

Brian J. Mankin, Esq. [CSB No. 216228]
brian@lmlfirm.com
Misty M. Lauby, Esq. [CSB No. 243009]
misty@lmlfirm.com
LAUBY, MANKIN & LAUBY LLP
4590 Allstate Drive
Riverside, CA 92501
Tel: (951) 320-1444 | Fax: (951) 320-1445

Attorneys for Plaintiff Gina Robertson and on behalf of the Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

GINA ROBERTSON, individually, on behalf
of all similarly situated current and former
employees, and on behalf of the State of
California and all Aggrieved Employees;

Plaintiff,

vs.

ALL CARE HOME HEALTH PROVIDER, a
California Corporation; ALL CARE HOME
HEALTH OF SAN GABRIEL, a California
Corporation; ALL CARE HOSPICE, a
California Corporation; ALL CARE
PROVIDER SERVICES, INC., a California
Corporation; COMCARE HOME HEALTH,
INC., a California Corporation; ANDREW J.
PAGSISIHAN, an individual; LILIA
PAGSISIHAN, an individual; APOLONIO
PAGSISIHAN, an individual; and DOES 1
through 10, inclusive;

Defendants.

Case No.: 20STCV18318
[Assigned to the Hon. Judge Daniel J. Buckley,
Dept. 1]

**DECLARATION OF BRIAN J. MANKIN
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Hearing
Date: August 30, 2021
Time: 10:30 a.m.
Dept.: 1

Complaint filed: May 14, 2020

1 I, Brian J. Mankin, state and declare:

2 1. I am an attorney licensed to practice before all of the courts of the State of
3 California. I represent Plaintiff in this action and I am thoroughly familiar with and have
4 personal knowledge of all of the facts set forth herein. I submit this declaration in support of
5 Plaintiff's Motion for Preliminary Approval of this Class Action Settlement. If called as a
6 witness, I could and would competently testify thereto.

7 **COUNSEL'S EXPERIENCE**

8 2. I have been a member, in good standing, of the State Bar of California since 2001.
9 I am admitted to practice in the United States District Courts for the Central and Southern
10 District of California and the Ninth Circuit Court of Appeal and have tried cases in various
11 courts in California.

12 3. I have handled 400 to 500 employee vs. employer litigation matters during my 20
13 years in practice. Over the last 15 years, my practice has almost entirely consisted of
14 representing employees, the majority of which has included class action and representative
15 action wage and hour matters. In total, I have handled over 200 class action and representative
16 action wage/hour cases, and have been appointed by the court as class counsel and have received
17 final court approval and judgment in approximately half of those actions to date, and anticipate
18 receiving final approval in many more of those in the future. In this regard, I'm attaching as
19 **Exhibit "A"** a list of over 100 resolved/settled class actions, collective actions and/or PAGA
20 actions that I've handled in the last 10 years. This list excludes currently active cases, as well as
21 cases that I handled prior to 2010.

22 4. As part of these settlements and judgments, I have recovered in excess of \$250
23 million in damages for my clients and the class members (who often work as nurses, ambulance
24 drivers, technicians, warehouse workers, truck drivers, sales, professional occupations and
25 countless other trades). My team and I once held the record for the largest PAGA-only case in
26 California's history - a \$12.5 million-dollar court approved settlement, which followed extensive
27 litigation, summary adjudication and writs to the CA Supreme Court against a Fortune 50
28 company (*Garcia v. Macy's*, San Bernardino Superior Court).

1 5. I have tried two major class and PAGA cases against Fortune 100 companies. In
2 2018, I was lead counsel in a PAGA case that my firm tried in the Orange County Superior Court
3 and received a \$425,000 judgment. In 2019, I was co-counsel in a class action case against
4 Walmart that was tried to the jury in District Court, wherein the jury awarded Plaintiffs over \$6
5 million. Both cases were appealed.

6 6. Over the last several consecutive years, I have been selected by my peers as a
7 “Super Lawyer” in Employment Litigation.

8 **BRIEF SUMMARY OF THE SETTLEMENT**

9 7. Following a contested but productive mediation, Plaintiff and Defendants
10 (collectively, the “Parties”) entered into a Class Action Settlement Agreement resolving the
11 wage and hour claims of the putative class (the “Settlement Agreement”), which is attached
12 hereto as **Exhibit B**. The Settlement Agreement seeks to release and discharge Defendants
13 from the claims brought against them in this matter in exchange for Defendants’ agreement to
14 pay \$1,400,000 on a non-reversionary, non-claims made basis (each Class Member will receive
15 his/her share of the Net Settlement Amount without having to submit a claim form or taking
16 action, except for those who opt-out). Plaintiff seeks to represent a class of all current and
17 former non-exempt employees employed by Defendants in California who performed nursing
18 duties at any time during the period of May 14, 2016 through May 24, 2021 (the “Class” or
19 “Class Members”). Under the terms of the Settlement Agreement, Defendants will not oppose
20 Class Counsel’s application for a reasonable award of attorneys’ fees not to exceed one-third of
21 the Settlement Amount, Class Counsel’s litigation expenses not to exceed \$15,000, settlement
22 administrator costs of \$15,000, a PAGA payment of \$37,500 to the LWDA, and a service
23 award not to exceed \$10,000 to Plaintiff. After subtracting the agreed-upon deductions from
24 the Settlement Amount, approximately \$855,833.34 will be available to pay the individual
25 settlement amounts to approximately 950 Class Members who do not opt-out of the settlement,
26 as follows:

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	Total Amount
<i>Settlement Amount</i>	\$1,400,000
Attorneys' Fees (1/3)	\$466,666.66
Litigation Costs	\$15,000
Administrator Costs	\$15,000
PAGA payment to LWDA (75% of \$50k award)	\$37,500
Class Representative's Service Award	\$10,000
<i>Net Settlement Amount</i>	\$855,833.34

8. Assuming approximately 950 total Class Members employed during the Class Period, each will receive approximately \$900 on average.

9. Each Class Member will receive the Class Notice, explaining the nature of the case, and the process for participating, objecting and opting-out, and advising of his/her estimated settlement payment and the number of work weeks he/she is credited with working during the Class Period (attached hereto as **Exhibit C**).

PROCEDURAL BACKGROUND

10. My office has performed considerable work and diligently investigated and prosecuted this case to a successful conclusion. Our work has resulted in the creation of a significant settlement fund for the benefit of the Class. We efficiently communicated and exchanged information informally with Defense counsel which enabled the parties to successfully settle the case. Because of the risks involved in litigating the case and the contested legal and factual issues, Plaintiff's Counsel believe this settlement to be fair, reasonable, and adequate.

11. After being retained by Plaintiff, we sent a letter to Defendant requesting the production of Plaintiff's personnel and timekeeping records in order to further evaluate her wage and hour claims. On April 7, 2020, we submitted a letter to the California Labor Workforce Development Agency (the "LWDA") for civil penalties under the Private Attorney General Act of 2004 (the "PAGA"), which is attached hereto as **Exhibit D**. The LWDA ultimately declined to assert jurisdiction over the PAGA, thereby giving Plaintiff the right to bring PAGA claims.

12. Meanwhile, Plaintiff filed her initial complaint and then after Defendants filed an answer to the complaint, the Parties entered into a stipulation permitting Plaintiff to file a first

1 amended complaint that alleged related PAGA claims, which was ultimately filed on October 5,
2 2020. The operative first amended complaint alleges class and PAGA claims, including: (1)
3 failure to pay minimum and regular wages, (2) failure to pay overtime wages, (3) failure to
4 provide meal periods, (4) failure to provide rest breaks, (5) failure to reimburse for business
5 expenses, (6) failure to timely pay final wages upon separation of employment, (7) failure to
6 provide accurate itemized wage statements, (8) unfair and unlawful competition pursuant to
7 Business and Professions Code §17200 *et seq.*, and (9) related claims under PAGA.

8 13. Defendants vehemently disputed the claims at issue, including noting in the Initial
9 Status Conference Statement that “Plaintiff’s claims are without merit and that Defendants did
10 not engage in unlawful conduct towards Plaintiff and/or the putative class members.” However,
11 prior to taking depositions, conducting discovery, and filing a disputed motion for class
12 certification, the parties agreed to explore a resolution through mediation. In preparation for the
13 mediation, the Parties informally exchanged documents and information that allowed both sides
14 to calculate the potential damages and evaluate potential risk, including extensive policies and
15 procedures pertaining to each claim alleged, and statistics relating to the number of current and
16 former employees, number of shifts, pay periods and other things. In this regard, Defendants
17 provided over 8,000 pages of documents, including a comprehensive sampling of timekeeping
18 and payroll records of the Class Members. This robust sampling enabled both parties and their
19 experts to take a deep dive into the claims. Additionally, during this process, Plaintiff and her
20 counsel analyzed, researched, and investigated the potential issues, including matters related to
21 the calculation of damages, trial, and appellate issues and risks.

22 14. On February 23, 2021, the parties participated in a full-day mediation with Mark
23 Rudy, who is one of the most experienced and reputable class action mediators in California.
24 Ultimately, Mr. Rudy issued a mediator’s proposal calling for a class-wide settlement for
25 \$1,400,000. The Parties accepted the mediator’s proposal and memorialized the terms of the
26 settlement in a long-form Settlement Agreement. Under the terms of the settlement, the Parties
27 now seek preliminary approval of the Settlement.

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1 **THE WAGE AND HOUR CLAIMS AND CLASS COUNSEL’S INVESTIGATION**

2 15. The putative Class in this case consists of approximately 950 similarly situated
3 non-exempt employees who performed nursing duties for Defendants at various locations in
4 California during the Class Period. Plaintiff alleged numerous wage and hour violations on
5 behalf of the non-exempt employees. However, Defendants vigorously contested and denied
6 each of Plaintiff’s material allegations on the merits and as to the propriety of a class action or
7 PAGA representative action on behalf of the putative class and allegedly aggrieved employees.

8 16. First, Plaintiff contends that Defendants violated minimum wage and overtime
9 laws in several ways. Defendants employed in-home nurses as either “shift care” nurses who
10 were assigned to one patient on a long-term basis, or “intermittent care” nurses who could see
11 different patients daily. Plaintiff contends Defendants failed to pay the nurses proper minimum
12 and overtime wages where they (1) failed to pay for all hours worked, including for drive time in
13 between patients, rest and recovery periods, time spent waiting for appointments to begin, and
14 time spent contacting individuals regarding an appointment; (2) failed to pay for all hours
15 recorded; (3) deducted 30-minutes of pay for meal periods whether the employee was able to
16 take their meal period or not; (4) failed to pay for off-the-clock charting that the nurses had to
17 perform because they were too busy with patients during the workday; and (5) payed overtime
18 hours at the regular hourly rate rather than at one and one-half times the regular rate of pay.
19 Defendants countered that (1) they relied on self-reported time in compensating nurses who
20 worked out in the field, including time reported for meal periods; (2) they were not required to
21 pay drive time for shift care nurses, (3) they compensated intermittent care nurses for all work
22 contractually determined by the nurse and All Care, inclusive of travel time and all other
23 activities encompassed by the visit , and (4) the percentage of both shift care and intermittent
24 care nurses who worked any overtime was very low.

25 17. Second, Plaintiff alleged that she and the Class Members were often unable to
26 take their meal periods due to patient care duties. Despite this, Plaintiff and the Class Members
27 allege they were required to record meal periods and Defendants automatically deducted 30
28 minutes each day regardless of whether the employee took a meal period. Moreover, Plaintiff

1 alleged that Defendants failed to pay any meal premiums. However, Defendants argued that (1)
2 they have fully compliant meal period policies and practices, (2) they made meal periods
3 available at all relevant times, and (3) missed, short or late breaks were solely the decision of the
4 employee. Further, Defendants argue that the intermittent nurses rarely worked enough hours in
5 a day to trigger a meal period.

6 18. Third, Plaintiff further alleged that, at all relevant times, Plaintiff and the Class
7 Members were regularly unable to take rest periods because they were either with a client or
8 travelling to a client at all times throughout the day and did not have adequate time to take
9 breaks. Despite this, Plaintiff contends rest period premiums were never paid. Again,
10 Defendants argued that their policies and practices were compliant with California law,
11 Defendants authorized and permitted rest periods to be taken at all relevant times, and, because
12 the Class Members were on their own for most of the day, they were free to take breaks
13 whenever they chose. Further, Defendants argue that the intermittent nurses often worked less
14 than the 3.5 hours necessary to trigger the rest period obligation.

15 19. Fourth, Plaintiff alleged that she and the Class Members were not reimbursed for
16 necessary business expenses for things such as the use of home computers, home internet, cell
17 phones, and personal vehicles which they used to carry out their duties for the company.
18 Defendants countered that they (1) were not required to pay for personal vehicle costs or costs
19 related to home computers, home internet, and cell phones of shift care nurses; and (2)
20 compensated intermittent care nurses for all work contractually determined by the nurse and All
21 Care, inclusive of a fixed amount for expenses.

22 20. Fifth, Plaintiff sought waiting time penalties under Labor Code §§ 201 – 203 for
23 each *former* employee due to the violations discussed above. Defendants opposed this claim on
24 the merits by arguing that this claim is solely derivative of the claims above, and that Defendants
25 would defeat those claims at the class certification stage or on dispositive motion.

26 21. Sixth, Plaintiff raised claims for wage statement violations due to the to the failure
27 to accurately state total hours worked for every pay period due to the lunch auto-deduct and
28 failure to account for and pay all hours worked. Additionally, the wage statements were

1 inaccurate because Defendant's failed to pay and list overtime at the appropriate rate on the wage
2 statements. However, Defendants again opposed this claim and argued that, even if there was
3 merit to the wage statement theories (which Defendants denied), statutory § 226(e) penalties are
4 not proper for these type of "derivative" violations.

5 22. Lastly, Defendant argued that there are substantive reasons that would prevent
6 certification of the Class. Defendant claimed that individual issues predominate, as there are too
7 many individual issues involved in each Class Member's claims. For example, Defendant
8 asserted that Class Members were given so much latitude with regards to whether and how they
9 took their meal and rest breaks, that a fact-finder would have to determine for each Class
10 Member whether a break was missed and why, and why a break was noncompliant/nonexistent,
11 because if it was by the employee's choice, no liability attaches to the Defendant.

12 23. Nonetheless, the Parties concluded that further litigation of the Action would be
13 protracted and expensive, and that it is desirable that the Action be fully and finally settled in
14 order to limit further risk, expense and protracted litigation.

15 **THE SETTLEMENT IS FAIR, JUST, AND REASONABLE**

16 24. The settlement was the product of extensive arm's length negotiations, facilitated
17 by an experienced mediator. Though cordial and professional, the settlement negotiations were
18 adversarial and non-collusive in nature. The settlement reached is the product of substantial
19 effort by the parties and their counsel. Although we believed that there was a possibility of
20 certifying the claims, we recognized the potential risk, expense, and complexity posed by
21 litigation, such as unfavorable decisions on class certification, summary judgment, at trial and/or
22 on the damages awarded, and/or on an appeal that can take several more years to litigate.

23 25. The settlement will result in a fair payment to each class member based on the
24 number of weeks worked during the Class Period. As set forth hereinabove, Plaintiff and her
25 counsel have diligently investigated the claims and defenses on behalf of the class members and
26 worked to achieve a resolution of the claims to maximize the recovery by avoiding further
27 expenditure of attorneys' fees and costs. After evaluating the significant risks attendant with
28 further litigation described above and weighing them against the benefits of a known

1 compromise and settlement as set forth in the Settlement Agreement, settlement on the terms
2 agreed to is believed to be in the best interest of Plaintiff and the Class, and is a fair and
3 reasonable resolution of the claims alleged.

4 26. Plaintiff's counsel brought to bear a great deal of experience in negotiating the
5 settlement of this case. As detailed herein, Plaintiff's counsel engaged in the necessary discovery
6 and investigation, making it possible to exercise informed judgment throughout the settlement
7 process, including significant document review (e.g. documents pertaining to Defendant's
8 policies and procedures, personnel documents, among others), and conducted an extensive
9 analysis of the detailed class-wide data provided by Defendant.

10 27. Based on my experience in other cases, including wage and hour matters, I
11 believe I am qualified to evaluate the class claims and viability of defenses in this class action.
12 In this case, the recovery for each class member is reasonable, fair, and adequate, and a
13 settlement at this time is in the best interests of the class. The settlement provides each class
14 member with compensation for the alleged violations when viewed in relation to the costs and
15 risks inherent in obtaining class certification and proceeding to trial.

16 28. Plaintiff's counsel, as well as Defendants' counsel, fully endorse the terms and
17 conditions of the settlement as set forth in the abovementioned Settlement Agreement.

18 29. Of course, the settlement amount represents a compromise figure, taking into
19 account the various risks surrounding class certification and the merits of Defendant's asserted
20 defense. Nevertheless, the settlement provides for fair and adequate payments to the class
21 members, with no reversion to Defendant.

22 **PLAINTIFF'S REQUESTED ENHANCEMENT PAYMENT**

23 30. Plaintiff seeks an enhancement payment of \$10,000 for her service to the class,
24 which I believe is fair and warranted. Ms. Robertson came forward in an effort to effectuate a
25 policy and practice change that benefitted all other Class Members, and to recover unpaid wages.
26 She assumed significant risk in bringing this litigation—namely, had she lost, she would have
27 been ordered to pay Defendant's costs.

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31. Plaintiff provided invaluable assistance to my office and the Class in this case, including providing factual background for the Class Complaint; reviewing the litigation documents; providing information and documents about Defendant's policies and practices; participating in phone calls to discuss litigation and settlement strategy; and reviewing the settlement documents. Plaintiff agreed to participate in this case with no guarantee of personal benefit. At final approval, Plaintiff will submit a comprehensive declaration setting forth all of the reasons why she believes that the service award should be approved.

**ADEQUACY OF COUNSEL AND THE PROVISIONAL REASONABLENESS OF THE
REQUESTED FEES AND COSTS**

32. As set forth above, I have over 200 class and representative actions, have been appointed as class counsel and have successfully resolved over half of those cases, and many others remain pending and will successfully resolve in the future.

33. When this case was taken on a contingency fee basis, with my firm agreeing to assume responsibility for all litigation costs, the ultimate result was far from certain. In the course of this litigation, my firm and my co-counsel paid all costs including filing fees, court costs, research fees, and mediation costs. There was never a guarantee that we would recoup those expenditures.

34. It is my experience that attorney fee awards of one-third of a common fund settlement is the standard in California. In this case, Plaintiff's counsel agreed to seek one-third of the Settlement Amount for attorneys' fees. Defendants do not oppose this fee request. The fee is further warranted because it is within the range of reasonableness typically awarded in class actions. The combined costs between my firm and my co-counsel are reasonably capped at \$15,000 and will be based on the actual amount of costs incurred at the time of final approval.

SETTLEMENT ADMINISTRATOR

35. The parties request that the Court appoint CPT Group to serve as the Settlement Administrator. CPT Group is experienced in administering class action settlements, and has provided a proposal to administer this settlement for a total of \$15,000.

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EXHIBITS AND CONCLUSION

37. A list of over 100 resolved/settled class actions, collective actions and/or PAGA actions that I've handled in the last 10 years is attached as Exhibit "A." This list excludes currently active (non-settled) cases, as well as cases that I handled prior to 2010.

37. A list of over 100 resolved/settled class actions, collective actions and/or PAGA actions that I've handled in the last 10 years is attached as Exhibit "A." This list excludes currently active (non-settled) cases, as well as cases that I handled prior to 2010.

39. The proposed Class Notice is attached as Exhibit “C.”

41. The LWDA's confirmation of receipt of this Motion and Declaration is attached hereto as Exhibit "E."

42. For the foregoing reasons, it is respectfully requested that the Court grant preliminary approval of the settlement as being fair, reasonable, and in the best interests of the class, as well as preliminarily approve the requested attorneys' fees, costs, and enhancement payment to the Class Representative.

By: Brian J. Mankin
Brian J. Mankin, Esq.

EXHIBIT “A”

Completed Class/Collective/PAGA Cases		
Case Name	Venue	Case Number
Acevedo v. DCH	Los Angeles	JCCP No. 4833
Aguirre v. DirecTV	USDC	2:16-cv-06836
Aguirre v. WellQuest	Los Angeles	19STCV15699
Angulo v. CCX2931, et al.	Los Angeles	BC717320
Antuna v. GATX	San Bernardino	CIVDS1928516
Arroyo v. Hardin Automotive	Orange	30-2013-00648090
Arroyo v. Riverside Auto	Riverside	RIC1200257
Bass v. Southern Refrigerated	San Bernardino	CIVDS1705054
Beard v. Certified Tire	Riverside	RIC1816800
Blanco v. Savage BMW	San Bernardino	CIVRS1200316
Bomar v. Gra-Gar	San Bernardino	CIVDS1618056
Boyd v. May Trucking	USDC	5:17-cv-02166
Bradley v. Amphastar	San Bernardino	CIVDS1607456
Brewer v. Connell Chevrolet	Orange	30-2013-00852123
Carr v. K&B Electric	Riverside	RIC1904970
Cassidy v. Pep Boys	San Diego	37-2017-00038364
Castelo v. Millemiaaero	San Bernardino	CIVDS1825783
Castner v. Jessup Brothers	Riverside	INC10009311
Castner v. Palm Sprins Motors	Riverside	INC10009313
Castner v. VIP Motor Cars	Riverside	INC1102993
Cedano v. McPeck	Orange	30-2013-00648284
Chang v. FWL	Los Angeles	BC625531
Collado v. Intelligrated Systems	San Bernardino	CIVDS1506443
Constante v. Eddie's Trucking	San Bernardino	CIVDS1902466
Coronado v. Global One	San Bernardino	CIVDS1606686
Cortez v. DMA Enterprises	Ventura	56-2010-00366970
Cosey v. H&IC Bros.	San Bernardino	CIVDS1711425
Cruz v. Sterling	Orange	30-2016-00864990
Cuevas v. Adesa	Riverside	RIC1507066
Cuevas v. FHI	Riverside	RIC1713814
Davila v. Keyes Motors. Inc.	Los Angeles	BC497604
Delara v. Indio Pontiac	Riverside	PSC1301916
DePeralta v. Genesis Healthcare	Los Angeles	BC552963
Estrada v. Eco Shield	San Bernardino	CIVDS1821895
Estrada v. MVT	San Bernardino	CIVDS1620885
Estrada v. Ventura Foods	San Bernardino	CIVDS1903407
Estrada v. Witron	San Bernardino	CIVDS1719080
Evans v. Neovia	San Bernardino	CIVDS1806659
Figueroa v. Mossy Ford	San Diego	37-2014-00028426
Galdamez v. Rush Truck Center	Los Angeles	BC528888
Gallardo v. Tee For 2	San Bernardino	CIVDS1719564
Garcia v. Coach	USDC	5:18-cv-01537
Garcia v. Harkins	USDC	5:18-cv-02314
Garcia v. Macy's	San Bernardino	CIVDS1516007
Gharavi v. Censeo Health	San Bernardino	CIVDS1906608

Gielsing v. BSRO Retail Operations	Los Angeles	JCCP 4638
Gomez v. Goldmax	Orange	30-2012-00577321
Haney v. JPI Development	Riverside	RIC537695
Hernandez v. CPS Southwest	Orange	30-2018-00987834
Hernandez v. Cryogenic	San Bernardino	CIVDS1612524
Hernandez v. Jack B. Kelley	San Bernardino	CIVDS1704346
Hernandez v. Walmart	USDC	5:17-cv-01415
Hill v. Amazon	Riverside	RIC1614641
Iversen v. Kelle's	San Diego	37-2016-00013606
Iversen v. Toyota of Orange	Orange	30-2013-00665366
Legorreta v. Paradise	Riverside	RIC1723591
Leon v. Gordon Trucking	San Bernardino	CIVDS1511918
Lepe v. Big Lots	San Bernardino	CIVDS1825693
Libby v. Psycare	San Diego	37-2019-00030656
Lopez Munoz v. Pentair	Ventura	56-2019-00525013
Lopez v. Care Funeral Services	San Bernardino	CIVDS1305650
Lopez v. Heartland	Riverside	RIC1901461
Lopez v. Ramona Tire	Riverside	INC1208982
Lopez v. Unicars, Inc.	ARB	13-5105
Lupercio v. Access Exterminator	San Bernardino	CIVDS1921036
Lynn v. Wild Rocket	ADR	09-6908-
Macias v. Team Nissan	Ventura	56-2013-00431856
Marquez v. SharkNinja	San Bernardino	CIVDS1700491
Martinez v. Baxalta	Los Angeles	BC705969
McCulloch v. The Gill	Los Angeles	BC722742
Medina v. Citistaff Solutions	Riverside	RIC1500664
Mejia v. Mossberg	San Bernardino	CIVDS1724635
Melena v. Andy Frain	Orange	CIVDS1901476
Micheal v. BMW of Riverside	Riverside	RIC1201709
Micheal v. Mercedes Benz	ARB	A196865-27
Mitchell v. American Residential Services	Riverside	RIC1709360
Montano v. Honda Cars of Corona	Riverside	RIC1608165
Nelson v. Rancho Santa Margarita Motors	Orange	30-2016-00845005
Ortiz v. Quick Care	San Bernardino	CIVDS1610143
Pearson v. PSF Trucking	Kern	BCV-17-102520
Pena v. SA Recycling	Riverside	RIC1610639
Perez v. Staffmark	Riverside	MCC1401137
Pham v. MVVT	Orange	30-2013-00661705
Pollock v. Wynden Stark	Los Angeles	19STCV24217
Pompa v. Landforce	San Bernardino	CIVDS1700451
Pompa v. Russo Brothers	Sacramento	30-2017-00207703
Pompa v. Unicars, Inc.	Riverside	INC1207208
Poulin v. Dignity Health	San Bernardino	CIVDS1515101
Purvis v. Honeywell	Riverside	RIC10010156
Reddall v. Quest Diagnostics	USDC	13-2099
Redman v. Zenith	San Bernardino	CIVDS1826759
Reed v. Beach City	Orange	30-2018-00989665
Reed v. Thousand Oaks Toyota	Ventura	56-2012-00419282

Romero v. RHI, Inc.	Los Angeles	BC528035
Rossello v. Ontario T	San Bernardino	CIVDS1415708
Ruiz v. Mountain View Tires	San Bernardino	CIVRS1206400
Sacks v. Natural Energy	Riverside	RIC1816789
Sandoval v. National Seating	San Bernardino	CIVDS1721797
Santos v. WestRock	San Benito	CU-18-00074
Sebastian v. Sprint	USDC	8:18-cv-00757
Sewell v. Imedris Data Corp	San Bernardino	CIVDS1401836
Solis v. Palo Verde Health Care	Riverside	INC10009315
St. Amand v. Hendrickson	San Bernardino	CIVDS1617165
Stafford v. GOSCH Auto	Riverside	RIC1814300
Stinson v. Pacific Production Plumbing	San Bernardino	CIVDS1721708
Stock v. Atwood & Andrews, Inc.	Riverside	MCC1400665
Torres v. Xerxes	Orange	30-2019-01095537
Vaughner v. FST Services	San Bernardino	CIVDS1830784
Venegas v. Ross Nissan	Los Angeles	BC694099
Wright v. Bob Stall Chevrolet	San Diego	37-2017-00010598

EXHIBIT “B”

Brian J. Mankin, Esq. [CSB No. 216228]
brian@lmlfirm.com
Misty M. Lauby, Esq. [CSB No. 243009]
misty@lmlfirm.com
LAUBY MANKIN LAUBY LLP
4590 Allstate Drive
Riverside, CA 92501
Tel: (951) 320-1444 | Fax: (951) 320-1445

Attorneys for Plaintiff Gina Robertson and all others similarly situated

[Additional counsel listed on next page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
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California Corporation; ALL CARE
PROVIDER SERVICES, INC., a California
Corporation; COMCARE HOME HEALTH,
INC., a California Corporation; ANDREW J.
PAGSISIHAN, an individual; LILIA
PAGSISIHAN, an individual; APOLONIO
PAGSISIHAN, an individual; and DOES 1
through 10, inclusive;

Defendants.

Case No.: 20STCV18318

*[Assigned to Honorable Daniel J. Buckley,
Dept. 1, for all purposes]*

**CLASS ACTION SETTLEMENT
AGREEMENT AND RELEASE OF
CLAIMS**

1 Marissa Alguire [CSB No. 249755]
2 *Marissa.alguire@akerman.com*
3 Corina Valderrama [CSB No. 279203]
4 *Corina.valderrama@akerman.com*
5 AKERMAN LLP
6 601 W. Fifth Street, Suite, 300
7 Los Angeles, California 90071
8 Tel: (213) 688-9500 | Fax: (213) 627-6342

9 Attorneys for Defendants All Care Home Health Provider; All Care Home Health of San
10 Gabriel; All Care Hospice; All Care Provider Services, Inc.; Comcare Home Health, Inc.;
11 Andrew J. Pagsisihan; Lilia Pagsisihan; and Apolonio Pagsisihan
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1 This Class Action Settlement Agreement and Release of Claims is entered into by and
2 between Plaintiff Gina Robertson, individually and on behalf of all others similarly situated, and
3 Defendants All Care Home Health Provider; All Care Home Health of San Gabriel; All Care
4 Hospice; All Care Provider Services, Inc.; ComCare Home Health, Inc.; Andrew J. Pagsisihan;
5 Lilia Pagsisihan; and Apolonio Pagsisihan and is approved by their respective counsel of record,
6 subject to the terms and conditions hereof and the Court's approval.

7 **A. Definitions**

8 1. "Action" or "Lawsuit" means and refers to the case entitled *Gina Robertson v.*
9 *All Care Home Health Provider, et al.*, Los Angeles County Superior Court, Case No.
10 20STCV18318.

11 2. "Agreement," "Settlement," or "Settlement Agreement" shall mean this Class
12 Action Settlement Agreement and Release of Claims, including any attached Exhibits.

13 3. "Class Counsel" and "Plaintiff's Counsel" refer to Brian Mankin and Misty
14 Lauby of Lauby Mankin Lauby LLP.

15 4. "Class Data" means a complete list that Defendants will diligently and in good
16 faith compile from their records and provide to the Settlement Administrator on one spreadsheet
17 and shall include the Settlement Class Members' full names; last known addresses; telephone
18 numbers; Social Security numbers; hire date; and rehire and end dates of employment, if
19 applicable.

20 5. "Class Period" is deemed to be any time during the period of May 14, 2016
21 through the Preliminary Approval Date or May 24, 2021, whichever comes first.

22 6. "Class Representative" or "Plaintiff" means and refers to Gina Robertson.

23 7. "Complaint" refers to the Class Action Complaint filed on May 14, 2020, and the
24 First Amended Complaint for class action damages and enforcement under the Private
25 Attorneys General Act, Cal. Labor Code § 2698, *et seq.*, filed on October 5, 2020, in the matter
26 of *Gina Robertson v. All Care Home Health Provider, et al., et al.*, Los Angeles County
27 Superior Court Case No. 20STCV18318.

28 8. "Court" means the California Superior Court, County of Los Angeles.

1 9. “Defendants” means and refers to All Care Home Health Provider; All Care
2 Home Health of San Gabriel; All Care Hospice; All Care Provider Services, Inc.; ComCare
3 Home Health, Inc.; Andrew J. Pagsisihan; Lilia Pagsisihan; and Apolonio Pagsisihan.

4 10. “Defendants’ Counsel” or “Defense Counsel” means and refers to Marissa
5 Alguire and Corina Valderrama of Akerman LLP.

6 11. “Effective Date” means the latest of the following dates: (i) if no Class Member
7 objects, timely and properly intervenes, or files a motion to vacate the judgment approving the
8 Settlement Agreement under Code of Civil Procedure § 663, then the date of the Notice of
9 Entry of Order regarding Final Approval of the Settlement; (ii) if a Class Member objects,
10 intervenes, or files a motion to vacate the judgment approving the Settlement Agreement, then
11 sixty-one (61) calendar days following the date the Court enters an order granting final
12 approval, assuming no appeal is filed; or (iii) if a timely appeal is filed, the date of final
13 resolution of that appeal (including any requests for rehearing and/or petitions for *certiorari*),
14 resulting in final judicial approval of the Settlement.

15 12. “Final Approval” or “Judgment” refers to the order of the Court granting Final
16 Approval of this Settlement Agreement and entering a judgment approving this Agreement on
17 substantially the terms provided herein or as the same may be modified by subsequent
18 agreement of the Parties.

19 13. “Final Settlement Class” means, collectively, all Settlement Class Members who
20 have not opted out of the Settlement Class by submitting timely Requests for Exclusion.

21 14. “Individual Settlement Payment” means each Participating Class Member’s *pro*
22 *rata* portion of the Net Settlement Amount, as defined in Paragraph 42(c) below.

23 15. “Maximum Settlement Amount” shall have the meaning ascribed to it in
24 Paragraph 42(a) below.

25 16. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph
26 42(b) below.

27 17. “Notice” means the notice of settlement of class action that will be sent to the
28 Settlement Class Members (substantially in the form attached hereto as **Exhibit 1**).

1 18. “Notice Response Deadline” is forty-five (45) calendar days from the date the
2 Notice is mailed to the Settlement Class Members and the last date on which Settlement Class
3 Members may: (a) submit a request for exclusion from the Settlement, (b) submit an objection
4 to the Settlement, and/or (c) dispute their number of Work Weeks and/or estimated Individual
5 Settlement Payment.

6 19. “Objecting Settlement Class Member” means a Settlement Class Member, other
7 than Plaintiff, who submits a valid and timely objection to the terms of this Agreement,
8 pursuant to Paragraph 62(c) below.

9 20. “Participating Class Member” means any and all Settlement Class Members who
10 do not opt-out of the Settlement by submitting timely and valid Request(s) for Exclusion and
11 who are, therefore, bound by the Court’s order granting final approval of the Settlement.

12 21. “Parties” mean Plaintiff and Defendants, collectively, and “Party” means any of
13 Plaintiff or Defendants, individually.

14 22. “Preliminary Approval Date” means the date the Court approves the Settlement
15 Agreement, and the exhibits thereto, and enters the Preliminary Approval Order.

16 23. “Preliminary Approval Order” means the judicial Order to be entered by the
17 Court, upon the application or motion of the Plaintiff, preliminarily approving this Settlement
18 and providing for the issuance of the Notice to the Settlement Class, an opportunity to opt out of
19 the Settlement, an opportunity to submit timely objections to the Settlement, and setting a
20 hearing on the fairness of the terms of Settlement, including approval of attorneys’ fees and
21 costs. Defendants will not object to Plaintiff’s motion for preliminary approval, but will be
22 provided with an opportunity to review and comment upon the motion at least five (5) days
23 before it is filed.

24 24. “QSF” means the Qualified Settlement Fund set up by the Settlement
25 Administrator for the benefit of the Final Settlement Class, and from which the settlement
26 payments shall be made.

27 25. “Released Claims” by the Participating Class Members upon Final Approval of
28 the Settlement and Defendants’ funding of the Maximum Settlement Amount will include any

1 and all causes of action and factual or legal theories that were alleged in the Complaint or
2 reasonably could have been alleged based on the facts and legal theories contained in the
3 Complaint, including all of the following claims for relief: (i) failure to pay regular and
4 minimum wages; (ii) failure to pay all overtime wages; (iii) failure to provide meal periods; (iv)
5 failure to provide rest periods; (v) failure to reimburse business expenses; (vi) failure to timely
6 pay final wages; (vii) failure to provide accurate itemized wage statements; (viii) unfair and
7 unlawful business practices that could have been premised on the claims, causes of action or
8 legal theories of relief described above or any of the claims, causes of action or legal theories of
9 relief pleaded in the Complaint; (ix) all claims under the California Labor Code Private
10 Attorneys General Act of 2004 (“PAGA”) that could have been premised on the claims, causes
11 of action or legal theories described above or any of the claims, causes of action or legal
12 theories of relief pleaded in the Complaint; (x) any other claims or penalties under the wage and
13 hour laws pleaded in the Complaint; and (xi) all damages, penalties, interest and other amounts
14 recoverable under said claims, causes of action or legal theories of relief.

15 26. “Released Parties” means Defendants and their past, present and/or future, direct
16 and/or indirect, officers, directors, members, managers, employees, agents, representatives,
17 attorneys, insurers, partners, investors, shareholders, administrators, parent companies,
18 subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

19 27. “Release” shall mean the release and discharge of the Released Claims by
20 Plaintiff and all of the Participating Class Members. The *res judicata* effect of the Judgment
21 will be the same as that of the Release.

22 28. “Request for Exclusion” shall have the meaning ascribed to it in Paragraph 62(a)
23 below.

24 29. “Service Payment” or “Service Award” means the amount approved by the Court
25 to be paid to the Class Representative, Gina Robertson, in addition to her Individual Settlement
26 Payment as a Participating Class Member. The Service Payment shall not exceed Ten Thousand
27 Dollars (\$10,000.00).

28 30. “Settlement Administrator” means and refers to CPT Group, an independent

1 third-party class action settlement administrator agreed to by the Parties that provides class
2 action settlement administration services.

3 31. "Settlement Administration Costs" means the costs payable from the Maximum
4 Settlement Amount to the Settlement Administrator for administering this Settlement. The
5 Settlement Administration Costs shall be paid from the Settlement Amount, currently projected
6 by the Parties not to exceed \$15,000.

7 32. "Settlement Class" or "Covered Position" consists of all current and former non-
8 exempt employees of Defendants who worked in the State of California and performed nursing
9 duties at any time during the Class Period.

10 33. "Settlement Class Member(s)" or "Class Member(s)" refers to individual
11 members of the Settlement Class.

12 34. "Work Weeks" or "Weeks Worked" means the number of weeks worked by each
13 Class Member during the Class Period based on Defendants' records and used as a value to
14 calculate Individual Settlement Payments. Work Weeks will be calculated by the Settlement
15 Administrator by determining the number of days between the start/rehire and end dates of
16 employment as a non-exempt employee for Defendants within the Class Period (using May 14,
17 2016, and using the date of the Preliminary Approval Date or May 24, 2021, whichever comes
18 first as the end date), dividing the resulting number by seven (7), and rounding to the nearest
19 whole number (i.e., rounding down for numbers ending in .00 to .49 and up for numbers ending
20 .50 to .99). Class Members will be credited with at least one (1) Work Week.

21 **B. General Terms**

22 35. Plaintiff filed a class and representative PAGA action complaint in the Court on
23 May 14, 2020 against Defendants and Does 1 through 10. The Complaint alleges class and
24 representative PAGA claims, including: (1) failure to pay minimum and regular wages, (2)
25 failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest
26 breaks, (5) failure to reimburse for business expenses, (6) failure to timely pay final wages upon
27 separation of employment, (7) failure to provide accurate itemized wage statements, (8) unfair
28 and unlawful competition pursuant to Business and Professions Code §17200 *et seq.*, and (9)

1 related claims under PAGA.

2 36. Defendants deny Plaintiff's claims and allegations and contend that the Action is
3 not suitable for class certification or manageable as a class or representative action.

4 37. The Class Representative believes she can proceed with her representative and
5 class claims, that the Action is meritorious, and that class certification is appropriate.

6 38. The Parties have conducted a thorough investigation into the facts of the Action.
7 This includes conducting an extensive exchange of informal discovery, including Defendants'
8 written policies and practices and the production of a sampling of payroll and timekeeping
9 records for Settlement Class Members. Class Counsel is both knowledgeable about and has
10 done extensive research with respect to the applicable law and potential defenses to the claims
11 of the Settlement Class. Class Counsel has diligently pursued an investigation of the Class
12 Members' claims against Defendants. Based on the foregoing data and on their own
13 independent investigation and evaluation, Class Counsel is of the opinion that the settlement
14 with Defendants for the consideration and on the terms set forth in this Settlement Agreement is
15 fair, reasonable, and adequate and is in the best interest of the Class Members in light of all
16 known facts and circumstances, including the risk of significant delay and uncertainty
17 associated with litigation, various defenses asserted by Defendants, and numerous potential
18 appellate issues.

19 39. Class Counsel and Defense Counsel have engaged in extensive arms-length
20 negotiations, with the assistance of Mark Rudy, a highly experienced wage and hour class
21 action mediator. The matter resolved at mediation pursuant to a mediator's proposal.

22 40. The Parties agree that neither the Parties' Settlement, this Agreement, nor the
23 acts to be performed or judgments to be entered pursuant to the terms of the Settlement and
24 Agreement, shall be construed as an admission by Defendants of any wrongdoing or violation
25 of any statute or law or liability on the claims or allegations in the Action.

26 41. Stipulation for Class Certification. For settlement purposes only, Defendants will
27 stipulate that the Settlement Class Members described herein who do not Request Exclusion
28 from the Settlement Class may be conditionally certified as a settlement class. This stipulation

1 to certification is in no way an admission that class action certification is proper and shall not be
2 admissible in this or in any other action except for the sole purposes of enforcing this
3 Agreement. Should, for whatever reason, the Court fail to issue Final Approval, the Parties'
4 stipulation to class certification as part of the Settlement shall become null and void *ab initio*
5 and shall have no bearing on, and shall not be admissible in connection with, the issue of
6 whether or not certification would be appropriate in a non-settlement context. Defendants
7 expressly reserve their rights and declare that they would continue to oppose class certification
8 and the substantive merits of the case should the Court decline to issue Final Approval. Plaintiff
9 expressly reserves her rights and declares that she will continue to pursue class certification and
10 a trial should the Court decline to issue Final Approval.

11 **C. Terms of Settlement**

12 42. The financial terms of the Settlement are as follows:

13 (a) Maximum Settlement Amount: The Parties agree to settle this Action for
14 One Million Four Hundred Thousand Dollars (\$1,400,000) ("the Maximum Settlement
15 Amount"). The Maximum Settlement Amount is the maximum amount that will be paid, and
16 includes Individual Settlement Payments, Attorneys' Fees and Costs Award, the Service
17 Payment to the Class Representative, all Settlement Administration Costs, and payment to the
18 Labor Workforce Development Agency ("LWDA") for PAGA penalties. Defendants shall
19 separately pay the employers' share of their payroll tax obligations, which shall be reported
20 through the Settlement Administrator.

21 (b) Net Settlement Amount: The "Net Settlement Amount" is defined as the
22 Maximum Settlement Amount less the Attorneys' Fees and Costs Award, the Service Payment
23 to the Class Representative as awarded by the Court, the Settlement Administration Costs, and
24 payment to the LWDA for PAGA penalties. If the Court reduces the attorneys' fees, litigation
25 costs, Service Award, or Settlement Administrator Costs, the difference shall be placed in the
26 Net Settlement Amount and allocated to the Settlement Class. The Net Settlement Amount is
27 the maximum amount that will be available for distribution to the Participating Class Members.

28 (c) Individual Settlement Payments for the Settlement Class: Individual

Settlement Payments will be calculated and apportioned from the Net Settlement Amount based on the number of Work Weeks a Settlement Class Member worked during the Class Period. Specific calculations of Individual Settlement Payments will be made as follows:

- The Settlement Administrator will calculate the number of Work Weeks for each and every Settlement Class Member and the total aggregate number of Work Weeks worked by all Settlement Class Members during the Class Period.
- To determine each Settlement Class Member's estimated Individual Settlement Payment, the Settlement Administrator will use the following formula: The Net Settlement Amount will be divided by the aggregate total number of Work Weeks, resulting in the "Work Week Value." Each Settlement Class Member's Individual Settlement Payment will be calculated by multiplying his or her total number of Work Weeks during the Class Period by the Work Week Value.
- Individual Settlement Payments will be reduced by any required deductions for each Participating Class Member as specifically set forth herein, including employee-side tax withholdings or deductions.
- The entire Net Settlement Amount will be disbursed to all Participating Class Members. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionally increase the Individual Settlement Payment for each Participating Class Member according to the number of Work Weeks worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Amount.

(d) Allocation of Individual Settlement Payments: The Individual Settlement Payments will be allocated based on the allegations in the Action as follows: one-third (33.34%) will be allocated as wages subject to withholding of all applicable local, state and federal taxes; and the remaining two-thirds will be allocated equally between interest (33.33%) and as penalties (33.33%) (pursuant to, e.g., California Labor Code sections including, but not limited

to, 203, 210, 226, 226.2, 226.3, 2699) from which no taxes will be withheld. The Settlement Administrator will issue to each Participating Class Member an Internal Revenue Service Form W-2 and comparable state forms with respect to the wage allocation and a Form 1099 with respect to the penalties and interest allocations.

(e) Service Payment to Class Representative: The amount, if any, awarded to the Class Representative as a Service Payment will be set by the Court in its discretion, not to exceed \$10,000, in exchange for the services Plaintiff performed on behalf of the Class and for entering into the general and expansive release discussed hereinafter in Section E. Defendants agree not to oppose this request. The Service Payment to Plaintiff will be paid out of the Maximum Settlement Amount. The Class Representative will be issued an IRS Form 1099 in connection with this payment. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on this payment and will hold harmless Defendants and the Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of the Service Payment. The Parties agree that any amount awarded as the Service Payment to Plaintiff less than the requested amount shall not be a basis for Plaintiff and/or Class Counsel to void this Agreement. Should the Court approve a lesser amount for the Service Payment, the difference shall be added to the Net Settlement Amount to be distributed to the Participating Class Members. Even in the event that the Court reduces or does not approve the requested Service Payment, Plaintiff's release as set forth in this Agreement will remain binding.

(f) Attorneys' Fees and Costs Award: Defendants agree to not oppose a request by Class Counsel to the Court for an award of attorneys' fees of one-third of the Maximum Settlement Amount (\$466,666.66), plus reasonable litigation costs not to exceed \$15,000 ("Attorney's Fees and Cost Award"). Defendants agree not to oppose any contention by Class Counsel that attorneys' fees should be based on the common fund theory. The Attorney's Fee and Cost Award shall be paid from the Maximum Settlement Amount, and except for this award, Defendants shall have no further obligation to pay any attorneys' fees, costs or expenses to Class Counsel. Should the Court approve a lesser amount than what is sought by Class Counsel, the difference shall be added to the Net Settlement Amount to be

1 distributed to the Participating Class Members. The Settlement Administrator shall issue to
2 Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs awarded by
3 the Court. The Settlement is not contingent upon the Court awarding Class Counsel any
4 particular amount in attorneys' fees and costs. In the event that the Court reduces or does not
5 approve the fees or costs requested by Class Counsel, Class Counsel will not have the right to
6 revoke this Agreement. Any proceedings related to Class Counsel's application for attorneys'
7 fees will not terminate or cancel the Settlement, or otherwise affect the finality of the order
8 granting Final Approval of the Settlement. In the event that Class Counsel appeals the Court's
9 decision regarding the Attorneys' Fees Award, the amount of fees approved by the Court and
10 not in dispute will be distributed to Class Counsel on the 31st day following entry of the
11 Judgment and the amount of fees claimed by Class Counsel that are not approved by the Court
12 and which are subject to an appeal by Class Counsel, if any, will, on the 31st day following
13 entry of the Judgment, be forwarded to the Settlement Administrator, who will be responsible
14 for keeping those disputed funds until the appeal is resolved and distributing them in accordance
15 with the decision stemming from the appeal. Any such appeal by Class Counsel will not hold up
16 or in any way delay the distribution of the undisputed Net Settlement Amount to Participating
17 Class Members or the distribution of the undisputed fees to Class Counsel. Defendants will not
18 oppose Class Counsel's fee application in any appellate proceeding as long as the total amount
19 of attorneys' fees sought by Class Counsel does not exceed \$466,666.66 and is sought from the
20 Maximum Settlement Amount.

21 (g) Settlement Administration Costs: The fees and other charges of the
22 Settlement Administrator will be paid from the Maximum Settlement Amount, not to exceed
23 \$15,000, unless approved by all Parties and the Court. Prior to the filing of a motion for final
24 approval of the Settlement, the Settlement Administrator will provide the Parties with a
25 statement detailing the total Settlement Administration Costs. The Parties agree to cooperate
26 with respect to the settlement administration process and to make all reasonable efforts to
27 control and minimize the cost and expenses incurred in administration of the Settlement.

28 (h) PAGA Penalties: The Parties agree that \$50,000 is allocated to PAGA

1 Penalties, and is to be paid from the Maximum Settlement Amount, subject to Court approval.
2 Of this amount, \$37,500 (75%) shall be paid to the LWDA in satisfaction of civil penalties
3 under the Private Attorney General Act of 2004 and \$12,500 (25%) will be included in the Net
4 Settlement Amount, payable to the Participating Class Members on a Work Week basis. Class
5 Counsel shall give proper notice to the LWDA of the Settlement.

6 (i) Tax Liability: Class Counsel and Defendants make no representations as
7 to the tax treatment or legal effect of Settlement Amounts called for hereunder, and Plaintiff and
8 the Settlement Class Members are not relying on any statement or representation by Class
9 Counsel or Defendants in this regard. Plaintiff and Participating Class Members understand and
10 agree that they will be solely responsible for the payment of any taxes and penalties assessed on
11 their respective payments described herein, and will hold Defendants free and harmless from
12 and against any claims resulting from treatment of such payments as non-taxable damages. The
13 amount of federal income tax withholding will be based upon a flat withholding rate for
14 supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended
15 or supplemented. Income tax withholding will also be made pursuant to applicable state and/or
16 local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at
17 times and in the manner required by the Internal Revenue Code of 1986 (the “Code”) and
18 consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other
19 applicable tax law, is changed after the date of this Agreement, the processes set forth in this
20 Section may be modified in a manner to bring Defendants into compliance with any such
21 changes.

22 (j) Circular 230 Disclaimer. Each Party to this Agreement (for purposes of
23 this section, the “acknowledging party” and each Party to this Agreement other than the
24 acknowledging party, an “other party”) acknowledges and agrees that (1) no provision of this
25 Agreement, and no written communication or disclosure between or among the parties or their
26 attorneys and other advisers, is or was intended to be, nor shall any such communication or
27 disclosure constitute or be construed or be relied upon as, tax advice within the meaning of
28 United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the

1 acknowledging party (a) has relied exclusively upon his, her or its own, independent legal and
2 tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not
3 entered into this Agreement based upon the recommendation of any other party or any attorney
4 or advisor to any other party, and (c) is not entitled to rely upon any communication or
5 disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be
6 imposed on the acknowledging party; and (3) no attorney or adviser to any other party has
7 imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax
8 strategies (regardless of whether such limitation is legally binding) upon disclosure by the
9 acknowledging party of the tax treatment or tax structure of any transaction, including any
10 transaction contemplated by this Agreement.

11 43. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
12 Participating Class Members under this Agreement, as well as any other payments made
13 pursuant to this Agreement, shall not be utilized to calculate any additional benefits under any
14 benefit plans to which any Settlement Class Members may be eligible, including, but not limited
15 to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase or other types of equity plans,
16 vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
17 intention that this Settlement will not affect any rights, contributions, or amounts to which any
18 Settlement Class Members may be entitled under any benefit plans. The Parties agree that the
19 amounts paid pursuant to this Settlement are not for days or hours worked, and are not included
20 toward any regular rate of pay calculation, or any benefit vesting or accrual purpose.

21 44. "Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under
22 no circumstances will any portion of the Maximum Settlement Amount revert to Defendants.
23 Participating Class Members will not have to make a claim in order to receive an Individual
24 Settlement Payment. Distributions, in the form of Individual Settlement Payments, will be made
25 directly to each Participating Class Member. The Settlement Administrator shall be responsible
26 for accurately and timely reporting and remittance obligations with respect to unclaimed funds
27 as a result of a Participating Class Member not cashing an Individual Settlement Payment by the
28 check cashing deadline, as set forth herein.

1 45. Class Counsel and Plaintiff believe that the Settlement is fair and reasonable, and
2 adequate, and will so represent same to the Court.

3 **D. Release as to All Participating Class Members**

4 46. Upon the Effective Date and Defendants funding of the Maximum Settlement
5 Amount, any and all Participating Class Members will fully and finally release and discharge
6 the Released Parties from the Released Claims during the Class Period. Each and every
7 Participating Class Member shall be deemed to have, and by operation of the Judgment and
8 Final Approval order shall have fully, finally, and forever released, relinquished, and discharged
9 each and all of the Released Parties from any and all Released Claims.

10 47. Plaintiff and Defendants intend that the Settlement described in this Agreement
11 will release and preclude any further claim, whether by lawsuit, administrative claim or action,
12 arbitration, demand, or other action of any kind, by each and all of the Participating Class
13 Members to obtain a recovery based on, arising out of, and/or related to any and all of the
14 Released Claims. The Class Members shall be so notified in the Notice. This paragraph does not
15 apply to any Class Member who timely and validly opts out of the Settlement.

16 48. Plaintiff and each and every Class Member who does not submit a timely
17 Request for Exclusion shall be deemed to have acknowledged and agreed that: (i) their claims
18 for missed meal and rest breaks, overtime compensation, minimum wages, wages for all hours
19 worked, untimely wages, unreimbursed expenses, statutory and civil penalties, and any other
20 payments and/or penalties in the Action are disputed; and (ii) the payments set forth in this
21 Agreement constitute full payment of any amounts allegedly due to them. In light of the
22 payment by Defendants of all amounts due under this Agreement, Plaintiff and the Participating
23 Class Members shall be deemed to have acknowledged and agreed that California Labor Code
24 section 206.5 is not applicable to the Parties hereto. That section provides in pertinent part as
25 follows:

26 An employer shall not require the execution of any release of any claim
27 or right on account of wages due, or to become due, or made as an
28 advance on wages to be earned, unless payment of those wages has been

made.

49. Each Class Member who does not submit a timely Request for Exclusion and opt out of this Settlement shall be deemed to have made the foregoing release as if by manually signing it.

E. Release by Class Representative

50. In light of Plaintiff's Service Award, Plaintiff does hereby, for herself and for her respective spouses, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives, and assigns forever and completely release and discharge the Released Parties, as an individual and in addition to the Released Claims, from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses (including back wages, statutory penalties, civil penalties, liquidated damages, exemplary damages, interest, attorneys' fees, and costs) of any nature whatsoever, from the beginning of time through the execution of this Agreement, whether known or unknown, suspected or unsuspected, including but not limited to all claims arising out of, based upon, or relating to Class Representative's employment with Defendants or the remuneration for or termination of such employment (collectively, the "Class Representative's Claims").

51. Without limiting the generality of the foregoing, this general release by Class Representative includes all federal, state and local statutory claims, federal and state common law claims (including but not limited to those for contract, tort and equity), including without limitation the Americans with Disabilities Act, Age Discrimination in Employment Act, Title VII of the Civil Rights Act of 1964 (as amended), 42 USC sec. 1981, 42 USC sec. 1983, the Fair Labor Standards Act, the Employment Retirement Security Income Act of 1974, the California Constitution, the California Fair Employment and Housing Act, the California Unfair Competition Act (California Business and Professions Code section 17200 et seq.), and the California Labor Code.

52. Class Representative agrees that there is a risk that any injury that she may have suffered by reason of the Released Parties' relationship with her might not now be known, and

1 there is a further risk that said injuries, whether known or unknown at the date of this Settlement
2 Agreement, might possibly become progressively worse, and that as a result thereof further
3 damages may be sustained. Nevertheless, Class Representative agrees to forever and fully
4 release and discharge the Released Parties, and understands that by the execution of this
5 Settlement Agreement no further claims for any such injuries that existed at the time of the
6 execution of this Settlement Agreement may ever be asserted by Class Representative with
7 respect to claims arising in the time period from the beginning of time to the execution of this
8 Settlement Agreement.

9 53. Class Representative expressly waives and relinquishes all rights and benefits
10 afforded by Section 1542 of the Civil Code of the State of California and does so understanding
11 and acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil
12 Code of the State of California states:

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

18 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a
19 full and complete release and discharge of all parties, Class Representative and Class Counsel
20 expressly acknowledge that this Settlement Agreement is intended to include in its effect,
21 without limitation, all claims that Class Representative knew of, as well as all claims that she
22 does not know or suspect to exist in her favor against the Released Parties, or any of them, for
23 the time period from the beginning of time to the execution of this Settlement Agreement, and
24 that this Settlement Agreement contemplates the extinguishment of any such Class
25 Representative's claims. Notwithstanding the above, the general release by Class Representative
26 shall not extend to claims for workers' compensation benefits, claims for unemployment
27 benefits, or other claims that may not be released by law.

28 **F. Interim Stay of Proceedings**

54. Pending completion of all of the prerequisites necessary to effectuate this

1 Settlement, the Parties agree, subject to Court approval, to a stay of all proceedings in the
2 Action except such as are necessary to effectuate the Settlement.

3 **G. Notice Process**

4 55. Appointment of Settlement Administrator. The Parties have agreed to the
5 appointment of the Settlement Administrator to perform the duties of a settlement administrator,
6 including calculating Work Weeks; mailing the Notice; using standard devices to obtain
7 forwarding addresses; independently reviewing and verifying documentation associated with
8 any claims or opt-out requests; resolving any disputes regarding the calculation or application of
9 the formula for determining the Individual Settlement Payments; processing and mailing
10 payments to Plaintiff, Class Counsel, and Participating Class Members; issuing W-2 and 1099
11 Tax Forms; unclaimed funds due diligence; reporting the requests for exclusion from the
12 Settlement and objections to the Settlement submitted by Class Members; providing
13 declaration(s) as necessary in support of preliminary and/or final approval of the Settlement;
14 and performing such other tasks as set forth herein or as the Parties mutually agree or that the
15 Court orders. The Settlement Administrator will keep the Parties timely apprised of the
16 performance of all Settlement Administrator responsibilities.

17 56. Disputes Regarding Settlement Administration. Any and all disputes relating to
18 administration of the Settlement by the Settlement Administrator (except for disputes regarding
19 Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction
20 over the terms and conditions of this Settlement Agreement, until Plaintiff and Defendants
21 notify the Court that all payments and obligations contemplated by this Settlement Agreement
22 have been fully carried out. Prior to presenting any issue to the Court, counsel for the Parties
23 will confer in good faith to resolve the dispute without the necessity of Court intervention. The
24 Settlement Administrator shall also be responsible for issuing to Plaintiff, Settlement Class
25 Members, and Class Counsel any W-2, 1099, or other Tax Forms as may be required by law for
26 all amounts paid pursuant to this Agreement. The Settlement Administrator shall also be
27 responsible for setting up all necessary tax accounts and forwarding all payroll taxes and
28 penalties to the appropriate government authorities.

1 57. Class Data. Within fifteen (15) days after entry of the Preliminary Approval
2 Order, Defendants shall provide the Class Data to the Settlement Administrator. The Settlement
3 Administrator will run a check of the Class Members' addresses against those on file with the
4 U.S. Postal Service's National Change of Address List. The Class Data provided to the
5 Settlement Administrator will remain confidential, shall be used solely to administer the
6 Settlement, and will not be used or disclosed to anyone, except as required by applicable tax
7 authorities, pursuant to Defendants' express written consent, or by order of the Court. Although
8 Class Counsel will not be provided with the list of Class Data, nothing herein shall prevent
9 Class Counsel from communicating with Class Member's regarding the Action and Settlement.

10 (a) The Settlement Administrator will use commercially reasonable efforts to
11 secure the data provided by Defendants at all times so as to avoid inadvertent or unauthorized
12 disclosure or use of such data other than as permitted by this Agreement, and will destroy the
13 data (and all copies of it) in a complete and secure manner when such data is no longer required
14 for purposes of this Agreement.

15 (b) At no time during the settlement process will any Class Member's
16 address, telephone number or Social Security number be filed with the Court, except under seal
17 as may be ordered by the Court. The Settlement Administrator will ensure that the Class Notice
18 and any other communications to Class Members will not include the Class Members' Social
19 Security numbers, except for the last four digits. Class Members may, however, be required to
20 submit a Form W-4 or W-9 as required by the Settlement Administrator for tax reporting
21 purposes.

22 58. Notice. The Notice, as approved by the Court, shall be sent by the Settlement
23 Administrator to the Settlement Class Members, by first class mail, in English, within ten (10)
24 calendar days following the Settlement Administrator's receipt of the Class Data. The
25 Settlement Administrator shall use standard devices, including a skip trace, to obtain forwarding
26 addresses of Settlement Class Members if any envelopes are returned.

27 59. Returned Notices. The Settlement Administrator will take steps to ensure that the
28 Notice is received by all Settlement Class Members, including utilization of the National

1 Change of Address Database maintained by the United States Postal Service to review the
2 accuracy of and, if possible, update a mailing address. Notices will be re-mailed to any Class
3 Member for whom an updated address is located within ten (10) calendar days following both
4 the Settlement Administrator learning of the failed mailing and its receipt of the updated
5 address. The Notice shall be identical to the original Notice, except that it shall notify the Class
6 Member that the exclusion (opt-out) request or objection must be returned by the later of the
7 Notice Response Deadline or fifteen (15) days after the remailing of the Notice.

8 60. Disputes Regarding Information on Notices. Class Members are deemed to
9 participate in the Settlement, unless they opt-out. The Notice will inform Class Members of
10 his/her estimated Individual Settlement Payment and the number of Weeks Worked during the
11 Class Period. Class Members who disagree with Defendants' records regarding their number of
12 Work Weeks and/or estimated Individual Settlement Payment must provide documentation
13 and/or explanation showing contrary information directly to the Settlement Administrator by the
14 Notice Response Deadline. The dispute must: (i) contain the case name and number of the
15 Action; (ii) contain the Class Member's full name, address, telephone number, and last four
16 digits of his or her Social Security number; (iii) contain a clear statement explaining that the
17 Class Member wishes to dispute the number of Work Weeks credited to him or her and also
18 stating the number of Work Weeks that he or she contends is correct; and (iv) attach
19 documentation demonstrating that the Class Member was not credited with the correct number
20 of Work Weeks. The Settlement Administrator will in turn provide any such submissions by
21 Class Members to the Parties. The Parties will meet and confer to determine whether
22 adjustments to the Class Member's Work Weeks and/or Individual Settlement Payment are
23 warranted. If the Parties are unable to reach an agreement as to the dispute, they agree to submit
24 the dispute to the Settlement Administrator to render a final decision. Defendants' records will
25 be presumed determinative absent reliable evidence to rebut Defendants' records. In the event
26 that the Settlement Administrator increases the number of Weeks Worked for any Settlement
27 Class Member, then the Settlement Administrator will recalculate the Individual Settlement
28 Payments; accordingly, in no event will Defendants be required to increase the Maximum

1 Settlement Amount.

2 61. Declaration of Due Diligence. The Settlement Administrator shall provide
3 counsel for the Parties, at least twenty-five (25) days prior to the final approval hearing, a
4 declaration of due diligence and proof of mailing with regard to the mailing of the Notice (and
5 to any ongoing attempt to obtain valid mailing addresses for, and the re-sending of, any returned
6 Notices), including the steps that the Settlement Administrator is required to take under the
7 Agreement, which shall be filed with the Court by Class Counsel with the final approval
8 motion. Compliance with the procedures described in this Section shall constitute due and
9 sufficient notice of this proposed Settlement and the final approval hearing, shall not be subject
10 to objection or collateral attack by any person or entity, and shall satisfy the requirement of due
11 process. Nothing else shall be required of the Parties, Class Counsel, Defense Counsel, or the
12 Settlement Administrator to provide notice of the proposed Settlement and the final approval
13 hearing.

14 62. Settlement Class Members' Rights. Each Settlement Class Member will be fully
15 advised of the Settlement, the ability to object to the settlement, and the ability to opt-out or
16 request exclusion from the Settlement. The Notice will inform the Settlement Class Members of
17 the Court-established deadlines for filing objections or requesting exclusion from the Settlement
18 in accordance with the following guidelines:

19 (a) Requests for Exclusion from Settlement Class. Any Settlement Class
20 Member, other than Plaintiff, may request to be excluded from the Settlement Class by
21 submitting a "Request for Exclusion" to the Settlement Administrator, postmarked on or before
22 the Notice Response Deadline. The Request for Exclusion should state:

23 "I WISH TO BE EXCLUDED FROM THE SETTLEMENT
24 CLASS IN THE ROBERTSON V. ALL-CARE LAWSUIT. I
25 UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM
26 THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY
27 MONEY FROM THE SETTLEMENT OF THIS LAWSUIT."

28 To be valid, any Request for Exclusion must include the full name, address, telephone

1 number, last four digits of the social security number or date of birth, and signature of the
2 Settlement Class Member requesting exclusion. The Request for Exclusion must be returned by
3 mail to the Settlement Administrator at the specified address. Any such Request must be made
4 in accordance with the terms set forth in the Notice. A Request for Exclusion will be timely
5 only if postmarked by the Notice Response Deadline, unless the Parties otherwise agree in
6 writing. Any Settlement Class Member who timely requests exclusion in compliance with these
7 requirements: (i) will not have any rights under this Agreement, including the right to object,
8 appeal or comment on the Settlement; (ii) will not be entitled to receive any payments under this
9 Agreement; and (iii) will not be bound by this Agreement, or the Judgment. No later than
10 fourteen (14) calendar days after the Notice Response Deadline, the Settlement Administrator
11 will provide counsel for the Parties with a complete list of all Settlement Class Members who
12 have timely submitted requests for exclusion from the Settlement.

13 (b) Binding Effect on Final Settlement Class Members. Except for those
14 Settlement Class Members who exclude themselves in compliance with the procedures set forth
15 above, all Settlement Class Members will: (i) be deemed to be Participating Class Members for
16 all purposes under this Agreement; (ii) will be bound by the terms and conditions of this
17 Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise
18 provided herein, will be deemed to have waived all objections and oppositions to the fairness,
19 reasonableness, and adequacy of the Settlement.

20 (c) Objections to Settlement. Any Settlement Class Member, other than
21 Plaintiff, may object to the terms of this Agreement. To object, a Settlement Class Member shall
22 inform the Settlement Administrator, in writing, of his or her objection which must be
23 postmarked by the Notice Response Deadline at the address set forth in the Notice. Such
24 objection shall include (i) the objecting Settlement Class Member's full name, address,
25 telephone number, last four digits of Social Security number, (ii) the case name and number,
26 (iii) a clear statement indicating that the individual seeks to object to the Settlement; (iv) the
27 specific legal and/or factual reason(s) in support of the objection, as well as any documentation
28 or evidence in support thereof, (v) a statement of whether the objector intends to appear at the

1 Final Approval Hearing, (vi) the name and address of his or her counsel, if represented, and
2 (vii) the individual's signature. The Settlement Administrator shall provide objections, if any, to
3 Class Counsel and Defense Counsel within three (3) calendar days of receipt, and the
4 Settlement Administrator shall attach the same to its declaration of due diligence and file with
5 the Court prior to the Final Approval Hearing. Any Participating Class Member who files an
6 objection remains eligible to receive monetary compensation from the Settlement, and will have
7 a right to appear at the Final Approval Hearing in order to have his or her objections heard by
8 the Court. Plaintiff and Defendants shall not be responsible for any fees, costs, or expenses
9 incurred by any Class Member and/or his or her counsel related to any objections to the
10 Settlement. Submitting an objection does not preserve the right to appeal a final judgment.
11 Rather, the right to appeal is preserved by becoming a party of record by timely and properly
12 intervening or filing a motion to vacate the judgment under Code of Civil Procedure § 663.

13 (d) No Solicitation of Settlement Objections or Exclusions. The Parties agree
14 to use their best efforts to carry out the terms of this Settlement. At no time will either of the
15 Parties or their counsel seek to solicit or otherwise encourage a Class Member to opt out, object
16 to the Settlement, or appeal from the Order granting Final Approval of the Settlement and/or
17 final Judgment. Class Counsel will not represent any Class Members with respect to any such
18 objections to the Settlement. At no time will any of the Parties or their counsel seek to solicit or
19 otherwise encourage Class Members to submit requests for exclusion from the Settlement.

20 (e) Failure to Object. Any Settlement Class Member who desires to object
21 but fails to timely submit a written objection or in person objection at the Final Approval
22 Hearing waives any right to object and will be foreclosed from making any objection to this
23 Settlement. Any Settlement Class Member who does not timely and properly become a party of
24 record by intervening or filing a motion to vacate the judgment waives any and all rights to
25 appeal from the Judgment, including all rights to any post-judgment proceeding and appellate
26 proceeding, such as a motion to vacate judgment, motion for new trial, a motion under
27 California Code of Civil Procedure section 473, and extraordinary writs.

28 (f) Responses to Objections. Counsel for the Parties may file a response to

any objections submitted by objecting Settlement Class Members at least five (5) court days before the date of the Final Approval Hearing.

(g) Settlement Class Members will have until the Notice Response Deadline to object or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The Settlement Administrator shall disclose jointly to Class Counsel and Defendants' Counsel what objections or Requests for Exclusion were timely submitted on a weekly basis, and upon the request of Class Counsel or Defense Counsel.

(h) Defective Submissions. If a Settlement Class Member's Request for Exclusion or objection is defective as to the requirements listed herein, that Settlement Class Member will be given an opportunity to cure the defect(s). The Settlement Administrator will mail the Settlement Class Member a cure letter within three (3) business days of receiving the defective submission to advise the Settlement Class Member that his or her submission is defective and that the defect must be cured to render the Request for Exclusion or objection valid. The Settlement Class Member will have the later of (i) the Notice Response Deadline or (ii) fifteen (15) calendar days from the date of the cure letter to postmark or fax a revised Request for Exclusion or objection. If the revised Request for Exclusion or objection is not postmarked or received by fax within that period, it will be deemed untimely.

63. Funding of the Settlement Amount. Defendants shall make a one-time deposit into the QSF of the Maximum Settlement Amount (as well as the employers' share of the payroll taxes) within fifteen (15) calendar days after the Effective Date. Once Defendants have complied with their obligation set forth in this paragraph, they shall be deemed to have satisfied all of the terms and conditions of this Agreement, shall be entitled to all the protections afforded it under the Agreement, and shall have no further obligations under the Agreement, regardless of what occurs with respect to the further administration of the Settlement. The Settlement Administrator (and not Defendants) shall issue the applicable W-2s and IRS Form 1099 reflecting all payments to the Participating Class Members.

64. Distribution of Funds. No later than ten (10) calendar days after the deposit of the payment into the QSF, the Settlement Administrator will mail the Individual Settlement

1 Payments to the Participating Class Members, the payment to Class Counsel for the Attorneys'
2 Fees and Costs Award, any Service Payment to the Class Representative, the payment to the
3 LWDA for PAGA penalties, and will pay itself the Settlement Administration Costs.

4 65. Deadline for Cashing Settlement Checks. Participating Class Members shall have
5 one hundred and eighty (180) calendar days after mailing by the Settlement Administrator to
6 cash their settlement checks. If any Participating Class Member's check is not cashed within
7 that period, the check will be void and a stop-payment will be issued, and the Settlement
8 Administrator shall issue the unclaimed funds to the California State Controller's Office in the
9 name of the Class Member. The Release will be binding upon all Participating Class Members
10 who do not cash their checks within the 180-day period. In the event that any settlement check
11 is returned to the Settlement Administrator within 180 days of mailing, the Settlement
12 Administrator will, within five (5) business days of receipt of the returned settlement check,
13 perform a skip trace to locate the individual, and notify Defense Counsel and Class Counsel of
14 the results. If a new address is located by these means, the Administrator will have ten (10)
15 business days to re-issue the check. Neither Defendants, Defense Counsel, Class Counsel,
16 Plaintiff, nor the Settlement Administrator will have any liability for lost or stolen settlement
17 checks, forged signatures on settlement checks, or unauthorized negotiation of settlement
18 checks. Without limiting the foregoing, in the event a Participating Class Member notifies the
19 Settlement Administrator that he or she believes that a settlement check has been lost or stolen,
20 the Settlement Administrator shall immediately stop payment on such check. If the check in
21 question has not been negotiated prior to the stop payment order, the Settlement Administrator
22 will issue a replacement check.

23 66. No person shall have any claim against Defendants (or their designees),
24 Defendants' Counsel, Plaintiff, Class Counsel, or the Settlement Administrator based on
25 mailings, distributions, payments or reports made in accordance with or pursuant to this
26 Agreement. This provision does not, however, prevent a Party from seeking enforcement of this
27 Agreement.

28 67. Without prejudice to any other remedies, the Settlement Administrator shall

1 agree to be responsible for any breach of its obligations (whether committed by the Settlement
2 Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless
3 from and against all liabilities, claims, causes of action, costs and expenses (including legal fees
4 and expenses) arising out of any breach committed by the Settlement Administrator or its
5 agents.

6 **H. Duties of the Parties Prior to the Court's Approval**

7 68. Within one month after complete execution of this Settlement Agreement,
8 Plaintiff will move the Court for Preliminary Approval of this Settlement and entry of the
9 Preliminary Approval Order accomplishing the following:

10 (a) Scheduling the Final Approval Hearing on the issue of whether this
11 Settlement should be finally approved as fair, reasonable and adequate as to the Class Members
12 and a hearing on fees, costs and the Service Payment;

13 (b) Approving as to form and content the proposed Notice;

14 (c) Directing the mailing of the Notice by first class mail to the Settlement
15 Class Members;

16 (d) Preliminarily approving this Settlement; and

17 (e) Preliminarily certifying the class for purposes of this Settlement.

18 **I. Duties of the Parties Following Court's Final Approval**

19 69. In connection with the Final Approval Hearing provided for in this Settlement
20 Agreement, Class Counsel shall submit a proposed Final Approval Order:

21 (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and
22 adequate, and directing consummation of its terms and provisions;

23 (b) Approving Class Counsel's application for an award of attorneys' fees and
24 reimbursement of litigation costs and expenses, the Service Payment to the Class
25 Representative, and the payment to the Settlement Administrator for costs of administering the
26 settlement; and

27 (c) Entering judgment approving settlement, thereby permanently barring all
28 Settlement Class Members from prosecuting any Released Claims against any of the Released

Parties.

70. Final Judgment. Class Counsel shall provide the Settlement Administrator with a copy of the Final Judgment once it is entered by the Court, and the Settlement Administrator shall post the Final Judgment to its website within three (3) business days of receipt.

J. Voiding the Agreement

71. Defendants will have, in their sole discretion, the right to void and withdraw from the Settlement if five percent (5%) or more of Class Members opt out of the Settlement by giving written notice to the Settlement Administrator at least twenty (20) days before the final approval hearing date. In such event, Defendants reserve their right to oppose class certification and PAGA standing on any and all grounds, without waiver of any arguments.

72. In the event: (i) the Court does not enter the Preliminary Approval Order; (ii) the Court does not grant Final Approval of the Settlement; (iii) the Court does not enter a final Judgment as provided here; or (iv) the Settlement does not become final for any other reason, this Agreement, the Memorandum of Agreement fully executed on February 24, 2021, and the Settlement will each be null and void and any order or judgment entered by the Court in furtherance of the Settlement will be treated as void from the beginning. In such a case, the Parties and any funds to be awarded under the Settlement will be returned to their respective statuses as of the date and time immediately prior to the execution of this Agreement, and the Parties will proceed in all respects as if this Agreement had not been executed. In the event an appeal is filed from the Court's final Judgment, or any other appellate review is sought, administration of the Settlement will be stayed pending final resolution of the appeal or other appellate review.

73. If the Settlement is voided or fails for any reason, Plaintiff and Defendants will have no further obligations under the Settlement, including any obligation by Defendants to pay the Maximum Settlement Amount, or any amounts that otherwise would have been owed under this Settlement.

74. If the Settlement is voided or fails for any reason, any costs incurred by the Settlement Administrator shall be borne equally by Defendants and Plaintiff, unless otherwise

specified in this Agreement.

K. Other Terms

75. Waiver. The waiver by one Party of any breach of this Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

76. Parties' Authority. The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

77. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of Defendants and Defendants' Counsel, take all necessary steps to secure the Court's preliminary and final approval of the settlement, and the final entry of judgment. Class Counsel shall provide Defendants' Counsel with copies of the Preliminary Approval Motion and Final Approval Motion for review at least five business days prior to the filing deadline.

78. No Prior Assignments. 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 released and discharged by this Settlement Agreement.

79. No Admission. Defendants deny any and all liability to Plaintiff and/or any Settlement Class Member in this Action, as to any and all causes of action that were asserted or that might have been asserted in this Action. Nonetheless, Defendants wish to settle and compromise the matters at issue in the Complaint to avoid further substantial expense and the inconvenience and distraction of protracted and burdensome litigation. Defendants also have

1 taken into account the uncertainty and risks inherent in litigation, and without conceding any
2 infirmity in the defenses that they have asserted or could assert against Plaintiff, have
3 determined that it is desirable and beneficial that Plaintiff's claims be settled in the manner and
4 upon the terms and conditions set forth in this Agreement.

5 80. No Publication. Plaintiff and Plaintiff's Counsel agree not to disclose or
6 publicize the settlement in a manner that would identify the Defendants, including the fact of
7 the settlement, its terms or contents, and the negotiations underlying the settlement, in any
8 manner or form, directly or indirectly, to any person or entity, except potential class members
9 and as shall be contractually required to effectuate the terms of the settlement. For the
10 avoidance of doubt, this section means Plaintiff and Plaintiff's Counsel agree not to issue press
11 releases, communicate with, or respond to any media or publication entities, publish
12 information in manner or form, whether printed or electronic, on any medium or otherwise
13 communicate, whether by print, video, recording or any other medium, with any person or
14 entity concerning the settlement, including the fact of the settlement, its terms or contents and
15 the negotiations underlying the settlement, except as shall be contractually required to effectuate
16 the terms of the settlement. However, for the limited purpose of allowing Plaintiff's Counsel to
17 prove adequacy as class counsel or submit fee requests in other actions, Plaintiff's Counsel may
18 disclose the name of the Parties in this action, the venue/case number of this action, and the
19 amount of attorney's fee granted and the maximum settlement amount (but not any other
20 settlement details) for such purposes.

21 81. No Pending Claims. Neither Plaintiff and Plaintiff's Counsel are currently aware
22 of any: (a) unalleged claims in addition to, or different from, those which are finally and forever
23 settled and released against the Released Parties by this settlement; and (b) unalleged facts or
24 legal theories upon which any claims or causes of action could be brought against Defendants,
25 except such facts and theories specifically alleged in the Complaint. Plaintiff and Plaintiff's
26 Counsel note that, other than the instant Action, they have no current intention of asserting any
27 other claims against Defendants in any judicial or administrative forum. Plaintiff and Plaintiff's
28 Counsel will further represent that they do not currently know of or represent any persons who

1 have expressed any interest in pursuing litigation or seeking any recovery against Defendants.
2 The Parties acknowledge, understand, and agree that the representations described in this
3 paragraph are essential to the Agreement and that this Agreement would not have been entered
4 into were it not for this representation.

5 82. Inadmissibility of Agreement. Whether or not the Court issues the Final
6 Approval Order, nothing contained herein, nor the consummation of this Settlement Agreement,
7 is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing
8 on the part of Defendants or any of the other Released Parties. Each of the Parties hereto has
9 entered into this Settlement Agreement with the intention of avoiding further disputes and
10 litigation with the attendant inconvenience and expenses. This Settlement Agreement is a
11 settlement document, and it, along with all related documents such as the notices, and motions
12 for preliminary and final approval, shall, pursuant to California Evidence Code section 1152
13 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an
14 action or proceeding to approve the settlement, and/or interpret or enforce this Settlement
15 Agreement. The stipulation for class certification as part of this Settlement Agreement is for
16 settlement purposes only and if, for any reason the settlement is not approved, the stipulation
17 will be of no force or effect.

18 83. Notices. Unless otherwise specifically provided herein, all notices, demands or
19 other communications given hereunder shall be in writing and shall be deemed to have been
20 duly given as of the third business day after mailing by United States registered or certified
21 mail, return receipt requested, addressed:

22 To the Settlement Class:

23
24 Brian Mankin, Esq.
25 *brian@LMLfirm.com*
26 Lauby Mankin Lauby LLP
27 4590 Allstate Drive
28 Riverside, CA 92501
Tel: (951) 320-1444
Fax: (951) 320-1445

To Defendants:

Marissa Alguire
Marissa.alguire@akerman.com
Corina Valderrama
Corina.valderrama@akerman.com
AKERMAN LLP
601 W. Fifth Street, Suite, 300
Los Angeles, California 90071
Tel: (213) 688-9500
Fax: (213) 627-6342

84. Construction. The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or her or its counsel participated in the drafting of this Settlement Agreement. Plaintiff and Defendants expressly waive the common-law and statutory rule of construction that ambiguities should be construed against the drafter of an agreement and further agree, covenant, and represent that the language in all parts of this Agreement shall be in all cases construed as a whole, according to its fair meaning.

85. Captions and Interpretations. Paragraph titles or captions 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 Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

86. Modification. This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by all of the Parties hereto.

87. Dispute Resolution. Prior to instituting legal action to enforce the provisions of this Agreement or to declare rights and/or obligations under this Agreement, a Party shall provide written notice to the other Party and allow an opportunity to cure the alleged deficiencies, and Plaintiff and Defendants agree to seek the help of the mediator to resolve any dispute they are unable to resolve informally. During this period, the Parties shall bear their own

attorneys' fees and costs. This provision shall not apply to any legal action or other proceeding instituted by any person or entity other than Plaintiff or Defendants.

88. Choice of Law. This Settlement Agreement shall be governed by and construed, enforced and administered in accordance with the laws of the State of California.

89. Integration Clause. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and 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 herein. No rights hereunder may be waived except in writing.

90. Binding On Assigns. 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.

91. Signatures of All Class Members Unnecessary to be Binding. It is agreed that, because the members of the Settlement Class are numerous, it is impossible or impractical to have each Class Member execute this Settlement Agreement. The Notice will advise all Settlement Class Members of the binding nature of the release provided herein and such shall have the same force and effect as if this Settlement Agreement were executed by each Settlement Class Member.

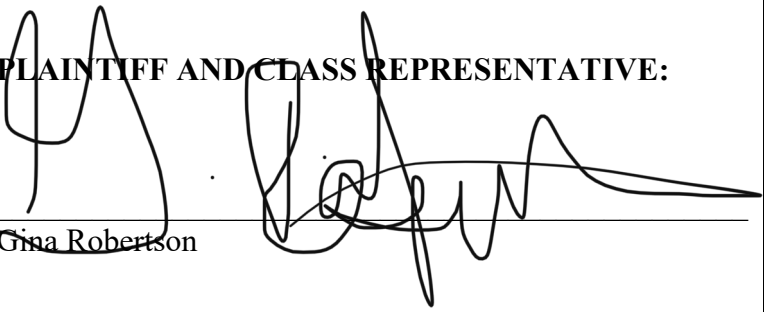
92. Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid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

93. Counterparts. This Settlement 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 fully signed Settlement Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

Dated: May 4, 2021

~~Dated: April __, 2021~~

PLAINTIFF AND CLASS REPRESENTATIVE:



Gina Robertson

Dated: June 10, 2021

~~Dated: April __, 2021~~

CLASS COUNSEL:

LAUBY MANKIN LAUBY LLP



Brian J. Mankin

Attorneys for Plaintiff

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1 Dated: April 22, 2021

DEFENDANTS:

2 ALL CARE HOME HEALTH PROVIDER, ALL CARE
3 HOME HEALTH OF SAN GABRIEL, ALL CARE
4 HOSPICE, ALL CARE PROVIDER SERVICES, INC.,
5 COMCARE HOME HEALTH, INC.

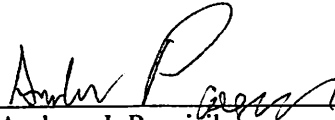


6 By: APOLONIO C. PAGSISIHAN

7 Title: PRESIDENT

8
9 Dated: April 22, 2021

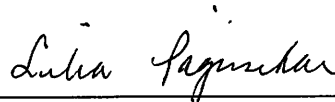
DEFENDANT:

10
11 

12 Andrew J. Pagsisihan

13 Dated: April 22, 2021

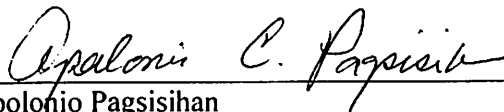
DEFENDANT:

14
15 

16 Lilia Pagsisihan

17
18 Dated: April 22, 2021

DEFENDANT:

19
20 

21 Apolonio Pagsisihan

22 Dated: April 22, 2021

DEFENDANTS' COUNSEL:

23 AKERMAN LLP

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26 Marissa Alguire, Esq.
27 Attorneys for Defendants

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EXHIBIT “C”

NOTICE OF SETTLEMENT OF CLASS ACTION

Gina Robertson v. All Care Home Health Provider, et al.
Superior Court of the State of California, County of Los Angeles
Case No. 20STCV18318

To: all current and former non-exempt employees of defendants All Care Home Health Provider, All Care Home Health of San Gabriel, All Care Hospice, All Care Provider Services, Inc., and/or ComCare Home Health, Inc., (collectively, “All Care”) who worked in the State of California and performed nursing duties at any time between May 14, 2016 and May 24, 2021 (the “Class”):

THIS NOTICE is of a proposed settlement of a class action lawsuit, and an announcement of a court hearing that you may choose to attend. Your rights may be affected by the legal proceedings in this action. The Court will conduct a hearing on [REDACTED], 2021 to address whether the proposed settlement should be approved (the “Final Approval Hearing”). You may be entitled to receive a payment under the terms of this class action settlement contained in the Settlement Agreement.

[IDENTIFYING INFORMATION]

You have been identified as a Class Member in the above lawsuit. Under the terms of the proposed settlement, you are estimated to receive approximately \$**INSERT AMOUNT** as your share of the Net Settlement Amount should the Court grant the settlement in full. Please note that this is only an estimate. Your actual share of the Net Settlement Amount may be more or less than this estimate. Your estimate is based on the number of eligible weeks you worked at All Care in California between May 14, 2016 and May 24, 2021 (the “Class Period”) while performing nursing duties. Your options and eligibility requirements for receiving payments are described below.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	If you want to receive your settlement payment, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if the Settlement receives final approval by the Court. You will be bound by the terms of the Settlement Agreement and will give up your right to sue on the Released Claims described in Section IV.
EXCLUDE YOURSELF	If you do not wish to participate in the settlement, you may “opt-out” of the settlement. If you choose to opt-out, you must submit a Request for Exclusion by [REDACTED], 2021 (see Section V for more details on how to opt-out). If you opt-out, you will no longer be a Class Member, and you will (1) <u>not</u> receive any settlement payment, but you will preserve your right to pursue the Released Claims described in Section IV subject to applicable statutes of limitations, and (2) be barred from filing an objection to the settlement.
OBJECT	If you decide to object to the settlement because you find it unfair or unreasonable, you must submit an objection stating why you object to the settlement by [REDACTED], 2021 (see Section V for more details on how to object).
DISPUTE YOUR NUMBER OF WORK WEEKS	If you believe that your number of Work Weeks listed below in Section IV is incorrect, you may contact the Settlement Administrator to dispute your Work Week calculation (see Section IV for more details on how to dispute your Work Weeks). Defendants’ records will be presumed correct, but you may provide evidence to the Settlement Administrator showing that your Work Week calculation is inaccurate.

I. Why should I read this Notice?

The Court has granted preliminary approval of a proposed settlement (the “Settlement”) in *Robertson v. All Care Home Health Provider, et al.*, Los Angeles County Superior Court Case No. 20STCV18318 (the “Lawsuit”). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

All Care's records show that you were employed at one or more of its locations in California as a non-exempt employee performing nursing duties at some point between May 14, 2016 and May 24, 2021 ("Class Period"). The Court ordered this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE SETTLEMENT: If you were employed by All-Care as a non-exempt employee in California and performed nursing duties at any time during the Class Period, you are automatically included in the Settlement and do not need to take any further action to receive a payment.

The purpose of this Notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the proposed Settlement, and to discuss your rights and options in connection with the Lawsuit and the Settlement.

II. What is this lawsuit about?

Plaintiff and Class Representative Gina Robertson, through her attorneys ("Class Counsel"), filed a class and representative action complaint on May 14, 2020 and a First Amended Complaint on October 5, 2020 (collectively, the "Complaint"), against All Care and its owners for alleged wage and hour violations on behalf of all current and former non-exempt employees who were employed by All Care in California at any time since May 14, 2016 while performing nursing duties. Plaintiff alleges that All Care violated various Labor Code sections by failing to pay wages for all hours worked, provide all required meal and rest breaks, timely pay final wages, provide accurate and complete wage statements, and other related claims.

All Care has denied, and continues to deny, the factual and legal allegations in the Lawsuit and believes that it has valid defenses to Plaintiff's claims. By agreeing to settle, All Care is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. All Care has agreed to settle the case as part of a compromise with Plaintiff and the Class Members.

The Court has not ruled on the merits of Plaintiff's claims. And, by approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this case if it went to trial. However, to avoid additional expense, inconvenience, and risks of continued litigation, All Care and Plaintiff have concluded that it is in their respective best interests and the interests of the Settlement Class to settle the Lawsuit on the terms summarized in this Notice. After providing extensive information to Class Counsel, the Settlement was reached following an arm's length mediation. In these negotiations, both sides recognized the substantial risk of the Court deciding against them at trial and determined that the Proposed Settlement was a good option to resolve the disputed claims.

The Class Representative and Class Counsel support this Settlement. Among the reasons for their support are the defenses to liability potentially available to All Care, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by All Care, this Settlement will not affect your employment. California law strictly prohibits unlawful retaliation. Further, All Care will not take any adverse action against or otherwise target, retaliate, or discriminate against any Class Member because of the Class Member's participation or decision not to participate in this Settlement. If a Class Member does not participate, his/her share will be paid to those who do participate.

III. Who are the Class Members' attorneys?

Attorneys for the Class Members:

Brian Mankin, Esq.
brian@LMLfirm.com
Misty Lauby, Esq.
misty@LMLfirm.com
Lauby Mankin Lauby LLP
4590 Allstate Drive
Riverside, CA 92501
Tel: (951) 320-1444

IV. What are the terms of the Settlement?

On [PA DATE], the Court certified a class, for settlement purposes only, of all non-exempt employees employed by All Care in California while performing nursing duties at any time between May 14, 2016 and May 24, 2021 (the "Settlement Class"). Individuals who do not opt out of the Settlement Class, pursuant to the procedures set forth in this Notice, ("Participating Class Members") will be mailed Settlement checks and in exchange be bound by the Settlement and release of certain wage and penalty claims against All Care.

Without admitting any wrongdoing, All Care has agreed to pay \$1,400,000 (the "Maximum Settlement Amount") to fully resolve all claims in the Lawsuit. The Parties agreed to the following payments from the Maximum Settlement Amount:

Settlement Administration Costs. The Court has approved CPT Group to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. Under the Settlement, a maximum of \$15,000 will be paid from the Maximum Settlement Amount to pay the Settlement Administration Costs.

Penalties to the California Labor Workforce and Development Agency. \$50,000 of the Total Maximum Settlement Amount will be allocated to Plaintiff's claim under the Private Attorneys General Act of 2004 ("PAGA"). Of this amount, \$37,500 will be paid to the Labor Workforce Development Agency in satisfaction of the claims for penalties under PAGA, and the remaining \$12,500 will be included in the Net Settlement Amount to be divided between all Class Members.

Service Payment to Class Representative. Class Counsel will ask the Court to award Class Representative a Service Payment in the amount of \$10,000 to Gina Robertson to compensate her for service and extra work provided on behalf of the Class Members and in exchange for a general release of claims. The Class Representative also may receive a share of the Settlement as a Class Member.

Attorneys' Fees and Costs. Class Counsel have been prosecuting the Lawsuit on behalf of the Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Maximum Settlement Amount. Class Members are not personally responsible for any of Class Counsel's attorneys' fees or costs. Class Counsel will ask for fees of one-third (i.e., \$466,666.66) of the common fund Maximum Settlement Amount as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through finalization of the Settlement. Class Counsel will split the fees award equally. Class Counsel also will ask for reimbursement of up to \$15,000 for the costs Class Counsel incurred in connection with the Lawsuit.

Calculation of Individual Settlement Payments to Class Members. After deducting the amounts above from the Maximum Settlement Amount, the balance will form the Net Settlement Amount for distribution to Participating Class Members (who are Class Members who do not opt-out). The Net Settlement Amount will total approximately \$ [REDACTED]. Compensable work weeks will be all Work Weeks that a Settlement Class Member worked in California during the Class Period. A Work Week includes any week in which a Class Member worked at least one shift/day during the week. To calculate each Individual Settlement Payment, the Settlement Administrator will divide the total Work Weeks of all Settlement Class Members into the Net Settlement Amount to determine a per "Work Week Value." The Workweek Value will be multiplied by the number of Work Weeks worked by each Settlement Class Member during the Class Period to determine the

Individual Settlement Payment, prior to legal deductions, for each Settlement Class Member. If any Settlement Class Member opts-out of the Settlement, his/her Individual Settlement Payment will be distributed to all Participating Class Members (i.e., those who do not opt-out).

For each Settlement Class Member, the Weeks Worked at All Care during the Class Period will be calculated from All Care's records. All Care's records indicate that you worked for **[TOTAL WORK WEEKS] Work Weeks** in California while performing nursing duties during the Class Period of May 14, 2016, through May 24, 2021. If you disagree with this number, you may submit evidence to the Settlement Administrator on or before [REDACTED], 2021, with documentation to establish the number of weeks you claim to have actually worked for All Care while performing nursing duties in California between May 14, 2016 and May 24, 2021 (excluding any leaves of absence). **DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED; DO NOT SEND ORIGINALS.** The Settlement Administrator will render a final decision.

Payments to Class Members. After the Court grants Final Approval of the Settlement and Judgment is entered, settlement checks will be mailed to all Participating Class Members who did not timely request to be excluded. Participating Class Members will have 180 days from the issuance of the last check to cash all of the checks. In the event that any Participating Class Member fails to timely cash a settlement check, a stop payment will be placed on the check and the funds will be paid to the California State Controller's Office in the name of the Participating Class Member, so that the Participating Class Member can attempt to collect the funds at a later date.

Allocation and Taxes. One-third (33.34%) of the Individual Settlement Payment distributed to each Participating Class Member will be considered and reported as wages (Form W-2 reporting). The remaining two-thirds (66.66%) will be considered and reported as interest and penalties (Form 1099 reporting). The Settlement Administrator shall take all usual and customary deductions from the Individual Settlement Payments that are distributed as wages, including, but not limited to, state and federal tax withholding, disability premiums, and unemployment insurance premiums. There will be no deduction taken from the interest and penalty distribution; however, it will be reported on IRS Form 1099 as income. Participating Class Members are responsible for the proper income tax treatment of the Individual Settlement Payments. The Settlement Administrator, All Care and its counsel, and Class Counsel cannot provide tax advice and make no representations as to the tax treatment or legal effect of the Individual Settlement Payments. Participating Class Members will be solely responsible for the payment of any taxes and penalties assessed on their Individual Settlement Payments. Accordingly, Participating Class Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. Once the Court approves the proposed Settlement and enters Judgment, and All Care funds the Settlement, then the Settlement Agreement will bind all Class Members who have not opted out of the Settlement, and will bar them from bringing certain claims against All Care. Specifically, the Participating Class Members will fully release and discharge the Defendants and their past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers, as well as individual defendants Andrew J. Pagsisihan, Lilia Pagsisihan, and Apolonio Pagsisihan, of all causes of action and factual or legal theories that were alleged in the Complaint or reasonably could have been alleged based on the facts and legal theories contained in the Complaint, including all of the following claims for relief: (i) failure to pay regular and minimum wages; (ii) failure to pay all overtime wages; (iii) failure to provide meal periods; (iv) failure to provide rest periods; (v) failure to reimburse business expenses; (vi) failure to timely pay final wages; (vii) failure to provide accurate itemized wage statements; (viii) unfair and unlawful business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the Complaint; (ix) all claims under the California Labor Code Private Attorneys General Act of 2004 that could have been premised on the claims, causes of action or legal theories described above or any of the claims, causes of action or legal theories of relief pleaded in the Operative Complaint; (x) any other claims or penalties under the wage and hour laws pleaded in the Complaint; and (xi) all damages, penalties, interest and other amounts recoverable under said claims, causes of action or legal theories of relief. These released claims and damages are hereinafter referred to as "Released Claims." The time period governing these Released Claims shall be at any time from May 14, 2016 and May 24, 2021 ("Release Period").

Waiver of Labor Code Section 206.5(e). Participating Class Members will be deemed to have acknowledged and agreed that their claims for wages and/or penalties in the Lawsuit are disputed, and that the Individual Settlement Payments constitute payment of all sums allegedly due to them. Participating Class Members will be deemed to have acknowledged and agreed that California Labor Code Section 206.5 is not applicable to the Individual Settlement Payments. That section provides in pertinent part as follows:

“No employer shall require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wages has been made.”

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of Judgment.

V. What options do I have?

- A. **Do Nothing and Participate in the Settlement.** Under the Settlement, you will automatically receive an Individual Settlement Payment unless you exclude yourself from the settlement by following the opt-out procedure set forth below. If you disagree with the number of Weeks Worked, as described in this Notice, you may dispute the allocation of the Settlement without excluding yourself or objecting, as described above. It is the responsibility of all Class Members to ensure that the Settlement Administrator has your current address on file, or you may not receive important information or an Individual Settlement Payment.

If you are a current employee, your decision as to whether or not to participate in this Settlement will not be considered by the Defendants and the Defendants will not take any adverse employment action against you based on your participation in the Settlement.

- B. **Exclude Yourself from the Settlement.** If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a “Request for Exclusion from the Class Action Settlement” letter/card postmarked no later than [REDACTED], 2021 with your full name, address, telephone number, last four digits of your social security number or your date of birth, and signature. The Request for Exclusion should state:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE ROBERTSON v. ALL CARE LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT.”

Send the Request for Exclusion directly to the Settlement Administrator, [ADDRESS], postmarked no later than [REDACTED], 2021. Any person who files a timely Request for Exclusion from the Class Action Settlement, upon receipt: (1) will not have any rights under this Settlement, including the right to object, appeal or comment on the Settlement; (2) will not be entitled to receive any payments under this Settlement; and (3) will not be bound by this Settlement, or the Judgment.

- C. **Object to Settlement.** You also have the right to object to the terms of the Settlement if you believe they are unfair or unreasonable. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object, you must submit a written objection stating (i) your full name, address, telephone number, last four digits of Social Security number, (ii) the case name and number, (iii) a clear statement indicating that you seek to object to the Settlement, (iv) the specific legal and/or factual reason(s) in support of the objection, as well as any documentation or evidence in support thereof, (v) a statement of whether you intend to appear at the final approval hearing, (vi) the name and address of your attorney(s) if you are represented, and (vii) your signature. Objections must be in writing and mailed to the Settlement Administrator, [ADDRESS], by no later than [REDACTED], 2021. Objections that do not include all required information, or that are not submitted timely, will not be considered. **You need not object to the Settlement if you only dispute the number of Weeks Worked.**

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for [REDACTED], 2021, at [REDACTED] a.m. in Department SS1 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. You have the right to appear either in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before [REDACTED], 2021. All objections or other correspondence must state the name and number of the case. If you wish to appear at the Final Approval hearing, please contact Class Counsel or the Settlement Administrator in advance of the scheduled hearing to ensure that the hearing has not been continued by the Court.

If you object to the Settlement, you will remain a Class Member, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Participating Class Members who do not object. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment before entry of judgment.

VI. What is the effect of the settlement?

Released Rights and Claims. The Settlement is intended to settle all claims against the Released Parties that were asserted or could have been asserted in the Lawsuit regarding the alleged violations of wage and hour laws. If you were employed by All Care in California while performing nursing duties at any time during the Class Period and do not elect to exclude yourself from the Settlement Class, you will be deemed to have entered into this Release and to have released the above-described Released Claims. If the Settlement is not approved by the Court or does not become final for some other reason, the Lawsuit may continue and the releases will not take effect.

VII. What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement, and Class Counsel's request for attorneys' fees and reimbursement of documented litigation costs and the Service Payment to the Class Representative on [REDACTED], 2021 at **8:30 a.m.** in Department **SSI** of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. To confirm the date and location of the hearing, please visit the Court website below and enter the case number (20STCV18318):

<http://www.lacourt.org/CaseSummary/UI/index.aspx?casetype=civil>

You are not required to attend the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

VIII. How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Class Action Settlement Agreement (the Settlement Agreement) at Office of the Clerk, Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012, during regular court hours. You may also contact Class Counsel or the Settlement Administrator using the contact information listed above for more information.

IX. Court's Social Distancing Guidelines.

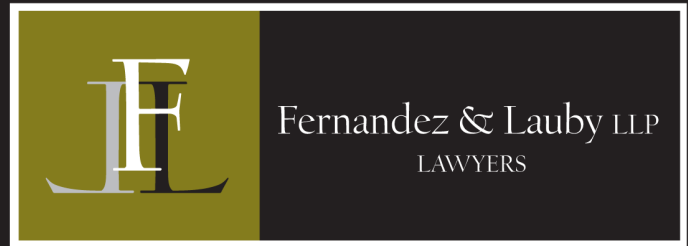
Please be advised that the Court has imposed social distancing guidelines for attendance at hearings and reviewing court files. Based on current conditions, including but not limited to, the spread of COVID-19 disease, the state of emergency having been declared by Governor Gavin Newsom, the need for social distancing, Class Members are encouraged to appear remotely via LACourtConnect which can be arranged at <http://www.lacourt.org/lacc/> or by contacting the Judicial Assistant in Department 1 for further instructions.

X. Reminder as to time limits.

Class Members do not have to take any further action to participate in the Settlement. The deadline for submitting a Request for Exclusion is [REDACTED], 2021. The deadline for mailing an objection to the Settlement Administrator is [REDACTED], 2021. These deadlines will be strictly enforced.

**PLEASE DO NOT CALL OR WRITE THE COURT
FOR INFORMATION ABOUT THIS SETTLEMENT**

EXHIBIT “D”



November 8, 2019

Sent Via Online Filing to the LWDA

Sent Via U.S. Mail and Certified Mail

California LWDA
Attn: PAGA Administrator
455 Golden Gate Ave., 9th Fl.
San Francisco, CA 94102

Please see attached Service List

Re: Penalty Claims of Gina Robertson v. All Care Home Health, et al.

Dear Labor and Workforce Development Agency and All Care Home Health Provider, All Care Home Health of San Gabriel, All Care Hospice, All Care Provider Services, Inc., Comcare Home Health, Inc., Andrew J. Pagsisihan, Lilia Pagsisihan, and Apolonio Pagsisihan:

Pursuant to the Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2699, *et seq.*, Labor Code §§ 201, 202, 203, 204, 208, 210, 218.6, 221, 223, 226, 226.3, 226.7, 226.8, 256, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, among possibly other sections inadvertently omitted, and/or sections of the applicable Industrial Welfare Commission Wage Order(s), this letter shall serve as the penalty claims of aggrieved employee Gina Robertson (“Claimant”), on behalf of the State of California and all Aggrieved Employees, against her employer(s), All Care Home Health Provider, All Care Home Health of San Gabriel, All Care Hospice, All Care Provider Services, Inc., Comcare Home Health, Inc., Andrew J. Pagsisihan, Lilia Pagsisihan, and Apolonio Pagsisihan (collectively referred to as the “Company”).

FACTUAL BACKGROUND

Claimant was employed by the Company as a non-exempt, in-home nurse since approximately June 2012 through present. However, during the entirety of her employment, the Company engaged in the practice of misclassifying Claimant as a purported independent contractor.

Claimant and other Aggrieved Employees were told by supervisors that they are independent contractors and therefore, not entitled to the protections of the Labor Code with respect to things such as meal periods, rest breaks, overtime, and expense reimbursements among others.

At all relevant times, the Company engaged in the practice of willfully misclassifying Claimant and other Aggrieved Employees as independent contractors, despite that they were employees of the Company because they (A) are/were subject to the control and direction of the Company in connection with the performance of their work, both under contract and in fact, (B) performed work that was the core business of the company (e.g., in-home nursing care services, among others), and therefore the Aggrieved Employees’ tasks were not outside the usual course of the Company’s business, and (C) were not customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed by the Company.

At all relevant times, Claimant and the Aggrieved Employees (who were misclassified as independent contractors) were subject to the direction and control of the Company in regard to work assignments, scheduling requirements, and days of work. Furthermore, the Company directly and indirectly exercised control over the wages, hours, and working conditions of Claimant and the Aggrieved Employees, as the daily schedule for Claimant and the Aggrieved Employees was controlled by the Company. Furthermore, through the performance of their job duties, Claimant and the Aggrieved Employees performed an integral and entirely essential aspect of the Company's business. In fact, Claimant and the Aggrieved Employees were tasked to perform the one and only service that the Company provided: in-home nursing care. Additionally, the customers are and/or were the Company's customers, not those of Claimant or the Aggrieved Employees. Claimant and the Aggrieved Employees were also prohibited from performing similar services for other companies and, thus, were not engaged in an independently established trade, occupation or business of the same nature as the work performed by the Company. And, perhaps most importantly, the Company retained the right to terminate Claimant and the Aggrieved Employees working relationship without cause and at its discretion. Despite these facts, the Company misclassified Claimant and the Aggrieved Employees as independent contractors.

As a result of the Company's practice of misclassifying its employee as exempt and/or as independent contractors, Claimant and the Aggrieved Employees were subjected to a multitude of Labor Code violations.

For instance, Claimant and the Aggrieved Employees were often not paid at least the minimum wage for each hour they worked for Defendants. For example, when Claimant and Aggrieved Employees provided care to "per diem" patients, they travelled to multiple patients' houses throughout each workday but were not compensated for the time spent driving between houses.

Additionally, Claimant and the Aggrieved Employees often worked in excess of 8 and/or 12 hours per day and/or 40 hours per week. However, because the Company classified the Aggrieved Employees as "independent contractors," Claimant did not receive minimum wages for all hours worked and also did not receive proper overtime wages for hours in excess of 8 and/or 12 hours per day and/or 40 hours per week.

In addition to telling employees that they were not entitled to paid rest breaks due to independent contractor status, the Company also failed to provide mandated rest breaks to Claimant and the Aggrieved Employees because the Company failed to provide Claimant with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. In fact, the Company scheduled Claimant's workload in such a way that she was often not authorized and/or permitted to take mandated rest breaks due to being overwhelmed by her hectic workload. Furthermore, on occasions when Claimant worked in excess of 10 hours in a shift, the Company failed to authorize and/or permit a third mandated rest break.

Claimant was also not provided 30-minute off-duty meal periods, as mandated by California law, during her employment with the Company. As a result of the Company's policies and practices, Claimant was subjected to meal period violations when she was: (1) unable to take a meal period due to her workload, (2) forced to take her meal period after the 5th hour of work, (3) not provided a mandated second meal period on shifts in excess of 10 hours. Moreover, Claimant was typically unable to take an off-duty meal period whatsoever due to the way the Company scheduled her workload, as she was often denied a meal or was forced to eat while working.

The Company also failed to reimburse the Aggrieved Employees for business expenses. For example, at various times Claimant was assigned to "per diem" patients requiring her to travel to the homes of multiple patients in a day but was only reimbursed for mileage if the distance between homes exceeded a certain number of miles.

Furthermore, the Company also failed to comply with the mandates of Labor Code § 204 regarding the timing of the payment of wages each period and failed to comply with the mandates of Labor Code §§ 201 – 203 regarding payment of final wages upon separation of employment. Finally, during her employment with the Company, Claimant received inaccurate and incomplete wage statements that failed to accurately state all necessary items required under Labor Code § 226.

As a result of these violations, and others described below, Claimant alleges that she and other Aggrieved Employees were denied specific rights to which they are/were entitled under California law and the rules promulgated by the IWC Wage Orders, including the following:

PAGA ASSESSMENT FOR WILLFUL MISCLASSIFICATION
(Labor Code § 226.8)

Labor Code § 226.8(a) states "It is unlawful for any person or employer to engage in any of the following activities: (1) Willful misclassification of an individual as an independent contractor" and/or "(2) Charging an individual who has been willfully misclassified as an independent contractor a fee, or making any deductions from compensation, for any purpose, including for goods, materials, space rental, services, government licenses, repairs, equipment maintenance, or fines arising from the individual's employment where any of the acts described in this paragraph would have violated the law if the individual had not been misclassified." Labor Code § 226.8(b) states that if "a person or employer has engaged in any of the enumerated violations of subdivision (a), the person or employer shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted by law." Labor Code § 226.8(c) further states that if "a person or employer has engaged in any of the enumerated violations of subdivision (a) and the person or employer has engaged in or is engaging in a pattern or practice of these violations, the person or employer shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law.

In this matter, the Company willfully and knowingly misclassified Claimant and certain Aggrieved Employees as independent contractors. Therefore, in addition to recovering the amount of attorneys' fees and cost incurred herein, Claimant is entitled to the assessment of civil penalties in accordance with Labor Code § 226.8.

**PAGA ASSESSMENT FOR FAILURE TO
PAY ALL MINIMUM, REGULAR, AND OVERTIME WAGES**

(Labor Code §§ 204, 221-223, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198; IWC Wage Order §§ 3, 4(B))

As discussed above, Claimant and the Aggrieved Employees were not paid all minimum and/or regular wages owed due to the Company's pay policy that did not provide compensation for all hours worked. For example, Claimant and Aggrieved Employees were required to travel to patients' homes without being compensated for their travel time. In addition, due to the Company's practice of misclassifying the Aggrieved Employees as "independent contractors," Claimant and the Aggrieved Employees often worked in excess of 8 and/or 12 hours per day and/or 40 hours per week without receiving proper payment of the requisite overtime wages.

Accordingly, Labor Code §§ 210, 558, 1197.1, and 2699, among possibly others, impose various penalties upon the Company for each employee and each pay period in which it failed to pay all wages including, but not limited to, minimum, regular, and overtime wages in violation of the Labor Code and/or the IWC Wage Orders.

**PAGA ASSESSMENT FOR DENIAL OF MEAL PERIODS,
REST BREAKS, AND WAGE PREMIUMS**

(Labor Code §§ 226.7(b) & (c), 512, 558; Cal. Admin. Code, Title 8, § 11090)

Labor Code § 226.7(b) states that "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ..." Labor Code § 512(a) states in pertinent part: "[A]n employer may not employ an employee for a work period of more than 5 hours per day without providing the employee with an uninterrupted meal period of not less than 30 minutes [...] [a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

Section 12 of applicable IWC Wage Order states in pertinent part: "Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof."

Here, Claimant and other Aggrieved Employees were regularly not provided compliant mandatory meal periods and paid rest breaks due to the Company's policies described above. Although the Company was required to pay Claimant and all Aggrieved Employees premium wages equal to an additional hour of pay at the employee's regular rate of pay for each violation under Labor Code § 226.7(c), the Company did not pay the mandatory one-hour wage premiums. Labor

Code § 558 imposes a penalty for each violation, plus an amount sufficient to recover the underpaid wages. Additionally, the civil assessment set forth in Labor Code § 2699 applies to these violations.

PAGA ASSESSMENT FOR FAILURE TO REIMBURSE BUSINESS EXPENSES

(Labor Code § 2802; IWC Wage Order § 9(b))

Labor Code § 2802(a) states “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.”

Here, the Company required Claimant and the Aggrieved Employees to incur expenses in direct consequence of the discharge of their duties. For example, the Company required Claimant and the Aggrieved Employees to incur expenses related to the use of their personal vehicle, without reimbursement. Accordingly, Labor Code § 2699 imposes a penalty upon the Company for each such violation of Labor Code § 2802. Furthermore, Labor Code § 2802(b) states that “[a]ll awards made by a Court for reimbursement of necessary expenditures” shall carry interest, at the same rate as judgments in civil actions, and said interest will accrue from the date on which the employee incurred the necessary expenditure or loss including, but not limited to, reasonable costs and attorney’s fees incurred by the employee enforcing her rights granted pursuant to Labor Code § 2802.

**PAGA ASSESSMENT FOR FAILURE TO PAY ALL WAGES DUE AND OWING
EACH PAYROLL PERIOD WITHIN THE TIME REQUIRED BY LAW**

(Labor Code §§ 204, 204.1, 208, 256 and 2699)

Labor Code § 204(a) states that all wages earned by a person are due and payable twice during each calendar month, and further states that wages earned during the first through fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that wages earned between the sixteenth and last day of the month must be paid by the tenth day of the following month. Labor Code § 204(d) states “[t]he requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.”

Here, the Company willfully violated Labor Code § 204 because the Company failed to pay Claimant and the Aggrieved Employees all compensation to which they were entitled, the Company had a pattern and practice of failing to pay all wages due and owing to Claimant and the Aggrieved Employees within the time mandated by Labor Code § 204. As a result of these violations, penalties may be assessed pursuant to Labor Code §§ 203, 210, 256, and/or 2699.

PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES

(Labor Code §§ 201, 202, 203, 256 and 2699)

Labor Code § 201(a) provides in pertinent part: “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code § 202(a) states in pertinent part “If an employee not having a written contract for a definite period quits

his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours' previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting." Labor Code § 203(a) states "If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days."

The Company did not pay the Aggrieved Employees all wages that were due and owing within the required time following the end of their employment in accordance with Labor Code §§ 201-202. As a result, all such Aggrieved Employees are entitled to 30 days of wages as a "waiting time penalty." (Labor Code §§ 203, 256.) Labor Code § 2699 also imposes a penalty.

PAGA ASSESSMENT FOR FAILURE TO PROVIDE ACCURATE,
ITEMIZED WAGE STATEMENTS
(Labor Code §§ 226, 226.3, and 1174)

Labor Code § 226(a) requires an employer to provide its employees with itemized wage statements accurately stating gross wages earned, total hours worked, all deductions, net wages earned, the inclusive dates of the pay period, the employee's name and the last four digits of his or her Social Security number (or employee identification number), the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

At all times pertinent hereto, the Company failed to provide accurate itemized wage statements to Claimant and all Aggrieved Employees due to violations including: failure to accurately state gross wages earned; failure to accurately state total hours worked; failure to accurately state all deductions; failure to accurately state net wages earned; failure to state the applicable hourly rates; and failure to accurately state the corresponding number of hours worked at each hourly rate. Additionally, wage statements issued to Claimant and Aggrieved Employees misidentified holiday pay as "OVERTIME" when, in fact, the employees received straight time pay for overtime work.

Accordingly, Claimant is entitled to damages under Labor Code § 226(e), including reasonable attorneys' fees. Labor Code §§ 226.3 and 2699 also impose a civil penalty and/or assessment for these violations.

PAGA ASSESSMENT FOR VIOLATIONS OF LABOR CODE § 1199
(Labor Code § 1199)

An employer violates Labor Code § 1199 if said employer: (a) requires or causes an employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission; (b) pays or causes to be paid to any employee a wage less than the

minimum fixed by an order of the commission; or, (c) violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission. Labor Code § 2699.5 specifically enumerates Labor Code § 1199 as a section to which the civil penalties under the PAGA apply. Therefore, as a result of the Company's violations described herein, the Company is subject to the civil penalties in accordance with Labor Code § 2699.

ATTORNEYS' FEES, INTEREST, AND PENALTIES

(Labor Code §§ 2699(f)(2), 2699(g)(1), 2699.5)

Labor Code § 2699(g)(1), give employees the right to recover in a civil action the unpaid balance of the full amount of wages, including interest thereon, penalties and other damages, as applicable, reasonable attorneys' fees, and costs of suit. Additionally, Claimant seeks the assessment of penalties, including civil penalties, under Labor Code §§ 203, 210, 225.5, 226.3, 1174.5, 1197.1, 2699, and/or § 20 of the IWC Wage Orders, among possibly other provisions inadvertently omitted herein. Furthermore, Claimant is entitled to bring a wage/hour claim on behalf of all current and former similarly situated employees of the Company. Thus, the Company is exposed to these same penalties for violations involving all Aggrieved Employees.

Additionally, Claimant seeks attorney's fees pursuant to C.C.P. § 1021.5. Please construe this correspondence as Claimants' notification of alleged wrongdoing and attempted resolution in accordance with C.C.P. § 1021.5 and *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553.

CONCLUSION

Based on the foregoing, the Company may be liable for penalties, including unpaid wages under Labor Code § 558, related to the foregoing claims and remedies. If Claimant becomes aware of any additional claims for Labor Code violations related to his employment and/or other employees of the Company, he reserves the right to add new claims by amending this claim letter.

Should you have any questions, please feel free to give me a call. In the meantime, I look forward to your response.

Very Truly Yours,



By: Misty M. Lauby, Esq.
Brian J. Mankin, Esq.
E-mail: MML@fernandezlauby.com
BJM@fernandezlauby.com
www.California-EmploymentLawyers.com

Service List

All Care Home Health Provider
100 W. Broadway, Ste 810
Glendale, CA 91210

All Care Home Health of San Gabriel
100 W. Broadway, Suite 830
Glendale, CA 91210

All Care Hospice
100 W. Broadway, Suite 810
Glendale, CA 91210

All Care Provider Services, Inc.
1143 S. Robles Ave.
Pasadena CA 91106

Comcare Home Health, Inc.
100 W. Broadway, Suite 800
Glendale, CA 91210

Andrew J. Pagsisihan
1143 S. Los Robles Ave.
Pasadena, CA 91106

Lilia Pagsisihan
11031 Irma Avenue
Tujunga, CA 91042

Apolonio Pagsisihan
11031 Irma Avenue,
Tujunga, CA 91042

EXHIBIT “E”