

CONFIDENTIAL SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Confidential Settlement Agreement and General Release (the "Agreement") is made and entered into by and between Cherrie Ann Cornista ("Wilson" or "Plaintiff") and Gardena Care Homes, Inc., and Smyrna Dojcinovic (collectively "Gardena Care" or "Defendants"). Plaintiff and Defendants shall sometimes be referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

- A. WHEREAS, Plaintiff was formerly employed by Defendants.
- B. WHEREAS, Plaintiff filed a Complaint against Defendant in the Los Angeles Superior Court, Case No. 20 STCV45102 (the "Complaint") for Intentional Misclassification Of Employee; Failure To Pay Wages; Failure To Provide Lawful Meal Breaks; Failure To Provide Lawful Rest Breaks; Failure To Provide Accurate Itemized Statements; Waiting Time Penalties; Unfair Competition [§17200]; Failure To Produce Records- Cal. Lab. Code §§1174.5 And 1198.5; and Labor Code Private Attorneys General Act Of 2004. The Complaint is currently pending.
- B. Defendant denies and continues to deny Plaintiffs allegations as set forth in her Complaint; however, Plaintiff and Defendant desire to settle fully and finally the differences between them as to the aforementioned Complaint which arose out of Plaintiffs employment with Defendant.
- D. WHEREAS, by this Agreement, the Parties have settled, fully and finally, all Claims that Plaintiff have or might have against Defendant, up to and including the date of execution hereof.

NOW, THEREFORE, in consideration of the terms, conditions, and promises set forth herein, the Parties agree as follows:

TERMS AND SETTLEMENT

1. **No Admission of Liability.** This Agreement memorializes the compromise of disputed claims. The Parties acknowledge that the execution of this Agreement and the payment of consideration or any other obligation hereunder are not and shall not be construed in any way as an admission of wrongdoing or liability on the part of any of the Parties, or any other person or entity. Defendant denies all allegations of wrongdoing arising out of the employment relationship between the Parties or otherwise. The Parties intend, by this Agreement, merely to avoid the expense, delay, uncertainty, and burden of continued litigation.
2. **Consideration by Defendant.** In consideration for promises made by Plaintiff and contingent on Plaintiffs fulfillment of the conditions of this Agreement and upon the Court's approval of the dismissal of Plaintiff's PAGA Cause of action, without prejudice, Defendants agrees to pay the total sum of FOURTY THOUSAND DOLLARS AND ZERO CENTS (\$40,000) (the "Consideration"). The Consideration shall be paid in installments to Plaintiff, with the first installment paid in the amount of TEN THOUSAND DOLLARS AND ZERO CENTS (\$10,000.00) no later than 10 DAYS after the Court approved dismissal of Plaintiff's PAGA cause of action and upon Plaintiff executing this agreement and then five equal monthly installments in the amount of SIX THOUSAND DOLLARS AND ZERO CENTS (\$6,000.00). Said payments shall be made payable to

"Law Office of Morris Nazarian - Client Trust Account." The second through sixth installment payments shall be due no later than the 20th of the month.

3. Payment Default And Right To Cure. If any payment is not received by Plaintiff's counsel on the due date, then Plaintiff is required to give Defendant written notice to cure the default by sending such notice by fax, email, or personal service on Defendant's counsel.

If default is not cured within seven (7) days of said notice with receipt by Plaintiff's counsel of the delayed payment on the seventh (7th) day, Plaintiff may thereafter apply to the Court Ex Parte to enforce the terms of the Settlement Agreement for the sum of FORTY THOUSAND DOLLARS AND ZERO CENTS (\$40,000.00), plus attorneys' fees and costs to bring said motion and enforce the Settlement Agreement, less credit for payments made to date from said Defendant. Interest shall accrue on such judgment, at the legal rate from the date of filing of the Judgment. Plaintiff may thereafter enforce such judgment in any manner available under the law.

4. Dismissal with Prejudice. After the Court grants approval of the PAGA Settlement and no later than 5 days after Defendants have tendered the final initial installment payment, Plaintiff will provide defense counsel with a fully executed Request for Dismissal with prejudice of the entirety of the Complaint. Defense counsel shall file the executed Request for Dismissal with the clerk of the Los Angeles Superior Court.

5. PAGA Claims. The Parties are executing a second settlement agreement and general release of all claims relative to the PAGA claim which will be submitted to the Los Angeles Superior Court for court approval of the settlement as required by PAGA.

5.1 Obligations Take Effect Upon Court's Approval of the PAGA Settlement: The Parties respective obligations due under this Agreement shall not take effect until the Court issues an Order approving the PAGA Settlement. Therefore, this Confidential Settlement shall be expressly conditional upon the Parties obtaining Court approval of the PAGA Settlement within the same Action. Should the Court not approve the PAGA dismissal, the Parties shall work jointly to remedy the Settlement Agreement such that the PAGA Claim is also dismissed with prejudice. Should the Parties be unable to obtain both the Court's (and/or the LWDA's) approval, this Settlement Agreement will be null and void.

6. C.C.P. 664.6: This settlement is enforceable in the Superior Court of Los Angeles County pursuant to California Code of Civil Procedure Section 664.6. The parties hereby stipulate that the Court, upon motion, may enter judgment pursuant to the terms of the settlement. The parties further stipulate that the court retains jurisdiction for the purposes of enforcing the settlement and entering judgment. The prevailing party to recover their attorneys' fees and costs.

7. General Release.

7.1 In exchange for the Consideration set forth in this Agreement, Plaintiff along with her respective heirs, spouses, administrators, executors, attorneys, successors in interest, and/or assigns, covenants to, and hereby forever releases and discharges Defendant, and each of its respective predecessors, successors, divisions, owners, parents, subsidiaries, affiliated and/or related entities, and each of its directors, officers, partners, members, managers, shareholders, supervisors, consultants, independent contractors, professional employer organizations, employees, volunteers, representatives, insurers, clients, attorneys, and agents (collectively "Defendant Releasees") from any and all causes of action, obligations, costs, expenses, damages,

claims, liabilities, and benefits (including attorneys' fees and costs), of whatever character, in law or in equity, known or unknown, suspected or unsuspected, matured or unmatured, of any kind whatsoever, now existing or arising in the future, based on any act, omission, event, occurrence, or nonoccurrence from the beginning of time to the Effective Date, including but not limited to any claims or causes of action arising out of Plaintiff's employment with Defendant and/or any relationship with, or between, Plaintiff and Defendant (the "Released Claims").

Without limitation, the Released Claims herein include, but are not limited to, claims arising under Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1866, the Civil Rights Act of 1991, the Americans with Disabilities Act, the California Family Rights Act, the Family and Medical Leave Act, the Federal Age Discrimination in Employment Act of 1967 (ADEA), 29 U.S.C. § 621 et seq. and any analogous local or state law or statute, including without limitation the California Fair Employment and Housing Act, the Employees Retirement Income Security Act, the Worker Adjustment and Retraining Notification Act, the Older Worker Benefit Protection Act, any actual or potential claim that any Defendant Releasee violated any promise or agreement, either express or implied with Plaintiff, any actual or potential claim arising from any alleged violation by any of the Defendant Releasees of any federal, state or local statutes; any actual or potential claim that the termination of employment with any Defendant Releasee was illegal or in violation of the public policy of California or the United States; any actual or potential claim under the California Constitution, the California Labor Code, the California Government Code, the Industrial Welfare Commission Wage Orders, or the Fair Labor Standards Act; any actual or potential claim for economic damages, employment discrimination, harassment of any kind or nature, breach of fiduciary duty, fraud, invasion of privacy, misrepresentation, defamation, slander, intentional and/or negligent infliction of emotional distress, intentional and/or negligent misrepresentation, wrongful termination, breach of contract, breach of the covenant of good faith and fair dealing, unpaid wages, severance pay, separation pay, relocation expenses, overtime pay, meal breaks, rest breaks, sick leave, holiday pay, vacation pay, expense reimbursement, loss of future earnings, life insurance, health and medical insurance, or any other fringe benefit, including any claim under California Labor Code Section 132a; and/or any actual or potential claim for attorneys' fees, costs, expert witness fees, court costs, disbursements and/or the like, any claims based on legal restrictions on Defendant's right to terminate, not to hire or promote Plaintiff, or to change the compensation of Plaintiff.

7.2 Nothing in Section 7.1 above releases any obligation created by this Agreement.

7.3 Each Party fully understands that if the facts in respect to which this Settlement Agreement and Release are executed are found hereafter to be different from facts now believed to be true, that this Settlement Agreement and Release will remain effective. Each party expressly accepts and assumes the risk of such possible difference and agrees that this Settlement Agreement and Release shall remain effective, notwithstanding such differences.

7.4 General Release of Unknown Claims. For the purpose of implementing a full and complete release and discharge, Plaintiff expressly acknowledges that the releases given in this Agreement are intended to include in their effect, without limitation, all claims that she did not know or suspect at the time of execution hereof, regardless of whether the knowledge of such claims, or the facts upon which they might be based would materially have affected the settlement of this matter, and that the consideration given under this Agreement is also for the

release of those claims and contemplates the extinguishment of any such claims. In furtherance of this Agreement, Plaintiff waives any rights provided by California *Civil Code* Section 1542, which states:

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

7.5 Plaintiff and Defendants hereby agree that the Released Claims and the General Release of Unknown Claims shall not apply to Social Security Disability Insurance (SSDI) payments

8. Successors. This Agreement shall be binding upon the Parties, and their heirs, representatives, executors, administrators, successors, insurers, and assigns, and shall inure to the benefit of each and all of the Defendant Releasees, and to their heirs, representatives, executors, administrators, successors, and assignees.

9. No Re-Employment. In consideration of the promises made by Defendant in this Agreement, Plaintiff promises that she will not seek or accept future employment from Defendant. Plaintiff further agrees that she will not accept assignment with any Defendant Releasee as an independent contractor, subcontractor, or consultant, or through any contract service, account, client, agency or registry. The Parties agree that Defendant does not have any obligation to employ or to continue to employ Plaintiff and may refuse to do so without any recourse. If Plaintiff seeks or obtains such employment after the Effective Date, this Agreement shall constitute sufficient cause for refusal to hire and/or for the termination of any such employment.

10. Confidentiality. In further consideration of the promises made by the Parties in this Agreement, Plaintiff promises that she will keep the amount of this settlement, the terms and contents of this Agreement, and the negotiations leading thereto, completely confidential, and that she will not publicize or disclose (directly or indirectly) such information to any person, organization or entity, including but not limited to current or former co-employees of Defendant. Plaintiff may disclose such information to her immediate family members, attorneys, and tax advisors, provided that they each agree to keep this information confidential, or otherwise as required by law, and in so doing, Plaintiff assumes the legal responsibility for breach of this Confidentiality provision in the event any such individuals fail to keep this information confidential. Plaintiff shall not publicize or disclose the fact of the Complaint or any allegations, causes of action, or claims asserted therein (directly or indirectly) to any person, organization, or entity. Plaintiff further agrees that if asked about the dispute by other persons, she shall state only that "the matter was resolved" and that she is barred from disclosing its terms. Plaintiff agrees that she will not cause to be published, including in any legal newspaper, verdict settlement publication, or on any social media, the existence of this settlement. By signing this Confidential Settlement Agreement and Release of All Claims, Plaintiff expressly warrants that she has taken no action and made no disclosure that would constitute a violation of this confidentiality provision. In the event Plaintiff is subpoenaed to testify as a witness and inquiry is made about any information that is subject to the terms of this Confidential Settlement Agreement and General Release, Plaintiff must advise that the terms of this settlement are Confidential and refuse to disclose the information covered by this Confidential Settlement Agreement and General Release absent a Court Order, and notify all Defendant within three days, through its attorney of record, of any attempt to compel a breach of this Confidential Settlement Agreement and General Release.

11. Non-Disparagement/Neutral Reference. The Parties agree not to disparage each other or their past or present partners, officers, owners, directors, employees or agents to anyone, including without limitation any current or former employees, customers, or business contacts of Defendant, or in the media. If any verification of prior employment is requested concerning Plaintiff, the Defendant and its Human Resources Dept. shall only affirm that Plaintiff had been employed with Defendant, her dates of employment, and confirm Plaintiffs position with Defendant.

12. Breach. In addition to any other rights the Parties have under this Agreement, in the event of a breach by any Party of any of the terms of this Agreement, any Party shall be entitled, if it shall so elect, to institute legal proceedings to obtain damages for any such breach, or to enforce the specific performance of this Agreement by the breaching Party and to enjoin the breaching Party from any further violation of this Agreement and to exercise such remedies cumulatively or in conjunction with all other rights and remedies provided by law. The Parties acknowledge, however, that the remedies at law for any such breach may be inadequate and that a Party shall be entitled to injunctive relief in the event of any breach. If a Party prevails in a proceeding for damages or injunctive relief, a Party, in addition to other relief, shall be entitled to reasonable attorneys' fees, costs, and the expenses of litigation incurred in securing the relief granted by the Court. It is acknowledged and agreed by the Parties that the provisions of Sections 9 and 10 are essential to this Agreement, and that a breach of these provisions shall constitute a material breach of this Agreement. It is further acknowledged that it would be difficult to ascertain the damages resulting from a breach of the confidentiality provisions set forth in Section 10 or the non-disparagement provision in Section 11, and therefore the Parties agree that the sum of One Thousand Dollars (\$1,000.00) shall be presumed to be and be affixed as the amount of damages that would be suffered as a result of each breach of Sections 9 or 10. Accordingly, in the event that a Party breaches the provisions set forth in Sections 9 or 10, a Party found in breach shall pay liquidated damages in the amount of One-Thousand Dollars (\$1,000.00) for each occurrence, which amount may be recoverable in a proceeding to enforce this Agreement, in addition to any other remedies provided by law. The liquidated damages are in addition to, and not in abrogation of, any other rights or remedies a Party may have.

13. No Attorneys' Fees and Costs. Except for attorney's fees which are specifically set forth in this Agreement, the Parties agree that they shall bear their own respective costs and fees, including attorneys' fees, in connection with the Complaint.

14. Agreement is Voluntary. All Parties acknowledge and agree that they:

14.1 Have had a reasonable amount of time within which to consider the settlement terms memorialized in this Agreement before agreeing to them;

14.2 Have carefully read and fully understand all of the provisions of this Agreement;

14.3 Plaintiff is, through this Agreement, releasing any and all claims she has or may have against any Defendant Releasees;

14.4 Knowingly and voluntarily agree to all of the terms set forth in this Agreement;

14.5 Knowingly and voluntarily intend to be legally bound by the same; and

14.6 Were represented by, and consulted with, an attorney prior to agreeing to the terms of this Agreement.

15. No Representations. The Parties acknowledge that, except as expressly set forth herein, no representation of any kind or character has been made to induce the execution of this Agreement.

16. Ownership of Claims. Plaintiff represents that she has not transferred or assigned, or purported to transfer or assign, to any person or entity, any claim described in this Agreement. Plaintiff further agrees to indemnify and hold harmless each Defendant Releasee from and against any and all claims based upon, arising out of, or in any way connected with any such actual or purported transfer or assignment.

17. Age Discrimination In Employment Act: In accordance with the Older Worker's Benefit Protection Act of 1990, Plaintiff is aware of the following with respect to claims under the Age Discrimination in Employment Act (ADEA): (1) she has the right to consult with an attorney before signing this AGREEMENT and, to the extent so desired, have done so; (2) that she has twenty-one (21) days to review and consider this AGREEMENT and the release of any ADEA claim, and she may use as much as this 21-day period as she wishes prior to signing; (3) for a period of seven (7) days following the execution of this AGREEMENT, that she revoke this AGREEMENT as to any claim under ADEA and it shall not become effective or enforceable with respect to the claims under ADEA until the revocation period has expired; (4) this AGREEMENT shall become effective as to any ADEA claim eight (8) days after it is signed. Thereafter, Plaintiff understands that she cannot revoke her waiver of any ADEA claim and that it will be binding upon her and (5) she understands that in the event that she revokes her release/waiver of any age discrimination claims, Defendants shall have the unilateral right to terminate this entire AGREEMENT, and in the event of such termination, Plaintiff understands and agrees that neither she nor her attorney shall be entitled to receive any monies described herein.

18. Miscellaneous.

18.1 The language of all parts in this Agreement shall be construed as a whole, according to its fair meaning.

18.2 Should any provision in this Agreement be declared or determined to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected thereby, and the illegal or invalid part, term, or provision shall be deemed not to be part of this Agreement, and all remaining provisions shall remain valid and enforceable.

18.3 This Agreement sets forth the entire agreement between the Parties and fully supersedes any and all prior agreements and understandings between the Parties pertaining to the subject matter of this Agreement. Any modifications in this Agreement must be in writing and signed by the Parties.

18.4 This Agreement is deemed to have been drafted jointly by the Parties. Any uncertainty or ambiguity shall not be construed for or against any Party since all Parties have participated in the negotiation and drafting of this Agreement.

19. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Furthermore, signatures delivered via facsimile or electronic transmission shall have the same force, validity and effect as the originals thereof.

20. Interpretation. This Agreement, and any ambiguities or uncertainties herein, shall be equally and fairly interpreted, and construed, without reference to the identity of the Party drafting this document, upon the express understanding and agreement that the Parties participated equally in the negotiation and preparation of this Agreement, or have had equal opportunity to do so. Accordingly, the Parties, and each of them, expressly waive the benefits of California Civil Code Section 1654, and any successor or amended statute.

21. Governing Law and Venue. This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the State of California, regardless of the conflicts of laws rules of any individual state. In addition, any action brought to enforce the provisions of this Agreement shall be commenced, prosecuted, and defended exclusively in the Superior Court of the State of California, County of Los Angeles.

22. Captions And Headings. The section headings, captions, and titles used in this Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify or otherwise be used in the interpretation of any of the provisions hereof.

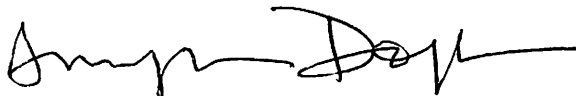
Dated: 5/31/2021

PLAINTIFF


Cherrie Ann Cornista

Dated: 5/20/21

DEFENDANT
Gardena Care Homes, Inc


By: Authorized Agent

Dated: 5/20/21

DEFENDANT


Smyrna Dojcinovic