

JCL LAW FIRM, APC
Jean-Claude Lapuyade (SBN 248676)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292
Facsimile: (619) 599-8291

Attorney for Plaintiff CECILLE SARMIENTO

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

CECILLE SARMIENTO, an individual, on
behalf of herself and on behalf of all persons
similarly situated,

Plaintiff,

v.

CADUCEUS HEALTHCARE INC, a
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 37-2021-00002597-CU-OE-CTL

**DECLARATION OF STEPHANIE
MOLINA OF ILYM GROUP, INC., IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: March 10, 2023

Time: 10:30 a.m.

Judge: Hon. Richard S. Whitney

Dept.: 68

1 I, Stephanie Molina, declare as follows:

2 1. I am a resident of the United States of America and am over the age of 18. I am the
3 Operations Manager for ILYM Group, Inc., (herein after referred to as “ILYM Group”), the
4 professional settlement services provider who has been retained by the Parties’ Counsel and
5 subsequently appointed by the Court to serve as the settlement administrator for the above
6 captioned *Sarmiento v. Caduceus Healthcare, Inc.* matter. I am authorized to make this declaration
7 on behalf of ILYM Group. I have personal knowledge of the facts herein, and, if called upon to
8 testify, I could and would testify competently to such facts.

9 2. ILYM Group has extensive experience in administering Class Action Settlements,
10 including direct mail services, database management, claims processing and settlement fund
11 distribution services for Class Actions ranging in size from 26 to 4.5 million Settlement Class
12 Members.

13 3. ILYM Group was engaged by the Parties’ Counsel and subsequently approved and
14 appointed by the Court to provide notification services and settlement administration, pursuant to
15 the terms of the Settlement, in the above referenced Action. Duties performed to-date and to be
16 performed after Final Approval of the Settlement is granted, include: (a) printing and mailing the
17 *Notice of Pendency of Class Action Settlement and Final Hearing Date* (“Notice”); (b) receiving
18 and processing requests for exclusion; (c) resolving Class Members’ disputes over the number of
19 workweeks Defendants have record of them working during the Class Period, which was pre-
20 printed on their individualized Notice; (d) calculating individual settlement award amounts; (e)
21 processing and mailing settlement award checks; (f) handling tax withholdings as required by the
22 Settlement and the law; (g) preparing, issuing and filing tax returns and other applicable tax forms;
23 (h) handling the distribution of any unclaimed funds pursuant to the terms of the Settlement; and
24 (i) performing other tasks as the Parties mutually agree to and/or the Court orders ILYM Group to
25 perform.

26 4. On September 14, 2022, ILYM Group received the Court approved text for the
27 Notice from Plaintiff’s Counsel. ILYM Group prepared a draft of the formatted Notice, which
28 was approved by the Parties’ Counsel prior to mailing.

1 5. On October 20, 2022, ILYM Group received the class data files from Counsel for
2 Defendants, which contained, among other things, the name, social security number, last known
3 mailing address, and employment dates for each Class Member. The data file was uploaded to our
4 database and checked for duplicates and other possible discrepancies. The Class List contained
5 120 Class Members.

6 6. As part of the preparation for mailing, all 120 names and addresses contained in the
7 Class List were then processed against the National Change of Address (“NCOA”) database,
8 maintained by the United States Postal Service (“USPS”), for purposes of updating and confirming
9 the mailing addresses of the Settlement Class Members before mailing of the Notice Packet. The
10 NCOA contains requested change of addresses filed with the USPS. To the extent that an updated
11 address was found in the NCOA database, the updated address was used for the mailing of the
12 Notice Packet. To the extent that no updated address was found in the NCOA database, the original
13 address provided by Counsel for Defendants was used for the mailing of the Notice Packet.

14 7. On December 8, 2022, the Notice was mailed, via U.S First Class Mail, to all 120
15 Class Members contained in the Class List. Attached hereto, as **Exhibit A**, is a true and correct
16 copy of the mailed Notice.

17 8. As of the date of this declaration, 6 Notices were returned to our office as
18 undeliverable, none bearing a forwarding address. ILYM Group performed a computerized skip
19 trace on all 6 returned Notices, in an effort to obtain an updated address for purpose of re-mailing
20 the Notice. As a result of this skip trace, 4 updated addresses were obtained and the Notice was
21 promptly re-mailed to those Class Members, via U.S First Class Mail.

22 9. As of the date of this declaration, a total of 4 Notices have been re-mailed, all as a
23 result of ILYM Group’s skip tracing efforts.

24 10. As of the date of this declaration, 2 Notices have been deemed undeliverable, as no
25 updated address was found notwithstanding ILYM Group’s skip tracing efforts.

26 11. As of the date of this declaration, ILYM Group has not received any requests for
27 exclusion. The deadline to request exclusion from the Settlement was February 6, 2023.

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12. As of the date of this declaration, ILYM Group has not received any objections to the Settlement. The deadline to file an objection to the Settlement was February 6, 2023.

13. As of the date of this declaration, ILYM Group will report a total of 120 Participating Class Members, representing 100% of the Settlement Class.

14. The Participating Class Members will receive a proportional share of the Net Settlement Amount through individual settlement payments. The Net Settlement Amount is the amount remaining after deduction of the Court-approved payments from the Gross Settlement Amount for Class Counsel Fees and Litigation Costs, the Class Representative Service Award, Claims Administration Fees to ILYM Group, and the PAGA settlement, e.g.,

Gross Settlement Amount	\$ 315,000.00
Attorney Fees	\$ 105,000.00
Attorney Costs/ Expenses	\$ 15,000.00
Service Award	\$ 7,500.00
ILYM Group Fees	\$ 7,500.00
PAGA Settlement	\$ 15,000.00
Net Settlement Amount	\$ 165,000.00

15. To determine a Participating Class Member's individual settlement award payment, the Participating Class Member's respective workweeks will be divided by the total workweeks for all Participating Class Members, which is 2,852 workweeks, resulting in a payment ratio. Each Participating Class Member's payment ratio will then be multiplied by the Net Settlement Amount. Based on these calculations, the Participating Class Members will receive an estimated average gross payment of \$1,375.00, an estimated highest gross payment of \$3,495.87, and an estimated lowest gross payment of \$132.23. Additionally, 25% of the PAGA Settlement, or \$3,750.00, will be distributed to the Aggrieved Employees. The respective PAGA pay periods for each Aggrieved Employee will be divided by the total PAGA pay periods for all Aggrieved Employees, which is 2,558 pay periods, resulting in a PAGA payment ratio. Each Aggrieved Employee's payment ratio will then be multiplied by the Aggrieved Employee Payment. Based on these calculations, the

1 Aggrieved Employees will receive an estimated average payment of \$31.25, an estimated highest
2 payment of \$85.65, and an estimated lowest payment of \$0.42.

3 16. ILYM Group's total fees and costs for services in connection with the administration
4 of this Settlement, which includes fees and costs incurred to-date, as well as anticipated fees and
5 costs for completion of the settlement administration, are \$7,500.00. ILYM Group's work in
6 connection with this matter will continue with the calculation of the settlement award payments,
7 issuance and mailing of the settlement award checks, the necessary tax filing and reporting on such
8 payments, and any other tasks that the Parties mutually agree to and/or the Court orders ILYM
9 Group to perform.

10 I declare under penalty of perjury under the laws of the State of California and the United
11 States that the foregoing is true and correct to the best of my knowledge and that this Declaration
12 was executed this 15th day of February 2023, at Tustin, California.

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STEPHANIE MOLINA

EXHIBIT “A”

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND FINAL HEARING DATE**

*(Sarmiento v. Caduceus Healthcare, Inc., San Diego County Superior Court Case
No. 37-2021-00002597-CU-OE-CTL)*

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$«Estimated_Settlement_Amount». See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendant as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of San Diego (the “Court”) has been reached between Plaintiff Cecille Sarmiento (“Plaintiff”) and Defendant Caduceus Healthcare, Inc., (“Defendant”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All non-exempt employees who are or previously were employed by Defendant in California during the Class Period.

The “Class Period” is the period of time running from January 20, 2017 to September 30, 2021.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On January 20, 2021, Plaintiff filed a Complaint against Defendant in the Superior Court of the State of California, County of San Diego. Plaintiff asserted claims that Defendant: (a) Violated California Business and Professions Code § 17200 *et seq.*; (b) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*; (c) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (f) Failed to provide accurate and complete itemized wage statements in violation of California Labor Code § 226; (g) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802; (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202, and 203; (i) Failure to timely pay earned wages in violation of California Labor Code § 204(a); (j) Wrongful Termination in violation of Public Policy; and (k) Violations of the Private Attorney General Act at Labor Code Section 2698, *et seq.*

Defendant denies and disputes all claims asserted in the Action. Specifically, Defendant contended (and continue to contend) that the Action could not properly be maintained as a class action; that Defendant properly paid members of the class all wages and overtime that was due; that Defendant provided members of the class with all legally required meal breaks and rest breaks; that Defendant paid any members of the class all wages due them at the time of their terminations; that Defendant provided accurate, itemized wage statements to members of the class; that Defendant reimbursed Defendant for required business expenses, that Defendant did not violate California Business and Professions Code section 17200 *et seq.*; and that Defendant is not liable for any of the penalties claimed or that could be claimed in the Actions.

On September 8, 2021, the Parties participated in an all-day mediation with Hon. Steven Denton (Ret.), a respected jurist and experienced mediator of wage and hour class and PAGA actions. At the conclusion of the mediation, each side, represented by its respective counsel, agreed to settle the Action. The Court granted preliminary approval of the Settlement on September 13, 2022. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Blumenthal Nordrehaug Bhowmik De Blouw LLP to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an “all in” amount of Three Hundred Fifteen Thousand Dollars (\$315,000) (the “Gross Settlement Amount”) to fund the settlement. The Gross Settlement Amount includes the payment of all Settlement Shares to Participating Class Members, Class Counsel’s attorneys’ fees and costs, Settlement Administration Expenses, the LWDA Payment, PAGA Shares, and the Class Representative Service Payment to the Plaintiff.

After the Judgment becomes Final, Defendant will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. “Final” means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed and the Judgment is affirmed.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$15,000.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.
- Attorneys’ Fees and Costs. Payment to Class Counsel of an award of a Class Counsel Fees Payment of no more than 1/3 of the Gross Settlement Amount (currently \$105,000) and a Class Counsel Litigation Expenses Payment of not more than \$15,000 for all expenses incurred as documented in Class Counsel’s

billing records, both subject to Court approval. Class Counsel have been prosecuting the Actions on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.

- Class Representative Service Payment. Class Representative Service Payment of up to Seven Thousand Five Hundred Dollars (\$7,500) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate her for services on behalf of the Class in initiating and prosecuting the Action, and for the risks she undertook.
- PAGA Payment. A payment of \$15,000 relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), \$11,250 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$3,750 will be distributed to PAGA Employees as part of the Net PAGA Amount.
- Calculation of Payments to Participating Class Members. After all the above payments of the court-approved Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payments, the LWDA Payment, and the Settlement Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Settlement Share for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Settlement Class Members that occurred during the Class Period and multiplying the result by each individual Participating Class Member's workweeks that occurred during the Class Period. A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendant's records, a member of the class worked at least one-day during any such workweek.
- Calculation of PAGA Penalties Payments to PAGA Employees. The Net PAGA Amount shall be distributed to PAGA Employees irrespective of whether they exclude themselves or opt-out. The Net PAGA Amount will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective Aggrieved Employee during the PAGA Period. "Aggrieved Employees" means all non-exempt employees who are or previously were employed by Defendant in California during the PAGA Period. The PAGA Period means the period between June 18, 2019 to September 30, 2021.

If the Settlement is approved by the Court, you will automatically be mailed a check for your Settlement Share to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to insure you receive your payment.

Tax Matters. 20% of each Settlement Share is allocated to wages. Taxes are withheld from this amount, and each Participating Class Member will be issued an Internal Revenue Service Form W-2 for such payment. 80% of each Settlement Share is allocated to interest, penalties and other non-wage payments, and no taxes will be withheld, and each Participating Class Member will be issued an Internal Revenue Service Form 1099 for such payment. In addition, no taxes will be withheld from the PAGA Penalties paid to Aggrieved Employees, and each Aggrieved Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendant's counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon entry of final judgment and funding in full of the Gross Settlement Amount by Defendant, Plaintiff and the Settlement Class Members shall release all Released Class Claims that occurred during the Class Period as to the Released Parties. Released Class Claims means all class claims, actions, demands, causes of action, suits, debts, obligations, damages, penalties, rights or liabilities, of any nature and description whatsoever, that are asserted in the Action or based on the facts and theories pleaded in the operative complaint on file at the time of final approval, including but not limited to, labor Code sections 201, 202, 203, 204(a), 210, 218.5, 225, 226.3, 226.7, 510, 512, 1194, 1197, 1197.1, and 2802, the applicable IWC WAGE Orders and all equivalent claims and causes of actions arising under the Fair Labor Standards Act (“FLSA”) at 29 U.S.C. § et seq., which occurred during the Class Period, and expressly excluding all other claims, including claims of vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and claims outside of the Class Period. The Released PAGA Claims shall be released as follows. Upon entry of final judgment and upon funding in full of the Gross Settlement Amount by Defendant, all Aggrieved Employees shall release all Released PAGA Claims, irrespective of whether they opted-out of the class settlement, and will be bound by this PAGA Release (the “PAGA Release”). “Released PAGA Claims” means all claims for penalties under PAGA, arising during the PAGA Period, which were alleged in the operative complaint at the time of final approval by Plaintiff in the Action and Plaintiff’s June 18, 2020 notice letter to the LWDA including, Labor Code §§ 201, 202, 203, 204, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3 and any resulting claim for attorneys’ fees and costs under PAGA, which occurred during the PAGA Periods.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant about the legal issues resolved by this Settlement. It also means that all of the Court’s orders in this Action will apply to you and legally bind you.

5. How much will my payment be?

Defendant’s records reflect that you have «Workweeks» Workweeks worked during the Class Period (January 30, 2017 to September 30, 2021).

Based on this information, your estimated Individual Settlement Payment is \$«Estimated_Class_Amount».

Defendant’s records reflect that you have «PAGA_Weeks» pay periods worked during the PAGA Period (June 18, 2019 to September 30, 2021).

Based on this information, your estimated PAGA Payment Share is \$«Estimated_PAGA_Amount».

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than January 22, 2023.

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: ILYM Group. (888) 250-6810.

The Court will hold a hearing on March 10, 2023 to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final

judgment to the Class Members by posting a copy of the Judgment on the administrator's website at www.ilymgroup.com.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the Net PAGA Amount.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than January 22, 2023. The address for the Settlement Administrator is P.O. Box 2031, Tustin, CA 92781. The request for exclusion must state in substance: "I wish to opt out of the settlement of the class action lawsuit **entitled *Sarmiento v. Caduceus Healthcare, Inc., San Diego County Superior Court, Case No. 37-2021-00002597-CU-OE-CTL***. I understand that by requesting to be excluded from the settlement, I will receive no money from the Settlement described in this Notice." The request for exclusion must contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

Written requests for exclusion that are postmarked after January 22, 2023, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is ***Sarmiento v. Caduceus Healthcare, Inc., San Diego County Superior Court, Case No. 37-2021-00002597-CU-OE-CTL***. You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than January 22, 2023. The address for the Settlement Administrator is ILYM Group Inc., P.O. Box 2031, Tustin, CA 92781.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel.: (619) 599-8292
Fax: (619) 599-2891
E-Mail: jlapuyade@jcl-lawfirm.com

Counsel for Defendant:

Mandy D. Hexom
Freeman Mathis & Gary, LLP
225 Broadway, Suite 1460
Tel.: (619) 687-3000
E-Mail: mxhesom@fmgclaw.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at 08:30 AM on March 10, 2023, at the San Diego County Superior Court, Dept. C-68, located at 330 W Broadway, San Diego, CA 92101-7068 before Judge Richard S. Whitney. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at (888) 250-6810 or write to ***Sarmiento v. Caduceus Healthcare, Inc., San Diego County Superior Court, Case No. 37-2021-00002597-CU-OE-CTL***, Settlement Administrator, c/o ILYM Group, Inc., P.O. Box 2031, Tustin, CA 92781.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to JCL Law firm, APC, 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to The Children's Advocacy Institute. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.