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Attorneys for Defendant
COMMUNITY CONVALESCENT CENTER OF MONTCLAIR, INC., ET AL.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

CHANTEL MARIN, as an aggrieved
employee and Private Attorney General,

Plaintiff,

vs.

COMMUNITY CONVALESCENT
CENTER OF MONTCLAIR, INC. dba
COMMUNITY EXTENDED CARE OF
MONTCLAIR, a California corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: CIVDS2015732

*Assigned for all purposes to: Hon. David
Cohn, Dept. S-26*

**JOINT STIPULATION OF PAGA
SETTLEMENT**

Complaint Filed: August 4, 2020
Trial Date: None Set

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The following definitions are applicable to this Settlement, in addition to other terms defined elsewhere in the Settlement:

1. “Agreement” or “Settlement Agreement” means this Joint Stipulation of PAGA Settlement.

3. “Court” means the Superior Court of the State of California for the County of San Bernardino.

5. “Plaintiff’s Counsel” shall mean the attorneys representing Plaintiff in the Action, Heather Davis, Esq. and Amir Nayebdadash, Esq. of Protection Law Group, LLP.

7. “PAGA Members” shall mean all current and former hourly-paid, non-exempt employees who were employed by Defendant in the state of California at any during the PAGA Period.

1 8. “Aggrieved Employee List” means a complete list of all PAGA Members that
2 Defendant will diligently and in good faith compile from its records and provide to the Settlement
3 Administrator within fourteen (14) calendar days after Approval of this Settlement. The
4 Aggrieved Employee List will be formatted in a readable Microsoft Office Excel spreadsheet and
5 will include PAGA Member’s: (1) full name; (2) last known home address; (3) last known
6 telephone number; (4) social security number; (5) start and end dates of active employment as a
7 non-exempt employee of Defendant in the State of California; (6) total pay periods during the
8 PAGA Period; and (7) any other information required by the Settlement Administrator in order
9 to effectuate the terms of the Settlement.

10 9. “Plaintiff’s Counsel’s Fees and Costs” means attorneys’ fees for Plaintiff’s
11 Counsel’s litigation and resolution of this Action and their expenses and costs incurred in
12 connection with the Action, which shall be paid from the Gross Settlement Amount. Plaintiff’s
13 Counsel will request attorneys’ fees not to exceed Thirty-Three and One-Third Percent (33 1/3%)
14 of the Gross Settlement Amount, *i.e.* One Hundred Fifty-Eight Thousand Three Hundred Thirty-
15 Three Dollars and Thirty-Three Cents (\$158,333.33), and the reimbursement costs and expenses
16 associated with the litigation and settlement of the Action, not to exceed Thirty-Five Thousand
17 Dollars (\$35,000.00), subject to the Court’s approval. Defendant has agreed not to oppose
18 Plaintiff’s Counsel’s request for fees and reimbursement of costs and expenses in the amount set
19 forth above.

20 10. “Plaintiff’s Representative Enhancement Payment” means the amount that the
21 Court authorizes to be paid to Plaintiff Marin in her capacity as the PAGA representative to
22 compensate her for prosecuting the Action, and performing work in support of the Action, in the
23 amount of Seven Thousand Five Hundred Dollars (\$7,500.00), subject to approval by the Court.

24 11. “Settlement Administrator” means ILYM Group. The Parties each represent that
25 they do not have any financial interest in the Settlement Administrator or otherwise have a
26 relationship with the Settlement Administrator that could create a conflict of interest.

27 12. “Settlement Administration Payment” shall mean the payment to the Settlement
28 Administrator for its fees and expenses in administering this Settlement in an amount not to

1 exceed Five Thousand Dollars (\$5,000.00).

2 13. "Pay Period" shall mean any pay period in which a PAGA Member received
3 payment from Defendant as an hourly-paid, non-exempt employee.

4 14. "Individual Pay Periods" shall mean the number of Pay Periods for an individual
5 PAGA Member.

6 15. "Gross Settlement Amount" shall mean the Gross Settlement Amount of Four
7 Hundred Seventy-Five Thousand Dollars (\$475,000.00) payable by Defendant as provided by
8 this Settlement Agreement. The Gross Settlement Amount is non-reversionary; no portion of the
9 Gross Settlement Amount will return to Defendant.

10 16. Defendant represents that as of September 3, 2021, the number of Pay Periods
11 worked by the PAGA Members is 13,365. Should the qualifying Pay Periods worked by the
12 PAGA Members during the PAGA Period ultimately increases by more than 15% (*i.e.*, by more
13 than 2,005 Pay Periods), then, at Defendant's election, either (a) the Gross Settlement Amount
14 shall increase on a *pro rata* basis equal to the percentage increase in the number of Pay Periods
15 worked by the PAGA Members above 15% (for example, if the number of Pay Periods increases
16 by 16% to 15,503 Pay Periods, the Gross Settlement Amount would increase by 1% to \$479,750)
17 or (b) the ending date of the PAGA Period shall be changed to a date early that the date the Court
18 approves this settlement as of which the number of Pay Periods worked by PAGA Members
19 during the PAGA Period does not exceed 16,369 (which is 15% greater than 13,365). Defendant
20 shall confirm the number of Pay Period at issue in advance of Plaintiff's filing the motion for
21 approval to confirm whether the number of Pay Periods increased by more than 15%.

22 17. "Net Settlement Amount" shall mean the Gross Settlement Amount, less (1)
23 Plaintiff's Counsel's fees, (2) Plaintiff's Counsel's costs, (3) Settlement Administration Costs,
24 and (4) Plaintiff's Representative Payment to Plaintiff Marin.

25 18. "LWDA Payment" shall mean the payment to the California Labor and Workforce
26 Development Agency ("LWDA") constituting seventy-five percent (75%) of the Net Settlement
27 Amount.

28 19. "PAGA Payment" shall mean the remaining twenty-five percent (25%) of the Net

1 Settlement Amount to be distributed on a *pro rata* basis based upon the number of Pay Periods
2 worked by each PAGA Member.

3 20. “PAGA Payment Share” shall mean the value of each PAGA Member’s share of
4 the PAGA Payment as provided by this Settlement Agreement.

5 21. “PAGA Notice” shall mean the Notice of Settlement and Approval, a sample of
6 which is attached hereto as **Exhibit A**. The PAGA Notice shall further contain (i) a PAGA
7 Member’s first and last name; (ii) last known address; (iii) last the PAGA Member’s Individual
8 Pay Periods; and (vi) the PAGA Member’s individual share of the PAGA Payment.

9 22. “Effective Date” shall mean the date upon which the Court enters approval of the
10 Settlement.

11 23. “Judgment” shall mean the order granting approval of the Settlement, granting
12 approval of the PAGA Notice, and entering judgment by the Court that the Parties anticipate will
13 be entered following a hearing for approval of the Settlement in this Action.

14 24. “Released Parties” means Defendant Community Convalescent Center of
15 Montclair, Inc. dba Community Extended Care of Montclair, and its past, present and/or future,
16 direct 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 25. “Released Claims” means any and all claims for the recovery of civil penalties,
20 attorneys’ fees and costs permissible under PAGA which Plaintiff and/or the Aggrieved
21 Employees had, or may claim to have against the Released Parties arising out of the violations
22 alleged in the Action, including nonpayment of straight and overtime wages (including any work
23 off the clock), failure to pay employees all minimum wages and overtime wages owed including
24 by failing to pay all overtime and double time at the correct regular rate of pay, failure to provide
25 compliant meal and rest breaks, failure to pay employees all penalty wages owed for short, late,
26 or missed meal and rest periods, failure to pay all wages owed at discharge or resignation
27 (including accrued vacation wages); failure to timely pay wages within the times permissible
28 under Labor Code section 204; failure to provide complete and accurate wage statements; failure

1 to keep complete and accurate payroll records; violations of Labor Code sections 201, 202, 203,
2 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, and 1198. This release shall apply
3 to all such claims arising during the PAGA Period.

4 **RECITALS**

5 26. On May 28, 2020, Plaintiff's Counsel, on behalf of Plaintiff and PAGA Members,
6 gave written notice to the LWDA of the Labor Code violations Defendant is alleged to have
7 violated ("PAGA Letter").

8 27. On August 4, 2020, after fully exhausting PAGA's mandatory 65-day notice
9 period, Plaintiff filed a class action and representative PAGA action complaint alleging the
10 following eight (8) causes of action: (1) Unpaid Overtime; (2) Unpaid Meal Period Premiums;
11 (3) Unpaid Rest Period Premiums; (4) Unpaid Minimum Wages; (5) Final Wages Not Timely
12 Paid; (6) Failure to Provide Accurate Itemized Wage Statements; (7) Unfair Business Practices
13 (California Business and Professions Code § 17200); and (8) violation of Labor Code § 2698, *et*
14 *seq.* ("PAGA") with the San Bernardino County Superior Court.

15 28. After the filing of the Complaint, Defendant's counsel provided a copy of an
16 arbitration agreement signed by Plaintiff. After review of the arbitration and accessing its validity
17 and application to Plaintiff's claims, Plaintiff agreed to seek only penalties under PAGA and to
18 dismiss all other claims. The Hon. David Cohn granted Plaintiff's request to dismiss the class
19 claims and have the matter proceed as PAGA only on April 1, 2021.

20 29. On September 3, 2021, the Parties in the Action participated in a full day of
21 mediation before an experienced employment and class/representative action mediator, Kelly A.
22 Knight. The matter did not settle at the September 3, 2021 mediation. However, the Parties
23 continued settlement discussions which resulted in a settlement.

24 30. Throughout the Action, Defendant has denied, and continues to deny, any
25 wrongdoing in regard to the alleged violations.

26 31. The Settlement described in this Settlement Agreement represents a compromise
27 and settlement of highly disputed claims. Nothing in this Settlement is intended or will be
28 construed as an admission by Defendant that Plaintiff's claims in the Action have any merit or

1 that it has any liability to Plaintiff, PAGA Members, or the State on those claims, or as an
2 admission by Plaintiff that Defendant's defenses in the Action have any merit. This Settlement is
3 intended to fully, finally, and forever compromise, release, resolve, discharge, and settle the
4 released claims subject to the terms and conditions set forth in this Settlement.

5 32. Based on its own thorough, independent investigation and evaluation of this case,
6 Plaintiff's Counsel is of the opinion that the Settlement of the Action with Defendant for the
7 consideration and on the terms set forth in this Settlement is fair, reasonable, adequate, and in the
8 best interest of PAGA Members in light of all known facts and circumstances, including the risk
9 of significant costs and delay, the defenses asserted by Defendant including the risks of adverse
10 determinations on the merits, and numerous potential appellate issues. Although Defendant
11 contends that it has no liability in the Action, Defense Counsel shares Plaintiff's Counsel's belief
12 that the Settlement represents a fair and adequate settlement given the respective risks associated
13 with the case.

14 33. Based on the foregoing Recitals, the Parties agree as follows:

15 **PROCEDURE FOR APPROVING SETTLEMENT**

16 34. Motion for Approval of Settlement: Plaintiff will obtain a hearing before the Court
17 to request Motion for Approval of the PAGA Settlement ("Motion for Approval"). In conjunction
18 with the Motion for Approval hearing, Plaintiff will submit this Agreement, which sets forth the
19 terms of the Settlement, and will include the proposed PAGA Notice attached as Exhibit A.
20 Defendant agrees that it will not oppose Plaintiff's Motion for Approval. Any failure by the Court
21 to fully and completely approve the Agreement as to the Action will result in this Settlement
22 Agreement entered into by the Parties, and all obligations under this Settlement Agreement being
23 nullified and voided.

24 35. Final Order and Judgment: Upon approval of the Settlement by the Court, the
25 Parties will present for the Superior Court's approval and entry a Proposed Final Order and
26 Judgment.

27 36. Notice: After the Court enters its Order granting approval of the PAGA Settlement,
28 every PAGA member will be provided with the PAGA Notice. Each Notice will provide: (a)

information regarding the nature of the Action; (b) a summary of the Settlement's principal terms; (c) the PAGA Members definition; (d) the dates which comprise the PAGA Period; (e) the total pay periods during the PAGA Period each respective PAGA Member worked for Defendant; and (f) each PAGA Member's PAGA Payment Share.

37. Delivery of the Aggrieved Employee List: Within fourteen (14) calendar days after the Court enters its order granting approval of the PAGA Settlement, Defendant will provide the Aggrieved Employee List to the Settlement Administrator. This is a material term of the Agreement, and if Defendant fails to comply, Plaintiff shall have the right to void the Settlement.

38. Confirmation of Contact Information in the Aggrieved Employee List: Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any Notice returned to the Settlement Administrator as non-deliverable will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Notice. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address and/or Social Security number of the PAGA Member involved, and will then perform a single re-mailing. If any notice sent to a PAGA Member by the Settlement Administrator is returned as undeliverable to a current employee, then Defendant shall make all reasonable efforts to obtain the current address from the PAGA Member and provide the same within five (5) calendar days of notice from the Settlement Administrator.

39. Funding of the Gross Settlement Amount: Within forty-five (45) calendar days of the Effective Date, Defendant will deposit the Gross Settlement Amount into a Qualified Settlement Fund ("QSF") to be established by the Settlement Administrator.

40. Payment of PAGA Payment Shares: The Settlement Administrator shall pay to each PAGA Member his or her PAGA Payment Share by sending a check in the appropriate amount to the PAGA Member at the address indicated in the Aggrieved Employee List. Such payment, with the PAGA Notice, shall be sent by the Settlement Administrator via U.S. Mail

1 within fourteen (14) calendar days of its receipt of the Gross Settlement Amount from Defendant.

2 41. Uncashed PAGA Payment Share Checks: Any checks issued by the Settlement
3 Administrator to PAGA Members will be negotiable for at least one hundred eighty (180)
4 calendar days. If a PAGA Member does not cash his or her PAGA Payment Share check within
5 180 days, the uncashed funds, subject to Court approval, shall be distributed to the Controller of
6 the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code
7 § 1500, *et. seq.* for the benefit of those PAGA Members who did not cash their checks until such
8 time that they claim their property. The Parties agree that this disposition results in no “unpaid
9 residue” under California Civil Procedure Code § 384, as the entire Net Settlement Amount will
10 be paid out to the LWDA and PAGA Members, whether or not all PAGA Members cash their
11 settlement checks. Therefore, Defendant will not be required to pay any interest on such amounts.
12 The Individual Settlement Payments provided to PAGA Members shall prominently state the
13 expiration date or a statement that the PAGA Payment Share Check will expire in one hundred
14 eighty (180) days, or alternatively, such a statement may be made in a letter accompanying the
15 PAGA Payment Share. Expired PAGA Payment Share checks will not be reissued, except for
16 good cause and as mutually agreed by the Parties in writing. The parties agree no unclaimed funds
17 will result from the settlement. A PAGA Member who fails to receive his or her PAGA Payment
18 Share check despite the procedures described above shall nevertheless remain bound by the
19 Settlement and the releases contained herein.

20 SETTLEMENT TERMS AND CONDITIONS

21 42. PAGA Payment Shares: Subject to the terms and conditions of this Settlement, the
22 Settlement Administrator will calculate the PAGA Payment Shares for each PAGA Member
23 within ten (10) calendar days after Defendant provide the Settlement Administrator with the
24 Aggrieved Employee List. The PAGA Payment Share for each PAGA Member will be calculated
25 as follows, understanding that the formulas below do not constitute an admission by either Party,
26 and are intended only to provide a practical means to simplify and administer the claims process:

- 27 a) Number of PAGA Members and Pay Periods: Defendant shall determine the
28 total number of PAGA Members and the aggregate number of Pay Periods for

those PAGA Members during the PAGA Period. This information shall be provided to the Settlement Administrator along with the Aggrieved Employee List as described above.

- b) Calculation of the Pay Period Value: The Settlement Administrator shall determine the value of a Pay Period ("Pay Period Value") by taking the PAGA Payment amount (*i.e.*, 25% of the Net Settlement Amount) and dividing it by the sum of all PAGA Members' Pay Periods.
- c) Calculation of PAGA Payment Shares: The Settlement Administrator shall assign to each PAGA Member a PAGA Payment Share which shall be equal to the Pay Period Value multiplied by each PAGA Member's Individual Pay Periods. Upon calculation of the PAGA Members' PAGA Payment Shares, the Settlement Administrator shall furnish to Plaintiff's Counsel and Defense Counsel a worksheet containing a list of employee identification numbers for the PAGA Members with their corresponding Individual Pay Periods and PAGA Payment Shares.

43. Taxes and Withholdings: Each PAGA Payment Share is intended to settle the PAGA Members' claims for civil penalties arising under PAGA. Accordingly, one hundred percent (100%) of each PAGA Payment Share shall represent civil penalties. The PAGA Payment Share shall be paid to the PAGA Member in full without deductions or withholdings, and the Settlement Administrator shall issue an IRS Form 1099 to each PAGA Member for that amount. Each PAGA Member shall be individually responsible for their own share of applicable income tax withholdings and deductions for his or her PAGA Payment Share.

44. Payments to Plaintiff, Plaintiff's Counsel and Others: Subject to the terms and conditions of this Settlement, the Settlement Administrator will make the following payments out of the Gross Settlement Amount as follows:

- a) Plaintiff's Representative Enhancement Payment: Defendant agrees not to oppose or object to any application or motion by Plaintiff for Plaintiff's Representative Enhancement Payment of Seven Thousand Five Hundred

Dollars (\$7,500.00) for Plaintiff Chantel Marin. The Plaintiff's Representative Enhancement Payment is in exchange for her time, effort and risk in bringing and prosecuting the Action. Any portion of the requested Plaintiff's Representative Enhancement Payment that is not awarded to the Plaintiff Representative shall be reallocated to the Net Settlement Amount and distributed to the PAGA Members as provided in this Agreement.

b) Attorneys' Fees and Costs: Defendant agrees not to oppose any application or motion by Plaintiff's Counsel for attorneys' fees of not more than One Hundred Fifty-Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$158,333.33) plus the reimbursement of costs and expenses associated with the litigation and settlement of the Action, in an amount not to exceed Thirty-Five Thousand Dollars (\$35,000.00), both of which will be paid from the Gross Settlement Amount. Any portion of the requested fees or costs that is not awarded to Plaintiff's Counsel shall be reallocated to the Net Settlement Amount and distributed to the PAGA Members as provided in this Agreement.

c) Settlement Administration Costs: The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments from the Gross Settlement Amount as further set forth in this Agreement. Settlement Administration Costs shall not exceed Five Thousand Dollars (\$5,000.00).

d) Distribution of the Net Settlement Amount: Seventy-five percent (75%) of the Net Settlement Amount shall be distributed to the LWDA ("LWDA Payment"). The remaining 25% of the Net Settlement Amount shall be distributed to the PAGA Members on a *pro rata* basis based upon the number of pay periods worked by each PAGA Member ("PAGA Payment").

45. Appointment of Settlement Administrator: The Parties have agreed to, and Plaintiff will move to appoint ILYM Group, a qualified and experienced settlement administrator

1 based in California where the Action is venued, to serve as the Settlement Administrator, which,
2 as a condition of appointment, will agree to be bound by this Settlement Agreement with respect
3 to the performance of its duties and its compensation. The Settlement Administrator's duties will
4 include (i) calculating PAGA Payment Shares; (ii) preparing, printing, and mailing the PAGA
5 Notice to all PAGA Members; (iii) using reasonable measures to contact all PAGA Members,
6 including conducting a National Change of Address search on all PAGA Members before mailing
7 the PAGA Notice to each PAGA Member's address; (iv) re-mailing the PAGA Notice to the
8 PAGA Member's new address for those PAGA Members whose address had changed; (v) issuing
9 the checks to effectuate the payments due under the Settlement; (vi) using reasonable measures
10 to deliver issued checks to PAGA Members, including use of a "skip-trace" for undeliverable
11 checks; and (vii) otherwise administering the Settlement pursuant to this Settlement Agreement.
12 The Settlement Administrator will have the final authority to resolve all disputes concerning the
13 calculation of a PAGA Member's PAGA Payment Share, subject to the terms set forth in this
14 Settlement Agreement. The Settlement Administrator's reasonable fees and expenses are
15 estimated to be Five Thousand Dollars (\$5,000.00) and will be paid out of the Gross Settlement
16 Amount, as set forth herein, subject to Court approval.

17 46. Settlement Consideration: Defendant shall fund the Gross Settlement Amount
18 following approval of the Motion for Approval by the Court and the occurrence of the Effective
19 Date. The following will be paid out of the Gross Settlement Amount: Plaintiff's Representative
20 Enhancement Payment, Plaintiff's Counsel's Fees and Costs, the PAGA Payment, and the
21 Settlement Administration Costs, as specified in this Agreement. Defendant shall not be required
22 to pay more than the Gross Settlement Amount except for as a result of an increase in the number
23 of workweeks as set forth above. The Gross Settlement Amount is non-reversionary; no portion
24 of the Gross Settlement Amount will revert to Defendant.

25 **RELEASE OF CLAIMS**

26 47. Released Claims: Upon the Effective Date, PAGA Members, without the need to
27 manually sign a release document, in exchange for the consideration recited in this Settlement
28 Agreement, on behalf of himself or herself, shall and does hereby fully and finally release

1 Defendant as named by Plaintiff in the operative complaint, and the Released Parties, from any
2 and all claims for the recovery for civil penalties, attorneys' fees and costs permissible under
3 PAGA which Plaintiff and/or the PAGA Members had, or may claim to have, against Defendant
4 and the Released Parties, arising out of the violations alleged in the Action, including failure to
5 pay straight and overtime wages (including any work off-the-clock), failure to pay employees all
6 minimum wages and overtime wages owed including by failing to pay all overtime and double
7 time at the correct regular rate of pay, failure to provide compliant meal and rest breaks, failure
8 to pay employees all penalty wages owed for short, late or missed meal and rest periods, failure
9 to pay all wages owed at discharge or resignation; failure to timely pay wages within the times
10 permissible under Labor Code section 204; failure to provide complete and accurate wage
11 statements; failure to keep complete and accurate payroll records; violations of Labor Code
12 Sections 201, 202, 203, 204, 226(a), 226.2, 226.3, 226.7, 510, 512(a), 1174(d), 1194, 1197,
13 1197.1, and 1198 (the "Released Claims"). Following the funding of the Gross Settlement
14 Amount, all PAGA Members will release the Released Parties from the Released Claims that
15 accrued during the PAGA Period. PAGA Members cannot opt out of or object to the Release.
16 The State of California and the LWDA will also release Released Parties from the Released
17 Claims that accrued during the PAGA Period.

18 48. The Released Claims expressly exclude all claims made by PAGA Members for
19 individual wage claims, vested benefits, wrongful termination, unemployment insurance,
20 disability, social security, workers' compensation, claims while classified as exempt, and claims
21 outside of the PAGA Period.

22 49. Plaintiff's General Release of Claims: Upon the funding of the Gross Settlement
23 Amount, Plaintiff Chantel Marin agrees—on behalf of herself only—to the additional following
24 General Release: In consideration of Defendant's promises and agreements as set forth herein,
25 Plaintiff hereby fully releases the Released Parties from any and all Released Claims and also
26 generally release and discharge the Released Parties from any and all claims, demands,
27 obligations, causes of action, rights, or liabilities of any kind which have been or could have been
28 asserted against the Released Parties arising out of or relating to her employment by Defendant

1 or termination thereof, including but not limited to claims for wages, restitution, penalties,
2 retaliation, defamation, discrimination, harassment or wrongful termination of employment. This
3 release specifically includes any and all claims, demands, obligations and/or causes of action for
4 damages, restitution, penalties, interest, and attorneys' fees and costs (except provided by the
5 Settlement Agreement) relating to or in any way connected with the matters referred to herein,
6 whether or not known or suspected to exist, and whether or not specifically or particularly
7 described herein. Specifically, Plaintiff Marin, waives all rights and benefits afforded by
8 California Civil Code Section 1542, which provides:

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

15 This release specifically excludes claims for unemployment insurance, disability, social security,
16 and workers compensation (with the exception of claims arising pursuant to California Labor
17 Code Sections 132(a) and 4553).

18 **MISCELLANEOUS PROVISIONS**

19 50. Neutral Employment Reference: Defendant agrees that it will adopt a neutral
20 reporting policy regarding any future employment references related to Plaintiff. In the event that
21 any potential or future employers of Plaintiff request a reference regarding Defendant's
22 employment of Plaintiff, Defendant shall only provide the requested Plaintiff's dates of
23 employment and job title(s) during employment. Defendant shall not refer to the Action or this
24 Settlement.

25 51. No Credit Toward Benefit Plans: The payment of PAGA Payment Shares made to
26 PAGA Members under this Settlement, as well as any other payments made pursuant to this
27 Settlement, will not be utilized to calculate any additional benefits under any benefit plans to
28 which any PAGA Members may be eligible, including, but not limited to profit-sharing plans,

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

5 52. No Prior Assignments: The Parties and their counsel represent, covenant, and
6 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported
7 to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
8 action, cause of action or right herein released and discharged.

9 53. Continued Jurisdiction: After entry of the Judgment, the Court will have
10 continuing jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement
11 of the terms of the Settlement, (b) Settlement administration matters, and (c) such post-Judgment
12 matters as may be appropriate under court rules or as set forth in this Settlement.

13 54. Exhibits Incorporated by Reference: The terms of this Settlement include the terms
14 set forth in any attached Exhibits, which are incorporated by this reference as though fully set
15 forth herein. Any Exhibits to this Settlement are an integral part of the Settlement.

16 55. Entire Agreement: This Settlement Agreement and any attached Exhibits
17 constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous written
18 or oral agreements may be deemed binding on the Parties.

19 56. Amendment or Modification: This Settlement Agreement may be amended or
20 modified only by a written instrument signed by counsel for all Parties or their successors-in-
21 interest.

22 57. Waiver of Certain Appeals: The Parties agree to waive appeals; except, however,
23 that either party may appeal any court order that materially alters the Settlement Agreement's
24 terms.

25 58. Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant
26 and represent they are expressly authorized by the Parties whom they represent to negotiate this
27 Settlement Agreement and to take all appropriate action required or permitted to be taken by such
28 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other

documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

59. Binding on Successors and Assigns: This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

60. California Law Governs: All terms of this Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

61. Execution and Counterparts: This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument.

62. Acknowledgement that the Settlement is Fair and Reasonable: The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

63. Invalidity of Any Provision: Before declaring any provision of this 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 Agreement valid and enforceable.

64. Captions: The captions and section numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the

provisions of this Agreement.

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

66. Enforcement Action: In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

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

68. Representation By Counsel: The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel and reviewed in full. Further, Plaintiff and Plaintiff's Counsel warrant and represent that there are no liens on the Agreement.

69. Cooperation and Execution of Necessary Documents: The Parties agree to cooperate to promote participation in the Settlement, and in seeking court approval of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

70. Voluntary Agreement: The Parties acknowledge that they have entered into this Settlement Agreement voluntarily, on the basis of their own judgment and without coercion,

1 duress, or undue influence of any Party, and not in reliance on any promises, representations, or
2 statements made by the other Parties other than those contained in this Settlement Agreement.
3 Each of the Parties hereto expressly waives any right she/it might ever have to claim that this
4 Settlement Agreement was in any way induced by fraud.

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

10 72. Non-Admission of Liability: The Parties enter into this Agreement to resolve the
11 dispute that has arisen between them and to avoid the burden, expense and risk of continued
12 litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, it
13 has violated any federal, state, or local law; violated any regulations or guidelines promulgated
14 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached
15 any contract; violated or breached any duty; engaged in any misrepresentation or deception; or
16 engaged in any other unlawful conduct with respect to their employees. Neither this Agreement,
17 nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed
18 as an admission or concession by Defendant of any such violations or failures to comply with any
19 applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement, this
20 Agreement and its terms and provisions shall not be offered or received as evidence in any action
21 or proceeding to establish any liability or admission on the part of Defendant or to establish the
22 existence of any condition constituting a violation of, or a non-compliance with, federal, state,
23 local or other applicable law.

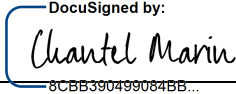
24 73. Confidentiality: Plaintiff and Plaintiff's Counsel agree that they have not and will
25 not publish the Settlement in any form of media. Plaintiff's Counsel shall not report the settlement
26 in any medium or in any publication, shall not post or report anything regarding the claims of
27 Plaintiff or the Settlement on their website, and shall not contact any reporters or media regarding
28 the Settlement. However, Plaintiff's Counsel is authorized to make disclosures to the Court and

the LWDA, the PAGA Members, the Settlement Administrator, and for any other reason necessary to effectuate obtaining the approval of the Settlement or the administration thereof. Notwithstanding the foregoing, Plaintiff's Counsel may include the Settlement (and/or a summary of the Settlement) in future declarations filed in support of Plaintiff's Counsel's experience and/or adequacy in PAGA representative actions and/or class actions.

APPROVED AS TO FORM AND CONTENT:

Dated: 12/28/2021

PLAINTIFF

By: 
Chantel Marin

Dated: _____

DEFENDANT

COMMUNITY CONVALESCENT CENTER OF
MONTCLAIR, INC. dba COMMUNITY
EXTENDED CARE OF MONTCLAIR

By: _____

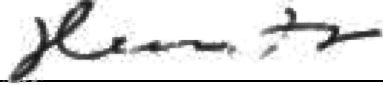
Name: _____

Title: _____

APPROVED AS TO FORM ONLY:

Dated: December 28, 2021

PROTECTION LAW GROUP, LLP

By: 
Heather Davis, Esq.
Attorneys for Plaintiff

the LWDA, the PAGA Members, the Settlement Administrator, and for any other reason necessary to effectuate obtaining the approval of the Settlement or the administration thereof. Notwithstanding the foregoing, Plaintiff's Counsel may include the Settlement (and/or a summary of the Settlement) in future declarations filed in support of Plaintiff's Counsel's experience and/or adequacy in PAGA representative actions and/or class actions.

APPROVED AS TO FORM AND CONTENT:

Dated: _____

PLAINTIFF

By: _____

Chantel Marin

Dated: December 17, 2021

DEFENDANT

COMMUNITY CONVALESCENT CENTER OF
MONTCLAIR, INC. dba COMMUNITY
EXTENDED CARE OF MONTCLAIR

By:  _____

Name: Simcha Mandelbaum

Title: Authorized Representative

APPROVED AS TO FORM ONLY:

Dated: _____

PROTECTION LAW GROUP, LLP

By: _____

Heather Davis, Esq.
Attorneys for Plaintiff

1 Dated: December 17, 2021

2 **DE CASTRO LAW GROUP, P.C.**

3 By: 

4 Jose-Manuel A. de Castro, Esq.
5 Attorneys for Defendant
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