

PAGA SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement Agreement”) is made and entered into between Plaintiff Theresa Ann Smith (“Plaintiff”), acting in her individual capacity and in a private attorney general capacity, and Defendant Centered Health, LLC. (“Defendant”).

I. DEFINITIONS

The following terms, when used in this Settlement Agreement, shall have the following meanings:

1. “Action” means the action originally entitled *Theresa Ann Smith v. Centered Health, LLC.*, Case No. 20STCV10736 and any amendments thereto.
2. “Aggrieved Employees” means all individuals who worked as independent contractor Collectors at Centered Health at the same time as Plaintiff. Aggrieved Employees includes the Plaintiff.
3. “Court” means the Superior Court of California, County of Los Angeles.
4. “Defendant” means Centered Health, LLC.
5. “Individual PAGA Payment” means the amount to be paid to each of the Aggrieved Employees out of 25% of the PAGA Payment under Labor Code section 2699 with such individual shares to be based on the number of workweeks during which an Aggrieved Employee worked for Defendant during the PAGA Period divided by the total number of workweeks worked by all Aggrieved Employees during the PAGA Period.
6. “Individual Settlement Payment” means the amount paid to Plaintiff in exchange for a settlement of her individual claims as provided for in a separately executed Individual Settlement Agreement. The Individual Settlement Payment is in addition to Ms. Smith’s share of the PAGA Payment as an Aggrieved Employee.
7. “LWDA” means the California Labor Workforce Development Agency.
8. “Gross PAGA Settlement Amount” means the total sum of one thousand dollars (\$1,000) for payment of the PAGA Payment and administration of the PAGA Payment. The Gross PAGA Settlement Amount shall be all-in with no reversion to Defendant. In no event shall defendant pay more than the Gross Settlement Amount.
9. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698 *et seq.*
10. “PAGA Approval Date” means the date that the Court signs the Order Approving PAGA Settlement.

11. "PAGA Payment" means the total amount remaining in the Gross PAGA Settlement Amount after payment Administration Costs. Of the PAGA Payment, 75% of the PAGA Payment shall go to the LWDA and 25% of the PAGA Payment shall go to the Aggrieved Employees. The Aggrieved Employees will be issued a form 1099 for their PAGA payments.

12. "PAGA Period" means the time period from December 1, 2019 through the PAGA Approval Date.

13. "Parties" means Plaintiff Theresa Anna Smith and Defendant Centered Health, LLC.

14. "Plaintiff's Counsel" means Shiraz Simonian of Simonian & Simonian, PLC.

15. "Defendant's Counsel" means Tom Wiseman of Gordon Rees Scully Mansukhani, LLP.

16. "Released Parties" means Defendant, including past, present, and future divisions, affiliates, parents, subsidiaries, predecessors, successors, assigns, shareholders, owners, officers, directors, employees, agents, trustees, attorneys, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, and privies.

17. "Settlement Administrator" means Defendant's Counsel.

II. RECITALS

1. Plaintiff was hired by Defendant as a Collector during the PAGA Period.

2. On March 17, 2019, Plaintiff Theresa Ann Smith filed a complaint in state court which asserted eight causes of action for individual claims for Wrongful Termination on Violation of Public Policy and Labor Code violations.

3. On March 9, 2020, Plaintiff submitted a letter to the LWDA seeking authority to pursue PAGA penalties on behalf of herself and aggrieved employees.

4. On October 6, 2020, Plaintiff filed a First Amended Complaint adding a cause of action under PAGA.

5. On November 12, 2020, Defendant filed a general denial and asserted affirmative defenses to the First Amended Complaint.

6. The Parties have agreed to fully and finally resolve the PAGA Released Claims as to Plaintiff and the Aggrieved Employees pursuant to this Settlement Agreement and Plaintiff's individual claims as provided for in a separately executed Individual Settlement Agreement.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. Non-Admission. Nothing in this Settlement Agreement shall be construed to be an admission by Plaintiff that her claims do not have merit or by Defendant of any liability or wrongdoing as to Plaintiff, the Aggrieved Employees, or any other person, and Defendant specifically disclaims any such liability or wrongdoing. The Parties have entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. This Settlement Agreement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

2. Within fifteen (15) days after the Effective Date of this settlement, Defendant shall pay to the Settlement Administrator \$1,000 as the Gross PAGA Settlement Amount. The Effective Date of this settlement is the date on which the Court's order approving the PAGA settlement ("Order") is entered. .

3. Defendant estimates that there are three (3) Aggrieved Employees including Plaintiff.

4. The Parties agree to the following allocations to be paid from the Gross Settlement Amount:

a. PAGA Payment: The PAGA Payment is the total of the Gross PAGA Settlement Amount less the payment for the Administration Costs which shall be paid in settlement of the PAGA Released Claims. The PAGA Payment will be subject to Court approval consistent with Labor Code § 2699.

b. Upon approval, the PAGA Payment shall be distributed as follows:

- (1) 75% of this amount being paid to the LWDA; and
- (2) 25% of this amount being paid to the Aggrieved Employees. Each Individual PAGA Payment shall be based on the number of workweeks each Aggrieved Employee worked during the PAGA Period as a percentage of the total workweeks worked by all Aggrieved Employees during the PAGA Period. This amount shall constitute resolution of all remedies available under Labor Code section 2699, and preclude pursuit by Aggrieved Employees of any claims for remedies available under Labor Code section 2699. These penalty settlement payments will be reported on IRS Form 1099s as penalties and interest. The Parties acknowledge and agree that all payments under this Settlement Agreement are attributable as penalties. Accordingly, the parties acknowledge and agree that Defendant is not responsible

for any employer-side taxes in connection with any PAGA payments under this Settlement Agreement.

c. Administration Costs: Defendant's Counsel shall administer the PAGA settlement.

d. Representative PAGA Release. In her capacity as a private attorney general "aggrieved employee" acting on behalf of herself, the State of California and the Aggrieved Employees, and in consideration of the PAGA Payment Plaintiff hereby releases Defendant and the Released Parties from any and all PAGA Released Claims that arose during the PAGA Period.

5. PAGA Released Claims. Upon the Effective Date, the Defendant shall be entitled to a release of all PAGA claims alleged in the First Amended Complaint and those which Plaintiff was authorized to pursue by the Labor and Workforce Development Agency which occurred during the PAGA Period. The release excludes claims wrongful termination, unemployment insurance, disability, and workers' compensation, and claims outside of the PAGA Period. **In no event shall the PAGA Released Claims in this Settlement Agreement release any class claims or release any individual claims other than Plaintiffs' Individual Released Claims as provided for in a separately executed Individual Settlement Agreement.**

6. Covenants and Representations by Plaintiff

a. Plaintiff represents and warrants that she has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement Agreement.

b. Plaintiff acknowledges that she has read this Settlement Agreement, that she fully understands her rights, privileges and duties under the Settlement Agreement, and enter into this Settlement Agreement freely and voluntarily. Plaintiff further acknowledges that she has had the opportunity to consult with her attorneys to explain the terms of this Settlement Agreement and the consequences of signing this Settlement Agreement.

7. No Publicity. Neither Plaintiff nor Plaintiff's Counsel shall issue a press release, hold a press conference, or otherwise publicize the settlement other than in documents submitted to the Court.

8. Stipulation for Approval of the PAGA Payment. Subject to Defendant's review and approval prior to filing, Plaintiff's Counsel shall be responsible for preparing and filing a Joint Stipulation for Approval of the PAGA Payment with a proposed order ("Stipulation"). Plaintiff's Counsel will provide Defendant's counsel with an opportunity to propose revisions to that Stipulation before it is filed. This Stipulation shall also be served on the LWDA when filed with the Court. Should either Party receive notification from the Court that a noticed motion is required instead of a stipulation, Plaintiff's Counsel shall prepare and file a Motion for Approval of the PAGA Payment with a proposed order in the same manner discussed in this paragraph.

Upon the filing of the Stipulation or Motion (if necessary) for final approval of the Settlement in the manner described in paragraph 8, the Parties will submit a proposed Order in a mutually agreeable form:

- (a) Approving the Settlement and adjudging the terms thereof;
- (b) Approving the PAGA Payment to the LWDA;
- (c) Permanently enjoining all Aggrieved Employees from prosecuting against the Released Parties any and all PAGA Released Claims (as defined in ¶ 5); and
- (d) Permanently enjoining the Plaintiffs from prosecuting against the Released Parties any and all of the Individual Released Claims (as defined in ¶¶ 6, 7).

9. Court Approval of the PAGA Payment. The settlement is contingent upon the approval of the PAGA Payment by the Court. If the Court should fail to approve this settlement in the form agreed to by the Parties, the Parties agree to coordinate efforts to address the Court's questions or concerns. If after the Parties make at least three (3) good faith efforts, the Court does not approve this settlement, or if appellate review is sought and on such review the Court's decision is materially modified or reversed, or if one or more of the material terms of the Settlement Agreement are not approved or is materially modified or reversed or found to be invalid and the Parties in good faith do not believe that it would be possible to make non-material modifications that would address any concerns raised by the Court, then each of the Parties by and through Counsel shall have the right within ten (10) days of written notice thereof to elect to terminate the Settlement Agreement, in which event it shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement Agreement.

IV. ADMINISTRATION OF SETTLEMENT

1. After the execution of this Settlement Agreement, Plaintiff shall file the Stipulation (or Motion if necessary) and will submit the Stipulation (or Motion) and serve this Settlement Agreement on the LWDA consistent with Labor Code § 2699(1)(2).

2. Defendant's Counsel will administer the settlement. Defendant will provide the necessary information about the Aggrieved Employees to the Settlement Administrator within 15 days of PAGA Approval Date. The Settlement Administrator shall, amongst other obligations, be responsible for calculating and paying the Individual Settlement Payments as required under this Settlement Agreement and applicable law; providing a due diligence declaration for the Court if required; mailing payments to Aggrieved Employees and the portion of the PAGA Payment allocated to the California Labor & Workforce Development Agency; printing and providing Plaintiffs, allegedly aggrieved employees, and PAGA Counsel with IRS Forms 1099 as required under this Settlement Agreement and applicable law; and for such other tasks as the Parties mutually agree. The Parties agree to cooperate in the Settlement administration process and to make all reasonable efforts to control and minimize Settlement Administration Expenses. The Parties each represent they do not have any financial interest in the Settlement Administrator

or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

3. Within fifteen (15) days after receipt of the Gross Settlement Amount from Defendant, the Settlement Administrator will issue to each Aggrieved Employee a check for their Individual PAGA Payment at their last known home address. Checks will remain negotiable for one hundred eighty (180) days. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. 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 or Social Security number of the Aggrieved Employee involved, and will then perform a single re-mailing. Funds represented by settlement checks returned as undeliverable and those settlement checks remaining un-cashed for more than 180 days after issuance shall be paid to the Department of Industrial Relations Unpaid Wage Fund in the name and for the benefit of the Aggrieved Employee.

4. Within fifteen (15) days after receipt of the Gross Settlement Amount from Defendant, the Settlement Administrator will pay the Administration Costs and the portion of the PAGA Payment allocated to the LWDA from the Gross Settlement Amount.

5. The Settlement Administrator will provide an accounting under oath to the parties of the amounts paid out.

6. Defendant makes no representations or warranties with respect to tax consequences of any payment under this Settlement Agreement.

V. MISCELLANEOUS PROVISIONS

1. Drafting. The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Party shall be considered the "drafter" of this Settlement Agreement for purposes of having terms construed against that Party.

2. No Impact on Benefit Plans. Neither the Settlement Agreement nor any amounts paid to Plaintiff or any Aggrieved Employee under the Settlement Agreement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Defendant's sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement Agreement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of Defendant's benefit plans, policy, or bonus program. Defendant retains the right, if necessary, to modify the language of its benefit plans, policies and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement Agreement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and

bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement Agreement.

3. Successors. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

4. Costs and Fees. The Parties shall each bear their own costs, attorneys' fees, mediator fees, and other fees incurred in connection with this Settlement Agreement and in connection with the Action and Plaintiff's claims, except as otherwise set forth specifically herein and in the separately executed Individual Settlement Agreement.

5. Authority. Defendant represents and warrants that the undersigned has the authority to act on behalf of Defendant and to bind Defendant to the terms of this Settlement Agreement. Plaintiff represents and warrants that she has the capacity to act on her own behalf and on behalf of all who might claim through them to bind them to the terms and conditions of this Settlement Agreement.

6. Governing Law. This Settlement Agreement shall be construed under and governed by the laws of the State of California. This Settlement Agreement shall be deemed to have been entered into in Los Angeles, California and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the parties to this Settlement Agreement shall be governed by California law. If any legal or equitable action or arbitration is necessary to enforce the terms of this Settlement Agreement, it shall be brought in the State of California, County of Los Angeles.

7. Complete Agreement. The Parties each acknowledge and represent that no promise or representation not contained in this Settlement Agreement has been made to them and acknowledge and represent that this Settlement Agreement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the claims. This Settlement Agreement cannot be amended or modified except by a writing signed by the Parties hereto or their successors-in-interest.

8. Nullification of Settlement Agreement. In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions.

9. Judgment and Continued Jurisdiction. After approval of this settlement, the Court in the Action will have continuing jurisdiction pursuant to California Code of Civil Procedure section 664.6 solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement.

10. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this

Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their Counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the mediator to resolve such disagreement.

11. Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including electronic, facsimile, and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

12. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

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

14. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

15. Severability. If any term or provision of this Settlement Agreement is held to be invalid or unenforceable, the remaining portions of this Settlement Agreement will continue to be valid and will be performed, construed, and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the parties, as determined from the face of the Settlement Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

16. Integration. This Settlement contains the entire agreement between the Parties relating to the resolution of the PAGA claim. The Parties separately executed an Individual Settlement as to Plaintiff's individual claims against Defendant. Except for this individual settlement agreement, all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged in this Stipulation.

17. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

18. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed in full.

19. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement and receive approval from the Court.

20. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

21. **Denial of Liability.** The Parties expressly recognize that the making of this Settlement Agreement does not in any way constitute an admission or concession of wrongdoing on the part of Defendant or an admission or concession regarding the validity of Plaintiffs' claims by Plaintiffs. Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of this Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation or lack of violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Settlement Agreement may be used in any proceeding in the Court that has as its purpose the interpretation, implementation, or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith.

22. **No Admission of Liability or Wrongdoing by Defendant.** Defendant contends that all of its employees were compensated in compliance with the law, and that its conduct was not willful with respect to any alleged failure to pay any wages or penalties. Defendant has denied, and continues to deny, each of the claims and contentions alleged by the Plaintiffs in this Action. Defendant has asserted and continues to assert defenses thereto, and has expressly denied and continues to deny any wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Action. Neither this settlement, nor any action taken to carry out the terms of this settlement, shall ever be construed as, offered, admitted, received or deemed to be evidence in any civil, criminal, administrative, or other proceeding against Defendant or any of the Released Parties, or may be used as an admission, concession, or indication by or against Defendant of any

fault, wrongdoing, or liability whatsoever.

23. Non-Disparagement. Plaintiff agrees that she will not intentionally defame or disparage Defendant, its parents, subsidiaries, affiliate and/or related entities which are owned or operated by Defendant, or any past or present officers, directors or employees and will not say or publish anything with intent to damage or impair in any way the business organization, goodwill, and reputation of Defendant or any of its parents, subsidiaries, affiliate and/or related entities which are owned or operated by Defendant.

24. Waiver of Right to Appeal. Provided that the Order Approving Settlement is consistent with the terms and conditions of the parties' settlement agreement, Plaintiff, Aggrieved Employees, the LWDA, and Defendant, inclusive, hereby waive any and all rights to appeal in connection with any issue in the Order Approving Settlement, including, but not limited to, all rights to any post-judgment proceeding and/or appellate proceeding, such as a motion to vacate or set-aside judgment, a motion for new trial, and any extraordinary writ, and the Order Approving Settlement will become final and non-appealable at the time it is entered.

25. Disputes. Any dispute between the Parties as to the remaining terms of the settlement agreement shall be presented to the mediator for resolution.

IN WITNESS THEREOF, the Parties each acknowledge that he/it has read the foregoing Settlement Agreement, accepts and agrees to the provisions contained in this Settlement Agreement and hereby executes it voluntarily and with full understanding of its consequences.

Dated: Jul 2, 2021

THERESA SMITH
THERESA SMITH (Jul 2, 2021 11:59 PDT)

THERESA ANN SMITH

Dated: July 9, 2021 | 11:01 AM PDT

DocuSigned By: Nuchie Schapiro
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CENTERED HEALTH, LLC

By: Nuchie Schapiro
Its: Director of Operations