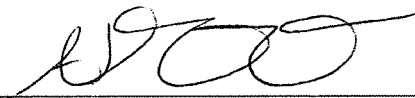
Section 6.18 Waiver of Right to Appeal.

Provided that the Court's approval of this Settlement is consistent with the material terms of this Agreement, Plaintiff, Defendant, and their respective counsel hereby waive any and all rights to appeal the approval of the settlement, and the Order therefore will become non-appealable at the time it is entered.

IN WITNESS WHEREOF, the Parties have executed this Private Attorneys General Act Settlement Agreement on the date set forth.

APPROVED AND ACCEPTED.

Dated: 06/01, 2022

By 
College Vista, LLC

Dated: Jul 20, 2022, 2022

By 
Maricel Waters (Jul 20, 2022 12:59 PDT)
Maricel Belonio Waters

Waters -- PAGA Settlement Agreement (2022 07 08)

Final Audit Report

2022-07-20

Created:	2022-07-20
By:	Harout Messrelian (hm@messrelianlaw.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA_c2k9uO1MRfjeSFy6xjgC8va0PUYh4DU

"Waters -- PAGA Settlement Agreement (2022 07 08)" History



Document created by Harout Messrelian (hm@messrelianlaw.com)

2022-07-20 - 7:42:40 PM GMT- IP address: 104.62.31.253



Document emailed to maricelsbel@gmail.com for signature

2022-07-20 - 7:43:07 PM GMT



Email viewed by maricelsbel@gmail.com

2022-07-20 - 7:57:56 PM GMT- IP address: 172.226.184.127



Document e-signed by Maricel Waters (maricelsbel@gmail.com)

Signature Date: 2022-07-20 - 7:59:02 PM GMT - Time Source: server- IP address: 174.193.198.173



Agreement completed.

2022-07-20 - 7:59:02 PM GMT



Adobe Acrobat Sign

EXHIBIT

“3”