

Sarkis Sirmabekian [SBN 278588]
SIRMABEKIAN LAW FIRM, PC
 3435 Wilshire Blvd., Suite 1710
 Los Angeles, California, 90010
 Telephone: 818.473.5003
 Facsimile: 818.476.5619
 E-mail: *contact@slawla.com*

Attorney for Plaintiff,
HUMBERTO ESTRADA

Tina M. Jaquez, Esq. [SBN218370]
SOLTMAN, LEVITT, FLAHERTY & WATTLES LLP
 90 E, Thousand Oaks Blvd., Suite 300
 Thousand Oaks, CA 91360
 Telephone: 805.497.7706
 Facsimile: 805.497.1147
 E-mail: *tjacquez@slfesq.com*

Attorney for Defendant,
LAKEVIEW TERRACE SKILLED NURSING FACILITY LLC

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

HUMBERTO ESTRADA, an individual;

Plaintiff,

vs.

LAKEVIEW TERRACE SKILLED NURSING
 FACILITY LLC, a California Limited Liability
 Company; and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 20STCV26581

Assigned to: *Honorable Timothy Patrick
 Dillon, Dept. 73*

**STIPULATION BY ALL PARTIES FOR
 ORDER APPROVING SETTLEMENT
 PURSUANT TO CALIFORNIA LABOR
 CODE PRIVATE ATTORNEYS'
 GENERAL ACT AND ENTERING
 JUDGMENT**

Complaint Filed: Julv 15. 2020

Plaintiff HUMBERTO ESTRADA ("Plaintiff") and Defendant LAKEVIEW TERRACE
 SKILLED NURSING FACILITY LLC, ("Defendant") (collectively, "the Parties"), by and through
 their respective counsel of record, hereby stipulate as follows:

DEFINITIONS

- 1 1. "Aggrieved Employee" or "Aggrieved Employees" means all current and former non- exempt
2 employees who worked at least one pay period for Lakeview in California at any time during
3 the PAGA Period.
- 4 2. The "PAGA Period" shall be from April 7, 2019 through the date the Court enters the order
5 granting final approval of the PAGA settlement.
- 6 3. "Aggrieved Employees' Counsel" means Sarkis Sirmabekian, Esq. of Sirmabekian Law Firm,
7 PC.
- 8 4. "Aggrieved Employees' Counsel Costs" means verified litigation costs in an amount not to
9 exceed \$75.00 as approved by the Court.
- 10 5. "Aggrieved Employees' Counsel Fees" means the amount to be paid, after Court approval, to
11 Aggrieved Employees' Counsel for all past and future attorneys' fees incurred by Aggrieved
12 Employees' Counsel in the Lawsuit on behalf of Representative Plaintiff and the Aggrieved
13 Employees including, but not limited to, future attorneys' fees incurred in securing final
14 approval of the Settlement in the amount of Sixteen Thousand Six Hundred and Sixty-Six
15 Dollars and Sixty-Six Cents (\$16,666.66), representing one-third of the PGSA.
- 16 6. "Agreement" means this Stipulation and Settlement Agreement, including any attached
17 exhibits.
- 18 7. "Complaint" means the operative Complaint filed in the Lawsuit.
- 19 8. "Counsel for Defendant" or "Defense Counsel" means Tina M. Jacquez, Esq.
- 20 9. "Court" means the Los Angeles Superior Court, in which the Lawsuit is currently pending, the
21 Honorable Judge Timothy Patrick Dillon presiding. Court shall also mean any other Court that
22 acquires proper jurisdiction of this Lawsuit.
- 23 10. "Distributable Amount" means the amount that is distributable to the Aggrieved Employees,
24 and equals the PGSA less Aggrieved Employees' Counsel Fees, Aggrieved Employees'
25 Counsel Costs, Settlement Administration Costs, and payment to the California Labor &
26 Workforce Development Agency ("LWDA").
- 27 11. "Effective Date" means the later of (a) the date of entry of Order granting approval of this
28 Settlement, if no objection to the Settlement is filed, (b) the date on which the time for all

- 1 appeals from objections to the Settlement has passed, if one or more objections to the
2 Settlement are filed, and (c) if an appeal is taken, the date on which any reviewing court issues
3 a decision, the time for further appeal has expired, and the trial court has regained jurisdiction.
- 4 12. "Maximum Settlement Amount" means the total amount of Hundred Thousand Dollars and
5 No Cents (\$100,000.00), the maximum amount to be paid by Defendant pursuant to the terms
6 of this Agreement, regardless of how the court rules on the first or subsequent motions for
7 approval.
- 8 13. "Lawsuit" means this lawsuit and the operative Complaint in the matter entitled *Humberto*
9 *Estrada v. Lakeview Terrace Skilled Nursing Facility LLC, et al.*, Case No. 20STCV26581,
10 Los Angeles Superior Court.
- 11 14. "Notice of Settlement" means the form to be prepared and approved by both Counsel for
12 Defendant and Aggrieved Employees' Counsel and sent to the Aggrieved Employees with the
13 Settlement Payments to inform them of the material terms of the Agreement and the Released
14 Claims.
- 15 15. "Notice Returns" means envelopes containing the Notice of Settlement that were mailed by
16 the Settlement Administrator to Aggrieved Employees but were undelivered and returned to
17 the Settlement Administrator by the United States Postal Service.
- 18 16. "Order and Judgment" means the order and judgment entered by the Court pursuant to the
19 terms set forth in this Agreement (i) approving finally and fully the terms contained in this
20 Agreement; (ii) permanently enjoining and forever barring from prosecuting any and all
21 Released Claims against Defendant or the Released Persons; (iii) entering a final judgment in
22 the Lawsuit; and (iv) retaining jurisdiction to enforce the terms of this Agreement following
23 approval of the Settlement. Aggrieved Employees' Counsel will submit with its approval
24 motion a proposed Order and Judgment – the form and content of which is agreed to by
25 Counsel for Defendant.
- 26 17. "Personal Release" means the Representative Plaintiff's irrevocable and unconditional release,
27 acquittal, and discharge of the Released Persons and all persons and/or corporate entities acting
28 by, through, under or in concert with any of them, or any of them, from any and all complaints,

1 claims, liabilities, obligations, promises, agreements, controversies, damages, costs, losses,
2 debts and expenses (including attorneys' fees and costs actually incurred), of any nature
3 whatsoever, including but not limited to the release of any and all claims arising under any of
4 the following, as amended: the National Labor Relations Act ("NLRA"), Title VII of the Civil
5 Rights Act of 1964, Sections 1981 through 1988 of Title 42 of the United States Code, the
6 Employee Retirement Income Security Act of 1974 ("ERISA"), the Americans with
7 Disabilities Act of 1990 ("ADA"), the Fair Labor Standards Act ("FLSA"), the Occupational
8 Safety and Health Act ("OSHA"), the Consolidated Omnibus Budget Reconciliation Act of
9 1985 ("COBRA"), the Genetic Information Nondiscrimination Act ("GINA"), the Family and
10 Medical Leave Act ("FMLA"), the Worker Adjustment and Retraining Notification Act
11 ("WARN"), the California Fair Employment and Housing Act ("FEHA"), the Family and
12 Medical Leave Act of 1993 ("FMLA") and the California Family Rights Act ("CFRA"), the
13 Private Attorneys' General Act ("PAGA"), the California Worker Adjustment and Retraining
14 Notification Act ("Cal-WARN"), the California Business and Professions Code, including the
15 Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, the California Minimum Wage
16 Law, the Equal Pay Law for California, the California Labor Code (including specifically,
17 Section 132a) and California Wage Orders, together with any alleged violation of the United
18 States or any state Constitution, any local, state or federal law, regulation or ordinance, and/or
19 public policy, contract or tort or common-law, any claim for injunctive or declaratory relief
20 any violation of the penal code, and any other claim whether cognizable at law or in equity
21 having any bearing whatsoever on Representative Plaintiff's application for employment,
22 employment with, or separation of employment from the Released Persons, which
23 Representative Plaintiff ever had, now has, or shall have, from the beginning of time to the
24 date of the Effective Date.

25 18. As to the foregoing claims, Representative Plaintiff expressly waives the benefits of California
26 Civil Code §1542. Civil Code §1542 provides:

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

19. "Per Capita Payment" means the amount payable to each Aggrieved Employee on an equal per capita basis.

20. "Redirected Notice" means a second Notice of Settlement mailed by the Settlement Administrator to a new or different address for an Aggrieved Employee that was obtained by the Settlement Administrator as a result of a Notice Return.

21. "Released Claims" means any and all claims, rights, demands, liabilities and causes of action for civil penalties under the PAGA that arose during the PAGA Period, based on the factual allegations pled in the operative complaint in the Lawsuit, with respect to the following claims: (a) failure to pay minimum wage (*Labor Code* §§ 200, 206, 216, 218.6, 221, 226, 500, 510, 1182.12, 1194, 1194.2, 1197, 1197.1 and 1199); (b) failure to compensate for all hours worked (*Labor Code* §§ 200, 204, 226, 226.8, 432.5, 450, 500, 510, 1194, 1194.2, 1197 and 1198); (c) failure to pay overtime compensation (*Labor Code* §§ 200, 226, 500, 510, 558, 1194 and 1198); (d) failure to provide meal periods and pay meal period compensation (*Labor Code* §§ 226.7 and 512); (e) failure to authorize and permit rest periods and pay rest period compensation (*Labor Code* §§ 226.7 and 558.2); (f) failure to furnish accurate wage statements (*Labor Code* §§ 226, 226.3, 1174, 1174.5 and 558.1); (g) failure to timely pay final wages upon discharge (*Labor Code* §§ 201, 203, 256 and 558.1); (h) statutory penalties (*Labor Code* §§ 201, 201.5, 202, 203, 205.5 and 558); (i) failure to indemnify and illegal deductions from wages (*Labor Code* §§ 200, 203, 226 and 2802); (j) violation of *Cal. Gov. Code* § 12940 *et seq.*; (k) violation of *Gov. Code* § 12940(m); (l) violation of *Gov. Code* § 12940(n); (m) violation of *Gov. Code*

1 § 12940(h) and *Gov. Code* § 12653; (n) violation of *Lab. Code* § 98.6 and § 1102.5; (o)
2 Wrongful Termination In Violation Of Public Policy; (p) FEHA Wrongful Termination; (q)
3 violation of the Private Attorneys General Action of 2004, *Labor Code* § 2698, *et seq.*; (m)
4 unfair competition, *Business and Professions Code* § 17200, *et seq.*, including any related
5 claims for attorneys' fees, penalties, costs, or interest resulting therefrom. ("Claims") The
6 Released Claims shall specifically include all civil penalties or other amounts which are or
7 may be available under or through the PAGA based on the facts that were alleged in the
8 operative complaint filed in the Lawsuit, and/or predicated any of the Labor Code violations
9 asserted in the operative complaint filed in the Lawsuit, inclusive of all Representative
10 Aggrieved Employees' and the Aggrieved Employees' attorneys' fees and costs. As to the
11 foregoing claims, Representative Plaintiff and Aggrieved Employees release PAGA civil
12 penalties recoverable under any theory of liability upon which such civil penalties under the
13 PAGA could have been recovered based upon the allegations in the operative complaint filed
14 in the Lawsuit.

15 22. "Released Persons" means Defendant and its respective agents, attorneys, insurers, past,
16 present and future divisions, affiliates, any DBAs, predecessors, successors, shareholders,
17 officers, directors, managers, employees, trustees, representatives, administrators, fiduciaries,
18 assigns, subrogees, executors, partners, parents, subsidiaries, privies, and/or any and all
19 persons and/or corporate entities acting by, through, under or in concert with any of them.

20 23. "Representative Plaintiff" or "Plaintiff" means Humberto Estrada and his respective
21 representative(s), heir(s), assign(s), attorney(s) and/or insurer(s).

22 24. "Settlement to Plaintiff" means an amount of Fifty Thousand Dollars and No Cents
23 (\$50,000.00) to be paid to Plaintiff in exchange for the Personal Release.

24 25. "Settlement Administration Costs" means the fees and costs incurred or charged by the
25 Settlement Administrator in connection with the execution of its duties under this Agreement
26 including, but not limited to: (i) fees and costs associated with preparing, issuing and/or
27 monitoring reports, filings and notices (including the cost of printing, verifying addresses
28 through a United States Postal Service national change of address database (which provides

1 updated addresses for any individual who has moved in the previous four years who has
2 notified the U.S. Postal Service of a forwarding address) to obtain current address information,
3 skip tracing, and mailing all notices and other documents to the Aggrieved Employees)
4 required to be prepared in the course of administering the Settlement; (ii) computing the
5 amount of the Settlement Payments, taxes, and any other payments to be made under this
6 Agreement; (iii) handling inquiries about the calculation of individual Settlement Payments or
7 mailings; (iv) establishing and operating a physical Settlement payment center address, and
8 phone number to receive Aggrieved Employees' inquiries about the Settlement; (v) remitting
9 any tax deductions or subtractions applicable under the law and/or pursuant to this Agreement
10 and preparing and submitting any filings required by any governmental taxing authority or
11 other governmental agency and/or Defendant's Worker's compensation insurer; and (vi)
12 establishing a Qualified Settlement Fund. Settlement Administration Costs will not exceed
13 Four Thousand Five Hundred Dollars and Cents (\$4,500.00).

14 26. "Settlement Administrator" refers to Phoenix Settlement Administrators, to administer this
15 Settlement and to act as the administrator to process the Settlement under the terms of this
16 Agreement.

17 27. "Settlement Payment(s)" refers to the payment(s) to any Aggrieved Employee pursuant to the
18 terms of this Agreement.

19 28. "Settlement and Release Period" means from April 7, 2019 through the date the Court enters
20 the order granting final approval of the PAGA settlement.
21

22 **WHEREAS**, on or about May 7, 2020, Plaintiff by and through Plaintiff's counsel, sent a
23 notice to the California Labor Workforce Development Agency ("LWDA") and Lakeview (the
24 "PAGA Notice") alleging that Defendant engaged in violations of the California Labor Code and
25 California Wage Orders, seeking civil penalties pursuant to the California Labor Code Private
26 Attorneys' General Act ("PAGA");

27 **WHEREAS**, on or about July 15, 2020, Plaintiff filed a Complaint in the California Superior
28 Court for the County of Los Angeles entitled Humberto Estrada v. Lakeview Terrace Skilled Nursing

1 Facility LLC (the “Action”) alleging individual employment claims and PAGA claims including
2 causes of action for: (1) Failure to Pay Minimum Wage; (2) Failure to Compensate for All Hours
3 Worked (3) Failure to Pay Overtime Compensation; (4) Failure To Pay Meal Period Compensation;
4 (5) Failure To Rest Period Compensation; (6) Failure To Furnish Accurate Wage and Hour Statements;
5 (7) Failure to Pay Wages Upon Discharge; (8) Statutory Penalties; (9) Failure to Indemnify and Illegal
6 Deductions From Wages; (10) FEHA - Discrimination; (11) FEHA Failure To Accommodate; (12)
7 FEHA Failure To Engage; (13) FEHA Retaliation; (14) Retaliation; (15) Wrongful Termination In
8 Violation Of Public Policy; (16) FEHA Wrongful Termination; (17) Violation Of The Private
9 Attorneys General Act Of 2004; (18) Unfair Competition;

10 **WHEREAS**, this Stipulation by and between Plaintiff, on behalf of himself and “Aggrieved
11 Employees” (defined below), on the one hand, and Defendant, on the other hand, to memorialize the
12 essential terms of the settlement of Plaintiff’s representative claims asserted in the Action.

13
14 **WHEREAS**, for purposes of Plaintiff representative claims under PAGA, and for purposes of
15 the Action (as defined below) and this PAGA Agreement, the alleged aggrieved individuals
16 (“Aggrieved Employees”) are defined by Plaintiff to be all current and former non-exempt employees,
17 who worked at least one pay period for Defendant during the PAGA Period. The PAGA Period is
18 defined to be from April 7, 2019 through the date this Court approves the settlement described herein
19 (the “PAGA Settlement”) and enters judgment pursuant to the terms of the PAGA Settlement (the
20 “Approval Date”);

21 **WHEREAS**, Defendant vigorously disputes and denies the allegations and various causes of
22 action asserted in the Action, including, without limitation, Plaintiff’s individual claims and the
23 Aggrieved Employees’ claim for civil penalties pursuant to PAGA;

24 **WHEREAS**, the Parties engaged in an informal exchange of documents and information
25 including Defendant’s financial records. The Parties have also conducted extensive independent
26 investigation and evaluations of the claims and defenses in this matter. Both Plaintiff’s counsel and
27 Defendant’ counsel have significant experience litigating and resolving the type of wage-and-hour
28 claims alleged in the Action, including claims for civil penalties under PAGA;

1 **WHEREAS**, according to this PAGA Settlement Agreement, Plaintiff's "PAGA Claims" are
2 defined as any and all claims for civil penalties pursuant to PAGA based on the allegations in
3 Plaintiff's Complaints and/or PAGA Notices, broadly construed, including, but not limited to, civil
4 penalties based on or arising from California Labor Code Sections 98.6, 200, 201, 201.5, 202, 203,
5 204, 205.5, 206, 206.5, 208, 210, 215, 216, 218.5, 221, 223, 224, 225.5, 226, 226(a)(1), 226(a)(5),
6 226(a)(8), 226(a)(9), 226(c), 226(e)(1), 226(f), 226.3, 226.6, 226.7, 226.8, 227.3, 233 *et seq.*, 246,
7 247, 432.5, 450, 500, 510, 512, 512(a), 551, 552, 553, 558, 558(a)(3), 558.1, 1102.5, 1174, 1174.5,
8 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 1198.5, 1198.5(k), 1199, 1776, 2698 *et seq.*,
9 2699.3(c)(1), 2699(i), 2802 and 2810.5 *et seq.*, California Code of Civil Procedure Section 1021.5,
10 3294, California Constitution Article I § 8, Government Code Section 12926.1, 12940 *et seq.*,
11 12940(h) *et seq.*, 12940(m), 12940(n), 12945.2, 12945.2(c)(3)(C), 12965(b), 12965(c) California
12 Business and Professions Code Section 17200 *et seq.*, and the California Wage Orders, whether known
13 or unknown, suspected or unsuspected, concealed or hidden, that were alleged in the Action and/or
14 the PAGA Notice, or that could have been alleged in the Action and/or PAGA Notices, which Plaintiff
15 and any Aggrieved Employee have or had at any time through and including the Approval Date,
16 against any of the Releasees identified in this PAGA Settlement Agreement;

17 **WHEREAS**, California Labor Code Section 2699(l)(2) requires that this Court review and
18 approve any settlement pursuant to PAGA;

19 **WHEREAS**, the Parties recognize that the issues presented in the Action are likely only to be
20 resolved with extensive and costly discovery, pretrial and trial proceedings, and that further litigation
21 will cause inconvenience, distraction, disruption, delay and expense disproportionate to the potential
22 benefits of litigation. The Parties agree that it reflects their good faith compromise of the claims raised
23 in the Action, based upon their assessment of the mutual risks and costs of further litigation and the
24 assessments of their respective counsel;

25 **WHEREAS**, Plaintiff's counsel has provided a copy of this Joint Stipulation to the LWDA in
26 accordance with Labor Code Section 2699(l)(2), and a proof of service to the LWDA is attached hereto
27
28

1 **WHEREAS**, the Parties have agreed upon a “Notice to Aggrieved Employees”, to accompany
2 settlement payments to aggrieved employees, attached hereto as Exhibit A;

3 **WHEREAS**, in consideration of the terms and conditions set forth in this PAGA Settlement
4 Agreement, the Parties agree to be bound to the terms and conditions set forth in this PAGA Settlement
5 Agreement, including that:

6 Upon expiration of the appeal period after the final Approval Date, the Company shall
7 pay the total sum of Fifty Thousand Dollars (\$50,000.00) (the “PAGA Gross Settlement Amount”) on
8 account of disputed and alleged civil penalties as follows:

9 A. One-third (1/3) of the PAGA Gross Settlement Amount (“PGSA”), \$16,666.66,
10 plus \$75.00 for costs, totaling \$16,741.66, shall be paid to Plaintiff’s counsel Sirmabekjan Law Firm
11 PC, for attorney’s fees and costs incurred on the PAGA claims; an enhancement payment to Plaintiff
12 in the amount of up to \$500.00; and \$4,500.00 shall be paid to the settlement administrator.

13 B. The remaining balance after deducting the amount being paid to Plaintiff’s
14 counsel for attorney’s fees and costs, enhancement payment to Plaintiff and administration on the
15 PAGA claims, is \$28,258.34 (the “PAGA Net Settlement Amount” or “PNSA”), and shall be
16 classified for tax purposes as civil penalties (“Civil Penalty Allocation”), unless otherwise required by
17 law, and shall be distributed as follows:

18 The remaining balance after deducting the above amounts being paid to Plaintiff’s
19 counsel, Aggrieved Employees’ Counsel will request, and Defendants will not oppose:

20 i. Seventy-Five Percent (75%) of the Civil Penalty Allocation,
21 \$21,193.76, shall be paid to the LWDA, which represents civil penalties payable to the LWDA under
22 the PAGA, Labor Code section 2698, *et seq.*;

23 ii. Twenty Five Percent (25%) of the Civil Penalty Allocation, \$7064.58,
24 (the “Aggrieved Employee Amount”) shall be paid to the PAGA Members, pursuant to Labor Code §
25 2699(i), divided amongst PAGA Members based on each PAGA Member’s respective number of pay
26 periods worked for Defendants in California during the PAGA Period.

1 Plaintiff agrees that counsel for Plaintiff will notify the LWDA of the settlement at the same
2 time the settlement is submitted to the Court for approval, seek approval of the settlement, and perform
3 any and all statutory tasks as required by law.

4 The Parties further agree that should the Court deny approval of the settlement based on the
5 allocation of the PGSA or PNSA, the Parties agree to re-negotiate in good faith in an effort to obtain
6 approval of the settlement.

7 iii. **WHEREAS**, Upon Court approval of the Settlement and performance
8 of the payment obligations therein, Plaintiff and PAGA Members will fully and finally release and
9 discharge Defendant and its former, present and future owners, parents, and subsidiaries, and all of
10 their current, former and future spouse(s), children, officers, directors, members, managers,
11 employees, consultants, partners, shareholders, joint venturers, agents, successors, assigns,
12 accountants, insurers, or legal representatives ("Released Parties"), from all claims, rights, demands,
13 liabilities and causes of action for civil penalties under the PAGA asserted, or that could have been
14 asserted in the Complaint, including, but not limited to, those under California Labor Code §§ 201,
15 202, 203, 204, 206.5, 210, 221, 223, 224, 225.5, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5,
16 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, Wage Order sections 3, 4, 7, 9, 11, 12, 20,
17 and a California Civil Code § 1542 release as to those sections, that arose during the PAGA Period,
18 based on the factual allegations pled in the operative complaint in the Action. These released claims
19 include, but are not limited to the following claims: (a) failure to pay all overtime wages; (b) failure
20 to pay all minimum wages; (c) failure to pay wages, (d) failure to pay for all work, including off-the-
21 clock work (e) failure to provide proper meal periods; (d) failure to authorize and permit rest periods;
22 (e) failure to furnish accurate wage statements; (f) failure to reimburse employees for business
23 expenses; (g) misclassification of employees as independent contractors, (h) failure to timely pay final
24 wages, and (i) failure to indemnify and illegal deductions from wages, including any related claims
25 for attorneys' fees, costs, or interest resulting therefrom ("Released Claims").

26 **WHEREAS**, Defendant will provide PAGA Members' information (names, addresses, phone
27 numbers, social security numbers, and number of pay periods worked for Defendant in California
28

1 during the PAGA Period) to the Settlement Administrator to assist the settlement process within ten
2 (10) business days of the court signing the approval order.

3 Plaintiff has sole responsibility for all tax consequences of payments and penalties and agrees
4 to indemnify Defendant regarding same.

5 **WHEREAS**, Lakeview that it has employed 12,856 Pay Periods from the beginning of the
6 PAGA Period through present. If as of the earlier of the date of court approval or July 31, 2022, the
7 number of Pay Periods exceeds by more than fifteen percent (15%) (i.e., the number of Pay Periods
8 exceeds by or more Pay Periods), then the amount of the PGSA shall increase in proportion to the
9 increased percentage in excess of the 15% threshold. For example, if such increase in Pay Periods
10 during the Pay Periods is 16% over 12,423 Pay Periods, the PGSA will increase by 1%.

11 Phoenix Settlement Administrators, shall be the Settlement Administrator. Payments
12 to PAGA members, the LWDA, Plaintiff, and Plaintiff's Counsel shall be made by the Settlement
13 Administrator within 21 days of the payment by Lakeview. All checks to Aggrieved Employees will
14 be sent by the Settlement Administrator to each Aggrieved Employees' last known address on file
15 with Defendant and shall remain valid and negotiable for 180 days from the date of their issuance to
16 Aggrieved Employees. If any checks are returned as undeliverable, the Settlement Administrator shall
17 make reasonable efforts to obtain an updated address and reissue a check to that Aggrieved Employee.
18 All funds not claimed within 180 days of the initial mailing shall be directed to the State Controller's
19 Office under the Unclaimed Property Statutes in the name(s) of the individual(s) who did not cash his
20 or her check(s).

21 **WHEREAS**, discovery is stayed in the Action while the Parties work toward settlement and
22 court approval of the settlement.

23 **WHEREAS**, the Parties agree that this PAGA Settlement is not evidence that the operative
24 complaint filed in the Action by Plaintiff has any merit, nor does it constitute an admission of any
25 wrongdoing by Defendant. Defendant does not admit to liability or to the suitability of this case for
26 representative litigation other than for purposes of settlement. This PAGA Settlement will not be
27 deemed admissible in any other proceeding or in this proceeding other than to effectuate this
28

1 settlement. If the Court does not grant approval of this settlement, then the Parties revert to their
2 previous positions and Defendant will contend that a representative action is not appropriate.

3 **WHEREAS**, the Parties to this PAGA Settlement are represented by competent counsel, and
4 they have had an opportunity to consult with counsel. The Parties to this PAGA Settlement agree that
5 it reflects their good faith compromise of the claims raised in the Action, based upon their assessment
6 of the mutual risks and costs of further litigation and the assessments of their respective counsel.

7 **WHEREAS**, the Parties agree that this PAGA Settlement is confidential (except for purposes
8 of enforcement) and that no Party will communicate with or to anyone the settlement or anything to
9 do with the settlement, including, but not limited, to the issuance of any press release nor other public
10 or non-public representation regarding the settlement other than as necessary to obtain Court approval
11 and effectuate the terms of the settlement. The Parties and their counsel agree that they will not initiate
12 or have any contact with the press, respond to any press inquiry, or have any communication with the
13 press about this case. Any breach of the confidentiality provision will result in a payment of liquidated
14 damages in the amount of 2% of the settlement payment by the breaching party. Nothing in this MOU
15 prevents Plaintiff from discussing or disclosing information about unlawful acts in the workplace, such
16 as harassment or discrimination or any other conduct that he has reason to believe is unlawful. Nothing
17 in this PAGA Settlement prevents Defendant from communicating with its insurance companies,
18 insurance brokers or attorneys about the settlement.

19 **WHEREAS**, the Parties intend that this PAGA Settlement shall be fully enforceable and
20 binding upon all Parties, and that it shall be admissible and subject to disclosure in any proceeding to
21 enforce its terms under Code of Civil Procedure section 664.6 and any other applicable statute or law,
22 notwithstanding the mediation confidentiality provisions that otherwise might apply under local,
23 federal and state law.

24 **WHEREAS**, the Parties agree that mediator Todd Smith, Esq. may, at his discretion, execute
25 a Declaration supporting the settlement and the Court may, in its discretion, contact Todd Smith to
26 discuss the settlement.

27 **WHEREAS**, the Parties agree that the subsequent filing of a Joint Stipulation of Settlement
28 (or similar Settlement Agreement) is for settlement purposes only and if, for any reason, the settlement

1 is not approved, the Joint Stipulation of Settlement and this PAGA Settlement will be of no force or
2 effect.

3 **WHEREAS**, Defendant shall not authorize or knowingly permit any disparaging or critical
4 statements in reference to Plaintiff's employment with Defendant. In response to requests for
5 employment verification, Defendant will only provide (i) dates of Plaintiff's employment and (ii)
6 position.

7 The Parties shall not make any disparaging or critical statement about, relating or pertaining
8 to, or otherwise involving each other.

9 **WHEREAS**, Plaintiff will prepare and file a motion, if necessary, with the Court requesting
10 Approval of the PAGA Settlement. If the Court does not approve the settlement reached at mediation,
11 the Parties agree to work cooperatively together to renegotiate the terms of any settlement within 60
12 days of the first date the Court fails to approve the settlement. Should Court approval of a settlement
13 still not occur within 60 days after any such renegotiation, then any settlement and agreement is null
14 and void, of no force and effect whatsoever and shall not be referred to or used for any purpose
15 whatsoever and the Parties will be restored to their positions prior to mediation, unless the Parties
16 mutually agree otherwise in writing.

17 This Court shall retain jurisdiction to enforce the terms of the PAGA Settlement Agreement
18 pursuant to California Code of Civil Procedure Section 664.6; and

19
20
21 **NOW THEREFORE**, the Parties jointly request that the Court approve the PAGA Settlement
22 set forth in this PAGA Settlement Agreement and enter judgment accordingly to its terms.

1 August 16,
2 DATED: ~~July~~, 2022

SOLTMAN, LEVITT, FLAHERTY & WATTLES LLP

3 By: 
4 TINA M. JACQUEZ
5 Attorney for Defendant

6 August 16, 2022
7 DATED: ~~xxxxxxx~~, 2022

SIRMABEKIAN LAW FIRM PC

8
9
10 By: 
11 SARKIS SIRMABEKIAN
12 Attorney for Plaintiff
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

Re: NOTICE OF SETTLEMENT

Humberto Estrada v. Lakeview Terrace Skilled Nursing Facility LLC

Superior Court of California for the County of Los Angeles

Case Number: 20STCV26581

Date:

SIMID
Name
Address

Dear Name:

A settlement was reached between Plaintiff and Defendant in *Humberto Estrada v. Lakeview Terrace Skilled Nursing Facility LLC*, filed in the Superior Court of California for the County of Los Angeles (Case Number: 20STCV26581) (the “Action”). On , the Superior Court of California, for the County of Los Angeles issued an Order approving the Settlement, which was brought pursuant to the Private Attorneys General Act of 2004 (“PAGA”). An action under PAGA is an enforcement action, in which an aggrieved employee acts as a private attorney general to collect penalties from employers. In reaching this settlement, Defendant made no admission of liability and denied the truth of the allegations in the Complaint. However, to avoid additional expense, inconvenience, and interference with Defendant’s business operations, the parties have concluded that it is in the best interests of the parties to settle.

This settlement affects certain employees and former employees of Defendant. You are receiving this Notice of Settlement because you worked for Defendant at some point from April 7, 2019 through the date the Court enters the order granting approval of the PAGA settlement (“Claims Period”). Pursuant to the Settlement, enclosed is a check for your share of a portion of the civil penalties. This check will remain valid for 180 days from the date of issuance. If you do not cash your check within 180 days of issuance, the funds will be deposited by the Settlement Administrator with the California State Controller to be deposited in the Unclaimed Property Fund in your name. If you are still employed by Defendant, your decision to cash the check will not affect your employment.

Payment of this settlement includes a release of any and all claims pursuant to the California Labor Code § 2698, which were alleged based on the facts in the operative Complaint or notice to the California Labor Workforce Development Agency (“LWDA”) on behalf of Plaintiff and all aggrieved employees during the Claims Period. The release includes all claims, rights, demands, liabilities and causes of action that arose during the period from February 13, 2019 through [date of the final order] (the “PAGA Period”) for civil penalties under the PAGA, based on the allegations pled by Plaintiffs in the Action: (a) failure to pay minimum wage (Labor Code section 1197); (b) failure to compensate for all hours worked (Labor Code section 1198); (c)

failure to pay overtime compensation (Labor Code section 1198); (d) failure to pay meal period compensation (Labor Code section 226.7); (e) failure to pay rest period compensation (Labor Code section 226.7); (f) failure to furnish accurate wage and hour statements (Labor Code section 226); (g) failure to pay wages upon discharge (Labor Code section 201); (h) statutory penalties (Labor Code section 203 and 558); (i) failure to indemnify and illegal deductions from wages (Labor Code section 2802); (j) From Wages; (k) Violation Of the California Private Attorneys' General Act Of 2004 (Labor Code section 2698, et. seq.) and; (l) Unfair Competition (Business and Professions Code section 17200, including any related claims for attorneys' fees, costs, penalties or interest resulting there from, during the PAGA Period. This release only waives, and is limited to, the aggrieved employee's rights to collect civil penalties under PAGA (2698 *et seq.*).

If you have any questions, you can contact Phoenix Settlement Administrators, the Settlement Administrator, at 1. 949.566.1455.

PROOF OF SERVICE
(§ 1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am a citizen of the United States of America; I am over the age of eighteen years and not a party to the within entitled action; my business address is: 3435 Wilshire Boulevard, Suite 1710, Los Angeles, California 90010.

On the below-indicated date, I served the following document:

**STIPULATION BY ALL PARTIES FOR ORDER APPROVING SETTLEMENT
PURSUANT TO CALIFORNIA LABOR CODE PRIVATE ATTORNEYS' GENERAL ACT
AND ENTERING JUDGMENT**

on the interested parties in said action by placing:

___X___ a true and correct copy,

and addressed as set forth on the attached Service List and delivered by one or more of the means set forth below:

☒ **BY ELECTRONIC SERVICE IN LIEU OF SERVICE BY MAIL, EXPRESS MAIL, OVERNIGHT DELIVERY, OR FACSIMILE TRANSMISSION:** In accordance with California Code of Civil Procedure section 1010.6, I caused the document to be sent to the person(s) below at the e-mail address(es) listed below.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

EXECUTED: September 29, 2022
At Los Angeles, California

Grigor Gregg Sirmabekhian
Grigor Gregg Sirmabekhian

[SERVICE LIST ON THE FOLLOWING PAGE]

SERVICE LIST

Kevin S. Wattles, Esq. [SBN 170274] Tina M. Jacquez, Esq. [SBN 218370] SOLTMAN LEVITT FLAHERTY & WATTLES LLP 90 E. Thousand Oaks Blvd., Ste 300 Thousand Oaks, California 91360 Email: <i>kwattles@slfesq.com</i> Email: <i>tjacquez@slfesq.com</i>	<i>Attorneys for Defendant LAKEVIEW TERRACE SKILLED NURSING FACILITY LLC</i>
Labor and Workforce Development Agency ("LWDA") Department of Industrial Relations Attn. PAGA Administrator 1515 Clay Street, Suite 801 Oakland, CA 94612	<i>Labor and Workforce Development Agency ("LWDA") filed/ served online at: https://www.dir.ca.gov/Private-Attorneys- General-Act/Private-Attorneys-General- Act.html</i>