

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

Leonard Pascua v. Legend Home Health, Inc.
Los Angeles County Superior Court
Case Number 20TRCV00439

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the settlement of this action with respect to all claims brought in a representative capacity pursuant to the Private Attorneys General Act ("PAGA") (Labor Code § 2698 *et seq.*) shall be effectuated upon and subject to the following terms and conditions. Capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this PAGA Settlement Agreement ("Agreement").

This Agreement is made by and between Defendant Legend Home Health, Inc. ("Defendant") and Plaintiff Leonard Pascua ("Plaintiff"), on behalf of himself, Aggrieved Employees (defined below), and on behalf of the State of California. (Defendant, Plaintiff and Aggrieved Employees, as defined herein, are sometimes collectively referred to as the "Parties.") This Agreement is subject to Court approval and shall be effective, as defined below.

The Parties agree that all representative claims brought pursuant to PAGA in Los Angeles County Superior Court case number 20TRCV00439 (the "Litigation" or "Action") shall be, and hereby are, ended, settled, resolved, and concluded by agreement of Defendant to pay the sum of One Hundred Thirty-Eight Thousand Dollars (\$138,000.00) (hereinafter referred to as the "Gross Settlement Amount") for settlement of the PAGA claims and penalties sought in the Litigation, which shall be inclusive of Plaintiff's Counsel attorneys' fees and costs in connection with this Agreement and a general release payment to Plaintiff Pascua. The Parties further agree that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission of liability.

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 current and former non-exempt employees who worked for Defendant as a piece-rate compensated field nurse in California at any time from April 10, 2019 through October 8, 2021. Defendant represents that the total number of Aggrieved Employees is no more than 200 individuals who worked no more than 1,260 pay periods during the PAGA Period.
- (b) "Complaint" means the Complaint filed by Plaintiff on or about June 24, 2020 which asserts claims under PAGA predicated on underlying violations of Labor Code §§ 201, 202, 226(a), 226.3, 226.7, 510, 512, 558, 1194, and 2802.

(c) "Court" means the Superior Court for the State of California, County of Los Angeles.

(d) "Defense Counsel" or "Counsel for Defendant" is:

Alfred J. Landegger, Esq.
Marie D. Davis, Esq.
Evelyn Zarraga, Esq.
LANDEGGER VERANO & DAVIS, ALC
15760 Ventura Blvd., Suite 1200
Encino, CA 91436

(e) "Effective Date" means the date by which all the following have occurred: (1) the Parties have fully executed this Agreement, and (2) the Court approves the settlement of the PAGA penalties as described in this Agreement and dismisses the Action with prejudice.

(f) "Plaintiff's Counsel" is:

Alex P. Katofsky, Esq.
Daniel F. Gaines, Esq.
GAINES & GAINES, APLC
27200 Agoura Road, Suite 101
Calabasas, California 91301

(g) "PAGA Period" means the time period from April 10, 2019 through October 8, 2021.

(h) "Settlement Administrator" means the third-party settlement administrator ILYM Group, Inc. for administration of this settlement following Court approval.

Article II.

Background.

Section 2.01 Background.

- (a) On June 24, 2020, Plaintiff Pascua filed a complaint in the Superior Court of the State of California for the County of Los Angeles styled, *Leonard Pascua v. Legend Home Health, Inc.*, Case No. 20TRCV00439. The Complaint alleges as a single representative cause of action on behalf of Plaintiff, the State of California and other Aggrieved Employees pursuant to the Private Attorneys General Act of 2004 (Cal. Labor Code § 2698 *et seq.*) based on alleged violations of Labor Code §§ 201, 202, 226(a), 226.3, 226.7, 510, 512, 558, 1194, 2802 and IWC Wage Order 5-2001, premised on Defendant's alleged failure to pay all minimum and overtime wages, provide all meal and rest periods, or premium compensation in lieu thereof, timely pay wages due at separation of employment, issue complete and accurate wage statements, and reimburse all business expenses incurred.
- (b) The Parties have engaged in significant investigation and have exchanged formal and informal discovery. The Parties reached this Agreement only after such discovery and

investigation was performed, following a mediation with Lisa Klerman, Esq. on October 8, 2021.

- (c) Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Action, denies liability for the PAGA Released Claims, and further denies that the Action is appropriate for representative treatment for any purpose other than settling this Action.
- (d) The Parties recognize that the issues presented in the Action 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 potential benefits of litigation. The Parties have taken into account the risk and uncertainty of the outcome inherent in any litigation.
- (e) Based on their own independent investigation and evaluation, the Parties and their respective counsel are of the opinion that the settlement for the consideration and on the terms set forth in this Agreement is fair, reasonable, adequate, and is in the best interests of Plaintiff, Aggrieved Employees, the State of California, and Defendant in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Further, the Parties believe that the settlement amount entered into is in the best interests of the Aggrieved Employees and the State of California, and fair, reasonable, and adequate given the inherent risk of litigation.
- (f) This Agreement contemplates the entry of an order by the Court approving the payment allocated for settlement of the PAGA claims and dismissing the Action with prejudice.

Article III.

Approval and Implementation of Settlement.

Section 3.01 Cooperation.

The Parties recognize that Court approval is required in the event of any settlement of a PAGA action, in accordance with California Labor Code § 2699(l)(2), and that a judgment with respect to the PAGA action is binding with respect to non-party Aggrieved Employees upon Court approval, pursuant to California Labor Code § 2699(l) and *Arias v. Superior Ct.* (2009) 46 Cal.4th 969. The Parties further recognize that a settlement of a PAGA action is not subject to class action procedural rules, and that Aggrieved Employees do not have the right to opt-out of or otherwise exclude themselves from the Settlement, or object to the Settlement, and upon approval of the Settlement by the Court and funding of the Settlement, all Aggrieved Employees will have released the Released Parties of and for the PAGA Released Claims and Aggrieved Employees will be entitled to receive payment, in conformity with the Settlement.

The Parties will cooperate in obtaining, through a stipulation and order, or an unopposed motion, if required, an Order from the Court approving the payment of the Gross Settlement Amount as described in this Agreement at the earliest possible date. Concurrently with the submission of this Agreement to the Court, Plaintiff shall submit it to the LWDA as required by

PAGA. 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 the Gross Settlement Amount as described in this Agreement.

The Court's approval of the payment of the Gross Settlement Amount as described in this Agreement shall be embodied in a written Order, which shall be transmitted to the LWDA promptly upon entry, as required by PAGA. Should the Court not grant approval of the payment of the Gross Settlement Amount as described in this Agreement or decline to dismiss the Action, this Agreement shall be null and void and have no further effect, and all sums paid by Defendant, if any, shall be promptly returned to it.

Section 3.02 Settlement Payment Procedures.

(a) Payment of Gross Settlement Amount and Notice to Aggrieved Employees.

- (1) Defendant agrees to pay a total amount of One Hundred Thirty-Eight Thousand Dollars (\$138,000.00) to settle this matter. This amount, *i.e.*, the Gross Settlement Amount, shall cover, resolve, and fully satisfy any and all amounts owed to Plaintiff, the Aggrieved Employees, the State of California, and Plaintiff's Counsel, including all amounts allocated to attorneys' fees and costs, in settlement of all claims asserted in the Complaint, or that could have been asserted in the Complaint, by Plaintiff, on behalf of himself and the Aggrieved Employees. The Parties agree that there are no circumstances that would require Defendant to pay any amount greater than the Gross Settlement Amount in connection with this Agreement. In the event that this Agreement is canceled, rescinded, terminated, voided or nullified, however that may occur as permitted herein, or the settlement is barred by operation of law, invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendant shall have no obligation to pay any of the Gross Settlement Amount and the Parties' respective positions shall be restored to their positions prior to mediation. Further, in that event, nothing in this Agreement, the negotiations leading to this settlement, nor any papers prepared in connection with this Agreement shall be admissible in any proceeding for any purpose whatsoever.
- (2) The "Net Settlement Amount" shall be calculated by deducting from the Gross Settlement Amount up to 35% of the Gross Settlement Amount (projected to be \$48,300) for the payment of Plaintiff's Counsel's attorneys' fees, up to \$11,000 for the payment of Plaintiff's Counsel's costs ("Attorneys' Fees and Costs"), \$10,000 to Plaintiff in exchange for his general release of all claims against Defendant ("General Release Payment"), and up to \$5,000 to compensate the parties' chosen Settlement Administrator ("Settlement Administration Costs"). The Net Settlement Amount will be comprised of approximately \$63,700. Seventy-five percent (75%) of the Net Settlement Amount, or approximately \$47,775, shall be distributed to the State of California Labor and Workforce Development Agency ("LWDA") as the "LWDA Payment", and the remaining twenty-five percent (25%) of the Net Settlement Amount, or approximately \$15,925, shall be distributed to the Aggrieved Employees.

- (3) The twenty-five percent (25%) of the Net Settlement Amount to be distributed to the Aggrieved Employees will be divided by the total number of pay periods worked by all of them in California as a piece-rate compensated non-exempt field nurse during the PAGA Period to yield the Pay Period Value. Each Aggrieved Employee will be paid an amount equal to their individual number of pay periods worked in California as a piece-rate compensated non-exempt field nurse during the PAGA Period multiplied by the Pay Period Value.
- (4) Defendant shall pay the Gross Settlement Amount via wire, bank transfer or certified funds to the Settlement Administrator by the latter of April 30, 2022 or ten (10) calendar days after the Effective Date. Defendant's obligations for funding the settlement are satisfied upon electronic transfer of the Gross Settlement Amount to the Settlement Administrator pursuant to the Settlement Administrator's instructions, provided, however, that any unsuccessful electronic transfer of funds be of no fault of Defendant. In the event of an unsuccessful electronic transfer of funds, the Parties agree to cooperate in good faith to resolve any issues. The Settlement Administrator will hold the funds in a Qualified Settlement Fund. The Settlement Administrator will provide to Defendant's attorney a W-9 form for the Qualified Settlement Fund prior to its funding of the Gross Settlement Amount.
- (5) Defendant will provide the Settlement Administrator with a confidential list containing the names, addresses, and total number of pay periods worked during the PAGA Period for each of the Aggrieved Employees within ten (10) calendar days after the Effective Date. This contact information will be provided confidentially to the Settlement Administrator only, and the Settlement Administrator will treat the information as private and confidential and take all necessary precautions to maintain the confidentiality of such information. This information is to be used only to carry out the Settlement Administrator's duties as specified in this Agreement, and shall not be disclosed to anyone other than the Settlement Administrator, except to applicable taxing authorities, or pursuant to express written authorization of Defendant, the individual in question, or by order of the Court.
- (6) No later than fifteen (15) calendar days after the Gross Settlement Amount has been paid, the Settlement Administrator shall transmit the Notice of PAGA Settlement (attached hereto as Exhibit "A"), together with settlement checks containing their individual settlement amounts, with no claims process required, to all Aggrieved Employees 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.
- (7) For each settlement check and 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. The value of checks uncashed more than 180 days after issuance shall be paid to the Office of the California State Controller – Unclaimed Property Fund, to be held in the name of the respective Aggrieved Employees.

- (8) No later than fifteen (15) calendar days after the Gross Settlement Amount has been paid, the Settlement Administrator shall pay the Court-approved LWDA Payment to the LWDA, Attorneys' Fees and Costs to Plaintiff's Counsel, the General Release Payment to Plaintiff, and the Settlement Administration Costs to itself.
- (9) The individual settlement payments to the Aggrieved Employees will be characterized 100% as penalties and will not be subject to local, state or federal tax withholdings. All recipients of payments under this Agreement have their payments reported on an IRS Form 1099. The Settlement Administrator shall issue IRS Form 1099s (if required) to the Aggrieved Employees. The Aggrieved Employees are solely responsible for any tax obligations in connection with any payments made pursuant to this Agreement. Payment of Attorneys' Fees and Costs will be reflected in a Form 1099 to Plaintiff's Counsel who shall assume full responsibility and liability for the payment of taxes due on such payments. The General Release Payment to Plaintiff shall be made in a single payment, not as wages, without deduction for State or Federal taxes but subject to issuance of IRS Form 1099. Defendant makes no representations as to the taxability of the General Release Payment or any portion thereof and Plaintiff acknowledges that he has not relied upon any representation of Defendant or any of its agents on that subject.
- (10) The payments made to Plaintiff and other Aggrieved Employees pursuant to this Agreement are not intended to count as earnings by Plaintiff or the Aggrieved Employees, and will not entitle Plaintiff or the Aggrieved Employees to any additional compensation and/or benefits under any retirement, benefit, bonus, incentive, pension, welfare, and/or any other plan of or sponsored by Defendants.

Section 3.03 Settlement Administrator's Duties.

All Settlement Administrator's duties set forth in this Agreement shall be included in the Settlement Administration Costs and paid from the Gross Settlement Amount. The Settlement Administrator shall be responsible for providing the requisite Form 1099's as required by this Agreement, and the completion of any other steps necessary for compliance with any tax obligations of the Settlement under federal, state, and/or local law, as applicable. Within twenty-one (21) calendar days of distributing the Gross Settlement Amount, the Settlement Administrator shall provide to Plaintiff's and Defendant's Counsel a written declaration verifying that it effected disbursement of the Gross Settlement Amount pursuant to the terms of this Agreement.

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, culpability, negligence, or wrongdoing whatsoever, or as an admission by Defendant of any violations of Plaintiff's or Aggrieved Employees' rights, violation of any order, law, statute, duty or contract whatsoever. Defendant specifically disclaims any liability to Plaintiff 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. Defendant further denies that, for any purpose other than settling these matters, that this action is appropriate for representative treatment.

Section 4.02 Non-Evidentiary Use.

This Agreement is admissible for purposes of obtaining court approval of the settlement and is intended to be binding on the Parties. It is also admissible in the event that either Party is required to file a motion to enforce any of the terms of the Agreement. Neither this Agreement, nor any of its terms, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or anything else associated with it, shall be offered or used as evidence by any of the Parties, or their respective counsel in the Litigation or in any other action or proceeding, including to establish any liability or admission on the part of Defendant or any Released Parties or to establish the existence of any condition constituting a violation of, or noncompliance with, federal, state, local or other applicable law; 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. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or other events associated with it, shall be construed as an admission or concession by Defendant or any Released Parties or establishment of any such violation(s) or failure(s) to comply with any applicable law. Defendant specifically retains the right to defend, on the merits, against any non-settled claims brought by any Aggrieved Employees.

Section 4.03 Nullification.

If the Court should fail to approve the Settlement as agreed upon by the Parties, the Parties shall coordinate efforts to address the Court's questions or concerns and work jointly to make reasonable efforts to remedy the Settlement in order to obtain the Court's approval. If the Parties cannot resolve the issues identified by the Court in denying approval, the Parties shall be restored to their litigation positions and all funds returned to Defendants. If, after the Parties make a second attempt to obtain approval of the material terms of the Settlement, unless the Parties specifically agree to continue with their coordinated efforts to obtain Court approval, the Court fails to approve the material terms of the settlement in the form agreed to by the Parties (except for the amount of Attorneys' Fees and Costs requested by Plaintiff's Counsel), or if the Court's approval of this Agreement is reversed, modified, or declared or rendered void, then: (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. Invalidity of any material provision 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 Limited Release By Aggrieved Employees.

Upon the Effective Date and subject to Defendant's full payment of the Gross Settlement Amount, all Aggrieved Employees and the State of California will be bound by a release of any and all claims for civil penalties under the PAGA, California Labor Code § 2698, et seq., including all claims for attorneys' fees and costs in connection therewith, as to the Released Parties, that are based upon or arise from the factual allegations in the Operative Complaint and Plaintiff's April 10, 2020 Notice to the LWDA, which accrued during employment by Defendant as a non-exempt piece-rate compensated field nurse in California during the PAGA Period (the "PAGA Released Claims"). The Released Parties are Defendant, and its current, past, and present, subsidiaries, affiliates, directors, officers, managing agents, and owners, including, without limitation, Angelique S. Gradney (collectively, the "Released Parties"). Upon entry of the Order approving the PAGA Settlement and dismissal of the Action with prejudice, Plaintiff and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims against the Released Parties. No claims for unpaid wages or any relief other than PAGA civil penalties, and attorneys' fees and costs in connection therewith, are released by the Settlement.

The Parties recognize that Court approval is required in the event of any settlement of a PAGA action, in accordance with California Labor Code § 2699(l)(2), and that a judgment with respect to the PAGA action is binding with respect to non-party Aggrieved Employees upon Court approval, pursuant to California Labor Code § 2699(l) and *Arias v. Superior Ct.* (2009) 46 Cal.4th 969. The Parties further recognize that a settlement of a PAGA action is not subject to class action procedural rules, and that Aggrieved Employees do not have the right to opt-out of or otherwise exclude themselves from the Settlement, or object to the Settlement, and upon approval of the Settlement by the Court and funding of the Settlement, all Aggrieved Employees will have released the Released Parties of and for the PAGA Released Claims, and Aggrieved Employees will be entitled to receive payment in conformity with the Settlement. Irrespective of whether an Aggrieved Employee cashes his or her settlement check, he or she will be deemed to be bound to this Settlement, the release provided herein, and the Court's Order approving the Settlement.

Section 5.02 General Release By Plaintiff Pascua.

Upon the Effective Date and subject to Defendant's full payment of all sums required by this Agreement, Plaintiff Pascua shall be deemed to have fully, finally, and forever released the Released Parties from any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against the Released Parties, of whatever kind and nature, character, and description, whether in law or equity, whether sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law, whether known or unknown, and whether anticipated or unanticipated, including unknown claims covered by Civil Code Section 1542, arising through the date of his signature hereon, for any type of relief, including, without limitation, claims for wages, damages, unpaid costs, penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief. These claims include, but are not limited to, the PAGA Released Claims, as well as any other claims under any

provision of the California Labor Code or any applicable California Industrial Welfare Commission Wage Orders, and claims under local, state, or federal discrimination statutes, including, without limitation, the California Fair Employment and Housing Act, California Government Code §§ 12940 *et seq.*; the Unruh Civil Rights Act, California Civil Code §§ 51 *et seq.*; the California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000 *et seq.*; the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*; the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 *et seq.*; and all of their implementing regulations and interpretive guidelines. With respect to these Released Claims as described in this Section, Plaintiff Pascua expressly waives and relinquishes, to the fullest extent permitted by law, the provisions, rights, and benefits he may otherwise have had pursuant to Section 1542 of the California Civil Code, which provides as follows:

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

Notwithstanding Section 1542, Plaintiff understands and agrees that this Agreement shall act as a release of all future claims that may arise from Plaintiff Pascua's employment or separation from employment with Defendant, or any other matters that existed between Plaintiff Pascua and Released Parties up to the date of this Agreement, whether such claims are currently known or unknown, and that each party intentionally waives any rights such party may have under the provisions of Section 1542, as well as under any other statutes or common law principles of similar effect in the State of California or in any other state. Plaintiff understands that he is releasing claims he may not know about now, but it is his specific, knowing, and voluntary intent to release those claims. Plaintiff further acknowledges that he may hereafter discover facts, matters or events different from or in addition to those he now knows or believes to be true in respect to the claims, demands, damages, debts, liabilities, accounts, actions or causes of action herein released, and hereby agrees, that these releases shall be and remain in all respects as a complete general release as to the matters released, notwithstanding any such different or additional facts.

Article VI.

Miscellaneous Provisions.

Section 6.01 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.

Section 6.02 Amendments.

The terms and provisions of this Agreement may be amended only by a written agreement that is both (a) signed by the Plaintiff, Plaintiff's Counsel, Defendant and Defense Counsel who executed this Agreement and (b) approved by the Court. 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 6.03 Assignment.

The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein. 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 hereto. 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 he has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

Section 6.04 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 6.05 Entire Agreement.

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

Section 6.06 Waiver of Compliance.

Any failure of any Party, Defense Counsel, and/or Plaintiff's Counsel hereto to comply with any obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties and their respective counsel hereto entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

Section 6.07 Counterparts.

This Agreement, and any amendments hereto, 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 6.08 Attorneys' Fees and Costs.

With respect to this Agreement, neither Plaintiff's Counsel nor any other attorneys acting for, or purporting to act for the Aggrieved Employees, or Plaintiff may recover or seek to recover any amounts for fees, costs, or disbursements from the Released Parties or the Gross Settlement Amount except as expressly provided herein. Defendant shall bear its own attorney's fees and costs, and neither Plaintiff's Counsel, Aggrieved Employees or the Plaintiff shall be responsible for Defendant's attorney's fees and costs. If any party moves the Court to enforce this Agreement, the prevailing party shall be entitled to recover from the other party all attorneys' fees and costs incurred to enforce this Agreement.

Section 6.09 Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, but excluding any dispute related to non-payment of the Gross Settlement Amount (which is addressed in Section 6.12 herein), the Parties agree to submit any such dispute(s) first to mediation and/or continued negotiations before mediator Lisa Klerman, Esq. and then, if unsuccessful, to the Los Angeles County Superior 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 his/her/its/their reasonable attorneys' fees and costs.

Section 6.10 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 6.11 Court's Retention of Jurisdiction.

The Court shall retain jurisdiction, pursuant to Code of Civil Procedure section 664.6 and otherwise as permitted by law, to enforce this Settlement.

Section 6.12 Default; Notice; Cure; Acceleration; Time is of the Essence.

If the Gross Settlement Amount is not received on the date due, Defendant shall be in default of its obligations under this Settlement. Plaintiff shall e-mail notice of the default to Defendant's Counsel at alfred@landeggeresq.com, with a copy to marie@landeggeresq.com and evelyn@landeggeresq.com. Defendant will then have ten (10) calendar days from the date notice is e-mailed to cure the default. If the default remains uncured for ten (10) calendar days, then all sums remaining unpaid under this Settlement shall be accelerated and become all due and payable and begin to accrue interest at the legal rate. Plaintiff may thereafter move the Court, pursuant to Code of Civil Procedure 664.6, for entry of a judgment against Defendant to reflect this acceleration, the accrual of interest, plus actual attorneys' fees and costs incurred to enforce the judgment and this Settlement. Time is of the essence with respect to all provisions of this Agreement.

Section 6.13 Escalator Provision.

Defendant estimates there are no more than 200 Aggrieved Employees who worked no more than 1,200 bi-monthly pay periods during the PAGA Period. If the total number of pay periods worked during the PAGA Period exceeds 1,260 (i.e., an increase of more than 5%), or the total number of Aggrieved Employees exceeds 200, the Gross Settlement Amount will increase pro rata based on the number of pay periods worked over 1,200 or the Aggrieved Employees in excess of 200, with the larger percentage change controlling.

Section 6.14 Termination Provision.

If the Court does not approve the Agreement, if the Court does not dismiss the Action with prejudice, 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 terms of the Agreement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) days of written notice thereof to elect to terminate the entire Agreement, in which case the Agreement 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 the Parties Memorandum of Understanding.

Section 6.15 Severability.

The Parties agree that if any immaterial provision of this Agreement is held to be invalid by a court of competent jurisdiction, that provision shall be deemed severed and deleted from this Agreement, and neither that provision nor its severance and deletion shall affect the validity of the remaining provisions, and the remaining provisions shall be deemed enforceable.

Section 6.16 Construction.

The Parties hereto agree that the terms and conditions of this Agreement are the result of lengthy, intensive arm's-length negotiations between the Parties and that this Agreement constitutes the entire agreement between Plaintiff and Defendant regarding the settlement of the Released Claims and that this Agreement supersedes all prior agreements, written or oral, between or among the Parties regarding the resolution of the Released Claims.

Given that all Parties hereto had the opportunity to draft, review, and edit the language of this Agreement, no presumption for or against any Party arising out of drafting all or any part of this Agreement may be applied in any action relating to, connected to, or involving this Agreement. Accordingly, the Parties hereby waive the benefit of any legal principle or rule providing that, in cases of uncertainty, the language of a contract should be interpreted against the Party who caused the uncertainty to exist.

Section 6.17 Captions And Headings.

Paragraph titles, captions, or headings contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provision hereof.

Section 6.18 Modification.

This Agreement may not be changed, altered, waived, or modified, except in writing and signed by counsel for the Parties hereto, and approved by the Court. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

Section 6.19 Electronic Signatures and Counterparts.

This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all Parties. The counterparts may be executed and/or transmitted electronically or by facsimile.

Section 6.20 Authority.

Each Party to this Agreement expressly represents and warrants to have the authority necessary to execute this Agreement. Each person signing this Agreement on behalf of a corporation represents that he or she has the authority to agree to the terms hereof and execute this Agreement on behalf of said entity in accordance with the bylaws of such entity and that his or her signature will bind the entity to the terms of this Agreement.

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

APPROVED AND ACCEPTED.

Dated: 1/25/2022

LEGEND HOME HEALTH, INC.

By Angelique A. Gradney
Its Angelique A. Gradney

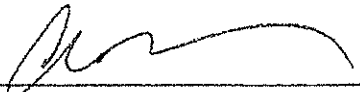
November 30, 2021
Dated: _____

DocuSigned by:
[Signature]
AG244F1F30BF42B
By _____
LEONARD PASCUA

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: _____

GAINES & GAINES, ALPC

By 
Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
Attorneys for Plaintiff

Dated: 1/25/2022

LANDEGGER VERANO & DAVIS, ALC

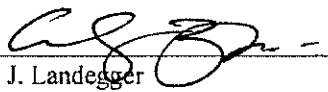
By 
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EXHIBIT A

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

LEONARD PASCUA, on behalf of
himself and all “aggrieved employees”
pursuant to Labor Code § 2698 *et seq.*,

Plaintiff,

v.

LEGEND HOME HEALTH, INC., a
California corporation, and DOES 1
through 10, inclusive,

Defendants.

Case No. 20TRCV00439

**NOTICE OF SETTLEMENT OF PRIVATE
ATTORNEYS GENERAL ACT CLAIM
(CAL. LABOR CODE § 2698 *ET SEQ.*)**

This notice relates to the settlement of a lawsuit pursuant to the Private Attorneys General Act of 2004, codified at Labor Code § 2698 *et seq.* (“PAGA”). A PAGA action is an action for civil penalties in which the State of California receives 75 percent of the civil penalties collected.

You have received this notice because you have been identified as a non-exempt California piece-rate compensated field nurse of Legend Home Health, Inc. (“Defendant”) who was employed between April 10, 2019 through October 8, 2021 (“Aggrieved Employee”).

On June 24, 2020, Plaintiff Leonard Pascua (the “Plaintiff”) commenced a lawsuit in Los Angeles Superior Court, case number 20TRCV00439 (the “Lawsuit”) to recover civil penalties. The Complaint alleges that Defendant failed to pay all minimum and overtime wages, provide all meal and rest periods, or premium compensation in lieu thereof, timely pay wages due at separation of employment, issue complete and accurate wage statements, and reimburse all business expenses incurred to non-exempt employees who earned a piece-rate for each patient for which they provided care. For these alleged violations, Plaintiff brought this lawsuit as a representative action under PAGA, on behalf of himself, the State of California, and the Aggrieved Employees.

Defendant denies Plaintiff’s allegations, disputes all of Plaintiff’s claims, and denies any wrongdoing of any kind associated with Plaintiff’s allegations. The Lawsuit was litigated and following an investigation and a mediation before a third-party mediator, the Parties reached a settlement which takes into account the uncertainties and risks of proceeding with litigation. A portion of the settlement proceeds are to be distributed to the Aggrieved Employees, including you, after certain portions of the penalties collected are paid to the State of California according to California law.

The Court approved the settlement on _____ and has determined that the settlement is fair and reasonable. The enclosed payment which accompanies this notice is made to you pursuant to the terms of the Settlement and is based on your share of the total settlement proceeds that the parties agreed to be paid to the allegedly aggrieved employees. You may deposit or cash the check without any further obligation on your part and there is no need for you to contact the settlement administrator, the parties, or the Court. Your payment is considered to be 100% penalties, subject to issuance of IRS Form 1099. You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment. Your settlement check is valid for 180 calendar days from the date of issuance, and if you do not cash, deposit, or otherwise negotiate the check within the 180-day timeframe, your settlement check will be cancelled and the funds will be transmitted to the State Controller's Office Unclaimed Property Fund in your name, as it appears on this notice.

The Court-approved settlement contains the following release of claims, to which you are bound:

Upon the Effective Date and subject to Defendant's full payment of the Gross Settlement Amount, all Aggrieved Employees and the State of California will be bound by a release of any and all claims for civil penalties under the PAGA, California Labor Code § 2698, et seq., including all claims for attorneys' fees and costs in connection therewith, as to the Released Parties, that are based upon or arise from the factual allegations in the Operative Complaint and Plaintiff's April 10, 2020 Notice to the LWDA, which accrued during employment by Defendant as a non-exempt piece-rate compensated field nurse in California during the PAGA Period (the "PAGA Released Claims"). The Released Parties are Defendant, and its current, past, and present, subsidiaries, affiliates, directors, officers, managing agents, and owners, including, without limitation, Angelique S. Gradney (collectively, the "Released Parties"). Upon entry of the Order approving the PAGA Settlement and dismissal of the Action with prejudice, Plaintiff and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims against the Released Parties. No claims for unpaid wages or any relief other than PAGA civil penalties, and attorneys' fees and costs in connection therewith, are released by the Settlement.

PLEASE DO NOT CONTACT THE COURT OR OFFICE OF THE CLERK TO ASK QUESTIONS ABOUT THE SETTLEMENT. If you have questions about this notice, please contact the Claims Administrator, ILYM Group, Inc., at [INSERT CONTACT INFO].

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF THE CLAIMS OR DEFENSES BY EITHER SIDE IN THIS PROCEEDING.