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 individually and on behalf of similarly situated employees

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

LINDA HUDSON, individually and on behalf
 of all other similarly situated employees,

Plaintiff,

vs.

STOCKTON NURSING AND REHAB
 CENTER, LLC, a California Limited Liability
 Company; EDURO HEALTHCARE LLC, a
 Delaware Limited Liability Company;
 GRANT GARRISON, an individual; and
 DOES 1 to 100, inclusive,

Defendants.

Case No. STK-CV-UOE-2020-0008507

**PLAINTIFF'S NOTICE OF MOTION AND
 MOTION FOR PRELIMINARY APPROVAL
 OF CLASS ACTION AND PAGA
 SETTLEMENT**

Date:

Time: 9:00 a.m.

Dept.: 11B

Judge: Robert T. Waters

Filed: October 7, 2020

FAC Filed: November 06, 2020

Trial Date: none set

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on _____, at 9:00 a.m., or as soon thereafter as the matter
3 may be heard in Department 11B of the above-entitled Court, Plaintiff Linda Hudson, individually and
4 on behalf of all other similarly situated individuals, hereby move for entry of an Order for the following:

- 5 1. Preliminarily certifying the proposed class herein for purposes of settlement;
- 6 2. Preliminarily appointing Plaintiff Linda Hudson as class representative for purposes of
7 settlement;
- 8 3. Preliminarily appointing the Shimoda Law Corp. as Class Counsel for purposes of
9 settlement;
- 10 4. Preliminarily approving the proposed class action settlement, in the amount of \$420,000,
11 which is incorporated herein by reference;
- 12 5. Preliminarily approving the application for payment to Class Counsel of attorneys' fees in
13 the amount of \$147,000 (35% of the Gross Settlement Amount);
- 14 6. Preliminarily approving the application for payment to class counsel of reasonable costs not
15 to exceed \$15,000;
- 16 7. Preliminarily and conditionally approving the Class Representative Enhancement Payment
17 of \$12,500 to Plaintiff Linda Hudson;
- 18 8. Preliminarily approving the appointment of Simpluris, Inc. as the Claims Administrator and
19 for payment to Simpluris, Inc. for administering said class action settlement in an amount
20 not to exceed \$7,500;
- 21 9. Preliminarily approving the settlement of claims under the Private Attorneys General Act
22 for the total amount of \$25,000, 75% of which will be paid to the Labor and Workforce
23 Development Agency and 25% of which will be paid to Aggrieved Employees;
- 24 10. Approving as to form and content the Notice of Proposed Class Action Settlement, and
25 Hearing Date for Final Court Approval of Settlement ("Notice of Settlement"), which
26 provide Class Members information regarding the settlement, their ability to opt out of, or
27 object to, the class action settlement and which provides instruction on how to dispute an
28 individual's settlement allocation under the proposed settlement agreement;

- 1 11. Approving the proposed procedures to notify the class and determining that the proposed
2 notification procedures and process complies with class members' due process rights and
3 directing the Notice of Settlement to be sent by first class mail to Class Members;
4 12. Directing the Defendants to report employment information, including social security
5 numbers, to the Claims Administrator to administer the settlement proceeds;
6 13. Scheduling a fairness hearing on the question of whether the proposed settlement should be
7 finally approved as fair, reasonable, and adequate;
8 14. Directing that any residue from settlement checks that were not cashed by the check cashing
9 deadline be donated 50/50 to the SEIU 2015 Disaster Relief Fund and the Center for Workers
10 Rights under the doctrine of *cy pres*; and
11 15. Preliminarily and conditionally approving and adopting the Proposed Order and its
12 implementation schedule, which is filed herewith and incorporated by reference.

13 This motion is being made pursuant to Code of Civil Procedure section 382, Labor Code section
14 2699(1), and California Rule of Court 3.769, on the grounds that the proposed class action and Private
15 Attorneys General Act settlement is fair, reasonable, and adequate as to all class members and should be
16 approved by the Court. This motion will be based on the notice of motion, memorandum of points and
17 authorities, the Declaration of Galen T. Shimoda, the Declaration of Linda Hudson, exhibits, the record
18 and files of this case, and any further oral or documentary evidence introduced at the hearing of this
19 motion.

20
21 **The following tentative ruling procedure is in effect for CIVIL cases beginning May 4, 2020 until
further notice from the Court.**

22 **Tentative rulings for Law and Motion will be posted electronically by 1:30 p.m. the day before the**
23 **hearing. Any party wishing to contest or argue the tentative ruling must email the court at**
24 **civilcourtclerks@sjcourts.org that they intend to appear remotely no later than 4:00 PM on the**
25 **day before the scheduled hearing. The Department and Case Number must be in the header of the**
26 **email. The email must include the Department, Case number, Case Name, Motion, party's name**
27 **and email, date and time of the hearing, issues they plan to argue, and that they have informed the**
28 **opposing party. The party must also notify affected counsel, or unrepresented parties, that they**
intend to appear, no later than 4:00 PM on the day before the scheduled hearing. Unless the Court
and opposing counsel have been notified, the tentative ruling shall become the ruling of the Court
without oral argument.

1 Dated: May 25, 2021

Shimoda Law Corp.

2
3 By: 

4 Galen T. Shimoda
5 Justin P. Rodriguez
6 Brittany V. Berzin
7 Jessica L. Hart
8 Attorneys for Plaintiff
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10 individually and on behalf of similarly situated employees

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FOR THE COUNTY OF SAN JOAQUIN

11 LINDA HUDSON, individually and on behalf
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13 Plaintiff,

14 vs.

15 STOCKTON NURSING AND REHAB
16 CENTER, LLC, a California Limited Liability
17 Company; EDURO HEALTHCARE LLC, a
18 Delaware Limited Liability Company;
19 GRANT GARRISON, an individual; and
20 DOES 1 to 100, inclusive,

21 Defendants.

Case No. STK-CV-UOE-2020-0008507

**MEMORANDUM OF POINTS &
AUTHORITIES IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

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TABLE OF CONTENTS

I.	Introduction and Opening Summary of Argument	1
II.	Procedural and Litigation History.....	2
III.	Investigation and Discovery Conducted	2
IV.	Negotiation and Proposed Settlement.....	3
	a. Plaintiff and Defendants Engaged in Extensive Arm’s Length Negotiations.....	3
	b. The Terms of the Settlement.....	3
	c. Allocation of Settlement Funds	5
V.	Argument	6
	a. Class Action Settlements are Subject to Court Review and Approval Under the California Rules of Court.....	6
	b. The Terms of The Settlement Are Fair and Within the Range of Reasonableness	6
	i. The Settlement is a Result of Extensive, Non-Collusive Arm’s Length Negotiations Between the Parties	7
	ii. The Extent of Investigation and Discovery Completed Provided Ample Information to Enter Into an Informed and Reasonable Settlement	7
	iii. Plaintiff’s Counsel is Experienced in Similar Litigation	8
	iv. The Settlement is Fair and Reasonable Based on the Strength of Plaintiff’s Case and the Risks and Costs of Further Litigation	8
	v. The Proposed Settlement is a Reasonable Compromise of Claims	9
	vi. The Enhancement Payment to the Named Plaintiff for Plaintiff’s Services to the Putative Class Is Reasonable and Routinely Awarded by Courts.....	10
	vii. Awarding Attorneys’ Fees as a Percentage of the Common Fund Is Reasonable and Customarily Approved by Courts	10
	c. Provisional Certification of the Class is Appropriate	13
	i. The Proposed Settlement Class is Ascertainable and Sufficiently Numerous	13
	ii. The Commonality, Predominance, and Typicality Requirements are Met	13
	iii. The Adequacy Requirement is Met	14

VI.	Conclusion	15
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TABLE OF AUTHORITIES

CALIFORNIA CASES

<i>Bell v. Farmers Ins. Exchange</i> , 115 Cal. App. 4th 715, 726, 765 (2004).....	11
<i>City of San Jose v. Superior Court</i> , 12 Cal.3d 447, 460 (1974)	14
<i>Classen v. Weller</i> , 145 Cal. App. 3d 27, 46-47 (1983).....	14
<i>Dunk v. Ford Motor Co.</i> , 48 Cal. App. 4th 1794, 1801, 1806, 1808 (1996)	7, 11, 14
<i>Green v. Obledo</i> , 29 Cal.3d 126 (1981).....	6
<i>Hebbard v. Calgrove</i> , 28 Cal. App. 3d 1017, 1030 (1972).....	13
<i>Kullar v. Foot Locker Retail, Inc.</i> , 168 Cal. App. 4th 116 (2008).....	9
<i>Laffitte v. Robert Half Internat., Inc.</i> , 1 Cal.5th 480, 506 (2016)	11
<i>Lee v. Dynamex, Inc.</i> , 166 Cal. App. 4th 1325, 1334 (2008).....	13
<i>McGhee v. Bank of America</i> , 60 Cal.App.3d 442, 450-51 (1976).....	15
<i>Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles</i> , 186 Cal. App. 4th 399 (2010)	9
<i>Neary v. Regents of Univ. of Cal.</i> , 3 Cal.4th 273, 277-81 (1992).....	6
<i>Noel v. Thrifty Payless, Inc.</i> , 7 Cal.5th 955, 980 (2019)	13
<i>North County Contr. 's Assn., Inc. v. Touchstone Ins. Svcs.</i> , 27 Cal. App. 4th 1085, 1089-90 (1994)	7
<i>Rebney v. Wells Fargo Bank</i> , 220 Cal. App. 3d 1117, 1139 (1990).....	8
<i>Richmond v. Dart Ind., Inc.</i> , 29 Cal.3d 462, 469, 473 (1981)	14
<i>Sanders v. City of Los Angeles</i> , 3 Cal.3d 252, 261, 263 (1970)	11
<i>Serrano v. Priest</i> , 20 Cal.3d 25, 34-35 (1977).....	11
<i>Wershba v. Apple Computer, Inc.</i> , 91 Cal. App. 4th 224, 234-35, 246, 250, 254 (2001).....	6, 8, 11

CALIFORNIA STATUTES

California Labor § 2699	2, 6
Cal. Rules of Court, Rule 3.769	6

FEDERAL CASES

<i>Amchem Products v. Windsor</i> , 521 U.S. 591 (1997)	14
<i>Avila v. Cold Spring Granite Co.</i> , 2017 U.S. Dist. LEXIS 130878 (E.D. Cal. 2017)	9

1	<i>Bellinghausen v. Tractor Supply Co.</i> , 306 F.R.D. 245 (N.D. Cal 2015)	9
2	<i>Benitez et al. v. Wilbur</i> , USDC Eastern District, Case No. 1:08-cv-01122	12
3	<i>Boeing Co. v. Van Gemert</i> , 444 U.S. 472, 477-478 (1980)	11
4	<i>Boyd v. Bechtel Corp.</i> , 485 F. Supp. 610, 617 (N.D. Cal. 1979).....	8
5	<i>Bravo v. Gale Triangle, Inc.</i> , 2017 U.S. Dist. LEXIS 77714 (C.D. Cal. 2017)	8
6	<i>Chavez et al. v. Petrissans et al.</i> , USDC Eastern District, Case No. 1:08-cv-00122	12
7	<i>Dirienzo v. Dunbar Armored, Inc.</i> , USDC Southern District, Case No. 3:09-cv-02745.....	12
8	<i>Gardner v. GC Servs., LP</i> , 2012 U.S. Dist. LEXIS 47043 (S.D. Cal. 2012)	13
9	<i>Green, et al. v. Penske Logistics, L.L.C., et al.</i> ,	
10	USDC Southern District, Case No. 3:09-cv-00069.....	12
11	<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011, 1019, 1020, 1022, 1027 (9th Cir. 1998)	6, 14, 15
12	<i>Ingram v. The Coca Cola Co.</i> , 200 F.R.D. 685, 694 (N.D. Ga. 2001)	10
13	<i>In re Activision Sec. Litigation</i> , 723 F. Supp. 1373, 1379 (N.D. Cal. 1989)	12
14	<i>In re Heritage Bond Litig.</i> , 2005 U.S. Dist. LEXIS 13555, 71 (C.D. Cal. 2005).....	12
15	<i>In re Ikon Office Solutions, Inc. Secur. Litig.</i> , 194 F.R.D. 166, 193 (E.D. Pa. 2000).....	12
16	<i>In re Omnivision Technologies, Inc.</i> , 559 F.Supp.2d 1036, 1042 (2007)	8, 10
17	<i>Jamison v. Butcher & Sherrerd</i> , 68 F.R.D. 479, 481 (E.D. Pa. 1975).....	6
18	<i>Martin v. Ameripride Servs.</i> , 2011 U.S. Dist. LEXIS 61796 22-23 (S.D. Cal. 2011).....	12
19	<i>Mills v. Electric Auto-Lite Co.</i> , 396 U.S. 375 (1970)	11
20	<i>Officers for Justice v. Civil Serv. Comm’n</i> , 688 F.2d 615, 628 (9th Cir. 1982)	8
21	<i>Paul, Johnson, Alston & Hunt v. Graulity</i> , 886 F.2d 268, 271 (9th Cir. 1989).....	11
22	<i>Reed v. 1-800 Contacts, Inc.</i> , 2014 U.S. Dist. LEXIS 255 (S.D. Cal. 2014).....	10
23	<i>Romero v. Producers Dairy Foods, Inc.</i> ,	
24	2007 U.S. Dist. LEXIS 86270, (E.D. Cal. 2007)	12
25	<i>Schiller v. David’s Bridal, Inc.</i> , 2012 U.S. Dist. LEXIS 80776 (E.D. Cal. 2012)	13
26	<i>Singer v. Becton Dickenson and Co.</i> ,	
27	2010 U.S. Dist. LEXIS 53416 (S.D. Cal. 2010)	12
28	<i>Staton v. Boeing Co.</i> , 327 F.3d 938, 967- 972 (9th Cir. 2003)	11

1 *Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294 (N.D. Cal. 1995)..... 10

2 *Vasquez v. Coast Valley Roofing, Inc.*, 266 F.R.D. 482, 491-492 (E.D. Cal. 2010) 12

3 *Vincent v. Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir. 1977) 11

4 *Waters v. Intern. Precious Metals Corp.*, 190 F.3d 1291 (11th Cir. 1999) 11

5 *Watson v. Raytheon Company*, USDC Southern District, Case No. 3:10-cv-00634 12

6 *Williams v. MGM-Pathe Communications Co.*, 129 F.3d 1026, 1027 (9th Cir. 1977) 11

7 **FEDERAL STATUTES AND OTHER AUTHORITIES**

8 Fed. R. Civ. Proc., Rule 23(e) 6

9 Newberg on Class Actions 12

I. INTRODUCTION AND OPENING SUMMARY OF ARGUMENT

This Motion is brought seeking preliminary approval of a wage and hour class action settlement in the gross amount of \$420,000. *See generally* Exhibit A (Joint Stipulation Regarding Class Action and PAGA Settlement and Release). Plaintiff Linda Hudson (“Plaintiff”) brought this class action individually and on behalf of other similarly situated employees employed by Defendants Stockton Nursing and Rehab Center, LLC, Eduro Healthcare LLC, and Grant Garrison (“Defendants”). Plaintiff worked for Defendants in California from June 1, 2019 to June 8, 2020 and was subject to all the same policies and practices that are alleged to be unlawful in this litigation. *See generally* Exhibit B (Plaintiff’s Operative Complaint); Declaration of Linda Hudson (“Decl. Hudson”) ¶ 2.

Plaintiff has alleged that Defendants violated California law by 1) Failing to Pay Overtime; 2) Failing to Pay Minimum Wages; 3) Failing to Provide Meal and Rest Periods; 4) Failing to Provide Accurate Wage Statements; 5) Failing to Provide Reimbursements; 6) Waiting Time Penalties; and 7) Unfair Competition. *See generally* Exhibit B. Plaintiff has also alleged Defendants are liable for a civil penalties under the Private Attorneys General Act (“PAGA”) based on these violations. *See id.*; Exhibit C (Plaintiff’s Ltr. to the LWDA Regarding PAGA Claims). These violations primarily stem from Plaintiff’s allegations that Defendants violated California law by 1) failing to pay overtime and minimum wages due to their failure to pay for off-the-clock work, improper rounding policy, and improper calculations of the Regular Rate of Pay (“RROP”); 2) consistently failing to adequately staff schedules, or otherwise allow Plaintiff and similarly situated employees to take timely and complete meal and rest breaks; 3) failing to reimburse expenses for work-related cell phone use; 4) failing to maintain accurate records and provide accurate itemized wage statements; and 5) failing to pay wages owed within the legally required time period after an employee’s separation. *See* Exhibit B. Plaintiff has contended that this is a meritorious class action lawsuit and that this case is appropriate for class certification for settlement purposes as the requisites for class certification in this case can be satisfied. *See* Exhibit B.

Defendants have denied all of Plaintiff’s allegations in their entirety and any liability or wrongdoing of any kind. *See* Declaration of Galen T. Shimoda (“Decl. Shimoda”), ¶ 5. Defendants have denied that this case is appropriate for class certification other than for purposes of settlement and

1 that Plaintiff would have difficulty proving class certification is proper here. *See id.* However, subject
2 to approval by the Court, the parties have been able to compromise and settle all asserted claims for
3 monetary compensation as a result of extensive investigations, informal document and data exchanges,
4 and extended negotiations relating to all aspects of the asserted claims. *See* Exhibit A. Plaintiff's
5 counsel is convinced that the proposed settlement is in the best interest of the putative class based on
6 the discovery, investigations, negotiations, and a detailed knowledge of the issues in this case. *See*
7 Decl. Shimoda, ¶¶ 3, 6-10. The prospect of potential class certification issues and the uncertainty of
8 class certification, difficulties of complex litigation, the lengthy process of establishing specific
9 damages and various possible delays and appeals were carefully considered by Plaintiff and Plaintiff's
10 counsel in agreeing to the proposed settlement. *See id.*

11 It is well within the discretion of this Court to grant preliminary and conditional approval of the
12 Agreement, which satisfies all of the criteria for preliminary settlement approval under California law.
13 Accordingly, Plaintiff requests that the Court: (1) provisionally and conditionally certify the proposed
14 settlement class; (2) grant preliminary and conditional approval of the proposed Agreement (Exhibit
15 A); (3) set dates for and direct distribution to the class of the Notice of Settlement (Exhibit F), which
16 provides Class Members information regarding the settlement, including information regarding the
17 opportunity to opt-out of, or object to, the settlement and notifies each class member of their expected
18 pro rata share of the settlement; and (4) adopt the implementation schedule contained in the proposed
19 order and schedule a final approval hearing.

20 **II. PROCEDURAL AND LITIGATION HISTORY**

21 Plaintiff filed a class action complaint on approximately October 7, 2020, in the San Joaquin
22 County Superior Court against Defendants. Plaintiff exhausted administrative remedies under the
23 PAGA by providing notice of the claims and violations to the LWDA. *See* Exhibit C; Cal. Lab. Code §
24 2699.3(a), (c); Decl. Shimoda, ¶ 3. Then, Plaintiff filed a First Amended Class Action Complaint on
25 approximately November 6, 2020 to include a PAGA claim. *See id.*; Exhibit B. There is no date set for
26 a motion for certification or trial in this matter. *See* Decl. Shimoda, ¶ 4.

27 **III. INVESTIGATION AND DISCOVERY CONDUCTED**

28 Plaintiff thoroughly investigated issues affecting certification, the merits of the class claims, and

1 potential damages for such claims. *See id.* Plaintiff worked during the time all of Defendants' policies
2 and practices at issue in the Complaint were in effect and provided information regarding these policies
3 and practices, enabling pre-filing investigations to take place. *See* Decl. Hudson ¶¶3, 5. The parties
4 engaged in informal discovery and exchange of documents, including a representative sampling of
5 employee data, such as timecards, paystubs, payroll data and relevant policies for the entirety of the
6 statute of limitations applicable to the alleged claims. The discovery covered all aspects of the asserted
7 claims, including certification issues, merits issues, damages, the scope and configuration of Class
8 Members, the content and implementation of the wage and hour policies at issue, issues relating to
9 manageability concerns at trial, among other relevant areas. *See* Decl. Shimoda, ¶ 7. The information
10 allowed Plaintiff to determine the extent of any violations in accordance with Plaintiff's contentions
11 and create an accurate damages model to assess the reasonableness of any settlement. *See id.*

12 **IV. NEGOTIATION AND PROPOSED SETTLEMENT**

13 **a. Plaintiff and Defendants Engaged in Extensive Arm's Length Negotiations**

14 The final settlement occurred only after extended, and sometimes contentious, arm's length
15 negotiations. Over the course of approximately ten (10) months, Plaintiff has been investigating the
16 claims and discussing with Defendants' counsel the merits of the claims and certification issues present
17 in this case. *See id.* at ¶¶ 6-10. The parties exchanged substantial amounts of information and legal
18 analysis regarding the asserted claims. *See id.* Then, only after nearly ten (10) months of litigation and
19 negotiation, which included a full day mediation with Lisa Klerman, the parties were able to reach a
20 mutually agreeable settlement. *See id.* at ¶ 8. In light of the claims and defenses at issue, the parties
21 agreed to a Gross Settlement Amount of \$420,000. *See* Exhibit A.

22 **b. The Terms of the Settlement**

23 Under the settlement agreement, Defendants have agreed to the following:

- 24 1. The following groups of individuals are covered by the Settlement (*See* Exhibit A, ¶¶
25 1.2, 1.8):

26 All non-exempt employees who have or continue to work for Defendants at
27 the Stockton Nursing and Rehab Center from August 26, 2019 to either (1)
28 the date a signed order preliminarily approving the class settlement is filed,
or (2) 60 days after the *Joint Stipulation Regarding Class Action and PAGA
Settlement and Release* is signed, whichever is earlier. (PAGA members)

1 All non-exempt employees who have or continue to work for Defendants at
2 the Stockton Nursing and Rehab Center from June 1, 2019¹ to either (1) the
3 date a signed order preliminarily approving the class settlement is filed, or
4 (2) 60 days after the *Joint Stipulation Regarding Class Action and PAGA*
5 *Settlement and Release* is signed, whichever is earlier. (Class members)

6 2. Pay Gross Settlement Amount of \$420,000, inclusive of the employer's share of payroll
7 taxes, to resolve and release the claims alleged in the Complaint. *See id.* at ¶¶ 5.1, 5.2. No portion of
8 the Gross Settlement Amount will revert to Defendants. *See id.* at ¶ 5.6. Aggrieved Employees will
9 still be paid their share of the PAGA Payment regardless of whether they opt out of being Class
10 Members. *See id.* at 7.5.1.

11 3. The parties agree that up to \$12,500 for Plaintiff Linda Hudson will be paid as a Class
12 Representative Enhancement Payment. This amount will be in addition to any amount Plaintiff may be
13 entitled to under the terms of the Agreement. *See id.* at ¶ 5.4.

14 4. The parties agree that the cost of administering this class action settlement shall be paid
15 from the settlement proceeds. Subject to Court approval, the parties have selected Simpluris, Inc. to act
16 as the class action claims administrator, who has provided a maximum cost estimate of \$7,500 to
17 administer the class settlement. *See Exhibit D (Simpluris, Inc. Quote)*. The difference between any
18 actual administration costs and the \$7,500 allocated under the Agreement, if any, will be paid to Class
19 Members on a pro rata basis. *See Decl. Shimoda*, ¶ 17.

20 5. The parties agree that \$25,000 of the Gross Settlement Amount shall be allocated to
21 resolving claims under the PAGA. Seventy-Five percent (75%) of the PAGA Payment will be paid to
22 the LWDA and Twenty-Five percent (25%) will be paid to Aggrieved Employees. *See Exhibit A*, ¶
23 5.5.

24 6. The parties agree that up to thirty five percent (35%) of the Gross Settlement Amount
25 (\$147,000) will be paid for Plaintiff's attorneys' fees incurred in the litigation of this case. Defendants
26 will not oppose any application for attorneys' fees so long as it is within this threshold. *See id.* at ¶ 5.2.
27 Additionally, the parties agree that Plaintiff will also be entitled to the actual litigation costs as
28 approved by the Court in an amount not to exceed \$15,000. *See id.* The difference between any actual

¹ The class action claim period begins on June 1, 2019 because this is the date Defendants took over operations of the Stockton Nursing and Rehab Center and became Plaintiff and similarly situated employees' employer. The prior owner and employer of Plaintiff and similarly situated employees over the remainder of the class period (October 7, 2016 to June 1, 2019) is not a party to this settlement and a default has been entered against it.

costs and the \$15,000 will be redistributed to Class Members on a pro rata basis. *See* Exhibit A, ¶ 5.2. The proposed notice to be sent to class members will state this information. *See* Exhibit F.

7. Any Claims Administrator Costs, any amounts paid for attorneys' fees and costs, the Class Representative Enhancement Payment, and PAGA Payment will be paid out from the Gross Settlement Amount, not in addition to the Gross Settlement Amount. *See* Exhibit A, ¶¶ 5.1-5.5.

8. In consideration for the value received in the Agreement, Class Members who fail to timely opt-out of this settlement will waive all Qualified Claimants' Released Claims as set forth in the Agreement. *See* Exhibit A, ¶¶ 1.30-1.31. Aggrieved Employees will waive all Released PAGA Claims as set forth in the Agreement regardless of whether they opt out of being a Class Member. *See id.* at 1.33, 7.5.1.

9. In consideration for the value received in the settlement agreement, class members who fail to timely opt-out of this settlement will waive all claims that were pled in the operative Complaint filed in San Joaquin County Superior Court, Case No. STK-CV-UOE-2020-0008507, through the date of Final Approval. *See* Exhibit A, ¶ 1.30-1.31.

10. For any portion of the Net Settlement Sum or PAGA Payment allocated to Qualified Claimants and/or Aggrieved Employees that is not claimed by them by cashing their respective settlement checks within 120 days, the remaining amount shall be paid out 50/50 to the SEIU 2015 Disaster Relief Fund and the Center for Workers Rights under the doctrine of *cy pres*. *See* Exhibit A, at ¶ 5.6.

c. Allocation of Settlement Funds

Payment to Qualified Claimants and Aggrieved Employees of their Claim Amount will not require the submission of a claim form. A Net Settlement Amount will be determined by subtracting from the Gross Settlement Amount any amounts for approved attorneys' fees and costs, any Enhancement Payment to the Class Representative, the Claims Administrator Costs, and the PAGA Payment. Each Class Member's share will be determined by dividing their total weeks worked within the Class Period by the total weeks worked by all Class Members within the Class Period. That fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member's individual share of the Net Settlement Amount. Each Aggrieved Employee's share of the 25% portion

1 of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA
2 Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period.
3 That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the
4 Aggrieved Employee's individual share. *See* Exhibit A, at ¶ 5.8.

5 V. ARGUMENT

6 a. Class Action Settlements are Subject to Court Review and Approval Under the 7 California Rules of Court

8 A class action may not be dismissed, compromised, or settled without Court approval and the
9 decision to approve or reject a settlement is committed to the Court's sound discretion. *See* Cal. Rules
10 of Court, Rule 3.769; Fed. R. Civ. Proc., Rule 23(e)²; *Wershba v. Apple Computer, Inc.*, 91 Cal. App.
11 4th 224, 234-35 (2001); *see also* Cal. Lab. Code §§ 2699(1)(2) (requiring Court review of PAGA
12 settlements). However, courts should give "proper deference to the private consensual decision of the
13 parties," since "the court's intrusion upon what is otherwise a private consensual agreement negotiated
14 between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned judgment
15 that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating
16 parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned."
17 *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998). Where a settlement is reached on terms
18 agreeable to all parties, a court should disapprove of the settlement "only with considerable
19 circumspection." *Jamison v. Butcher & Sherrerd*, 68 F.R.D. 479, 481 (E.D. Pa. 1975). The law favors
20 settlement of lawsuits, particularly class actions and other complex cases where substantial resources
21 can be conserved by avoiding the time, expense, and rigors of formal litigation. *See Neary v. Regents of*
22 *Univ. of Cal.*, 3 Cal. 4th 273, 277-81 (1992).

23 b. The Terms of The Settlement Are Fair and Within the Range of Reasonableness

24 The purpose of the Court's preliminary evaluation of a proposed class action settlement is to
25 determine only whether the proposed settlement is within the range of possible approval and whether
26 notice to the class of its terms and conditions and the scheduling of a formal fairness hearing is
27 warranted. *See Wershba*, 91 Cal. App. 4th at 234-35. If the Court finds a proposed settlement falls

28 ²The California Supreme Court has authorized California's trial courts to rely on these federal resources to decide class certification issues. *See Green v. Obledo*, 29 Cal.3d 126, 145-46 (1981).

1 within “the range of reasonableness,” it should grant preliminary approval of the class action settlement.

2 *See, e.g., North County Contr. ’s Assn., Inc. v. Touchstone Ins. Svcs.*, 27 Cal. App. 4th 1085, 1089-90

3 (1994). To make the fairness determination, the Court must consider several factors, including:

4 the strength of the Plaintiff’s case, the risk, expense, complexity and likely duration of
5 further litigation, the risk of maintaining class action status through trial, the amount
6 offered in settlement, the extent of discovery completed and the stage of the proceedings,
7 the experience and views of counsel, the presence of a governmental participant, and the
8 reaction of the class members to the proposed settlement.

9 *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996). However, this Court should begin its
10 analysis with a presumption that the proposed settlement is fair. “A presumption of fairness exists
11 where: (1) the settlement is reached through arm’s length bargaining; (2) investigation and discovery
12 are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar
13 litigation; and (4) the percentage of objectors is small.” *Id.* at 1802.

14 **i. The Settlement is a Result of Extensive, Non-Collusive Arm’s Length
15 Negotiations Between the Parties**

16 Settlement in this case was reached only after litigation and extensive arm’s length negotiations
17 lasting nearly ten (10) months, which included a full day mediation with Lisa Klerman. *See Decl.*
18 Shimoda, ¶¶ 6-10. At all times, the negotiations were adversarial and contentious, although still
19 professional in nature. *See id.* Further, while Plaintiff contends she would ultimately prevail on the
20 claims and the issue of certification, this is not a certainty and there is substantial risk in proceeding to
21 further litigation. *See id.* at ¶¶ 6-10. The ability to secure a guaranteed settlement now and ensure class
22 members receive some compensation, rather than proceed to further litigation and potentially recover
23 nothing, was a motivating factor in reaching this settlement. *See id.*

24 **ii. The Extent of Investigation and Discovery Completed Provided Ample
25 Information to Enter Into an Informed and Reasonable Settlement**

26 The parties were in possession of all necessary information during the negotiations. The parties
27 engaged in substantial informal discovery and exchange of documents, including a representative
28 sampling of employee data, such as timecards, paystubs, payroll data and relevant policies for the
entirety of the statute of limitations applicable to the alleged claims, which covered all aspects of the
class claims and helped thoroughly vet the extent of Plaintiff’s claims against Defendants and create an

1 accurate damages model. *See id.* at ¶ 6-10. Plaintiff was in possession of this information prior to
2 calculating the potential damages in this case. *See id.* As a result, Plaintiff was able to make a
3 reasonable estimation of Defendants' potential liability. *See id.* For these reasons, the settlement now
4 before the Court was reached at a stage where "the parties certainly have a clear view of the strengths
5 and weaknesses of their cases" sufficient to support the settlement. *Boyd v. Bechtel Corp.*, 485 F.Supp.
6 610, 617 (N.D. Cal. 1979).

7 **iii. Plaintiff's Counsel is Experienced in Similar Litigation**

8 Plaintiff's counsel has considerable experience in class actions and wage and hour litigation.
9 Plaintiff's counsel has brought and is currently bringing several wage and hour class and/or PAGA
10 actions. Thus, Plaintiff's counsel is qualified to evaluate the class claims, value of settlement versus
11 moving for certification and going to trial, and the viability of possible affirmative defenses. *See Decl.*
12 *Shimoda*, ¶¶ 11-16. Plaintiff's counsel believes that the settlement is fair and reasonable in light of the
13 complexities of the case, the uncertainties of class certification and litigation, and the secured benefit to
14 the class. *See id.* at ¶ 6.

15 **iv. The Settlement is Fair and Reasonable Based on the Strength of Plaintiff's Case**
16 **and the Risks and Costs of Further Litigation**

17 A review of the Agreement's terms does not give rise to any doubts about its fairness. Based on
18 the records and facts of this case, Plaintiff has secured a gross recovery of approximately 14.5% and a
19 net recovery of approximately 7.5% of the claims' maximum likely value. *See id.* at ¶¶ 9-10.
20 Additionally, the average net award per class member is approximately \$899.00. *See id.* This
21 settlement is a reasonable compromise of the class and PAGA claims, and is within the percentile
22 ranges of the total available damages that have been approved in other class settlements. *See Wershba*,
23 91 Cal. App. 4th at 246, 250; *Rebney v. Wells Fargo Bank*, 220 Cal.App.3d 1117, 1139 (1990); *Officers*
24 *for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 628 (9th Cir. 1982); *see also In re Omnivision*
25 *Technologies, Inc.*, 559 F.Supp.2d 1036, 1042 (2007) (noting that certainty of recovery in settlement of
26 6% of maximum potential recovery after reduction for attorney's fees was higher than median
27 percentage for recoveries in shareholder class action settlements, averaging 2.2%-3% from 2000
28 through 2002); *Bravo v. Gale Triangle, Inc.*, 2017 U.S. Dist. LEXIS 77714 (C.D. Cal. 2017) (approving

1 a settlement where the net recovery to class members was approximately 7.5% of the projected
2 maximum recovery amount); *Avila v. Cold Spring Granite Co.*, 2017 U.S. Dist. LEXIS 130878 (E.D.
3 Cal. 2017) (approving a settlement with a gross recovery of 11% of the projected maximum damages
4 available and a net recovery of approximately 6.7% of the projected maximum recovery);
5 *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245 (N.D. Cal 2015) (approving a settlement where
6 the gross recovery was approximately 8.5% of the projected maximum recovery).

7 **v. The Proposed Settlement is a Reasonable Compromise of Claims**

8 The case of *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116 (2008) requires additional
9 information be presented to the Court, acting as a fiduciary for the absent class members “to ensure that
10 the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims
11 being released, discounted by the risks and expenses of attempting to establish and collect on those
12 claims by pursuing the litigation” *Id.* at 129. *Munoz v. BCI Coca-Cola Bottling Co. of Los*
13 *Angeles*, 186 Cal.App.4th 399 (2010), clarified that a *Kullar* showing does not require the parties to
14 submit an illusory prediction of the outer reaches of exposure without considering the actual risks of
15 certification, decertification, dispositive motions, and trial. *Kullar* also does not require an explicit
16 statement of the maximum amount the plaintiff class could recover if it prevailed on all its claims
17 provided there is a record that allows “an understanding of the amount that is in controversy and the
18 realistic range of outcomes of the litigation.” *Id.* at 409. The *Munoz* Court found that the record before
19 the trial court was sufficient, having included the number of class members, payroll data, declarations
20 describing hours and overtime worked, as well as variances in duties and rest and meal period
21 experience, and a companion action alleging less than \$5,000,000 in damages. This information
22 constituted “an adequate basis from which to garner a reasonably adequate understanding of the amount
23 that is in controversy within the meaning of *Kullar*.” *Id.*

24 Plaintiff similarly relied upon payroll data and Class Members data to determine the realistic
25 potential damages suffered by the class as a whole. *See* Decl. Shimoda, ¶¶ 6-10. This analysis allowed
26 Plaintiff to determine the extent and frequency of potential violations on all claims as to all Class
27 Members. *See id.* Ultimately, Plaintiff secured a percentage of the total demand for the putative class
28 that is within the range of what has been found to be sufficient in several other cases. *See, supra*,

1 Section V.c.iv; *see also, e.g., In re Omnivision Technologies, Inc.*, 559 F.Supp.2d at 1042; *Reed v. 1-*
2 *800 Contacts, Inc.*, 2014 U.S. Dist. LEXIS 255 (S.D. Cal. 2014) (approving a settlement of \$11.7
3 million where the maximum range of damages was \$5,000 for each of the alleged 300,000 instances of
4 unlawful recording violations (\$1.5 billion), equaling approximately .78% of the total demand and
5 approximately \$800 per class member). This settlement represents a reasonable compromise given the
6 percentage of the total demand that was secured, the average recovery per class member, the Court's
7 ability and discretion to cut PAGA penalties, and the uncertainty of class certification. *See Decl.*
8 Shimoda, ¶¶ 9-10.

9 **vi. The Enhancement Payment to the Named Plaintiff for Plaintiff's Services to the**
10 **Putative Class Is Reasonable and Routinely Awarded by Courts**

11 The Enhancement Payment to the named Plaintiff is intended to recognize the time and effort
12 expended on behalf of the class. Indeed, Courts routinely approve enhancement payments to
13 compensate named plaintiffs for the services they provide and the risks they incurred during the course
14 of the class action litigation. *See Ingram v. The Coca Cola Co.*, 200 F.R.D. 685, 694 (N.D. Ga. 2001).
15 In *Ingram*, the Court approved enhancement payments of \$300,000.00 to each named plaintiff in
16 recognition of the services they provided to the class by responding to discovery, participating in the
17 mediation process, and taking the risk of stepping forward on behalf of the class. *See id.* at 694; *see*
18 *also Van Vranken v. Atlantic Richfield Co.*, 901 F.Supp. 294 (N.D. Cal. 1995) (approving a \$50,000.00
19 enhancement payment).

20 In this case, Plaintiff provided and explained documents, being always available to discuss the
21 case with Plaintiff's counsel. *See Decl. Shimoda*, ¶ 7; *Decl. Hudson*, ¶ 5. Plaintiff spent a significant
22 amount of time pursuing this litigation for the benefit of all Class Members. *See id.* Plaintiff brought
23 this action knowing there would be a delay in any payment as the litigation progressed, rather than
24 proceeding on individual claims in front of the California Labor Commissioner. *See id.* Payment of
25 \$12,500 to Plaintiff is appropriate given the risk, assistance, time required in bringing this case and
26 resolution of this case.

27 **vii. Awarding Attorneys' Fees as a Percentage of the Common Fund Is Reasonable**
28 **and Customarily Approved by Courts**

California state and federal courts have recognized that when a litigant's efforts create or

1 preserve a fund from which others derive benefits, the Court may spread litigation costs proportionally
2 among all the beneficiaries to compensate those who created the fund. *See Boeing Co. v. Van Gemert*,
3 444 U.S. 472, 477-478 (1980) (“A lawyer who recovers a common fund for the benefit of persons other
4 than . . . her client is entitled to a reasonable attorney’s fee from the fund as a whole.”); *Vincent v.*
5 *Hughes Air West, Inc.*, 557 F.2d 759, 769 (9th Cir. 1977); *Mills v. Electric Auto-Lite Co.*, 396 U.S. 375
6 (1970); *Waters v. Intern. Precious Metals Corp.*, 190 F.3d 1291 (11th Cir. 1999); *see also Serrano v.*
7 *Priest*, 20 Cal.3d 25, 34-35 (1977); *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016).
8 The purpose of this equitable doctrine is to avoid unjust enrichment of counsel and to “spread litigation
9 costs proportionally among all the beneficiaries so that the active beneficiary does not bear the entire
10 burden alone.” *Vincent*, 557 F.2d at 769; *Williams v. MGM-Pathe Communications Co.*, 129 F.3d 1026,
11 1027 (9th Cir. 1977). California state courts have approved use of a percentage of the fund to calculate
12 reasonable attorney fee awards where the amount of the settlement is certain or is an easily calculable
13 sum of money. *See Dunk*, 48 Cal.App.4th at 1808.

14 The Ninth Circuit has also held that the common fund doctrine applies when: (1) the class of
15 beneficiaries is sufficiently identifiable; (2) the benefits can be accurately traced; and (3) the fee can be
16 shifted with some exactitude to those benefitting. *See Paul, Johnson, Alston & Hunt v. Graulity*, 886
17 F.2d 268, 271 (9th Cir. 1989). These criteria are “easily met” when “each member of a certified class
18 has an undisputed and mathematically ascertainable claim to part of a lump-sum settlement recovered
19 on her behalf.” *Id.* at 271 (citations omitted). Under the three (3) factors set forth in *Paul, Johnson,*
20 *Alston & Hunt*, the common fund doctrine applies in this case because there is a sufficiently identifiable
21 class of beneficiaries (e.g. the settlement class), the benefits can be accurately traced to the settlement
22 Plaintiff and Plaintiff’s counsel were able to negotiate on behalf of the class, and the fee can be shifted
23 with exactitude to those benefiting as the fee request is a specific, lump-sum percentage of the common
24 fund. As set forth in the fee award examples provided below for the Court’s reference, it is an accepted
25 practice in wage and hour class action settlements to award attorneys’ fees based on a percentage of the
26 common fund. *See, e.g., Staton v. Boeing Co.*, 327 F.3d 938, 967-972 (9th Cir. 2003); *Sanders v. City*
27 *of Los Angeles*, 3 Cal.3d 252, 261, 263 (1970); *Wershba*, 91 Cal.App.4th at 254; *Bell v. Farmers Ins.*
28 *Exchange*, 115 Cal.App.4th 715, 726, 765 (2004).

Historically, attorneys' fee awards in common fund cases in general range from 20% to 50% of the fund, depending on the circumstances of the case. *See* Newberg on Class Actions, (3rd Ed.), 1992, §14.03 (finding 50% to be the upper limit). Awards ranging between 30% and 40% of the fund are generally approved as reasonable in wage and hour settlements below \$10 million:

More particularly, courts may award attorneys fees in the 30-40% range in wage and hour class actions that result in recovery of a common fund under \$10 million. *See Vasquez v. Coast Valley Roofing, Inc.*, 266 F.R.D. 482, 491-492 (E.D. Ca. 2010) (citing to five recent wage and hour class actions where federal district courts approved attorney fee awards ranging from 30 to 33%); *Singer v. Becton Dickinson and Co.*, 2010 U.S. Dist. LEXIS 53416, 2010 WL 2196104, *8 (S.D. Ca. June 1, 2010) (approving attorney fee award of 33.33% of the common fund and holding that award was similar to awards in three other wage and hour class action cases where fees ranged from 33% to 40%); *Romero v. Producers Dairy Foods, Inc.*, 2007 U.S. Dist. LEXIS 86270, 2007 WL 3492841 (E.D. Ca. Nov. 14, 2007).

See Martin v. Ameripride Servs., 2011 U.S. Dist. LEXIS 61796 at *22-23 (S.D. Cal. 2011). Plaintiff's request of thirty five percent (35%) of the settlement sum for attorneys' fees is within established rates for fee awards in class settlements pursuant to the common fund doctrine, especially in light of the excellent results achieved in this case. *See In re Activision Sec. Litigation*, 723 F.Supp. 1373, 1379 (N.D. Cal. 1989); *Watson v. Raytheon Company*, USDC Southern District, Case No. 3:10-cv-00634; *Dirienzo v. Dunbar Armored, Inc.*, USDC Southern District, Case No. 3:09-cv-02745; *Green, et al. v. Penske Logistics, L.L.C., et al.*, USDC Southern District, Case No. 3:09-cv-00069; *Benitez et al. v. Wilbur*, USDC Eastern District, Case No. 1:08-cv-01122; *Chavez et al. v. Petrisans et al.*, USDC Eastern District, Case No. 1:08-cv-00122. To determine whether a percentage is reasonable, a court should consider: (1) the percentage that would likely be negotiated between parties in a similar case; (2) the percentage applied in other class actions; (3) the quality of class counsel; (4) the size of the award; and (5) whether there are any objections by class members. *See In re Ikon Office Solutions, Inc. Secur. Litig.*, 194 F.R.D. 166, 193 (E.D. Pa. 2000); *In re Heritage Bond Litig.*, 2005 U.S. Dist. LEXIS 13555, 71 (C.D. Cal. 2005) ("the absence of objections or disapproval by class members to class counsel's fee request further supports finding the fee request reasonable").

These factors support Plaintiff's request for reasonable attorneys' fees. The typical percentage negotiated between parties ranges from thirty-five to forty percent (35% to 40%) in individual litigation depending on the complexity of the case. In class action litigation, the typical percentage negotiated

1 between parties ranges from thirty to forty percent (30% to 40%) based on the same factors. Plaintiff's
2 request of 35% falls within these typical fee arrangements. *See* Decl. Shimoda, ¶ 16. The quality of
3 counsel and the average size of settlement payments to Class Members and Aggrieved Employees
4 (\$899.00) also support the fee request when compared to other settlements courts have considered as
5 good results. *See Schiller v. David's Bridal, Inc.*, 2012 U.S. Dist. LEXIS 80776 at *48 (E.D. Cal. 2012)
6 ("Class Members will receive an average of approximately \$198.70, with the highest payment to a Class
7 Member being \$695.78 . . . Overall, the Court finds that the results achieved are good, which is
8 highlighted by the fact that there was no objection to the settlement amount or the attorneys' fees
9 requested."); *Gardner v. GC Servs., LP*, 2012 U.S. Dist. LEXIS 47043, 18 (S.D. Cal. 2012) ("the results
10 achieved in this case were very favorable. Class members are provided with immediate monetary relief,
11 with an average award of around several hundred dollars and a minimum award of \$50").

12 **c. Provisional Certification of the Class is Appropriate**

13 Class certification is appropriate when (1) the class is ascertainable and (2) there is "a well-
14 defined community of interest in the questions of law and fact involved affecting the parties to be
15 represented." *Dunk*, 48 Cal.App.4th at 1806. The "community of interest" element "embodies three
16 factors: (1) common questions of law or fact predominate; (2) class representatives with claims or
17 defenses typical of the class; and (3) class representatives who can adequately represent the class." *Id.*
18 Here, the parties agree that, for the purposes of settlement, these prerequisites are met. *See* Exhibit A.

19 **i. The Proposed Settlement Class is Ascertainable and Sufficiently Numerous**

20 The proposed settlement class is ascertainable because all putative class members can be readily
21 identified through employee personnel and payroll files. *See Noel v. Thrifty Payless, Inc.*, 7 Cal.5th
22 955, 980 (2019); *Lee v. Dynamex, Inc.*, 166 Cal.App.4th 1325, 1334 (2008). The numerosity
23 requirement is met because there are 244 individuals who fall within the definition of Class Member,
24 which makes joinder of all members impracticable. *See Hebbard v. Calgrove*, 28 Cal.App.3d 1017,
25 1030 (1972) (noting no set minimum to meet the numerosity prerequisite, but a class as few as twenty-
26 eight (28) members is acceptable). Thus, these requirements are satisfied.

27 **ii. The Commonality, Predominance, and Typicality Requirements are Met**

28 The commonality requirement is met when there are questions of law or fact regarding the class

1 as a whole. *See Hanlon*, 150 F.3d at 1019. Commonality requires only that some common legal or
2 factual questions exist; Plaintiff need not show that all issues in the litigation are identical. *See*
3 *Richmond v. Dart Ind., Inc.*, 29 Cal.3d 462, 473 (1981); *City of San Jose v. Superior Court*, 12 Cal.3d
4 447, 460 (1974). Common questions of law or fact must also predominate over individual questions and
5 class-wide treatment of a dispute must be superior to individual litigation.³ *See Richmond*, 29 Cal.3d at
6 469. Predominance requires a putative class be sufficiently cohesive to warrant adjudication by
7 representation. *See Hanlon*, 150 F.3d at 1022. The typicality requirement is met when claims of the
8 named representative are typical of those of the class, though “they need not be substantially identical.”
9 *Id.* at 1020; *Classen v. Weller*, 145 Cal.App.3d 27, 46-47 (1983).

10 The common questions of law and fact in this case stem from Plaintiff’s contention that
11 Defendants 1) failed to pay overtime and minimum wages due to their failure to pay for off-the-clock
12 work, improper rounding policy, and improper calculations of the RROP; 2) consistently failed to
13 adequately staff schedules, or otherwise allow Plaintiff and similarly situated employees to take timely
14 and complete meal and rest breaks; 3) failed to reimburse expenses for work-related cell phone use; 4)
15 failed to maintain accurate records and provide accurate itemized wage statements; and 5) failed to pay
16 wages owed within the legally required time period after an employee’s separation. *See Exhibit B*. The
17 waiting time penalties, unfair competition, and PAGA claims are derivative of these violations. *See id.*
18 Plaintiff and the Class Members seek the same remedies under state law. Under these specific
19 circumstances, the commonality and predominance requirements are satisfied. Regarding the typicality
20 requirement, Plaintiff contends she suffered from the same unlawful policies, treatment, and
21 circumstances as Class Members did, will request the same remedies, and will rely on the same methods
22 of proof to establish liability and damages. *See id.* Thus, the typicality requirement is also satisfied for
23 settlement purposes.

24 **iii. The Adequacy Requirement is Met**

25 The adequacy of representation requirement is met if the named representative and counsel have
26 no interests adverse to those of the putative class members and are committed to vigorously prosecuting
27

28 ³When assessing predominance and superiority, a court may consider that the class will be certified for settlement purposes only and that manageability of trial is therefore irrelevant. *See Amchem Products v. Windsor*, 521 U.S. 591 (1997).

1 the case on behalf of the class. *See Hanlon*, 150 F.3d at 1020; *McGhee v. Bank of America*, 60
2 Cal.App.3d 442, 450-51 (1976). Those standards are met here. Under the proposed settlement, Plaintiff
3 and the putative class members will receive a pro rata share of the settlement based on the number of
4 workweeks they worked for Defendants. *See Exhibit A*. Finally, any settlement class member who
5 wishes to opt-out of the settlement may do so, and he or she may also dispute the number of workweeks
6 stated in the Notice of Settlement (Exhibit F).

7 There is no conflict of interest between Plaintiff and Class Members. Plaintiff and Plaintiff's
8 counsel have pursued the claims made in the operative Complaint vigorously on behalf of the class.
9 Plaintiff's counsel, with Plaintiff's assistance, thoroughly investigated the claims made in this case by
10 speaking with Plaintiff and reviewing substantial amounts of documents. Plaintiff's counsel thereafter
11 engaged Defendants' counsel in settlement discussions over the course of approximately ten (10)
12 months. Moreover, Plaintiff's counsel has experience defending and bringing wage and hour claims.
13 Because Plaintiff's counsel has vigorously pursued Plaintiff's and the class members' claims, the
14 adequacy requirement is met. *See generally* Decl. Shimoda.

15 VI. CONCLUSION

16 For all of the foregoing reasons, Plaintiff respectfully requests that this Court preliminarily and
17 conditionally certify the class for settlement purposes; grant preliminary and conditional approval to the
18 proposed settlement, including the Plaintiff's Class Representative Enhancement Payment, the payment
19 to the LWDA under PAGA, and Class Counsel's application for reasonable attorneys' fees and costs;
20 approve the Notice of Settlement, including the proposed deadlines for opting-out of and objecting to
21 the settlement; and schedule the final settlement approval hearing. A copy of Plaintiff's proposed order
22 is being filed concurrently herewith.

23 Dated: May 25, 2021

Shimoda Law Corp.

24
25 By: 

26 Galen T. Shimoda
27 Justin P. Rodriguez
28 Brittany V. Berzin
Jessica L. Hart
Attorneys for Plaintiff

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 individually and on behalf of similarly situated employees

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

LINDA HUDSON, individually and on behalf
 of all other similarly situated employees,

Plaintiff,

vs.

STOCKTON NURSING AND REHAB
 CENTER, LLC, a California Limited Liability
 Company; EDURO HEALTHCARE LLC, a
 Delaware Limited Liability Company;
 GRANT GARRISON, an individual; and
 DOES 1 to 100, inclusive,

Defendants.

Case No. STK-CV-UOE-2020-0008507

**EXHIBIT LIST AND EXHIBITS IN
 SUPPORT OF PLAINTIFF'S MOTION FOR
 PRELIMINARY APPROVAL OF CLASS
 ACTION AND PAGA SETTLEMENT**

Date:

Time: 9:00 a.m.

Dept.: 11B

Judge: Robert T. Waters

Filed: October 7, 2020

FAC Filed: November 06, 2020

Trial Date: none set

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
A	Joint Stipulation Regarding Class Action and PAGA Settlement and Release
B	Plaintiff's Operative Complaint
C	Plaintiff's Letter to the LWDA Regarding PAGA Claims
D	Simpluris, Inc. Quote
E	Plaintiff's Itemized Costs
F	Proposed Notice of Settlement
G	Proof of Submission of Proposed Settlement Agreement to LWDA

Dated: May 25, 2021

Shimoda Law Corp.

By: 

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Jessica L. Hart
Attorneys for Plaintiff

EXHIBIT A

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16 Attorneys for STOCKTON NURSING AND REHAB CENTER, LLC., EDURO HEALTHCARE,
17 LLC, and GRANT GARRISON

18 **SUPERIOR COURT OF CALIFORNIA**
19 **FOR THE COUNTY OF SAN JOAQUIN**

20 LINDA HUDSON, individually and on behalf
21 of all other similarly situated employees,

22 Plaintiff,

23 vs.

24 STOCKTON NURSING AND REHAB
25 CENTER, LLC., a California Limited Liability
26 Company; EDURO HEALTHCARE, LLC, a
27 Delaware Limited Liability Company; GRANT
28 GARRISON , an individual; and DOES 1 to
100, inclusive,

Defendants.

Case No.: STK-CV-UOE-2020-0008507

**JOINT STIPULATION REGARDING CLASS
ACTION AND PAGA SETTLEMENT AND
RELEASE**

Filed: October 7, 2020
FAC Filed: November 6, 2020
Trial Date: None Set

1 This Joint Stipulation Regarding Class Action and PAGA Settlement and Release (“Agreement”)
2 is made and entered into between the Plaintiff Linda Hudson (“Plaintiff”), on behalf of herself, the Labor
3 and Workforce Development Agency, and Aggrieved Employees, and Defendants Stockton Nursing and
4 Rehab Center, LLC., Eduro Healthcare, LLC, and Grant Garrison, (“Defendants”). This Agreement is
5 subject to the terms and conditions set forth below and the approval of the Court.

6 **1. DEFINITIONS**

7 The following terms, when used in this Agreement, have the following meanings:

8 1.1 “Action” means the above stated lawsuit, *Hudson v Stockton Nursing and Rehab Center,*
9 *LLC, et al.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2020-0008507, filed October
10 7, 2020.

11 1.2 “Aggrieved Employee(s)” means all non-exempt employees who have or continue to work
12 for Defendants at the Stockton Nursing and Rehab Center in California during the PAGA Claim Period.

13 1.3 “Agreement” or “Settlement” or “Settlement Agreement” means this Joint Stipulation
14 Regarding Class Action and PAGA Settlement and Release.

15 1.4 “Claim Amount” means an individual Qualified Claimants’ and Aggrieved Employees’
16 allocation of the Net Settlement Amount and PAGA Payment respectively, as defined in Sections 1.21,
17 1.25, 5.5, and 5.8.

18 1.5 “Claims Administrator” means and refers to Simpluris, Inc., the third-party entity that will
19 administer the Agreement as outlined in Sections 4 and 7, or any other third-party class action settlement
20 claims administrator agreed to by the Parties and approved by the Court for the purposes of administering
21 this Agreement. The Parties each represent that they do not have any financial interest in the Claims
22 Administrator or otherwise have a relationship with the Claims Administrator that could create a conflict
23 of interest.

24 1.6 “Claims Administrator Costs” means the fees and expenses reasonably incurred by the
25 Claims Administrator as a result of the procedures and processes expressly required by this Agreement,
26 and shall include all costs of administering the Agreement, including, but not limited to, all tax document
27 preparation, custodial fees, and accounting fees incurred by the Claims Administrator; all costs and fees
28 associated with preparing, issuing and mailing any and all notices and other correspondence to Class

Members and/or Aggrieved Employees; all costs and fees associated with communicating with Class Members and/or Aggrieved Employees, Class Counsel, and Defendants' Counsel; all costs and fees associated with computing, processing, reviewing, and paying the Claim Amounts, and resolving disputes; all costs and fees associated with calculating tax withholdings and payroll taxes, if any, making related payment to federal and state tax authorities, if any, and issuing tax forms relating to payments made under the Agreement; all costs and fees associated with preparing any tax returns and any other filings required by any governmental taxing authority or agency; all costs and fees associated with preparing any other notices, reports, or filings to be prepared in the course of administering Claim Amounts; and any other costs and fees incurred and/or charged by the Claims Administrator in connection with the execution of its duties under this Agreement.

1.7 "Class Counsel" means Galen T. Shimoda and Jessica L. Hart of the Shimoda Law Corp.

1.8 "Class Member(s)" means all non-exempt employees who have or continue to work for Defendants at the Stockton Nursing and Rehab Center in California during the Class Period. The estimated number of Class Members is 244.

1.9 "Class Period" means from June 1, 2019, to either (1) the date a signed order preliminarily approving the class settlement is filed, or (2) 60 days after this Agreement is signed, whichever is earlier.

1.10 "Class Representative" means Plaintiff Linda Hudson.

1.11 "Class Representative's Released Claims" means all claims arising from, could have been asserted, or related in any way to the Class Representative's employment with Defendants, under federal, state, or local laws, and/or ordinances, or tort or contract theories, whether known or unknown, and whether anticipated or unanticipated, including without limitation statutory, constitutional, contractual or common law claims for lost wages, unpaid wages, emotional distress, punitive damages, special damages, damages, unpaid costs, penalties, liquidated damages, interest, attorneys' fees, litigation costs, restitution, equitable relief or other similar relief or claims. The Class Representative's Released Claims, however, do not include, and specifically exclude, her wrongful termination, disability discrimination and retaliation claims, and any and all related claims, as set forth in *Linda Hudson vs Stockton Nursing and Rehab Center LLC, et al.* (Case No. STK-CV-UWT-2020-0009221), filed in the San Joaquin Superior Court on October 30, 2020, and as addressed in a separate agreement by Class Representative in connection with that action.

1 The Class Representative's Released Claims also exclude claims for workers' compensation,
2 unemployment insurance benefits, or other claims that cannot be released as a matter of law.

3 1.12 "Complaint" means the operative Complaint on file in the Action with the Court.

4 1.13 "Court" means the San Joaquin County Superior Court.

5 1.14 "Defendants" means Stockton Nursing and Rehab Center, LLC., Eduro Healthcare, LLC,
6 and Grant Garrison.

7 1.15 "Defendants' Counsel" means Jose-Manuel A. de Castro of the De Castro Law Group, P.C.

8 1.16 "Enhancement Payment" means the amount approved by the Court to be paid to the Class
9 Representative in recognition of the time and effort expended on behalf of Class Members for the benefit
10 of Class Members, which is in addition to any Claim Amount paid to the Class Representative as a
11 Qualified Claimant.

12 1.17 "Effective Date" means the 14th calendar day after the Court signs the Final Approval
13 Order unless there is a timely objection lodged, in which case either (a) the 60th calendar day after a
14 signed order granting final approval of this Agreement has been filed provided no motion to vacate the
15 judgment, appeal, writ or other appellate proceeding having been filed; or (b) the seventh (7th) calendar
16 day after any motion to vacate the judgment, appeal, writ, or other appellate proceeding opposing the
17 Agreement has been finally dismissed with no material change to the terms of this Agreement and there
18 is no right to pursue further remedies or relief, whichever is later.

19 1.18 "Final Approval Date" means the date a signed order granting final approval of this
20 Agreement is filed with the Court.

21 1.19 "Gross Settlement Amount" is the sum of Four Hundred and Twenty Thousand Dollars
22 (\$420,000).

23 1.20 "LWDA" means the California Labor and Workforce Development Agency.

24 1.21 "Net Settlement Amount" is the portion of the Gross Settlement Amount available for
25 distribution to Qualified Claimants, as described in this Agreement, after deduction of Plaintiff's
26 attorneys' fees and litigation costs, Claims Administrator Costs, the PAGA Payment, and Enhancement
27 Payment to the Class Representative.
28

1 1.22 “Notice of Settlement” means the document substantially in the form attached hereto as
2 **Exhibit 1.**

3 1.23 “Notice Period” means forty-five (45) calendar days from the initial mailing of the Notice
4 of Settlement to Class Members and Aggrieved Employees.

5 1.24 “PAGA” means Private Attorneys General Act.

6 1.25 “PAGA Payment” means the amount allocated from the Gross Settlement Amount towards
7 resolving claims under the Private Attorneys General Act of 2004, California Labor Code sections 2698
8 *et seq.*

9 1.26 “PAGA Claim Period” means from August 26, 2019, up to either (1) the date a signed
10 order preliminarily approving the settlement is filed, or (2) 60 days after this Agreement is signed,
11 whichever is earlier.

12 1.27 “Parties” mean Defendants and Plaintiff.

13 1.28 “Preliminary Approval Date” means the date a signed order granting preliminary approval
14 of this Agreement is filed with the Court.

15 1.29 “QSF” means a Qualified Settlement Fund set up by the Claims Administrator for the
16 benefit of the Qualified Claimants and/or Aggrieved Employees and from which the payments under this
17 Agreement shall be made. Any amounts Defendants have agreed to pay under this Agreement shall remain
18 the property of Defendants until the payments required under the Agreement are made.

19 1.30 “Qualified Claimant” means any and all Class Members who have not made any timely
20 request to opt-out of the Agreement.

21 1.31 “Qualified Claimants’ Released Claims” means all claims contained in the Complaint, and
22 any additional wage and hour claims that could have been brought based on the facts alleged in the
23 operative Complaint, through the Class Period. This release excludes the release of claims not permitted
24 by law. The Qualified Claimants’ Released Claims exclude claims for workers’ compensation or
25 unemployment insurance benefits. This release will cover all Class Members who do not opt out.

26 1.32 “Qualifying Workweeks” are weeks worked by Class Members and/or Aggrieved
27 Employees during the Class Period and/or PAGA Claim Period, respectively, in California. For Class
28 Members, workweeks shall be defined as the total length of service (in days) in California during the Class

1 Period divided by seven. For Aggrieved Employees workweeks shall be defined as the total length of
2 service (in days) in California during the PAGA Claim Period divided by seven. The calculation of a
3 Class Member's and/or Aggrieved Employee's workweeks and a determination as to whether a Class
4 Member and/or Aggrieved Employee was actively employed in California in a particular workweek shall
5 be construed from Defendants' records.

6 1.33 "Released PAGA Claims" means any and all claims that were brought under the Private
7 Attorneys General Act, Labor Code § 2698 *et seq.*, based on the facts or claims alleged in the Action
8 during the PAGA Claim Period. Aggrieved Employees cannot opt out of this waiver of claims.

9 1.34 "Released Parties" means Defendants, as well as Defendants' officers, shareholders,
10 directors, agents, employees, attorneys, and insurers.

11 **2. DESCRIPTION OF THE LITIGATION**

12 2.1 On or about August 26, 2020, Plaintiff sent notice to the LWDA to exhaust administrative
13 remedies under the PAGA for violations of Labor Code sections 510, 1194, 1197.1, 2802, 226, 226.3,
14 201-203, 256, 558, 558.1, 226.7, 512, 246, 246.5, 248.5, and 1174. The LWDA did not respond to the
15 notice within the statutorily required time frame and, as such, Plaintiff became authorized to act as a
16 Private Attorneys General on all alleged PAGA claims.

17 2.2 On or about October 7, 2020, Plaintiff filed a class action Complaint in San Joaquin County
18 Superior Court on behalf of herself and Class Members alleging claims for failure to pay overtime wages,
19 failure to pay minimum wages, meal period violations, rest period violations, failure to pay
20 reimbursements, wage statement violations, waiting time penalties, and unfair competition. Plaintiff filed
21 a First Amended Complaint on approximately November 6, 2020, to add a PAGA cause of action based
22 on the violations alleged in the August 26, 2020, notice to the LWDA on behalf of herself and Aggrieved
23 Employees.

24 2.3 Through informal discovery, Defendants and Defendants' Counsel provided Class
25 Counsel with copies of all applicable versions of its policies and procedures, employee handbooks,
26 information on Class Members including, but not limited to, Class Members' workweeks, dates of
27 employment, total number of Class Members, their rates of pay, and pay periods as well as timecard data
28 and payroll reports for Class Members.

1 2.4 After Class Counsel received the data, the Parties engaged in informal settlement
2 negotiations, but were not able to come to a resolution. On April 12, 2021, the Parties participated in a
3 lengthy mediation with private mediator Lisa Klerman. At the conclusion of the mediation, the Parties
4 were able to come to a resolution. At all times, the Parties' settlement negotiations have been non-
5 collusive, adversarial, and at arm's length.

6 2.5 Discussions between Plaintiff and Class Counsel, between counsel for the Parties,
7 document productions, extensive legal analysis, the provision of information by Defendants to Plaintiff
8 and the detailed analysis of the records, including expert analysis, have permitted each side to assess the
9 relative merits of the claims and the defenses to those claims.

10 2.6 In the Action, Plaintiff contends that Defendants violated California law by 1) failing to
11 pay overtime and minimum wages due to their failure to pay for off-the-clock work, improper rounding
12 policy, and improper calculations of the Regular Rate of Pay ("RROP"); 2) consistently failing to
13 adequately staff schedules, or otherwise allow Plaintiff and similarly situated employees to take timely
14 and complete meal breaks; 3) consistently failing to adequately staff schedules, or otherwise allow
15 Plaintiff and similarly situated employees to take rest breaks on time or at all; 4) failing to reimburse
16 expenses for work-related cell phone use; 5) failing to maintain accurate records and provide accurate
17 itemized wage statements; and 6) failing to pay wages owed within the legally required time period after
18 an employee's separation. Defendants have denied that this Action is appropriate for class certification
19 for anything other than settlement purposes. The agreed upon Gross Settlement Amount was reached after
20 evaluating the Parties' theories of potential exposure for the underlying claims and the class data
21 supporting these claims. The Parties, with the assistance of the mediator, also assessed appropriate
22 discounts to the potential liability based on Defendants' factual and legal contentions and defenses.

23 2.7 The Parties agree that the above-described investigation and evaluation, as well as
24 discovery and the information exchanged to date, are more than sufficient to assess the merits of the
25 respective Parties' positions and to compromise the issues on a fair and equitable basis. Plaintiff, Class
26 Counsel, Defendants, and Defendants' Counsel have concluded that it is desirable that the Action be
27 settled in a manner and upon such terms and conditions set forth herein in order to avoid further expense,
28 inconvenience and distraction of further legal proceedings, and the risk of an adverse outcome each of the

Parties potentially face in the Action. Therefore, the Parties desire to resolve the claims in the Action. Plaintiff, Class Counsel, Defendants, and Defendants' Counsel are of the opinion that the Agreement for the consideration and terms set forth herein is fair, reasonable, and adequate in light of all known facts and circumstances.

3. THE CONDITIONAL NATURE OF THIS AGREEMENT

3.1 This Agreement and all associated exhibits or attachments are made for the sole purpose of settling the Action. This Agreement and the settlement it evidences are made in compromise of disputed claims. Because the Action was pled as a class action, this Agreement must receive preliminary and final approval by the Court. Accordingly, the Parties enter into this Agreement and associated settlement on a conditional basis. If the Court does not enter an order granting final approval of the Agreement, or if the Court's approval of the settlement is reversed or materially modified on appellate review, this Agreement shall be deemed null and void; it shall be of no force or effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and the negotiation, terms and entry of the Agreement shall remain subject to the provisions of California Evidence Code Sections 1119 and 1152, Federal Rule of Evidence 408, and any other analogous rules of evidence that may be applicable.

3.2 Defendants have denied all claims as to liability, damages, liquidated damages, penalties, interest, fees, restitution, injunctive relief and all other forms of relief asserted in the Action. Defendants have agreed to resolve the Action via this Agreement, but to the extent this Agreement is deemed void or the Final Approval Date does not occur, Defendants do not waive, but rather expressly reserve, all rights to challenge all such claims and allegations in the Action upon all procedural and factual grounds, including, without limitation, the ability to challenge class or collective treatment on any grounds, as well as to assert any and all other potential defenses or privileges.

4. SCOPE OF THE CLASS

4.1 The scope of the class of individuals encompassed under the Agreement, who are entitled to all benefits as authorized under the Agreement and subject to all obligations and duties required under the Agreement, shall include all Class Members as defined in Section 1.8 and all Aggrieved Employees as defined in Section 1.2. However, it shall not include any Class Members who submit valid and timely requests to opt-out of the Agreement and settlement, as set forth in Section 7.5.1.

1 4.2 Individuals entitled to recover under this Agreement will include only those individuals
2 who are identified as being within the scope of this Agreement under Section 4.1.

3 4.3 Any person who believes that he or she is a Class Member or Aggrieved Employee and
4 wishes to participate in the Agreement, but did not receive a Notice of Settlement because his or her name
5 did not appear on the class list provided to the Claims Administrator prior to mailing, may submit a data
6 request to the Claims Administrator. The data request must contain all of the following information: (a)
7 the full name and, if applicable, Social Security Number of the individual making the request; (b) the
8 name used by such employee as of the time his or her employment with Defendants ended; (c) the years
9 during which such employee was employed with Defendants; and (d) a return address to which a response
10 may be sent. Every data request must be postmarked on or before the conclusion of the Notice Period or
11 otherwise submitted to the Claims Administrator such that it is received before the conclusion of the
12 Notice Period. Upon receipt of any data requests, the Claims Administrator shall promptly (in no event
13 more than two business days) transmit the data requests to Defendants' Counsel and request that
14 Defendants review their records.

15 4.4 If Defendants do agree that the person listed in a data request is a Class Member and/or
16 Aggrieved Employee, the Claims Administrator shall promptly mail a Notice of Settlement to the person
17 who submitted the data request, at the address designated for that purpose in the data request. All
18 provisions of this Agreement relating to the Notice of Settlement shall apply to Notice of Settlement sent
19 in response to data requests, and any person who submits a data request and is sent a Notice of Settlement
20 in response shall be treated by the Claims Administrator as a Class Member and/or Aggrieved Employee
21 for all other purposes.

22 4.5 If Defendants do disagree that the person listed in a data request is a Class Member and/or
23 Aggrieved Employee, Defendants' Counsel and Class Counsel shall attempt to resolve any such dispute
24 in good faith within seven (7) calendar days of Class Counsel being advised in writing of the data request
25 dispute. Defendants' records shall control unless the individual submitting the data request provides
26 persuasive evidence to doubt the accuracy of those records. Each data request dispute that Defendants'
27 Counsel and Class Counsel cannot timely resolve shall be resolved by the Claims Administrator. The
28 Claims Administrator must accept and weigh all the evidence provided in a good faith attempt to resolve

1 the dispute. The Claims Administrator must resolve any dispute submitted to it within seven (7) calendar
2 days after Defendants' Counsel and Class Counsel submit the dispute to the Claims Administrator. The
3 decision by the Claims Administrator shall be final and there shall be no right of appeal.

4 **5. TERMS OF THE SETTLEMENT**

5 The Parties agree as follows:

6 5.1 Gross Settlement Amount: In consideration and exchange for the releases described in
7 Section 6, Defendants shall pay the Gross Settlement Amount (\$420,000). Funding of the Gross
8 Settlement Amount shall occur within twenty-one (21) days after the Final Approval Date to be held in
9 trust in a QSF by the Claims Administrator for no more than fourteen (14) days after Defendants' last
10 day to fund the settlement at which time the Claims Administrator will disburse settlement funds as
11 described in Section 7.8. The Gross Settlement Amount includes payments to Qualified Claimants,
12 Aggrieved Employees, all attorneys' fees, costs and litigation expenses related to the Action incurred to
13 date, as well as all such fees and costs incurred in documenting the Agreement, administering the
14 Agreement (including Claims Administrator Costs), and obtaining final approval of the Agreement, the
15 Enhancement Payment to the Class Representative, the PAGA Payment, and any monies necessary to
16 satisfy Defendants' tax obligations (*e.g.* employer FICA, FUTA and SDI contributions on wage
17 payments) on any monies distributed to Qualified Claimants.

18 5.2 Attorneys' Fees and Costs: Class Counsel will apply to the Court for attorney's fees of
19 35% or \$147,000 of the Gross Settlement Amount, which shall be paid from the Gross Settlement Amount.
20 Defendants have agreed to not oppose Class Counsel's application for attorneys' fees so long as it does
21 not exceed the \$147,000 threshold. Class Counsel may also apply for reimbursement for advanced
22 litigation expenses not to exceed \$15,000, which shall be paid from the Gross Settlement Amount.
23 Defendants have agreed to not oppose Class Counsel's request for reimbursement for advanced litigation
24 expenses so long as they do not exceed the \$15,000 threshold. The Claims Administrator will issue Class
25 Counsel an IRS Form 1099 for the attorneys' fees and costs paid under this Agreement. In the event that
26 the Court awards less than the requested attorney's fees and/or costs, the portion of the requested amounts
27 not awarded to Class Counsel shall be added to the Net Settlement Amount to be distributed to Qualified
28 Claimants on a pro rata basis.

1 5.3 Claims Administrator Costs: The Claims Administrator Costs shall be paid from the Gross
2 Settlement Amount in an amount to be awarded by the Court not to exceed \$7,500. The difference
3 between any actual costs and the allocated \$7,500 shall be added to the Net Settlement Amount.

4 5.4 Enhancement Payment: Class Counsel, on behalf of Plaintiff, shall apply to the Court for
5 an Enhancement Payment to the Class Representative in an amount not to exceed Twelve Thousand Five
6 Hundred Dollars (\$12,500) to compensate for the risks, time, and expense of her involvement in the Action
7 and securing the benefits of this Agreement for Class Members. The Enhancement Payment is in addition
8 to the Claim Amount Plaintiff would otherwise be due under the Agreement as a Qualified Claimant.
9 Defendants have agreed not to oppose Class Counsel's request for an Enhancement Payment to Plaintiff
10 so long as it does not exceed the amount stated herein. The Enhancement Payment will be designated as
11 a non-wage payment and reported on an IRS Form 1099. In the event that the Court awards less than the
12 Enhancement Payment amount requested, then any portion of the requested amount not awarded to the
13 Class Representative shall be added to the Net Settlement Amount to be distributed to Qualified Claimants
14 on a *pro rata* basis.

15 5.5 PAGA Payment: Twenty Five Thousand Dollars (\$25,000) of the Gross Settlement
16 Amount shall be allocated to resolving claims under the PAGA. Seventy-Five Percent (75%) of the PAGA
17 Payment will be paid to the LWDA and Twenty-Five Percent (25%) will be paid to Aggrieved Employees
18 on a *pro rata* basis as described below in Section 5.8. Any amount not approved by the Court for the
19 allocated PAGA Payment shall be added to the Net Settlement Amount to be distributed to Qualified
20 Claimants on a *pro rata* basis.

21 5.6 Treatment of Residue and Cy Pres: For any portion of the Net Settlement Amount or
22 PAGA Payment allocated to Qualified Claimants and/or Aggrieved Employees that were not claimed by
23 cashing their respective settlement checks before the deadline to do so, that remaining amount shall be
24 donated to the SEIU 2015 Disaster Relief Fund and the Center for Workers Rights in equal amounts. No
25 portion of the Gross Settlement Amount will revert to Defendant for any reason.

26 5.7 No Additional Benefits Contributions: All Claim Amounts paid to Qualified Claimants
27 and Aggrieved Employees shall be deemed to be income solely in the year in which such amounts were
28 actually received. It is expressly understood and agreed that the receipt of such Claim Amounts will not

entitle any Qualified Claimant or Aggrieved Employee to any new or additional compensation or benefits under any company bonus or other compensation or benefit plan or agreement in place during the period covered by the Agreement, nor will it entitle any Qualified Claimant Aggrieved Employee to any increased retirement, 401(k) and/or 403(b) benefits or matching benefits, or deferred compensation benefits. It is the intent of this Agreement that the Claim Amounts provided for in this Agreement are the sole payments to be made by Defendants to the Qualified Claimants and Aggrieved Employees in connection with this Agreement (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Agreement).

5.8 Pro Rata Distribution Formula: Payment to Qualified Claimants and Aggrieved Employees of their Claim Amount will not require the submission of a claim form. A Net Settlement Amount will be determined by subtracting from the Gross Settlement Amount any amounts for approved attorneys' fees and costs, any Enhancement Payment to the Class Representative, the Claims Administrator Costs, and the PAGA Payment. Each Class Member's share will be determined by dividing their total weeks worked within the Class Period by the total weeks worked by all Class Members within the Class Period. That fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member's individual share of the Net Settlement Amount. Each Aggrieved Employee's share of the 25% portion of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share.

5.9 Tax Allocation: The Parties recognize that the Claim Amounts to be paid to Qualified Claimants and/or Aggrieved Employees reflect a settlement of a dispute over claimed penalties and wages. The Claims Administrator shall calculate the employer's share of payroll taxes on the amounts paid to Qualified Claimants as wages as well as calculating all required withholdings and deductions from said wage payments. The characterization of Claim Amounts to Qualified Claimants and Aggrieved Employees are as follows:

1 5.9.1 One-Third (1/3) of each Qualified Claimants' Claim Amount shall be allocated for
2 payment of disputed wages and shall be subject to required employer taxes. Qualified Claimants shall
3 receive an IRS Form W-2 for reporting of this portion of their Claim Amount.

4 5.9.2 Two-Thirds (2/3) of each Qualified Claimants' Claim Amount shall be allocated
5 for disputed statutory penalties and interest, and no amount shall be deducted for any taxes. This portion
6 of the Claim Amount consists of other income, not wages, for which the Qualified Claimants shall receive
7 an IRS Form 1099-MISC.

8 5.9.3 The entirety (100%) of each Aggrieved Employee's share of the 25% portion of the
9 PAGA Payment shall be allocated for payment of disputed civil penalties, and no amount shall be deducted
10 for any taxes. This portion of the Claim Amount consists of other income, not wages, for which the
11 Aggrieved Employees shall receive an IRS Form 1099-MISC.

12 5.10 Qualified Claimants and Aggrieved Employees shall be solely responsible for the reporting
13 and payment of their share of any federal, state and/or municipal income or other taxes on payments made
14 pursuant to this Agreement, and shall hold the Parties, Class Counsel, and Defendants' Counsel free and
15 harmless from any claims resulting from treatment of such payments as non-taxable, including the
16 treatment of such payments as not subject to withholding or deduction for payroll and employment taxes.
17 No party has made any representation to any of the other Parties as to the taxability of any payments
18 pursuant to this Agreement, including the payments to Qualified Claimants, the payments to Aggrieved
19 Employees, the payments to Class Counsel, the payments to the Class Representative, the payroll tax
20 liability of Defendants, or the allocation of the Net Settlement Amount or PAGA Payment to wage and
21 non-wage income as provided in this Section, or otherwise as to tax implications of any provision of this
22 Agreement.

23 5.11 No Additional Contribution by Defendants: Defendants' monetary obligation under this
24 Agreement is limited to the Gross Settlement Amount. All other costs and expenses arising out of or in
25 connection with the performance of this Agreement, including any employer side payroll taxes owed on
26 amounts characterized as wages under this Agreement, shall be paid from the Gross Settlement Amount,
27 unless expressly provided otherwise herein. However, in the event this agreement is deemed null and
28 void as described in Section 3 because the Court, in its independent determination, finds that the

Agreement does not meet the standards for settlement approval, then Defendants and Plaintiff shall be equally responsible for the costs of the Claims Administrator incurred between the date the Agreement was executed and the date of such event.

5.12 Certification For Settlement Purposes: The Parties agree that, for purposes of settlement only, certification of the class as defined in Section 1.8 and 4.1 is appropriate and the requisites for establishing class certification have been met and are met.

5.13 Adequacy of Class Counsel and Class Representatives: The Parties agree that, for purposes of settlement only, Class Counsel and Plaintiff are adequate representatives for Class Members and Aggrieved Employees.

6. RELEASE

6.1 Release of Claims by Qualified Claimants: Upon the Effective Date, all Qualified Claimants will be deemed to fully, finally and forever release Qualified Claimants' Released Claims as to all Released Parties. In addition, on the Effective Date, all Qualified Claimants and their successors in interest will be permanently enjoined and forever barred from prosecuting any of Qualified Claimants' Released Claims against any of the Released Parties.

6.2 Release of Claims by Aggrieved Employees: Upon the Effective Date, all Aggrieved Employees will be deemed to fully, finally and forever release the Released PAGA Claims as to all Released Parties. In addition, on the Effective Date, all Aggrieved Employees and their successors in interest will be permanently enjoined and forever barred from prosecuting any of the Released PAGA Claims against any of the Released Parties.

6.3 Release by Plaintiff: Upon the Effective Date, Plaintiff will be deemed to fully, finally and forever release the Qualified Claimants' Released Claims, Released PAGA Claims, and Class Representative's Released Claims as to all Released Parties. In addition, on the Effective Date, Plaintiff and any successors in interest will be permanently enjoined and forever barred from prosecuting any of the Qualified Claimants' Released Claims, Released PAGA Claims, and Class Representative's Released Claims against any of the Released Parties.¹

¹As set for in Paragraph 1.11 above, however, the Class Representative's Released Claims Plaintiff releases by this Agreement, do not include, and specifically exclude, her wrongful termination, disability

7. SETTLEMENT ADMINISTRATION

7.1 Duties of Claims Administrator: The Claims Administrator shall be responsible for: 1) receiving Class Member and Aggrieved Employee contact information and confirming addresses are valid; 2) calculating estimated Claim Amounts and any and all taxes associated with the Claim Amounts, including Employer taxes; 3) taking appropriate steps to trace and locate any individual Class Members and Aggrieved Employee whose address or contact information as provided to the Claims Administrator is inaccurate or outdated and mailing the Notice of Settlement to Class Members; 4) providing notification to the appropriate state and federal officials of this Agreement as required under the law; 5) receiving, independently reviewing, and resolving any challenges (in consultation with Class Counsel and Defendants' Counsel) from Class Members or Aggrieved Employees, including any associated documentation, regarding their Qualified Workweek calculations; 6) receiving and serving on Class Counsel, Defendants' Counsel, and the Court, copies of any written objections, and/or any opt out statements; 7) establishing a toll free telephone line and responding to inquiries and requests for information or assistance from Class Members and/or Aggrieved Employees; 8) maintaining a QSF; 9) determining and paying the final amounts due to be paid under the Agreement after resolution of all challenges, disputes, opt-outs, awarded attorneys' fees and costs, Claims Administrator Costs, PAGA Payment, taxes, any Enhancement Payments, and for funds that cannot be distributed due to the inability to locate Class Members or Aggrieved Employees; 10) determining the validity of any disputes or late opt-outs by previously unidentified Class Members or Aggrieved Employees; 11) paying any residual funds from uncashed checks; 12) reporting to Class Counsel and Defendants' Counsel regarding the statistics of the administration, including (a) the number of initial Notice of Settlements mailed; (b) the number of forwarded Notice of Settlements; (c) the number of re-mailed Notice of Settlements; (d) the number of total undeliverable Notice of Settlements; (e) the number of address traces performed for undeliverable Notice of Settlements; (f) the number of Notice of Settlements undeliverable from traced

discrimination and retaliation claims, and any and all related claims, as set forth in *Linda Hudson vs Stockton Nursing and Rehab Center LLC, et al.* (Case No. STK-CV-UWT-2020-0009221), filed in the San Joaquin Superior Court on October 30, 2020, and as addressed in a separate agreement by Plaintiff in connection with that action. The Class Representative's Released Claims also exclude claims for workers' compensation, unemployment insurance benefits, or other claims that cannot be released as a matter of law.

addresses; (g) the number of total objections received; (h) the number of opt-out requests received; (i) the number of disputes received; (j) the number of disputes resolved; 13) providing a declaration to the Court regarding the final statistics of the administration and compliance with all payment obligations under the Agreement; 14) completing all necessary tax reporting on the QSF and payment of the Claim Amounts to Qualified Members and Aggrieved Employees; and 15) carrying out other related tasks as necessary to effectuate the terms of this Agreement and any Order of the Court. All disputes relating to the Claims Administrator's ability and need to perform its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Agreement, until all payments and obligations contemplated by the Agreement have been fully executed.

7.2 Notice to Class Members and Aggrieved Employees: The Notice of Settlement will provide Class Members and Aggrieved Employees with a summary of the terms and conditions of the Agreement, how to participate in the settlement, how to object to the Agreement, how to dispute the individual's Qualifying Workweeks, and how to opt-out from the Agreement. The Notice of Settlement will also inform Class Members and Aggrieved Employees of the Gross Settlement Amount, Net Settlement Amount, proposed attorneys' fees and costs allocations, any proposed Enhancement Payments, proposed Claims Administrator Cost allocations, proposed PAGA Payment allocations, the scope of the class, the nature and extent of the released claims, dates set for a fairness hearing and hearing on Class Counsels' motion for attorneys' fees and costs. The Notice of Settlement shall include information regarding Class Member's and Aggrieved Employee's estimated Claim Amount.

7.3 Class Member Data and Mailing: No later than fourteen (14) calendar days after the Preliminary Approval Date, Defendants shall provide the Claims Administrator with the name, last known mailing address, last known telephone number, Social Security Number, start and end date of employment (if any) of each Class Member, and any other information the Claims Administrator needs to effectuate notice to Class Members and Aggrieved Employees as outlined herein. The Claims Administrator shall review the data to determine the number of Qualifying Workweeks for each Class Member and Aggrieved Employee. No later than fourteen (14) calendar days after receipt of such address information, the Claims Administrator will perform a national change of address ("NCOA") search, update the addresses per the results of the NCOA search, and then mail the Notice of Settlement, substantially in the form attached as

1 **Exhibit 1**, to each Class Member and Aggrieved Employee by first-class mail, postage prepaid. The
2 Claims Administrator shall maintain all information received from Defendants confidential to itself, and
3 Defendants' Counsel. However, Class Counsel shall be able to review the breakdown of Qualified
4 Workweeks and estimated Claim Amounts for Class Members and Aggrieved Employees prior to mailing
5 for quality assurance provided the personal identifying information is redacted and/or omitted.

6 7.4 Returned and/or Re-mailed Notice of Settlements: In the event that a Notice of Settlement
7 is returned to the Claims Administrator as non-delivered on or before the conclusion of the Notice Period,
8 the Notice of Settlement shall be sent to the forwarding address affixed thereto within five (5) calendar
9 days. If no forwarding address is provided, then the Claims Administrator shall promptly attempt to
10 determine a correct address using a single skip-trace, computer or other search using the name, address
11 and/or Social Security number of the individual involved, and shall then perform a single re-mailing within
12 five (5) calendar days. Following each search that does not result in a corrected address, for those Class
13 Members who appear to be current employees of Defendants at the time of the Preliminary Approval Date,
14 the Claims Administrator shall contact Defendants' Counsel for assistance and Defendants shall cooperate
15 in good faith with the Claims Administrator's reasonable efforts to obtain valid mailing addresses for
16 Class Members to the extent they are active employees of Defendants. In the event the Notice of
17 Settlement is forwarded to a new address and/or re-mailed to a Class Member, the deadline for the Class
18 Member to submit any request to opt-out, dispute, or objection shall be the end of the Notice Period or 10
19 days from the date of the re-mailing, whichever is later. In the event the procedures in this Section are
20 followed and the Class Member does not timely and properly request to opt-out, the Class Member shall
21 be bound by all terms of the Agreement, including the Releases contained in Section 6.

22 7.5 Responses to Notice of Settlement:

23 7.5.1 *Opt-Outs:* The Notice of Settlement shall provide that Class Members who wish
24 to exclude themselves from the Agreement must submit a request to opt-out as provided in this Section.
25 The request to opt-out must (a) state the Class Member's full name and date of birth; (b) a statement that
26 he or she does not want to be a Class Member, does not want to participate in the settlement, and/or wants
27 to be excluded from the settlement; (c) identify the case name and number (*i.e. Hudson v Stockton Nursing*
28 *and Rehab Center, LLC, et al., STK-CV-UOE-2020-0008507*); (d) be signed; and (e) be post-marked no

1 later than the conclusion of the Notice Period or the re-mailing timeline stated in Section 7.4. The Class
2 Member must personally sign the request to opt-out. No request to opt-out may be made on behalf of a
3 group of Class Members. The date of the postmark on the return-mailing envelope shall be the exclusive
4 means used to determine whether a request to opt-out has been timely submitted. Any Class Member who
5 requests to opt-out of the Agreement will not be entitled to any benefit of the Agreement or any portion
6 of the Net Settlement Amount, will not be bound by the Agreement, nor will they have any right to object,
7 appeal or comment thereon. Class Members who fail to submit a valid and timely request to opt-out shall
8 be bound by all terms of the Agreement and any order or final judgment thereon, regardless of whether
9 they otherwise have requested to opt-out of the Agreement. Aggrieved Employees cannot opt out of this
10 Agreement as it relates to the PAGA Payment or Released PAGA Claims regardless of whether they opt
11 out of being a Class Member.

12 7.5.2 *Objection Procedures:* Any Class Member who does not opt-out but who wishes
13 to object to this Agreement or otherwise to be heard concerning this Agreement shall send their written
14 objections to the Claims Administrator and also serve copies of the objections on Class Counsel and
15 Defendants' Counsel. The Notice of Settlement shall make clear that the Court can only approve or deny
16 the Agreement, not change the terms of the Agreement. The objection must (a) state the Class Member's
17 full name and date of birth; (b) provide evidence that the individual is, in fact, a Class Member; (c) state
18 the reasons for the objection(s), including any legal analysis and/or supporting documentation; (d) identify
19 the case name and number (*i.e. Hudson v Stockton Nursing and Rehab Center, LLC, et al.*, STK-CV-UOE-
20 2020-0008507) (e) be signed; and (f) be post-marked no later than the conclusion of the Notice Period or
21 the re-mailing timeline stated in Section 7.4. The objecting Class Member must also file a notice of intent
22 to appear with the Court and serve the notice on Class Counsel and Defendants' Counsel, if they intend to
23 appear at the final approval hearing.

24 7.5.3 *Dispute Procedures:* Any Class Member who disputes the number of Qualifying
25 Workweeks on the Notice of Settlement shall contact the Claims Administrator. The dispute must (a)
26 identify the nature of the dispute; (b) provide any information or documentation supporting the dispute;
27 (c) be signed; and (d) be post-marked no later than the conclusion of the Notice Period or the re-mailing
28 timeline stated in Section 7.4. The Claims Administrator shall promptly (in no event more than two

business days) forward all such disputes to Defendants' Counsel and request that Defendants review the dispute. Defendants' records shall presumptively control unless the Class Member can produce documentation evidencing other periods of employment worked. If Defendants do agree with submitted information, the Class Member shall be credited or subtracted Qualifying Workweeks in accordance with their submitted dispute and that final number of Qualified Workweeks shall govern the calculation of that Class Member's Claim Amount. If Defendants do not agree with the submitted information, Defendants' Counsel will promptly advise Class Counsel of the dispute, which includes turning over any documentation submitted by the Class Member as part of the dispute. Defendants' Counsel and Class Counsel shall attempt in good faith to resolve any such dispute within five (5) calendar days of Class Counsel being advised of the dispute. Each dispute that Defendants' Counsel and Class Counsel cannot timely resolve shall be resolved by the Claims Administrator or Court.

7.5.4 Deficient Opt-Outs, Objections, or Disputes: In the event that a deficient opt-out, objection, or dispute is received on or before the conclusion of the Notice Period, the Claims Administrator shall mail a letter to the Class Member within five (5) calendar days informing them of the deficiency. If a deficiency letter is mailed to a Class Member, the deadline for the Class Member to cure the deficiency shall be the end of the Notice Period or 10 days from the date of the deficiency letter, whichever is later.

7.6 Due Process Acknowledgement: Compliance with the procedures set forth in Sections 7.1 to 7.5.4 shall constitute due and sufficient notice to Class Members of the Action and the Agreement and shall satisfy Class Members' due process rights. Nothing else shall be required of the Parties, Class Counsel or Defendant' Counsel to provide notice of the proposed Agreement.

7.7 Claims Administrator Declaration Regarding Notice Period: Within twenty-one (21) days after the conclusion of the Notice Period, the Claims Administrator shall provide Class Counsel and Defendants' Counsel with a signed declaration under penalty of perjury providing a complete and detailed report regarding the statistics and responses of settlement administration to date and all the Claims Administrators' obligations under Sections 5.8 to 5.9-5.9.3, 7.1 to 7.5.4, and 7.9.

7.8 Claims Administrator Payments to Qualified Claimants, Class Counsel and Plaintiff: Within seven (7) calendar days after the Final Approval Date and the Court's determination of the amount of attorneys' fees and costs payable to Class Counsel, the Enhancement Payment payable to Plaintiff, the

PAGA Payment, and Claims Administrator Costs, the Claims Administrator shall calculate the final Net Settlement Amount, the final Claim Amounts for Qualified Claimants and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations Class Counsel and Defendants' Counsel. Defendants shall wire the Gross Settlement Amount to the Claims Administrator within twenty-one (21) days after the Final Approval Date to be to be held in trust in a QSF. Within fourteen (14) days after Defendants' last day to fund the settlement, the Claims Administrator shall deliver payment of Class Counsels' attorney's fees and costs, the Enhancement Payment payable to Plaintiff, the 75% portion of the PAGA Payment payable to the LWDA, Claims Administrator Costs, and payment to Qualified Claimants and/or Aggrieved Employees as required under this Agreement and approved by Court.

7.8.1 The Claims Administrator shall send a check, via certified mail with tracking of delivery, the Court-approved attorneys' fees and costs to Class Counsel unless other method is requested by Class Counsel. Class Counsel shall provide the Claims Administrator with the pertinent taxpayer identification number and payment instructions after the Final Approval Date.

7.8.2 The Claims Administrator shall send a check, via certified mail with tracking of delivery, the Court-approved Enhancement Payment to the Class Representative, care of Class Counsel unless other method is requested by Class Counsel.

7.8.3 Only Qualified Claimants and Aggrieved Employees will receive their Claim Amount.

7.8.4 The Claims Administrator shall remit and report the applicable portions of the payroll tax payment to the appropriate taxing authorities on a timely basis pursuant to its duties under this Agreement. Defendants agree to reasonably cooperate with the Claims Administrator to the extent necessary to determine the amount of the payroll tax payment required.

7.9 Settlement Check Expiration and Uncashed Checks: The Claims Administrator shall issue Claim Amounts to Qualified Claimants and Aggrieved Employees in the form of a check, which shall become null and void if not deposited within one hundred twenty (120) calendar days of issuance. After one hundred twenty (120) calendar days of issuance, the checks shall be voided and funds from all uncashed checks shall be transmitted in accordance with Section 5.6. The Claims Administrator shall deliver these funds within fourteen (14) calendar days after the check cashing deadline.

1 7.10 Claims Administrator Declaration Regarding Compliance and Settlement Administration:

2 Within twenty-one (21) days after the last day for Qualified Claimants and Aggrieved Employees to cash
3 their settlement checks, the Claims Administrator shall provide Class Counsel and Defendants' Counsel
4 with a signed declaration under penalty of perjury providing a complete and detailed report regarding the
5 settlement administration documenting that all payments under the Agreement have been made, that the
6 Court's final approval order has been complied with, and that all the obligations of the Claims
7 Administrator have been completed.

8 **8. PRELIMINARY SETTLEMENT ADMINISTRATION SCHEDULE**

9 8.1 The schedule may be modified depending on whether and when the Court grants necessary
10 approvals, orders notice to Class Members, and sets further hearings. The schedule may also be modified
11 to correct clerical errors and to reflect the provisions in the Agreement as described above. In the event
12 of such modification, the Parties shall cooperate to complete the settlement procedures as expeditiously
13 as reasonably practicable. The preliminary schedule for notice, approval, and payment procedures
14 carrying out the Agreement is as follows:

15 Last day for Defendants to provide Claims 16 Administrator with Class Member information	Within 14 calendar days after the Preliminary Approval Date
17 Last day for Claims Administrator to complete 18 NCOA search, update Class Member mailing 19 information, and mail Notice of Settlement	Within 14 calendar days after the Claims Administrators' receipt of Class Members' information from Defendants
20 Last day for Class Members to opt-out, submit 21 disputes, submit objections, and submit data 22 requests	45 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
23 Last day for Claims Administrator to provide 24 Parties with signed declaration reporting on 25 settlement administration statistics	Within 21 calendar days after end of the Notice Period

Last day for Claims Administrator to calculate the final Net Settlement Amount, the final Claim Amounts for Qualified Claimants and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations Class Counsel and Defendants' Counsel	Within 7 days after the Final Approval Date
Last day for Defendants to fund settlement	Within 21 calendar days after Final Approval Date
Last day for Claims Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Claims Administrator Costs, payment to Qualified Claimants, and payment to Aggrieved Employees	Within 14 days after Defendants' last day to fund the settlement
Last day for Qualified Members and Aggrieved Employees to cash settlement checks	120 days after issuance of checks to Qualified Members and Aggrieved Employees
Last day for Claims Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 days after settlement check cashing deadline
Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 days after settlement check cashing deadline

9. DUTIES OF THE PARTIES

9.1 Preliminary Approval: The Parties will cooperate in obtaining, through an unopposed motion to be filed as soon as reasonably practicable, an order from the Court preliminarily approving this Agreement at the earliest possible date concurrently with the Court's certification of the Action as a class action for settlement purposes. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to the approval and implementation of this Agreement and shall otherwise use their respective best efforts to obtain certification for settlement purposes, approval of, and implementation of this Agreement. The Parties will submit this Agreement to

1 the Court for preliminary approval of its terms and for approval of the steps to be taken to obtain its final
2 approval. Within one week of signing this Agreement, Class Counsel shall provide a draft of the
3 Preliminary Approval Motion to Defendants' Counsel. Defendants' Counsel will provide comments
4 and/or proposed revisions within one week after receipt of the draft Preliminary Approval Motion from
5 Class Counsel. With regard to the final approval documents, a similar one-week maximum review and
6 response time shall be observed by the Parties. The Parties will request that the Court's preliminary
7 approval of this Agreement be embodied in an Order Granting Preliminary Approval of Class Action and
8 PAGA Settlement.

9 9.1.1 Plaintiff's motion shall seek an order: 1) Preliminarily approving the Agreement;
10 2) Approving as to form and content the proposed Notice of Settlement; 3) Directing the mailing of the
11 Notice of Settlement by first class mail to Class Members and Aggrieved Employees; 4) Preliminarily
12 appointing Plaintiff and Class Counsel as representatives of Class Members; 5) Preliminarily approving
13 settlement administration services to be provided by the Claims Administrator; 6) Preliminarily approving
14 the proposed Enhancement Payment to Plaintiff; 7) Preliminarily approving the application for payment
15 of reasonable attorneys' fees and reimbursement of litigation-related expenses to Class Counsel; and 8)
16 Scheduling a fairness hearing on the question of whether the proposed Agreement should be finally
17 approved as fair, reasonable and adequate as to the Class Members.

18 9.1.2 Defendants shall not oppose Plaintiff's motion for approval of the proposed
19 Agreement.

20 9.1.3 The Parties shall cooperate with each other and the Claims Administrator during
21 the process of giving Class Members notice and opportunity to object to the Agreement, as necessary and
22 appropriate to assure effective communication to individual Class Members of information about their
23 rights and obligations under this Agreement.

24 9.2 Final Approval and Fairness Hearing: On a date approved by the Court and set forth in the
25 Notice of Settlement, the Court shall hold the Final Approval and Fairness Hearing where objections, if
26 any, may be heard. Class Counsel shall provide the Court as part of the motion for final approval of the
27 Agreement, a declaration by the Claims Administrator of due diligence and proof of mailing of the Notice
28

1 of Settlement required to be mailed to Class Members by this Agreement, and of the delivery results of
2 the Claim Administrator's mailings including tracing and re-mailing efforts.

3 9.2.1 Class Counsel will submit a proposed order and judgment for final approval, which
4 shall include findings and orders: 1) Approving the Agreement, adjudging the terms thereof to be fair,
5 reasonable and adequate, and directing that its terms and provisions be carried out; 2) Approving the
6 payment of an Enhancement Payment to the Class Representative; 3) Approving Class Counsel's
7 application for an award of attorneys' fees and reimbursement of out-of-pocket litigation expenses; 4)
8 Approving the Claims Administrator Costs; and 5) Providing that the Court will retain jurisdiction to
9 oversee administration and enforcement of the terms of the Agreement and the Court's orders.

10 9.2.2 Following entry of the Court's Order granting final approval of the Agreement, the
11 Parties will each act to ensure the fulfillment of all its provisions, including but not limited to the
12 following: 1) Should an appeal be taken from the final approval of the Agreement or motion to set aside
13 the judgement be filed, all parties will support the final approval order on appeal or otherwise; 2) Class
14 Counsel will assist the Claims Administrator as needed or requested in the process of identifying and
15 locating Qualified Claimants and Aggrieved Employees entitled to payments under the Agreement and
16 assuring delivery of such payments; 3) Class Counsel and Defendants' Counsel will cooperate with each
17 other and assist the Claims Administrator as needed or requested in completing the distribution of any
18 residual amounts, as specified above, to the *cy pres* beneficiaries; 4) Class Counsel, in conjunction with
19 the Claims Administrator, will certify to the Court completion of all payments required to be made by this
20 Agreement.

21 9.3 Final Judgment: If the Court approves this Agreement at the final approval and fairness
22 hearing, the Parties will request that the Court enter an Order Granting Final Approval of Class Action
23 and PAGA Settlement and Final Judgment.

24 9.4 Notice to LWDA: Plaintiff agrees to provide notice to the Labor and Workforce
25 Development Agency ("LWDA") of this settlement in accordance with Labor Code § 2699(1)(2).

26 **10. MISCELLANEOUS TERMS**

27 10.1 Defendants' Right to Withdraw Based on Opt-Outs: If, prior to the Final Approval Date,
28 10% or more of the Class Members have submitted proper and timely requests to opt-out in accordance

1 with the provisions of the Agreement, Defendants may, at its election, rescind the Agreement and all
2 actions taken in its furtherance will be thereby null and void. Defendants must exercise this right of
3 rescission, in writing, to Class Counsel, within seven (7) calendar days after the Claims Administrator
4 notifies the Parties of the total number of opt-outs. If the option to rescind is exercised, then any Claims
5 Administrator Costs shall be paid by Defendants. Defendants have provided Class Counsel with data
6 evidencing that there will be no more than 15,000 employee workweeks during the Class Period. In the
7 event the number of employee workweeks during the Class Period is more than 16,500 (*i.e.*, greater than
8 10% more than 15,000), then the Gross Settlement Amount shall be increased proportionally by the
9 workweeks in excess of 15,000, multiplied by the pay period value. For example, if there were 15,000
10 workweeks represented to exist during the Class Period, but there are actually 17,000 workweeks in the
11 Class Period, and the actual workweek value is \$5.00 per workweek, Defendants would have to increase
12 the Gross Settlement Amount by \$10,000.00 (17,000 workweeks – 15,000 workweeks = 2,000
13 workweeks x \$5.00/workweek). For purposes of the forgoing calculation, the pay period value shall be
14 determined by dividing the *Gross Settlement Amount* by the actual number of employee workweeks in
15 the Class Period as determined by the Claims Administration. Any increase to the Gross Settlement
16 Amount, as set forth in this paragraph, will entitle Plaintiff to have a proportionate increase to his
17 attorney's fees (not to exceed 35%) and costs (if any) and to the cost of administration.

18 10.2 Circular 230 Disclaimer: EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF
19 THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT
20 OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND
21 AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN
22 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
23 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
24 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON
25 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT
26 CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
27 RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX
28 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS

1 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
2 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY
3 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
4 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY
5 TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
6 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
7 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX
8 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
9 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
10 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED
11 BY THIS AGREEMENT.

12 10.3 No Prior Assignments: The Parties represent, covenant, and warrant that they have not
13 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
14 any person or entity any portion of any liability, claim, demand, action, cause of action or right released
15 and discharged in this Agreement.

16 10.4 Waiver of Appeal and Ability to Opt Out: To the extent permitted by applicable law, by
17 signing this Agreement Defendants are waiving any rights to appeal from the Court's approval of the
18 settlement unless the Court materially modifies the settlement. Furthermore, by signing this Agreement
19 Plaintiffs are waiving any right or ability to opt out of this Agreement during the Notice Period or
20 otherwise.

21 10.5 Exhibits Incorporated by Reference: The terms of this Agreement include the terms set
22 forth in any attached Exhibits, which are incorporated herein by reference as though fully set forth in this
23 Agreement. Any Exhibits to this Agreement are an integral part of the Settlement.

24 10.6 Judgment and Retention of Jurisdiction to Enforce: Upon the Final Approval Date,
25 judgment will be entered according to this Agreement, with the Court to retain jurisdiction over the parties
26 to enforce the terms therein.

27 10.7 Mutual Cooperation: The Parties agree to cooperate fully with one another to accomplish
28 and implement the terms of this Agreement. Such cooperation shall include, but not be limited to,

1 execution of such other documents and the taking of such other action as may reasonably be necessary to
2 fulfill the terms of this Agreement. The Parties to this Agreement shall use their best efforts, including
3 all efforts contemplated by this Agreement and any other efforts that may become necessary by Court
4 order, or otherwise, to effectuate this Agreement and the terms set forth herein.

5 10.8 No Admission of Liability: Neither the acceptance nor the performance by Defendants of
6 the terms of this Agreement, nor any of the related negotiations or proceedings, is or shall be claimed to
7 be, construed as, or deemed to be, an admission by Defendants of the truth of any of the allegations in the
8 Complaint, the representative character of the Action, the validity of any of the claims that were or could
9 have been asserted by Plaintiff and/or Class Members in the Action, or of any liability or guilt of
10 Defendants in the Action. Nothing in this Agreement shall be construed to be or deemed an admission by
11 Defendants of any liability, culpability, negligence, or wrongdoing toward Plaintiff, the Class Members,
12 or any other person, and Defendants specifically disclaim any liability, culpability, negligence, or
13 wrongdoing toward Plaintiff, the Class Members, or any other person. Each of the Parties has entered
14 into this Stipulation with the intention to avoid further disputes and litigation.

15 10.9 Notices: Unless otherwise specifically provided herein, all notices, demands, or other
16 communications given hereunder shall be in writing and shall be deemed to have been duly given as of
17 the third business day after mailing by United States certified mail, return receipt requested, addressed as
18 follows:

19 To Plaintiff and the Class:

20 Galen T. Shimoda
21 Justin P. Rodriguez
22 Brittany V. Berzin
23 Jessica L. Hart
24 Shimoda Law Corp.
25 9401 East Stockton Blvd., Suite 120
26 Elk Grove, CA 95624

27 To Defendants:

28 Jose-Manuel A. de Castro
29 De Castro Law Group, P.C.
30 590 N Glenoaks Blvd, Ste 201
31 Los Angeles, CA 91504-1011

1 10.10 Mutual Drafting of Agreement: The Parties hereto agree that the terms and conditions of
2 this Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that
3 this Agreement shall not be construed in favor of or against any party by reason of the extent to which any
4 party or its counsel participated in the drafting of this Agreement.

5 10.11 Binding Effect of Agreement: The Parties, by signing this Agreement, are bound by the
6 terms herein. The Parties waive their rights to file an appeal, writ, or any challenge whatsoever to the
7 terms of this Agreement. This Stipulation shall be binding upon and inure to the benefit of the Parties
8 hereto and their respective heirs, trustees, executors, Claims Administrators, successors, and assigns.

9 10.12 Attorneys' Fees and Costs Limitations: Neither Class Counsel nor any other attorneys
10 acting for, or purporting to act for, the Class, Class Members, or Plaintiff, may recover or seek to recover
11 any amounts for fees, costs, or disbursements from the Releasees or the Gross Settlement Amount except
12 as expressly provided in this Agreement. The Parties stipulate and agree that the San Joaquin County
13 Superior Court shall have continuing jurisdiction to enforce the terms of the Agreement pursuant to Civil
14 Procedure Code section 664.6 and that the prevailing party any action necessary to enforce the terms of
15 the Agreement after default by the other party may recover reasonable attorney's fees and costs related
16 thereto.

17 10.13 No Modifications: This Agreement may be amended or modified only by a written
18 instrument signed by counsel for all Parties or their successors-in-interest. This Agreement may not be
19 discharged except by performance in accordance with its terms.

20 10.14 Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant and
21 represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement
22 and to take all appropriate action required or permitted to be taken by such Parties pursuant to this
23 Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of
24 this Agreement.

25 10.15 Class Member Signatories: Because the Action has not yet been certified, and the Class
26 Members are so numerous, the Parties agree that it is impossible or impractical to have each Class Member
27 sign this Agreement. It is agreed that, for purposes of seeking approval of the Agreement, this Agreement
28 may be executed on behalf of all Class Members by the Class Representative.

1 10.16 Counterparts: This Agreement shall become effective upon its execution by all of the
2 undersigned. Plaintiff, Class Counsel, Defendants and Defendants' Counsel may execute this Agreement
3 in counterparts, and execution of counterparts shall have the same force and effect as if each had signed
4 the same instrument. Facsimile, electronic, and/or scanned copies of signatures shall have the same force
5 and effect of originals.

6 10.17 Choice of Law: The Agreement and any exhibits hereto shall be considered to have been
7 negotiated, executed, and delivered, and to have been wholly performed, in the State of California, and
8 the rights and obligations of the Parties to the Agreement shall be construed and enforced in accordance
9 with, and governed by, the substantive laws of the State of California without giving effect to that State's
10 choice of law principles.

11 10.18 Headings and Captions: Section titles or captions contained in the Agreement are inserted
12 as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of
13 this Agreement, or any provision thereof.

14 10.19 No Retaliation or Discouragement: The Parties agree they will take no action that could
15 be construed as retaliation against any Class Members for participating or seeking to participate in this
16 class action settlement. The Parties will not discourage any class member from participating or seeking
17 to participate in this class action settlement. This is a material term of the Agreement and non-breaching
18 Parties will seek court intervention if this provision is breached. Should non-breaching Party prevail, they
19 shall be entitled to further attorneys' fees and costs.

20 10.20 Integrated Agreement: This Agreement sets forth the entire understanding between the
21 Parties and supersedes any and all prior agreements, oral or written, pertaining to the subject matter hereof.
22 Each party acknowledges that there is no representation, inducement, promise or agreement which has
23 been made, orally or otherwise, by the other party, concerning the terms or conditions of this Agreement,
24 which is not expressly embodied in this Agreement. In entering into this Agreement, the Parties represent
25 that the terms of this Agreement are fully understood and voluntarily accepted by the Parties.

26 10.21 Binding on Successors and Assigns: This Agreement will be binding upon, and inure to
27 the benefit of, the successors or assigns of the Parties to this Agreement, as previously defined.
28

10.22 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 Settlement Agreement valid and enforceable.

10.23 Waiver of Compliance: No waiver of any condition or covenant contained in this 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.

10.24 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.

IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

For Plaintiff:

Date: 5/18/2021

Linda Hudson
Linda Hudson

FOR Defendants:

Date: _____

By: _____
For Stockton Nursing and Rehab Center, LLC.

Date: _____

By: _____
For Eduro Healthcare, LLC

Date: _____

By: _____
For Grant Garrison

1 10.22 Invalidity of Any Provision: Before declaring any provision of this Agreement invalid, the
2 Court will first attempt to construe the provision as valid to the fullest extent possible consistent with
3 applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

4 10.23 Waiver of Compliance: No waiver of any condition or covenant contained in this
5 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply
6 or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

7 10.24 Captions: The captions and section numbers in this Agreement are inserted for the reader's
8 convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this
9 Agreement.

10 IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized
11 attorneys, as of the day and year herein set forth.

12 **For Plaintiff:**

13 Date: 5/18/2021
14 _____

Linda Hudson
Linda Hudson

15
16 **FOR Defendants:**

17 Date: 5/19/2021
18 _____

[Signature]
By:
For Stockton Nursing and Rehab Center, LLC.

19
20 Date: 5/19/2021
21 _____

[Signature]
By:
For Eduro Healthcare, LLC

22
23 Date: _____

24 By: _____
25 For Grant Garrison

1 10.22 Invalidity of Any Provision: Before declaring any provision of this Agreement invalid, the
 2 Court will first attempt to construe the provision as valid to the fullest extent possible consistent with
 3 applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

4 10.23 Waiver of Compliance: No waiver of any condition or covenant contained in this
 5 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply
 6 or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

7 10.24 Captions: The captions and section numbers in this Agreement are inserted for the reader's
 8 convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this
 9 Agreement.

10 IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized
 11 attorneys, as of the day and year herein set forth.

12 **For Plaintiff:**

13 Date: 5/18/2021

14 _____

Linda Hudson
 15 Linda Hudson

16 **FOR Defendants:**

17 Date: _____

18 By: _____
 19 For Stockton Nursing and Rehab Center, LLC.

20 Date: _____

21 By: _____
 22 For Eduro Healthcare, LLC

23 Date: 5-18-2021

Grant Garrison
 24 By: _____
 25 For Grant Garrison

1 APPROVED AS TO FORM

2
3 Dated: 5/18/21

Shimoda Law Corp.

4 By: 
Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Jessica L. Hart
Attorney for Plaintiff and Aggrieved
Employees

7 APPROVED AS TO FORM

8
9 Dated: _____

DE CASTRO LAW GROUP, P.C.

10 By: 
Jose-Manuel A. de Castro
Attorney for Defendants

EXHIBIT B

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11 Attorneys for Plaintiff LINDA HUDSON,
12 on behalf of herself and similarly situated employees

13 **SUPERIOR COURT OF CALIFORNIA**

14 **FOR THE COUNTY OF SAN JOAQUIN**

15 LINDA HUDSON, as an individual, and on)
16 behalf of all others similarly situated,)

17 Plaintiff,)

18 vs.)

19 STOCKTON NURSING AND REHAB)
20 CENTER, LLC, a California Limited)
21 Liability Company; EDURO)
22 HEALTHCARE, LLC, a Delaware Limited)
23 Liability Company; DYCORA)
24 TRANSITIONAL HEALTH –)
25 STOCKTON, LLC, a California Limited)
26 Liability Company; GRANT GARRISON)
27 an individual; and DOES 1 to 100,)
28 inclusive,)

Defendants.)

Case No. STK-CV-UOE-2020-0008507

**FIRST AMENDED COMPLAINT FOR
DAMAGES AND PENALTIES**

1. Failure to Pay Overtime
(Labor Code §§ 510, 1194)
2. Failure to Pay Minimum Wages
(Labor Code § 1194)
3. Failure to Provide Meal Periods
(Labor Code §§ 512, 226.7)
4. Failure to Provide Rest Periods
(Labor Code § 226.7)
5. Failure to Provide Accurate Wage
Statements (Labor Code § 226)
6. Failure to Provide Reimbursements
(Labor Code § 2802)
7. Waiting Time Penalties
(Labor Code §§ 201-203)
8. Unfair Competition
(Business & Professions Code § 17200,
et seq.)
9. Private Attorneys General Act
(Labor Code § 2699, *et seq.*)

JURY TRIAL DEMANDED

1 Plaintiff LINDA HUDSON (“Plaintiff”), hereby file this Class Action Complaint against
2 Defendants STOCKTON NURSING AND REHAB CENTER, LLC, a California Limited Liability
3 Company; EDURO HEALTHCARE, LLC, a Delaware Limited Liability Company; DYCORA
4 TRANSITIONAL HEALTH – STOCKTON, LLC, a California Limited Liability Company;
5 GRANT GARRISON an individual; and DOES 1 to 100, inclusive. On information and belief,
6 Plaintiff alleges the following:

7 **INTRODUCTION**

8 1. This is a class action and Private Attorneys General Act (“PAGA”) lawsuit brought
9 by Plaintiff for failure to pay minimum wages, failure to pay overtime wages, meal period violations,
10 rest period violations, wage statement violations, failure to timely pay final wages, failure to
11 reimburse expenses, and unfair competition. Plaintiff seeks these unpaid wages and penalties, plus
12 interest and attorney’s fees, on behalf of herself and similarly situated employees.

13 2. Plaintiff LINDA HUDSON is an individual over the age of eighteen (18) and is now
14 and/or at all times mentioned in this Complaint was a resident of the State of California.

15 3. Plaintiff is informed and believes, and thereupon alleges, that STOCKTON
16 NURSING AND REHAB CENTER LLC., is now and/or at all times mentioned in this Complaint
17 was a California Limited Liability Company and the owner and operator of an industry, business
18 and/or facility licensed to do business and actually doing business in the State of California.

19 4. Plaintiff is informed and believes, and thereupon alleges, that EDURO
20 HEALTHCARE, LLC., is now and/or at all times mentioned in this Complaint was a Delaware
21 Limited Liability Company and the owner and operator of an industry, business and/or facility
22 licensed to do business and actually doing business in the State of California.

23 5. Plaintiff is informed and believes, and thereupon alleges, that DYCORA
24 TRANSITIONAL HEALTH – STOCKTON, LLC., is now and/or at all times mentioned in this
25 Complaint was a California Limited Liability Company and the owner and operator of an industry,
26 business and/or facility licensed to do business and actually doing business in the State of California.

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6. Plaintiff is informed and believes, and thereupon alleges, that GRANT GARRISON is an individual over the age of eighteen (18) and is now and/or at all times mentioned in this Complaint was a resident of the State of California.

7. Plaintiff is informed and believes, and thereupon alleges, that GRANT GARRISON is an owner, director, officer, or managing agent of STOCKTON NURSING AND REHAB CENTER LLC., and EDURO HEALTHCARE, LLC. GRANT GARRISON developed, maintained, implemented, and caused the unlawful wage and hour practices described herein to occur. As such GRANT GARRISON is individually liable pursuant to California Labor Code section 558.1.

8. DOES 1 through 100 are affiliates, subsidiaries and related entities and the alter egos of STOCKTON NURSING AND REHAB CENTER LLC., EDURO HEALTHCARE, LLC., and DYCOR TRANSITIONAL HEALTH – STOCKTON, LLC., corporate or otherwise, who participated in and are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true names and capacities of these DOE defendants when they are ascertained. At all times mentioned herein, each Defendant was the agent or employee of each of the other Defendants and was acting within the course and scope of such agency or employment. Defendants are jointly and severally liable to Plaintiff.

9. All Defendants, and each of them, are now and/or at all times mentioned in this Complaint, were members of and/or engaged in a joint employment, joint venture, partnership and common enterprise, and were acting within the course and scope of, and in pursuance of said joint employment, joint venture, partnership, and common enterprise.

10. All Defendants, and each of them, do now and/or at all times mentioned in this Complaint approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

11. All Defendants proximately caused Plaintiff to be subjected to the unlawful practices, wrongs, complaints, injuries, and/or damages alleged in this Complaint.

JURISDICTION AND VENUE

12. The San Joaquin Superior Court has jurisdiction in this matter due to alleged violations of California Labor Code sections 510, 1194, 226.7, 226, 201-203, Business and

1 Professions Code section 17200 *et seq.*, and Industrial Welfare Commission Wage Order (“Wage
2 Order”) 5.

3 13. Venue is proper pursuant to Civil Procedure Code sections 395(a) and 395.5, in that
4 some of the wrongful acts and violations of law asserted herein occurred within San Joaquin County.
5 Additionally, Defendants’ obligation to pay wages, including overtime wages, and meal and rest
6 period premiums, arose in Sacramento County pursuant to *Madera Police Officers Assn. v. City of*
7 *Madera*, 36 Cal.3d 403, 414 (1984).

8 14. Plaintiff sought permission pursuant to Labor Code section 2699, *et seq.* to pursue the
9 claims set forth in this Complaint against Defendants as a Private Attorney General on behalf of
10 herself and other similarly situated employees. Pursuant to California Labor Code section 2699.3,
11 Plaintiff gave written notice via online submission to the Labor and Workforce Development
12 Agency (“LWDA”) on approximately August 26, 2020. Plaintiff provided facts and legal bases for
13 her claims within the notice to the LWDA on all violations asserted under the Private Attorneys
14 General Act cause of action. Plaintiff also submitted the \$75.00 filing fee. The August 26, 2020
15 notice was also sent via certified mail to Defendants on the same day. Plaintiff is informed and
16 believes, that to date, the LWDA has not provided any response to Plaintiff’s notice correspondence.
17 Accordingly, Plaintiff is informed and believes that she has exhausted all administrative remedies
18 pursuant to the Private Attorneys General Act (“PAGA”) and may bring this action on behalf of
19 herself and all Aggrieved Employees. *See* Cal. Lab. Code § 2699.3(a)(2)(A), (c)(3); *Caliber*
20 *Bodyworks, Inc., v. Sup. Ct.*, 134 Cal.App.4th 365, 383 n.18, 385 n.19 (2005).

21 CLASS ALLEGATIONS

22 15. Plaintiff brings the First through Eighth Causes of Action on behalf of herself and all
23 others similarly situated as a class action pursuant to California Code of Civil Procedure section 382.
24 The class which Plaintiff seeks to represent is composed of, and defined, as follows:

25 all non-exempt employees who have, or continue to, work for
26 Defendants in California from October 7, 2016 to the present.

27 16. This action may be maintained as a class action because there is a well-defined
28 community of interests in the litigation and the proposed class is easily ascertainable.

1 17. Numerosity: The Plaintiff Class is so numerous that the individual joinder of all
2 members is impracticable. While the actual number of class members is unknown to Plaintiff at this
3 time, Plaintiff is informed and believes that more than approximately 200 individuals were subjected
4 to the practices outlined in this Complaint relating to the First through Eighth Causes of Action.

5 18. Common Questions Predominate: Common questions of law and fact exist as to all
6 members of the Plaintiff Class and predominate over questions that affect only individual class
7 members. These common questions of law and fact include, without limitation, the following:

- 8 1) Whether Defendant kept an accurate record of all hours worked by Plaintiff and
9 members of the Plaintiff's Class;
- 10 2) Whether Defendant paid Plaintiff and members of the Plaintiff's Class for all hours
11 worked;
- 12 3) Whether Defendant paid Plaintiff and members of the Plaintiff's Class at least
13 minimum wage for all hours worked;
- 14 4) Whether Defendant properly paid Plaintiff and members of the Plaintiff's Class for all
15 overtime hours worked;
- 16 5) Whether Plaintiff and members of the Plaintiff's Class worked over eight (8) hours in
17 a day;
- 18 6) Whether Plaintiff and members of the Plaintiff's Class worked over forty (40) hours
19 in a week;
- 20 7) Whether Defendants had a policy and/or practice of failing to pay Plaintiff and
21 members of the Plaintiff's Class for all hours worked;
- 22 8) Whether Defendants had a policy and/or practice of failing to pay Plaintiff and
23 members of the Plaintiff's Class for all overtime hours worked;
- 24 9) Whether Defendants had a policy and/or practice of failing to pay Plaintiff and
25 members of the Plaintiff's Class for all reimbursement expenses;
- 26 10) Whether Defendants had a policy and/or practice allowing for, or providing, Plaintiff
27 and members of the Plaintiff's Class meal periods as required by law;

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- 1 11) Whether Defendants had a policy and/or practice allowing for or providing Plaintiff
2 and members of the Plaintiff's Class rest periods as required by law;
3 12) Whether Defendants accurately stated all required information on paystubs issued to
4 Plaintiff and members of the Plaintiff's Class; and
5 13) Whether Defendants provided Plaintiff and members of the Plaintiff's Class their
6 final wages in compliance with Labor Code sections 201 to 203.

7 19. Typicality: Plaintiff's claims are typical of the claims for the members of the
8 Plaintiff Class. Plaintiff also sustained damages arising out of Defendants' common course of
9 conduct in violation of the law as complained of herein. As a result, each putative class member
10 will have the same basis for unpaid wage claims as does Plaintiff.

11 20. Adequacy: Plaintiff will fairly and adequately protect the interests of the members
12 of the Plaintiff Class. Plaintiff has no interests which are adverse to those of absent class
13 members. Additionally, Plaintiff has retained counsel who has substantial experience in complex
14 civil litigation and employment law matters.

15 21. Superiority: A class action is superior to other available means for the fair and
16 efficient adjudication of the controversy since individual joinder of all members of the class is
17 impracticable. Class action treatment will permit a larger number of similarly situated employees
18 to prosecute their common claims in a single forum simultaneously, efficiently, and without the
19 unnecessary duplication of effort and expense that numerous individual actions would engender.
20 Further, as damages suffered by each individual member of the class may be relatively small, the
21 expenses and burden of the individual litigation would make it difficult or impossible for
22 individual members of the class to redress wrongs done to them, and an important public interest
23 will be served by addressing the matter as a class action. The cost to the court system of
24 adjudication of such individualized litigation would be substantial. Individualized litigation
25 would also present the potential for inconsistent or contradictory judgments.

26 22. Plaintiff is unaware of any difficulties that are likely to be encountered in the
27 management of this action that would preclude its maintenance as a class action.

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GENERAL ALLEGATIONS

23. Plaintiff incorporates by reference and re-allege paragraphs 1 through 22 as though fully set forth herein.

24. Plaintiff LINDA HUDSON, a 61-year-old, African American, licensed vocational nurse, began working at the Stockton Nursing and Rehab Facility (formerly Golden Living Hy-Pana), as a Unit Manager in or around 2013. At the time Plaintiff was hired, the facility was owned and operated by Golden Living. Sometime thereafter, in or around December 2014, the facility was taken over by DYCORA TRANSITIONAL HEALTH – STOCKTON, LLC. DYCORA operated the facility until June 2019, when EDURO HEALTHCARE, LLC, took over operations, doing business as STOCKTON NURSING AND REHAB CENTER, LLC.

25. Plaintiff held a few positions over the years, including Unit Manager, and most recently Treatment Nurse and Director of Staff Development. Specifically, since EDURO HEALTHCARE, LLC., took over operations in June 2019, Plaintiff was a Treatment Nurse until November 2019, when she was promoted to Director of Staff Development and put into a salaried, exempt position.

26. Over the time Plaintiff was working for Defendants as a non-exempt employee (June 2019 through November 2019), Defendants failed to pay Plaintiff and similarly situated employees for all hours worked. For instance, due to an inadequate number of computers or internet connection issues, Plaintiff and similarly situated employees sometimes had to wait several minutes before they were able to clock in for work. This issue was particularly problematic for Certified Nurse Assistants (“CNAs”) and kitchen staff because there was only one computer available for them to log in and out of work. Defendants were aware of this time keeping issue and knew that it resulted in minimum wages and overtime wages being forfeited by Plaintiff and similarly situated employees.

27. In addition to this, there were other instances where Defendants failed to pay Plaintiff and similarly situated employees for all hours worked. Specifically, due to chronic understaffing, there were instances when Plaintiff and similarly situated employees had to work off-the-clock to get their work done for the day. Even though Plaintiff and similarly situated employees would officially clock out for the day, it was not unusual for them to continue to work so they could finish patient

1 treatments and paperwork. If these tasks and paperwork did not get completed, Plaintiff and
2 similarly situated employees would be questioned by supervisors, as well as the incoming shift.
3 Plaintiff estimates that this would occur approximately once or twice per week, resulting in
4 approximately thirty (30) minutes of unpaid, off-the-clock work per week. Defendants were aware
5 that Plaintiff and similarly situated employees were working off-the-clock, but, nonetheless, failed to
6 provide the staff and resources available so that their employees could stop working at their
7 regularly scheduled time.

8 28. Plaintiff and similarly situated employees also worked schedules that required them
9 to either take their meal and rest periods late or not at all. For instance, staffing and workflow issues
10 at the facility made it difficult for Plaintiff and similarly situated employees to take a meal period
11 before the end of their fifth hour of work approximately fifty (50) percent of the time. Without
12 someone scheduled to relieve Plaintiff of her patient duties, she could not reasonably leave a patient
13 she was treating and go take a meal or rest break. Defendants were aware of this problem but failed
14 to schedule sufficient staff that would allow Plaintiff and similarly situated employees to take their
15 interrupted meal and rest periods. As such, Defendants' staffing and workflow policies discouraged
16 and prevented Plaintiff and similarly situated employees from taking their uninterrupted thirty (30)
17 minute meal periods and ten (10) minute rest periods approximately fifty (50) percent of the time.

18 29. Defendants also failed to reimburse Plaintiff and similarly situated employees for
19 their use of personal cell phones for work purposes. Plaintiff estimates that she and similarly
20 situated employees had to use their cell phones, while at work, approximately two (2) times a week
21 to call doctors, staff, or family members of residents due to there being limited company phones
22 available. Defendants were aware of Plaintiff and similarly situated employees use of their cell
23 phones for work-related communications, yet they failed to reimburse Plaintiff and similarly situated
24 employees for their cell phone use.

25 30. As a result of Defendants' failure to pay Plaintiff and similarly situated employees for
26 all time worked, failure to pay reimbursement expenses, and failure to pay meal and rest period
27 premiums, Defendants failed to provide all final wages owed to Plaintiff and similarly situated
28 employees within twenty-four (24) hours of their termination or seventy-two (72) hours of their

1 resignation. In addition, Defendants failed to keep accurate time records and failed to provide
2 Plaintiff and similarly situated employees with accurate wage statements. The wage statements
3 Defendants provided to Plaintiff and similarly situated employees did not accurately state their total
4 regular hours worked, gross wages and net wages, and all deductions made.

5 **CAUSES OF ACTION**

6 **FIRST CAUSE OF ACTION**
7 **FAILURE TO PAY OVERTIME**
8 **(As to All Defendants)**

9 31. Plaintiff incorporates by reference and re-allege paragraphs 1 through 30 as though
10 fully set forth herein.

11 32. During the period Plaintiff was employed by Defendants, Defendants were required
12 to compensate her for one and one-half (1½) times the regular rate of pay for hours worked in
13 excess of eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular
14 rate of pay for hours worked in excess of twelve (12) hours per day or in excess of eight (8) hours
15 per day on the seventh (7th) day of work. *See, e.g.,* Cal. Labor Code §§ 510, 1194. Plaintiff and
16 similarly situated employees regularly worked over eight (8) hours in a day or forty (40) hours in a
17 week, but Defendants failed to pay all overtime wages owed to them.

18 33. Plaintiff and similarly situated employees were non-exempt employee under the
19 administrative, executive, or professional exemptions, the applicable Wage Order, and California
20 Labor Code section 510.

21 34. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
22 employees have been damaged as stated in the section below entitled "DAMAGES," which is
23 incorporated here to the extent pertinent as if set forth here in full.

24 **SECOND CAUSE OF ACTION**
25 **FAILURE TO PAY MINIMUM WAGES**
26 **(As to all Defendants)**

27 35. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 34 as though
28 fully set forth herein.

36. For the period preceding the filing of this Complaint, Defendants were required to
compensate California's minimum wage of \$8.00 per hour (beginning January 1, 2008), \$9.00 per

1 hour (beginning July 1, 2014), \$10.00 per hour (beginning January 1, 2016), \$10.50 per hour
2 (beginning January 1, 2017, for employers with twenty-six (26) or more employees) or \$10.00 per
3 hour (beginning January 1, 2017, for employers with twenty-five (25) or less employees), \$11.00 per
4 hour (beginning January 1, 2018, for employers with twenty-six (26) or more employees) or \$10.50
5 per hour (beginning January 1, 2018, for employers with twenty-five (25) or less employees), \$12.00
6 per hour (beginning January 1, 2019, for employers with twenty-six (26) or more employees) or
7 \$11.00 per hour (beginning January 1, 2019, for employers with twenty-five (25) or less employees),
8 and \$13.00 per hour (beginning January 1, 2020, for employers with twenty-six (26) or more
9 employees) or \$12.00 per hour (beginning January 1, 2020, for employers with twenty-five (25) or
10 less employees). *See, e.g.*, IWC Wage Order, No. 5, section 4(A); Cal. Labor Code § 1194.

11 37. Over the relevant time, Plaintiff was not exempt to the State's Minimum Wage
12 Orders. Defendants were aware of its obligation to pay the minimum wage for each hour worked but
13 failed to do so.

14 38. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
15 employees have been damaged as stated in the section below entitled "DAMAGES," which is
16 incorporated here to the extent pertinent as if set forth here in full.

17 **THIRD CAUSE OF ACTION**
18 **FAILURE TO PROVIDE MEAL PERIODS**
19 **(As to All Defendants)**

20 39. Plaintiff incorporates by reference and re-allege paragraphs 1 through 38 as though
21 fully set forth herein.

22 40. An employer must provide an employee a meal period in accordance with the
23 applicable Wage Order, and Labor Code sections 226.7 and 512.

24 41. Labor Code sections 226.7 and 512 and Wage Order 5, section 11(A) require an
25 employer to provide an uninterrupted meal period of not less than thirty (30) minutes for each work
26 period of more than five (5) hours.

27 42. Labor Code section 512 and Wage Order 5, section 11(B) further provide that
28 employers may not employ employees for a work period for more than ten (10) hours per day
without providing the employee with a second meal period of at least thirty (30) minutes. However,

1 if the total hours worked is no more than twelve (12) hours, the second meal period may be waived
2 so long as there was no waiver as to the first meal period.

3 43. Plaintiff and similarly situated employees allege that Defendants employed Plaintiff
4 and similarly situated employees for periods of more than five (5) hours without providing meal
5 periods of at least thirty (30) minutes and did not provide a first meal period before the completion
6 of their fifth hour of work. Plaintiff and similarly situated employees did not waive their rights to
7 any meal periods throughout their employment relationship.

8 44. Defendants further failed to pay Plaintiff and similarly situated employees the
9 applicable meal period premiums for any such missed meal breaks.

10 45. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
11 employees have been damaged as stated in the section below entitled "DAMAGES," which is
12 incorporated here to the extent pertinent as if set forth here in full.

13 **FOURTH CAUSE OF ACTION**
14 **FAILURE TO PROVIDE REST PERIODS**
(As to All Defendants)

15 46. Plaintiff incorporates by reference and re-allege paragraphs 1 through 45 as though
16 fully set forth herein.

17 47. An employer must provide an employee a rest period in accordance with the
18 applicable Wage Order and Labor Code section 226.7.

19 48. Labor Code section 226.7 and Wage Order 5, section 12(A) require an employer to
20 provide a rest period of not less than ten (10) minutes for each work period of more than four (4)
21 hours or a major fraction thereof.

22 49. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly
23 situated employees to take rest breaks of at least ten (10) minutes for each work period that Plaintiff
24 and similarly situated employees worked more than four (4) hours or a major fraction thereof.

25 50. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
26 employees have been damaged as stated in the section below entitled "DAMAGES," which is
27 incorporated here to the extent pertinent as if set forth here in full.

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FIFTH CAUSE OF ACTION
FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS
(As to All Defendants)

51. Plaintiff incorporates by reference and re-allege paragraphs 1 through 50 as though fully set forth herein.

52. According to Labor Code section 226(a), an employer must provide an itemized statement to an employee, semi-monthly or at the time of each payment of wages, showing:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

53. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an itemized statement or failed to provide an accurate and complete itemized statement showing the requirements set forth in Labor Code section 226(a). Specifically, Defendants did not itemize all applicable hourly rates in effect during the pay period, all overtime hours worked and corresponding overtime rates, and gross and net wages earned. As a result, Plaintiff and similarly situated employees were not able to determine the total wages owed to them from their paystubs alone.

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54. As a proximate cause of Defendants' failure to provide accurate statements, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SIXTH OF ACTION
FAILURE TO REIMBURSE EXPENSES
(As to all Defendants)

55. Plaintiff incorporates by reference and re-allege(s) paragraphs 1 through 54 as though fully set forth herein.

56. California Labor Code section 2802(a) states that “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.”

57. Defendants required Plaintiff and similarly situated employees to use their cell phones for work purposes but failed to reimburse them for such use.

58. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SEVENTH CAUSE OF ACTION
WAITING TIME PENALTIES
(As to All Defendants)

59. Plaintiff incorporates by reference and re-allege paragraphs 1 through 58 as though fully set forth herein.

60. An employer must pay an employee who is terminated all unpaid wages immediately upon termination. *See* Cal. Labor Code § 201.

61. An employer must pay an employee who resigns all unpaid wages within seventy-two (72) hours of their resignation. *See* Cal. Labor Code § 202.

62. Plaintiff and similarly situated employees did not receive all wages, including overtime compensation, and meal and rest period premiums at Plaintiff's and similarly situated employees' termination or within the required time after Plaintiff's and similarly situated employees'

1 separation from employment.

2 63. An employer who willfully fails to pay an employee wages in accordance with Labor
3 Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30)
4 days. *See* Cal. Labor Code § 203.

5 64. Defendants knew of their obligation to pay Plaintiff and similarly situated employees
6 all wages owed when their employment ended. Indeed, Defendants had knowledge it did not
7 compensate Plaintiff and similarly situated employees for all minimum wages, overtime wages and
8 missed meal and rest period premiums. Such conduct shows Defendants' knowledge of their
9 obligation to pay Plaintiff and similarly situated employees' overtime wages and missed meal and
10 rest period premiums upon termination and/or separation and their willful refusal.

11 65. As a proximate result of the Defendants' conduct, Plaintiff and similarly situated
12 employees have been damaged and deprived of their wages and thereby seek their daily rate of pay
13 multiplied by thirty (30) days for Defendants' failure to pay all wages due.

14 **EIGHTH CAUSE OF ACTION**
15 **UNFAIR COMPETITION**
16 **STOCKTON NURSING AND REHAB CENTER, LLC., EDURO HEALTHCARE, LLC., and**
DYCORA TRANSITIONAL HEALTH – STOCKTON, LLC.

17 66. Plaintiff incorporates by reference and re-allege paragraphs 1 through 65 as though
18 fully set forth herein.

19 67. Unfair competition shall mean and include any unlawful, unfair or fraudulent
20 business act or practice and unfair, deceptive, untrue or misleading advertising and any act
21 prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business
22 and Professions Code. *See* California Business and Professions ("B&P") Code § 17200.

23 68. Plaintiff and similarly situated employees were not paid all overtime wages and
24 missed meal and rest period premiums.

25 69. Plaintiff is also informed and believes and thereon alleges that such actions and/or
26 conduct constitute a violation of the California Unfair Competition Law ("UCL") (Business and
27 Professions Code 17200 *et seq.*) pursuant to *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal.
28 4th 163 (2000).

70. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to the UCL (including B&P Code § 17203), Plaintiff and similarly situated employees are entitled to restitution as a result of Defendants' unfair business practices, including, but not limited to, unpaid wages and interest pursuant to Business and Professions Code section 17203, 17208 in an amount to be proven at trial.

NINTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(As to All Defendants)

71. Plaintiff incorporates by reference and re-allege paragraphs 1 through 70 as though fully set forth herein.

72. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the following provisions of the Labor Code in their dealings with Plaintiff and other similarly situated current and former employees:

- Violation of Labor Code §§ 510, 1194; IWC Wage Order 5, § 3 (Failure to Pay Overtime Wages);
- Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 5, § 4 (Failure to Pay Minimum Wages);
- Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements);
- Violation of Labor Code §§ 226.3, 1174, 1198; IWC Wage Order 5, § 7(A) (Failure to Maintain Accurate Records);
- Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages);
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order);
- Violation of Labor Code §§ 226.7, 512; IWC Wage Order 5, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof);
- Violation of Labor Code § 226.7; IWC Wage Order 5, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof);

- Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave); and

- Violation of Labor Code § 2802 (Failure to Provide Reimbursements).

73. Plaintiff seeks civil penalties against Defendants as provided in the Labor Code, or if no civil penalty is provided, default penalties pursuant to Labor Code section 2699(f)(2).

74. Plaintiff seeks these civil penalties from Defendants pursuant to Labor Code sections 2699(a) and 2699.3.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount proven at trial;
 - b. Interest for the wages due pursuant to Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
 - d. Liquidated damages pursuant to California Labor Code section 1194.2;
4. As to the Third and Fourth Cause of Action:
 - a. Wages in an amount proven at trial;
 - b. Attorney's fees and costs and interest pursuant to Labor Code sections 218.5 and 218.6, and to California Code of Civil Procedure section 1021.5;
5. As to the Fifth Cause of Action:
 - a. Penalties as provided for in Labor Code section 226, including the greater of

1 all actual damages or fifty dollars (\$50) for the initial pay period in which the
2 violation occurred and one hundred dollars (\$100) per employee for each
3 violation in the subsequent pay periods, but not to exceed four thousand
4 dollars (\$4,000);

5 b. For reasonable attorney's fees and costs incurred pursuant to Labor Code
6 section 226(e);

7 6. As to the Sixth Cause of Action:

8 a. An amount proven at trial;

9 b. Attorney's fees and costs and interest pursuant to Labor Code section 2802(c);

10 7. As to the Ninth Cause of Action:

11 a. For civil penalties as provided for in the Labor Code for each enumerated
12 violation;

13 b. For those Labor Code sections, the violation of which there is no civil penalty
14 provided, the default penalty provided in Labor Code section 2699(f): for any
15 initial violation, one hundred dollars (\$100) for each Aggrieved Employee per
16 pay period; For any subsequent violation, two hundred dollars (\$200) for each
17 Aggrieved Employee per pay period;

18 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;

19 d. For any other remedies as allowed by law and/or deemed appropriate by the
20 Court;

21 8. For such other and further relief as this Court may deem just and proper, including,
22 but not limited to:

23 a. Wages as proved at trial;

24 b. Injunctive and Declaratory relief;

25 c. Reasonable attorney's fees and costs as provided by law; and

26 d. Interest.
27
28

1 Dated: November 6, 2020

Shimoda Law Corp.

2
3 By:



Galen T. Shimoda

Justin P. Rodriguez

Brittany V. Berzin

Renald Konini

Jessica L. Hart

Attorneys for Plaintiff

EXHIBIT C



Shimoda Law Corp.
9401 East Stockton Blvd.
Suite #120
Elk Grove, CA 95624
Ph. (916) 525-0716
Fax (916) 760-3733
www.shimodalaw.com

August 26, 2020

For Online Filing:

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Hudson v. Stockton Nursing and Rehab LLC, et al*

Dear Labor Commissioner,

As counsel for Linda Hudson ("Plaintiff"), I am writing to provide you and the following "employers" notice pursuant to California Labor Code section 2699.3:

Stockton Nursing and Rehab Center, LLC
4545 Shelley Court
Stockton, CA 95207

Eduro Healthcare, LLC
1376 East 3300 South
Salt Lake City, UT 84106

Stockton Nursing and Rehab
4545 Shelley Court
Stockton, CA 95207

Grant Garrison
4545 Shelley Court
Stockton, CA 95207

We are setting forth the "facts and theories" to support each of the counts found within this complaint. Please notify us of your intent to investigate any or all of the claims alleged herein against Stockton Nursing and Rehab Center, LLC, Eduro Healthcare, LLC, Stockton Nursing and Rehab, and Grant Garrison ("Defendants"). Should you decide not to investigate, we request that you allow us to bring the following action on behalf of Plaintiff and all Aggrieved Employees, pursuant to Labor Code section 2699(a). Specifically, Aggrieved Employees shall include, but are not limited to the following: all individuals in California who have, or continue to, perform work for Defendants. Plaintiff is clearly entitled to bring a Private Attorneys General Act ("PAGA") claim for civil penalties on behalf of these individuals pursuant to *Huff v. Securitas Security Services USA, Inc.*, 23 Cal.App.5th 745, 757 (2018)



(finding a plaintiff has PAGA standing if affected by one of the alleged violations; the plaintiff need not have personally experienced all the violations pursued in PAGA action).

A. FACTS

Plaintiff Linda Hudson, a 61-year-old, African American, licensed vocational nurse, began working at the Stockton Nursing and Rehab Facility (formerly Golden Living Hy-Pana), as a Unit Manager in or around 2013. At the time Plaintiff was hired, the facility was owned and operated by Golden Living. Sometime thereafter, in or around December 2014, the facility was taken over by Dycora Transitional Health – Stockton LLC. Dycora operated the facility up until June 2019, when Eduro Healthcare, LLC, took over operations, doing business as Stockton Nursing and Rehab Center, LLC.

Plaintiff held a few positions over the years, including Unit Manager, and most recently Treatment Nurse and Director of Staff Development. Specifically, since Eduro Healthcare, LLC took over operations in June 2019, Plaintiff was a Treatment Nurse until November 2019, when she was promoted to Director of Staff Development and put into a salaried, exempt position.

Over the time that Plaintiff was working for Defendants as a non-exempt employee (June 2019 through November 2019), Defendants failed to pay Plaintiff and Aggrieved Employees for all hours worked. For instance, due to an inadequate number of computers and/or internet connection issues, Plaintiff and Aggrieved Employees often had to wait several minutes before they were able to clock in for work. This issue was particularly problematic for CNAs and kitchen staff because there was only one computer available for them to log in and out of work. Defendants were aware of these issues and knew that they resulted in minimum wages and overtime wages being forfeited by Plaintiff and Aggrieved Employees.

In addition to this, there were other instances where Defendants failed to pay Plaintiff and Aggrieved Employees for all hours worked. Specifically, due to chronic understaffing, there were many instances when Plaintiff and other Aggrieved had to work off-the-clock to get their work done for the day. Even though Plaintiff and Aggrieved Employees would officially clock out for the day, it was routine practice for them to continue to work so they could finish patient treatments and shift paperwork. If these tasks did not get completed, Plaintiff and Aggrieved Employees would both be questioned by supervisors, as well as the incoming shift. Defendants were aware that Plaintiff and Aggrieved Employees were working off-the-clock, but, nonetheless, failed to implement appropriate policies and practices to put the staff and resources in place so that Plaintiff and Aggrieved Employees could complete their work during their regular scheduled hours and/or be paid appropriate overtime for working over eight (8) hours.

Plaintiff and Aggrieved Employees also worked schedules that required them to either take their meal and rest periods late or not at all. For instance, staffing and workflow issue at the facility frequently made it impossible for Plaintiff to take a meal period before the end of her fifth hour of work. Without someone scheduled to relieve Plaintiff of her patient duties, there



was no way she could reasonably leave a patient she was treating and go take a meal or rest break. Defendants were aware of this problem but failed to schedule sufficient staff that would allow Plaintiff and Aggrieved Employees to take their interrupted meal and rest periods. As such, Defendants' staffing and workflow policies discouraged and prevented Plaintiff and Aggrieved Employee from taking their uninterrupted thirty (30) minute meal periods and ten (10) minute rest periods.

Defendants also failed to reimburse Plaintiff and Aggrieved Employees for their required use of personal cell phones for work purposes. Plaintiff and Aggrieved Employees often had to use their cell phones while at work to call doctors, staff, or family members of residents while at work due there being only one company phone available. Defendants were aware of Plaintiff and Aggrieved Employees' regular use of their cell phones for work-related communications, yet they failed to reimburse Plaintiff and Aggrieved Employees.

As a result of Defendants' failure to pay Plaintiff and Aggrieved Employees for all time worked, failure to pay reimbursement expenses, and failure to pay meal and rest period premiums, Defendants failed to provide all final wages owed to Plaintiff and Aggrieved Employees within twenty-four (24) hours of their termination or seventy-two (72) hours of their resignation. In addition, Defendants failed to keep accurate time records and failed to provide Plaintiff and Aggrieved Employees with accurate wage statements. The wage statements Defendants provided to Plaintiff and Aggrieved Employees did not accurately state their total regular hours worked, gross wages and net wages, and all deductions made. Consequently, the wage statements were defective.

In addition to experiencing the wage and hour violations outlined above, Plaintiff was also terminated in retaliation for reporting, and refusing to engage in, potentially unlawful and unsafe working conditions. Specifically, in or around May 21, 2020, Plaintiff and other members of Defendants' staff tested positive for Covid-19 and were required, under the Center for Disease Control ("CDC") regulations, to self-quarantine for fourteen (14) days.

In addition to this, due to Plaintiff's age (61 years old), and her high-risk position, her Primary Care Provider ("PCP") put her off work from May 20, 2020 through June 24, 2020. Despite this, before the fourteen (14) day quarantine period was even up, Plaintiff received a text message from her supervisor, Grant Garrison, requesting that she and other staff come back to work immediately. Even though Plaintiff and other infected nurses were still on a mandated quarantine, Mr. Garrison appeared to believe that sending his employees who, according to Mr. Garrison, "aren't really that sick", back to work was both safe and appropriate. Plaintiff, her family, and her PCP did not feel the same.

As such, in response to this text, Plaintiff explained that she did plan on returning to work, however, she still planned on remaining on quarantine, and then taking her pre-planned and approved vacation until June 8, 2020 – well before her doctor had even approved her return to work.



In this text exchange, Plaintiff also explained: (1) she had read many of the other nurses texts and many of them did, in fact, appear to be very sick and (2) if she came back to work, or encouraged other staff to do so, she would be a “hypocrite” because both her family and her PCP had got involved and told her not to return to work right away due to her advanced age and vulnerability to serious illness or death from Covid-19.

After this, Mr. Garrison apparently sent Plaintiff a text withdrawing Plaintiff’s authorization to take her pre-planned vacation – essentially ordering her back to work immediately regardless of the risk to herself, other staff, and residential patients. Being away from work, Plaintiff, however, did not receive this text until mid-way through her vacation, in order around June 4th or 5th, 2020. By this time, Plaintiff was already away from her home and with family.

Despite the fact that Plaintiff was still recovering from symptoms associated with Covid-19 and despite the directive of Plaintiff’s PCP to stay out of work until June 24, 2020, due to pressure from Defendants, Plaintiff returned to work on Monday, June 8, 2020. Upon arriving to work on June 8, 2020, Plaintiff promptly went to Mr. Garrison’s office to check in. As soon as she arrived, she was informed she was being terminating for setting a bad example for the rest of nurses for taking too much time off work after being diagnosed with Covid-19. Similarly, Plaintiff’s termination paperwork does not deny that she tested positive for Covid-19, but, nonetheless, states that Plaintiff set a bad example to other staff by failing to return to work while on a Covid-19 quarantine and in the week following.

B. ALLEGATIONS AND CHARGES

Count 1 – Violation of Labor Code §§ 510, 1194; IWC Wage Order 5, § 3 (Failure to Pay Overtime Wages)

Labor Code sections 510 and 1194 require employers to pay employees 1 ½ times their regular rate of pay for any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek. Employers must also pay employees 1 ½ times their regular rate of pay for the first eight (8) hours worked on the seventh day of work in any one workweek. Finally, employers must pay employees 2 times their regular rate of pay for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh day of work in any one workweek. As stated above, Plaintiff and Aggrieved Employees worked over eight (8) hours per day and forty (40) hours per week and were not paid all overtime wages owed. Plaintiff and all Aggrieved Employees are entitled to recover all unpaid overtime wages. Failure to pay such wages is against the law.



Count 2 – Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 5, § 4 (Failure to Pay Minimum Wages)

During the period Plaintiff and Aggrieved Employees were employed by Defendants they were entitled to be paid at least the State’s minimum wage rate for each hour that they worked. *See, e.g.*, IWC Wage Order MW-2019; IWC Wage Order No. 5, § (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendants did not pay Plaintiff and Aggrieved Employees for all hours worked. Thus, Plaintiff and Aggrieved Employees were not paid at least the applicable state minimum wage for those hours worked. This is against the law.

Count 3- Violation of Labor Code §§ 226.7, 512 and Wage Order No. 5, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and Wage Order No. 5, section 11(A) require employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked, which is to be taken before the completion of the fifth hour. Labor Code section 512 and Wage Order No. 5, section 11(B) further provide that employers may not employ employees for a work period of more than ten (10) hours per day without providing the employee with a second meal period of thirty (30) minutes; however, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant meal periods pursuant to California law. Defendants also failed to pay any meal period premiums for their failure to provide meal periods. This was in violation of the law.

Count 4 – Violation of Labor Code § 226.7 and Wage Order No. 5, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and Wage Order No. 5, section 12(A) require employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or major fraction thereof worked. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant rest periods pursuant to California law. Defendants also failed to pay any rest period premiums for their failure to provide rest periods. This was in violation of the law.

Count 5 – Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)

Labor Code section 226 requires employers to furnish to employees with “an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned,



(6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer . . . and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee” For the reasons stated above, Defendants failed to comply with these requirements with respect to Plaintiff and Aggrieved Employees. This is in violation of the law.

Count 6 – Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)

Labor Code sections 201-203 require that all wages, including minimum wages, overtime wages, and meal and rest period premiums, be paid to employees upon separation and/or termination of employment. Here, for the reasons stated above, Plaintiff and Aggrieved Employees did not receive all final wages due and owing to them at the time of termination or seventy-two (72) hours thereafter as required by Labor Code sections 201-203. This is in violation of the law.

Count 7 – Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)

Labor Code section 2802(a) states that “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” Defendants failed to pay any reimbursements for the use of cell phones for work purposes by Plaintiff and Aggrieved Employees. This was in violation of the law.

Count 8– Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)

Labor Code section 558 states that it is unlawful for any employer, or other person acting on behalf of an employer, to violate or cause to be violated any of sections 500 to 558.1 of the Labor Code or any order of the Industrial Welfare Commission. Similarly, Labor Code section 558.1 states that it is unlawful for any employer or other person acting on behalf on an employer to violate, or cause to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, as well as Sections 203, 226, 226.7, 1193.6, 1194, or 2802 of the Labor Code. As described above, Defendants, by and through Defendants agents, violated Plaintiff and Aggrieved Employees’ rights provided for under Labor Code sections 558 and 558.1 as well as the incorporated Wage Orders and incorporated statutes therein. Grant Garrison was an officer, director, shareholder, and/or managing agent of Defendants responsible for the violations stated herein as her was in a position of authority with the power and responsibility to monitor, institute, and/or modify the unlawful practices, but chose to ratify them instead. This is against the law.



Count 9 – Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)

Labor Code section 226.3 provides that any employer who fails to maintain records required by Labor Code section 226(a) or provide records required by 226(a) shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation. Labor Code section 1174(d) provides that employers must keep and maintain accurate payroll records showing the hours worked daily by, and the wages paid to, employees. Defendants failed to maintain the accurate records required by law and, instead, maintained incomplete, inaccurate records regarding Plaintiff and Aggrieved Employees' wage records and hours worked. This was against the law.

Count 10 – Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)

Labor Code sections 246, *et seq.*, mandate that employers must provide California employees, who work thirty (30) or more days within a year for the employer, paid sick leave of at least one (1) hour for every thirty (30) hours worked that begins to accrue at the commencement of employment. An employer may use a different accrual method, other than providing one hour per every 30 hours worked, provided that the accrual is on a regular basis so that an employee has no less than twenty-four (24) hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period. An employer may limit the use of sick leave to either twenty-four (24) hours or the equivalent of three (3) days, whichever is greater, during a year period. However, employers using an accrual method rather than a lump sum method must allow employees to accrue up to forty-eight (48) hours or the equivalent of six (6) days at any given time. Employers must authorize employees to take paid sick leave under the conditions set forth in the Healthy Workplaces, Healthy Families Act of 2014 ("HWHFA") for the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member. Any sick leave taken must be paid at the employee's regular rate of pay. For the reasons state above, Defendants failed to provide Plaintiff and Aggrieved Employees with sick leave meeting the requirements set forth in HWHFA. Plaintiff will be seeking equitable, injunctive, and restitutionary relief to remedy these violations.

Count 11 – Violation of Labor Code § 1102 (Whistleblower Retaliation)

Labor Code Section 1102.5(a) states that an employer may not "make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a . . . person with authority over the employee, or to another employee who has authority to investigate, discover, or correct the violation or noncompliance, . . . if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or



a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties."

An employer also may not "retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information, to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, . . . if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties. *See* Labor Code § 1102.5(b).

Lastly, an employer may "not retaliate against an employee for refusing to participate in an activity that would result in a violation of state or federal statute, or a violation or noncompliance with a state or federal rule or regulation." *See* Labor Code § 1102.5(c).

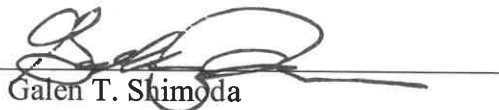
In this case, Plaintiff was immediately retaliated against and terminated for reporting to Defendants that it was unsafe, and potentially unlawful, for her and other staff infected and sick from Covid-19 to return to work. Plaintiff was further retaliated against for refusing to report to work, and encouraging other staff to do so, during a Covid-19 quarantine out of concern that doing so was both unlawful and unsafe.

If you have any questions or require any further information regarding the facts and theories to support these claims, do not hesitate to contact our office.

Very truly yours,

Shimoda Law Corp.

By:


Galen T. Shimoda

GTS/jlh

cc: Client via e-mail

1 *Hudson v. Stockton Nursing and Rehab LLC, et al*

2 **PROOF OF SERVICE — CCP §§ 1013a and 2015.5**
3 **and California Rules of Court, Rule 1.21 and Rule 2.150**

4 I, Melissa A. Phillips, declare that:

5 I am a citizen of the United States and am over the age of eighteen years and not a party to
6 the within above-entitled action.

7 On August 26, 2020, I served the following documents on the party below:

- 8 • Private Attorney General Act Letter

9

10 Stockton Nursing and Rehab Center, LLC 4545 Shelley Court Stockton, CA 95207	Eduro Healthcare, LLC 1376 East 3300 South Salt Lake City, UT 84106
11 Stockton Nursing and Rehab 4545 Shelley Court Stockton, CA 95207	Grant Garrison 4545 Shelley Court Stockton, CA 95207

12

13 [XXX] [By Certified Mail] I am familiar with my employer's practice for the collection
14 and processing of correspondence for mailing with the United States Postal
15 Service and that each day's mail is deposited with the United States Postal
16 Service that same day in the ordinary course of business. On the date set forth
17 above, I served the aforementioned document(s) on the parties in said action by
placing a true copy thereof enclosed in a sealed envelope with postage thereon
fully prepaid, for collection and mailing on this date, following ordinary business
practices, at Elk Grove, California, addressed as set forth above.

18 [] [By Personal Service] By personally delivering a true copy thereof to the office
of the addressee above.

19 [] [By Electronic Mail] I e-mailed the documents(s) to the person(s) shown
20 above. No error was reported by the e-mail service that I used.

21 [] [By Overnight Courier] By causing a true copy and/or original thereof to be
22 personally delivered via the following overnight courier service: _____.

23 I declare under penalty of perjury under the laws of the State of California that the foregoing
24 is true and correct, and that this declaration was executed on August 26, 2020, at Elk Grove,
25 California.

26 
27 Melissa A. Phillips
28

EXHIBIT D



Class Action Settlement Administration

3194-C Airport Loop Drive
Costa Mesa, CA 92626
800-779-2104 www.simpluris.com

Estimate #:	13237	Prepared By:	Kimberly Sutherland
Estimate Date:	4/27/2021	Direct Dial #	321-223-5067
		Email:	ksutherland@simpluris.com

Attorney/Client:	<u>Attorney</u> Jessica Hart	Attorney/Client:	<u>Defense Attorney</u>
Firm:	SHIMODA LAW	Firm:	
Email:	Brittany Berzin <bberzin@shimodalaw.com>	Email:	

Case Name: Hudson v. Stockton Nursing and Rehab Center: Distribution

Not to Exceed Fee:	\$3,500
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Terms:

1) Estimated Fees assume that Simpluris will receive data in a Single Excel file with no substantial change in class size or response rate.

Total Possible Class Size:	244	Undeliverable Rate:	25%
Response Rate:	0%	Call Rate:	
Mailing Document Language:	English	Redistribution:	None
Reminder Post Card	No	States	One
Unclaimed Funds	Cy Pres		

Case Setup

Data Compilation - Develop Case Specific Response Tracking - Error Reports			
Category	Unit Value	# of Units	Total
Project Manager - Case Setup	\$75.00	1	\$75.00
Database Manager - Initial Data Analysis	\$140.00	1	\$140.00
Total			\$215.00

Distribution

Setup a Disbursement Account			
Print & Mail Checks to Class Members- 1099's-- File Reports with Appropriate Federal & State Taxing Authorities			
Account Management & Reconciliation.			
Category	Unit Value	# of Units	Total
Disbursement Data Preparation	\$140.00	1	\$140.00
Disbursement Manager - Data Validation	\$75.00	1	\$75.00
Setup Banking Account/QSF	\$300.00	1	\$300.00
Mailing Supervisor	\$50.00	2	\$100.00
NCOA	\$25.00	1	\$25.00
Print & Mail-Check, 1099W-2/ 1- Page notice included	\$5.00	244	\$1,220.00
Postage	\$0.55	244	\$134.20
Process Returned Checks	\$0.50	49	\$24.40
Skip Trace Search Undeliverable Checks	\$5.00	49	\$244.00
Remail Checks	\$5.00	49	\$244.00
QSF Account Reconciliation	\$250.00	1	\$250.00
Individual Federal/State Tax Reporting	\$250.00	1	\$250.00
QSF Reporting/Declaration	\$300.00	1	\$300.00
QSF Annual Tax Preparation Fee, 2021	\$750.00	1	\$750.00
Reissuing Checks/Mailing	\$5.00	1	\$5.00
Reissuing W2s/1099s	\$5.00	1	\$5.00
Disbursement Manager	\$125.00	1	\$125.00
Total			\$4,191.60



Class Action Settlement Administration

3194-C Airport Loop Drive
Costa Mesa, CA 92626
800-779-2104 www.simpluris.com

Case Wrap Up

Send Final Reports to Counsel			
Category	Unit Value	# of Units	Total
Data Manager-Final Reporting	\$125.00	0	\$0.00
Clerical-Clean Up Any Misc	\$50.00	0	\$0.00
Project Manager-Wrap-up Final Issues	\$125.00	0	\$0.00
Total			\$0.00

Postage	\$134.20	Total Case Costs	\$4,406.60
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All administration services to be provided by Simpluris to Client, are provided subject to the following terms and conditions:

1. **Services.** Simpluris agrees to provide Client those services set forth in the Bid (the "Services") to which these terms and conditions are attached and which has been provided to Client. As compensation for such Services, Client agrees to pay the fees for Services outlined in the Bid. However, Client such fees for Services are estimated based on the requirements provided by Client and actual fees charged by Simpluris may be greater or less than such estimate and Client will be responsible for the payment of all such fees.
2. **Billing and Payment.** Simpluris will invoice Client on a regular basis unless a specific timeframe is otherwise set forth in the Bid. Client shall pay all invoices within 30 days of receipt. Amounts unpaid after thirty (30) days are subject to a service charge at the rate of 1.5% per month or, if less, the highest rate permitted by law. Services are not provided on a contingency basis and Client shall remain liable to Simpluris for all fees for the Services, regardless of any court decisions, and/or actions by the parties, including disapproval or withdrawal of a settlement.
3. **Retention of Documents.** Unless directed otherwise in writing by the Client, Simpluris will destroy all undeliverable mail (except for undeliverable checks) on the date that it is processed and retained in Simpluris' system. Simpluris will maintain records to establish that the subject mail is undeliverable. Simpluris will retain undeliverable checks until the Qualified Settlement Fund is closed. Simpluris will also retain all other class member and putative class member correspondence (including without limitation, claims forms and opt out forms) for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later. Lastly, Simpluris will retain bank & tax documents for such period of time as it determines is required to maintain compliance with various federal and state requirements.
4. **Limitation of Liability; Disclaimer of Warranties.** Simpluris warrants that it will perform the Services diligently, with competence and reasonable care. Simpluris' only obligation will be to correct any non-conformance with the foregoing warranty. In no event will Simpluris be liable for any lost profits/opportunities, business interruption or delay or, special, consequential, or incidental damages incurred by Client relating to the performance of the Services, regardless of whether Client's claim is for breach of contract, tort (including negligence and strict liability) or otherwise. Under no circumstances will Simpluris be liable to Client for any claims, losses, costs, penalties, fines, judgment or damages, including court costs and reasonable attorney's fees (collectively, "Losses"), whether direct or indirect, arising out of, related to, or in connection with Services in an amount in excess of the total fees charged or chargeable to Client for the particular portion of the Services affected by Simpluris' omission or error. THE WARRANTIES SET FORTH IN THIS SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.
5. **Force Majeure.** To the extent performance by Simpluris of any of its obligations hereunder is substantially prevented by reason of any act of God or because of any other matter beyond Simpluris' reasonable control, then such performance shall be excused and this Agreement, at Simpluris' option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.
6. **Rights in Data.** Client agrees that it will not obtain, nor does Simpluris convey, any rights of ownership in the programs, system data, or materials provided or used by Simpluris in the performance of the Services.
7. **Electronic Communications.** During the provision of the Services the parties may wish to communicate electronically with each other at a business e-mail address. However, the electronic transmission of information cannot be guaranteed to be secure or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. Accordingly, each party agrees to use commercially reasonable procedures to check for the then most commonly known viruses and to check the integrity of data before sending information to the other electronically, but each party recognizes that such procedures cannot be a guarantee that transmissions will be virus free. It remains the responsibility of the party receiving an electronic communication from the other to carry out a virus check on any attachments before launching any documents whether received on disk or otherwise.
8. **Notice.** Any notice required or permitted hereunder shall be in writing and shall be delivered personally, by, or sent by registered mail, postage prepaid, or overnight courier and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service. Notice should be addressed to an officer or principal of Client and Simpluris, as the case may be.
9. **Waiver.** Failure or delay on the part of a party to exercise any right, power or privilege hereunder shall not operate as a waiver thereof or any of other subject, right, power or privilege.
10. **Termination.** Client may terminate the Services at anytime upon 30 days prior written notice to Simpluris. Termination of Services shall in no event relieve Client of its obligation make any payments due and payable to Simpluris in respect of Services rendered up to the effective date of Termination. Simpluris may terminate this Agreement (i) for any reason upon no less than 90 days prior written notice to the Client; or (ii) upon 15 calendar days' prior written notice, if the Client is not current in payment of fees.
11. **Jurisdiction.** The parties hereto irrevocably and unconditionally submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby irrevocably and unconditionally waive any objection to the laying of venue of any such suit, action or proceeding in such Court.
12. **Survival.** Any remedies for breach of this Agreement, this Section and the following Sections will survive any expiration or termination of this Agreement: Section 4 - Limitation of Liability; Disclaimer of Warranties, Section 6 – Rights in Data, and Section 12- Jurisdiction, 14 -Confidentiality, and Section 15 – Indemnification.
13. **Entire Agreement.** These Terms and Conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.
14. **Confidentiality.** Simpluris maintains reasonable and appropriate safeguards to protect the confidentiality and security of data provided by Client to Simpluris in connection with the Services. If, pursuant to a court order or other proceeding, a third party requests that Simpluris to disclose any confidential data provided by or for Client, Simpluris will promptly notify the Client unless prohibited by applicable law. Client will then have the option to provide Simpluris with qualified legal representation at Client's expense to defend against such request. If, pursuant to a court order, Simpluris is required to disclose data, produce documents, or otherwise act in contravention of the obligation to maintain confidentiality set forth in these terms and conditions, Simpluris will not be liable for breach of said obligation.
15. **Indemnification.** Client will indemnify and hold Simpluris (and the officers, employees, affiliates and agents harmless against any Losses incurred by Simpluris, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by Simpluris in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by Simpluris pursuant to Client's instructions.
16. **Severability.** If any term or condition or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
17. **Database Administration.** Simpluris' database administration for Client assumes that Client will provide complete data that includes all information required to send notifications and calculate and mail settlement payments. Data must be provided in a complete, consistent, standardized electronic format. Simpluris' standardized format is Microsoft Excel, however, Simpluris may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by Simpluris on a time and materials basis according to Simpluris' Standard Rates.

Simpluris Security Summary – White Paper

Simpluris is committed to the security and overall protection of not only our data and information but our client's data and information, as well. As a demonstration of our commitment, we maintain SOC 2 Certification which requires strict adherence to policies and procedures surrounding information security, including processing and storage of confidential customer data. Simpluris supports a comprehensive, written Information Security Program that complies with all applicable laws and regulations (e.g. HIPAA, Gramm-Leach-Bliley Act, MA 201 CMR 17.00) and is designed to (a) ensure the security, privacy and confidentiality of Client and Class Member Information, (b) protect against any reasonably anticipated threats or hazards to the security or integrity of Client or Class Member Information, and (c) protect against unauthorized access to, use, deletion, or modification of Class Member Information. Simpluris has designated specific employees to be responsible for the administration of its Information Security Program. Also, Simpluris regularly and routinely monitors, tests, and updates our Information Security Program.

Simpluris uses Client and Class Member Information only for the purposes for which its' clients provide it, as described in any Agreements or Court Orders governing the provision of Simpluris' services in any particular case. Simpluris maintains a process for identifying, assessing, and mitigating the risks to Class Member Information in each relevant area of Simpluris' operations. At Simpluris, we continuously evaluate the effectiveness of the safeguards for controlling these risks to data and bank accounts. Simpluris restricts access to Class Member Information only to those employees, agents, or subcontractors who need to know the information to perform their jobs. Simpluris performs background checks of all its employees that will have access to Sensitive Personal Information, including a review of their references, employment eligibility, education, and criminal history to ensure they do not pose a risk to the security of Client or Class Member Information.

Simpluris adheres to the following industry best practices to safeguard its systems which process, store or transmit Client and Class Member Information:

- Identity and Access Management;
- Complex passwords are routinely and regularly changed;
- Role-based access control systems to limit individual employee access to network applications and systems based on their particular job role and function;
- Data Loss Prevention and Intrusion Prevention System software at multiple layers to prevent from internal and external threats of data leaks, malicious activity, and policy violations
- Encryption of Class Member Information if transmitted over public or wireless networks (e.g., via email, FTP, the Internet, etc.);
- Implementation of a Secure File Transfer system (using SSL encryption) for transmitting documents back and forth to clients;
- Encryption of servers, portable media, laptops, desktops, smartphones, mobile devices, and new technologies that store Class Member Information;
- Complex password authentication for remote access to Company's networks;
- Upon hire and annually after that, training of all employees with access to Class Member Information, (including any agents, and subcontractors with access to Class Member Information) about their obligations to implement the Information Security Program;
- Strict disciplinary measures for employees who violate the Information Security Program;
- Preventing terminated employees from accessing Class Member Information;
- Appropriately configured and updated firewall, antivirus, and spyware software;
- Prompt application of vendor-recommended security patches and updates to systems and other applications to avoid any adverse impact on Class Member Information;
- Separation of Duties;
- Infrastructure and Physical Security;
- Business Continuity Planning;
- Disaster Recovery Planning

EXHIBIT E

Hudson Costs			
Client	Entered	Description	Amount
Hudson, Linda	8/6/2020	Administration/Copy Fee - Class Action - Phone, Fax, Scan, Copying, Non-Certified/Courier Postage, Lexis Legal Research Fees	\$500.00
Hudson, Linda	8/6/2020	Payment for Records - Sacramento Court Search	\$1.00
Hudson, Linda	8/26/2020	Payment to LWDA - PAGA Filing Fee	\$75.00
Hudson, Linda	8/26/2020	Certified Mail - PAGA Letters to Employers	\$16.80
Hudson, Linda	10/7/2020	Payment to Court - Complaint Fee Superior Court	\$435.00
Hudson, Linda	10/7/2020	E-Filing Charge - Complaint	\$21.75
Hudson, Linda	11/3/2020	ALS Service Fee - Proof of Service of Summons to Dycora Transitional Health - Stockton, LLC inv 156969	\$83.30
Hudson, Linda	12/7/2020	ALS Service Fee - Grant Garrison - inv 158290	\$82.50
Hudson, Linda	1/19/2021	ALS Service Fee - First Amended Complaint to Dycora Transitional Health	\$80.00
Hudson, Linda	3/8/2021	Mediation - Mediation fee to Lisa Klerman	\$7,500.00
Hudson, Linda	5/4/2021	Mediation - Attorney Lunch (GS, JH, EG)	\$53.61
Hudson, Linda	5/4/2021	Meals - Mediation meal	\$67.00
Hudson, Linda	5/18/2021	Experts - Berger analysis fee	\$1,687.50
Hudson, Linda	Anticipated	Payment to Court - Complex Fees	\$1,000.00
Hudson, Linda	Anticipated	Service Fee to Court - Complex Fees	\$40.00
Hudson, Linda	Anticipated	Service Fee to Court - Case Management Statement	\$40.00
Hudson, Linda	Anticipated	Payment to Court - Preliminary Approval Motion	\$60.00
Hudson, Linda	Anticipated	Service Fee to Court - Preliminary Approval Motion	\$40.00
Hudson, Linda	Anticipated	UPS to OC - Preliminary Approval Motion	\$32.00
Hudson, Linda	Anticipated	Payment to Court - Final Approval Motion	\$60.00
Hudson, Linda	Anticipated	Service Fee to Court - Final Approval Motion	\$40.00
Hudson, Linda	Anticipated	UPS to OC - Final Approval Motion	\$32.00
Hudson, Linda	Anticipated	Service Fee to Court - Case Management Statement	\$40.00
Hudson, Linda	Anticipated	Service Fee to Court - Compliance Declaration	\$40.00
Total:			\$12,027.46

EXHIBIT F

CALIFORNIA SUPERIOR COURT
FOR THE COUNTY OF SAN JOAQUIN

LINDA HUDSON, individually and on behalf of
all other similarly situated employees,

Plaintiff,

vs.

STOCKTON NURSING AND REHAB
CENTER, LLC., a California Limited Liability
Company; EDURO HEALTHCARE, LLC, a
Delaware Limited Liability Company; GRANT
GARRISON, an individual; and DOES 1 to 100,
inclusive,

Defendants.

Case No. **STK-CV-UOE-2020-0008507**

CLASS ACTION

**NOTICE OF PROPOSED CLASS ACTION
AND PAGA SETTLEMENT, AND HEARING
DATE FOR FINAL COURT APPROVAL OF
SETTLEMENT**

ATTENTION: all non-exempt employees who have or continue to work for Defendants at the Stockton Nursing and Rehab Center in California at any time during the period of June 1, 2019, through [Preliminary Approval Date], or (2) 60 days after the *Joint Stipulation Regarding Class Action PAGA Settlement and Release* is signed, whichever is earlier. (the “Class Members”).

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE OR TO OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

Pursuant to an order from the San Joaquin County Superior Court (“Court”) granting preliminary approval of this class action settlement, entered on [REDACTED], you are receiving notice of a proposed class action settlement between Plaintiff Linda Hudson (“Plaintiff” or “Class Representative”), and Defendants Stockton Nursing and Rehab Center, LLC. and Eduro Healthcare, LLC (“Defendants”) on behalf of Class Members as defined above. You are receiving this notice because Defendants’ records indicate you fall within the definition of “Class Member” and/or “Aggrieved Employee.” Defendants’ records also indicate that you worked [REDACTED] workweeks during the applicable Class Period (as defined below) and [REDACTED] workweeks during the PAGA Claim Period, which means your share of the settlement proceeds is estimated to be [REDACTED]. Your actual share of the settlement proceeds will vary depending on the total number of Class Members that choose to participate and the resolution of any workweek disputes as described in this notice.

The terms of the Agreement and a description of the case are identified in this notice. Pursuant to the Court’s order, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

I. BACKGROUND OF THE CASE

On October 7, 2020, Plaintiff, a former employee, filed a Complaint against Defendants in the California Superior Court for the County of San Joaquin on behalf of herself and Class Members. The term “Action” means this putative class action pending in the Superior Court of California for the County of San Joaquin, Case No. STK-CV-UOE-2020-0008507. The Class Period is from June 1, 2019, to either (1) [date preliminary approval is signed], or (2) 60 days after the *Joint Stipulation Regarding Class Action PAGA Settlement and Release* is signed, whichever is earlier. (the “Class Period”).

In the Action, Plaintiff sought to obtain unpaid wages, interest, statutory penalties, civil penalties, fees, and costs on behalf of herself and Class Members. Plaintiff alleged that Defendants violated California law by 1) failing to pay overtime wages (Labor Code §§ 510, 1194; IWC Wage Order 5, § 3; 2) failing to pay minimum wages (Labor Code §§ 1194, 1197.1; IWC Wage Order 5, § 4; 3) failing to provide meal and rest periods (Labor Code §§ 512, 226.7; IWC Wage Order 5, §§ 11(A), 12(A)); 4) failing to pay

reimbursement expenses (Labor Code § 2802); 5) failing to provide accurate itemized statements (Labor Code §§ 226, 226.3); 6) failing to pay final wages (Labor Code §§ 201-203, 256); 7) failing to pay waiting time penalties (Labor Code §§ 201-203); 8) violating Labor Code §§ 558 and 558.1 regulating hours and days of work in any Industrial Welfare Commission Order; 9) failing to keep accurate time records (Labor Code § 1174); and 10) engaging in unfair competition (Business & Professions Code § 17200, *et seq.*). Plaintiff also alleged liability for civil penalties under the Private Attorneys General Act (“PAGA Claims”).

Defendants have denied all of Plaintiff’s allegations. The Action has been actively litigated. There have been on-going investigations, and there has been an exchange of extensive documentation and information. Furthermore, the Parties have participated in a full day mediation facilitated by a neutral third party. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Agreement, Defendants continue to deny all allegations and claims. Defendants have entered into this settlement to fully, finally, and forever resolve this Action, based on the terms set forth in the Agreement, in order to avoid the burden and expense associated with ongoing litigation.

The Parties have entered into a Joint Stipulation of Regarding Class Action PAGA Settlement and Release (“Agreement”), which has been preliminarily approved by the Court. The Agreement applies to any and all Class Members as defined above. “Class Member” does not include persons who submit valid request to opt out (as explained below). If you are a Class Member, you have the opportunity to participate in the settlement, or to exclude yourself (“opt out”) from portions of the settlement. This notice is to advise you of how you can either participate in the settlement or be excluded from portions of the settlement.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Agreement, Defendants agrees to pay a total sum of Four Hundred and Twenty Thousand Dollars (\$420,000) (“Gross Settlement Amount”). Deducted from this Gross Settlement Amount will be sums approved by the Court for attorneys’ fees not to exceed 35% of the Gross Settlement Amount, which equals \$147,000, attorneys’ costs not to exceed \$15,000, Claims Administrator Costs estimated not to exceed \$7,500, Class Representative’s Enhancement Payment of \$12,500, \$25,000 for alleged PAGA penalties (the “PAGA Payment”), and any employer side taxes attributable to payments allocated as wages. The amount remaining after deducting all of these items from the Gross Settlement Amount will be the “Net Settlement Amount” for distribution to all Class Members. As explained further below, the amount of each Class Member’s share of the Net Settlement Amount will depend on the number of weeks worked by participating Class Members during the Class Period. Of the \$25,000 allocated to resolving the PAGA claims, 75% of the PAGA Payment will be paid to the State of California Labor and Workforce Development Agency and 25% of the PAGA Payment will be divided among Aggrieved Employees, which are defined as all non-exempt employees who have or continue to work for Defendants at the Stockton Nursing and Rehab Center in California.

The number of weeks you worked during the Class Period and your estimated share of the Net Settlement Amount and PAGA Payment (“Claim Amount”) is stated on the first page of this notice. The actual amount received may be more or less than the amount stated depending on the actual number of weeks worked by participating Class Members, the resolution of any disputes regarding workweeks, and on the distributions finally approved and allocated by the Court. However, whether Class Members opt out will have no effect on Aggrieved Employees’ allocations for the PAGA claims.

B. Claim Amounts and Allocation Between Class Members and Aggrieved Employees

Defendants will pay Claim Amounts through the Claims Administrator, as described below, to each Class Member who does not opt out of the settlement and to Aggrieved Employees. All Claim Amounts will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action that all Claim Amounts payable to eligible Class Members will be allocated from the Net Settlement Amount and paid as 2/3 for disputed interest, statutory penalties, and other non-wage damages for which IRS Forms 1099-MISC will issue and One Third for disputed wages for which IRS Forms W-2 will issue. The PAGA Payment to Aggrieved employees will be paid as 100% for civil penalties.

Payment to Class Members who do not opt out and Aggrieved Employees will not require the submission of a claim form. Each Class Member’s share will be determined by dividing their total weeks worked within the Class Period by the total weeks worked by all Class Members within the Class Period. That fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member’s individual share of the Net Settlement Amount. Each Aggrieved Employee’s share of the 25% portion of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA Claim Period by the total weeks worked by all Aggrieved

Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share. Receipt of the Claim Amounts will not entitle any Class Member or Aggrieved Employee to additional compensation or benefits under any compensation, retirement or benefit plan or agreement in place during the period covered by the Settlement.

C. Calculations to Be Based on Defendants' Records and Resolution of Workweek Disputes

For each Class Member, the amount payable will be calculated by the Claims Administrator from Defendants' records. Defendants' records will be presumed correct unless evidence to the contrary is provided to the Claims Administrator. Defendants' records and any additional evidence will be reviewed by the Claims Administrator in the event of a dispute about the number of workweeks worked by an individual Class Member. If a Class Member disputes the accuracy of Defendants' records, all supporting documents evidencing additional workweeks must be submitted by the Class Member. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than [REDACTED]. The dispute will be resolved by the Claims Administrator based on the records and evidence provided. The Claims Administrator's decision on all disputes will be final and binding.

D. Release of Claims

For those Class Members who do not opt out and Aggrieved Employees, the Agreement contains the following releases:

Class members who do not opt out will be deemed to have released all claims contained in the Complaint, and any additional wage and hour claims that could have been brought based on the facts alleged in the operative Complaint, through the Class Period. This release excludes the release of claims not permitted by law.

Aggrieved Employees will be deemed to have released all claims that were brought under the Private Attorneys General Act, Labor Code § 2698 *et seq.*, based on the facts or claims alleged in the Action during the PAGA Claim Period. Aggrieved Employees cannot opt out of this waiver of claims.

The individuals released ("Released Parties") include means Defendants, as well as Defendants' officers, shareholders, directors, agents, employees, attorneys, and insurers.

Class Members can talk to one of the lawyers appointed as Class Counsel (listed below) for free or talk to their own lawyer if Class Members have questions about the released claims and what they mean.

E. Attorneys' Fees and Costs

Defendants have agreed to pay Class Counsel's attorneys' fees and costs to be approved by the Court, up to a maximum of 35% of the Gross Settlement Amount which equals \$147,000, and attorneys' costs not to exceed \$15,000. Class Counsel's attorneys' fees and costs will be paid and deducted from the Gross Settlement Amount.

F. Reasonableness of Settlement

All attorneys for the Parties to the Action believe the amounts payable to Class Members, Aggrieved Employees, and amounts for attorneys' fees and costs requested are fair and reasonable. The Class Representative and Class Counsel support this Settlement. Among the reasons for support are the defenses to liability potentially available to Defendants, the inherent risk of trial on the merits, the risk of denial of class certification, and the delays associated with litigation.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Participating in the Settlement

If you wish to participate in the settlement and believe your workweek information is accurate, **you do not need to take any further action**. Payment will be automatically made to you consistent with the terms of the Agreement and Court Order. If you wish to dispute the workweek calculation, you may follow the procedures outlined in Section II.C above. California law protects Class Members from retaliation based on their decision to participate in the Settlement.

B. Excluding Yourself from the Settlement

If you do not wish to participate in the settlement as a Class Member, you may be excluded (i.e., “opt out”) by submitting a timely written request to the Claims Administrator. The request to opt-out must (a) state your full name and date of birth; (b) a statement that you do not want to be a Class Member, do not want to participate in the settlement, and/or wants to be excluded from this settlement; (c) identify the case name and number (i.e. *Hudson v Stockton Nursing and Rehab Center, LLC, et al.*, STK-CV-UOE-2020-0008507); (d) be signed; and (e) be post-marked no later than [redacted]. The request to opt out must be signed, dated and mailed by First Class U.S. Mail or the equivalent, to:

[admin info]

The request to opt out must be postmarked no later than [redacted]. If you submit a request to opt out which is not postmarked by [redacted], your request to opt out will be rejected, and you will be bound by the release and all other terms of the Agreement. If the request to opt out is sent from within the United States it must be sent through the United States Postal Service by First Class Mail, or the equivalent. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request to opt out. Any Class Member who submits a complete and timely request to opt out shall, upon receipt by the Claims Administrator, no longer be a Class Member and not receive their share of the class settlement payment. Aggrieved Employees cannot opt out of this Agreement and will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

C. Objection to Settlement

If you do not opt out of the settlement, you can object to the terms of the Agreement. However, if the Court rejects your objection, you will still be bound by the terms of the Agreement. You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object. The objection must (a) state your full name and date of birth; (b) provide evidence that you are, in fact, a Class Member; (c) state the reasons for the objection(s), including any legal analysis and/or supporting documentation; (d) identify the case name and number (i.e. *Hudson v Stockton Nursing and Rehab Center, LLC, et al.*, STK-CV-UOE-2020-0008507) (e) be signed; and (f) be post-marked no later than [redacted]. The objection must be sent to the Claims Administrator at the address identified in section III.B and to counsel for Plaintiff and Defendants at the addresses identified in section IV of this notice.

If you have submitted a written objection as outlined above, you may also appear at the Final Approval Hearing, either in person or through your own attorney, to state your objection. However, you must file a notice of intent to appear with the Court and serve the notice on counsel for Plaintiff and Defendants. If you appear through your own attorney, you are responsible for paying that attorney.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

After final approval of the settlement has been granted by the Court, each and every Class Member who does not opt out of the settlement and Aggrieved Employee, will have released Defendants and the Released Parties from the released claims described above. In other words, if you were employed as a Class Member by Defendants in California during the Class Period, and you do not exclude yourself from the settlement, you will be deemed to have entered into this release and to have released the above-described claims. In addition, you will be barred from ever suing Defendants and the Released Parties with respect to the claims covered by this settlement. If the settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Department ____, [address] on [redacted] at [redacted] to determine whether the Agreement should be finally approved as fair, reasonable and adequate. The Court also will be asked to approve Class Counsel’s request for attorneys’ fees and costs. The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at this hearing, unless you wish to object to the settlement.

VI. ADDITIONAL INFORMATION

If you want additional information about this lawsuit and its proceedings, you can contact Class Counsel or Defendants’ Counsel

as follows:

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Jessica L. Hart
Shimoda Law Corp.
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733
On behalf of Plaintiff

Jose-Manuel A De Castro
De Castro Law Group, P.C.
7590 N Glenoaks Blvd, Ste 201
Burbank, CA 91504-1011
Phone: 310-270-9877
Fax: 310-341-2330
On behalf of Defendants

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. IF YOU HAVE ANY QUESTIONS, CALL [number]

BY ORDER OF THE COURT

EXHIBIT G

1 Galen T. Shimoda (Cal. State Bar No. 226752)
2 Justin P. Rodriguez (Cal. State Bar No. 278275)
3 Brittany V. Berzin (Cal. State Bar No. 325121)
4 Jessica L. Hart (Cal State Bar No. 331441)

Shimoda Law Corp.

5 9401 East Stockton Boulevard, Suite 120
6 Elk Grove, CA 95624
7 Telephone: (916) 525-0716
8 Facsimile: (916) 760-3733

9 Attorneys for Plaintiff LINDA HUDSON
10 individually and on behalf of similarly situated employees

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

11 LINDA HUDSON, individually and on behalf
12 of all other similarly situated employees,

13 Plaintiff,

14 vs.

15 STOCKTON NURSING AND REHAB
16 CENTER, LLC, a California Limited Liability
17 Company; EDURO HEALTHCARE LLC, a
18 Delaware Limited Liability Company;
19 GRANT GARRISON, an individual; and
20 DOES 1 to 100, inclusive,

21 Defendants.

Case No. STK-CV-UOE-2020-0008507

**DECLARATION OF GALEN T. SHIMODA
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT**

Date:

Time: 9:00 a.m.

Dept.: 11B

Judge: Robert T. Waters

Filed: October 7, 2020

FAC Filed: November 06, 2020

Trial Date: none set

1 I, Galen T. Shimoda, declare:

2 1. I am an attorney at law duly admitted to practice before all the courts of the State of
3 California and an attorney of record for Plaintiff Linda Hudson ("Plaintiff") herein. I am making this
4 declaration on behalf of the named Plaintiff, the putative class members, and in support of Plaintiff's
5 Motion for Preliminary Approval of Class Action and PAGA Settlement ("Motion"). A true and
6 correct copy of the Joint Stipulation Regarding Class Action and PAGA Settlement and Release
7 ("Agreement") in this matter is filed with this Motion as Exhibit A.

8 2. This case was brought as a wage and hour class action based on Plaintiff's contention
9 that Defendants Stockton Nursing and Rehab Center, LLC, Eduro Healthcare LLC, and Grant Garrison,
10 ("Defendants") 1) Failed to Pay Overtime (Labor Code §§ 510, 1194); 2) Failed to Pay Minimum
11 Wages (Labor Code § 1194); 3) Failed to Provide Meal Periods (Labor Code §§ 512, 226.7); 4) Failed
12 to Provide Rest Periods (Labor Code §§ 226.7); 5) Failed to Provide Accurate Wage Statements (Labor
13 Code § 226); 6) Failed to Provide Reimbursements (Labor Code § 2802); 7) Waiting Time Penalties
14 (Labor Code §§ 201-203); and 8) Unfair Competition (Business & Professions Code § 17200, *et seq.*).
15 Plaintiff also alleged liability for civil penalties under the Private Attorneys General Act ("PAGA").
16 These claims were based allegations that Defendants violated California law by 1) failing to pay
17 overtime and minimum wages due to their failure to pay for off-the-clock work, improper rounding
18 policy, and improper calculations of the Regular Rate of Pay ("RROP"); 2) consistently failing to
19 adequately staff schedules, or otherwise allow Plaintiff and similarly situated employees to take timely
20 and complete meal breaks; 3) consistently failing to adequately staff schedules, or otherwise allow
21 Plaintiff and similarly situated employees to take rest breaks on time or at all; 4) failing to reimburse
22 expenses for work-related cell phone use; 5) failing to maintain accurate records and provide accurate
23 itemized wage statements; and 6) failing to pay wages owed within the legally required time period
24 after an employee's separation. The PAGA, waiting time penalty, wage statement violation, and unfair
25 competition claims also derive from these violations.

26 3. Plaintiff is the only named representative in this matter. From our initial
27 investigations of Plaintiff's claims and documents, we believed these claims had merit and could be
28 maintained as a class action. We filed the action on or about October 7, 2020. Plaintiff exhausted

1 administrative remedies through the Labor and Workforce Development Agency (“LWDA”) prior to
2 amending the Complaint to add a PAGA claim. Plaintiff filed a notice with the LWDA on August
3 26, 2020 setting forth the facts and theories of liability. A true and correct copy of the notice filed
4 with the LWDA is being filed with this Motion as Exhibit C. A copy of the notice was also sent to
5 Defendants via certified mail and the \$75.00 filing fee was remitted to the LWDA at that time. There
6 was no response by the LWDA regarding its intent to investigate the claims alleged in Plaintiff’s
7 notice for more than 65 days. As such, Plaintiff became authorized to commence a civil action under
8 the PAGA and filed a First Amended Complaint on November 6, 2020. A true and correct copy of
9 Plaintiff’s operative Complaint is filed with this Motion as Exhibit B. A copy of the complaint was
10 uploaded to the LWDA on February 17, 2021, after we received an endorsed copy back from Court.

11 4. Currently, there is no date set for a motion to certify the class and there is no trial date.

12 5. Defendants are represented in this matter by Jose-Manuel A. De Castro of De Castro
13 Law Group, P.C. From the beginning, Defendants have contested the merits of this case, the suitability
14 of the case for class action or representative treatment, the manageability of the case at trial, and
15 Plaintiff’s ability to prove a violation in each pay period for each employee among other defenses and
16 contentions they made challenging the propriety of this action. Defendants further contended that, even
17 assuming there was a finding supporting the imposition of PAGA penalties, the Court would likely
18 exercise its discretion to substantially reduce any such penalties owed based on evidence of good faith
19 attempts to comply with Labor Code obligations by Defendants. Notwithstanding its agreement to
20 settle this matter, Defendants believe the practices Plaintiff is contending are unlawful either do not
21 exist or, to the extent they do exist, fully comply with all state and federal employment laws with
22 respect to Plaintiff and Class Members. Also, Defendants have contended that this matter is not
23 appropriate for class certification outside of this proposed class settlement.

24 6. Based on the expected testimony from Plaintiff and Class Members, a review of
25 Defendants’ policies and procedures and other documents relating to the alleged claims, information on
26 the number of Class Members, Class Members’ dates of employment, and a representative sample of
27 Class Members’ payroll data, the scope of the potential damages to Plaintiff and Class Members in light
28 of the claims alleged, the uncertainty in the law with regard to certification, and the negotiations that

1 have taken place, I am convinced that the proposed settlement is in the best interest of the class. The
2 length and risks of trial and other normal perils of litigation that impact the value of the claims were also
3 considered and weighed in reaching the Agreement. In addition, I carefully considered the prospect of
4 potential class certification issues as well as the uncertainty of class certification, the difficulties of
5 complex litigation, and the lengthy process of establishing specific damages and various possible delays
6 and appeals in agreeing to the proposed settlement. I further considered the fact that penalties under the
7 PAGA could be substantially cut at the discretion of the Court even if Plaintiff was successful on
8 proving those claims and there was risk that a Court could find no willfulness in the failure to pay wages
9 at separation, which would eliminate the value of the waiting time penalty entirely. Overall, I believe it
10 is more beneficial to secure a guaranteed benefit to the class now rather than to proceed with litigation
11 and potentially obtain zero funds to the class due to legal or factual issues in the case.

12 7. My office, including my associate, Jessica L. Hart, Esq., my paralegals, and myself,
13 along with Plaintiff's assistance, thoroughly investigated the merits of the claims and potential damages
14 for such claims. The parties engaged in informal discovery and exchange of documents, including a
15 representative sampling of employee data, such as timecards, paystubs, payroll data and relevant policies
16 for the entirety of the statute of limitations applicable to the alleged claims. The discovery covered all
17 aspects of the asserted claims, including certification issues, merits issues, damages, the scope and
18 configuration of Class Members, the content and implementation of the wage and hour policies at issue,
19 issues relating to manageability concerns at trial, among other relevant areas. From this production we
20 were able to determine information critical to a reliable damages analysis such as the average hourly
21 rate, average daily hours worked, average number of workweeks and pay periods that had potential
22 violations based on the asserted claims, the frequency with which violations occurred in a given week
23 and/or pay period, and the number for former employees. This information allowed my office to assess
24 both liability and damages and create an accurate damages model. Plaintiff assisted in all aspects of this
25 litigation including providing factual information relating to Plaintiff's and similarly situated
26 employees' employment conditions, providing a substantial number of documents, and answering
27 questions regarding Defendants' factual contentions in this matter. This was important because it
28

1 directly related to our ability to maintain this case as a class action and our ability to obtain a favorable
2 settlement for the class.

3 8. Throughout this litigation our office had numerous communications with Defendants'
4 Counsel discussing our respective positions. The parties engaged in mediation on May 4, 2021, using an
5 experienced mediator, Lisa Klerman. It was only after approximately ten (10) months of extensive,
6 arm's length negotiations that the parties were able to reach a settlement, which only occurred after a
7 full-day mediation. The negotiations were at all times contentious and adversarial, though still
8 professional in nature.

9 9. The parties reviewed and analyzed substantial amounts of data regarding the class
10 claims. Based on our analysis and review of all relevant documents and Class Member information, I
11 have determined that the maximum damages for the asserted class claims is approximately \$5,420,450,
12 which includes civil penalties under the PAGA. The likely exposure for PAGA penalties is
13 approximately \$3,076,200, based on the counts alleged to the LWDA and the class data. Based on our
14 research, we did not find any prior Labor Commissioner or court decisions that stated Defendants'
15 practices and/or policies were improper. As such, a "subsequent violation" may not be found for
16 penalty calculation purposes and the exposure analysis here is based on an "initial violation" valuation
17 being adopted by any fact finder if this matter went to trial.

18 10. I believe the PAGA penalties in this case may be reduced however due to the fact that
19 the penalties would be in addition to amounts owed for substantive violations and much of the penalties
20 are based on violations due to technical non-compliance with the Labor Code. Furthermore,
21 Defendants produced a substantial number of documents that a Court may find demonstrates a good
22 faith attempt at compliance that merits the reduction of civil penalties. Courts regularly cut civil
23 penalties on PAGA claims where statutory penalties for the same violations are assessed as well. The
24 statutorily authorized discretion that Courts have used to reduce penalties ranges substantially. *See*
25 *Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012) (30% reduction);
26 *Fleming v. Covidien, Inc.*, 2011 U.S. DIST. LEXIS 154590, *9 (C.D. Cal. 2011) (82% reduction).
27 Thus, civil penalties may be cut to approximately \$553,716 (82% reduction) or lower given the
28 derivative recovery. Taking this into account, the likely recovery if Plaintiff was successful at trial on

1 proving all the substantive class damages plus civil penalties after a reduction of the PAGA penalties
2 would be approximately \$2,897,966. Taking this into account, Plaintiff's \$420,000 gross recovery
3 under the Agreement represents approximately 14.5% of the maximum likely value in this matter.
4 After deducting from the Gross Settlement Amount the proposed allocations for attorneys' fees and
5 costs, any Enhancement Payment to the Class Representative, Claims Administrator Costs, and the
6 75% portion of the PAGA Payment to the LWDA, the net recovery under the Agreement represents
7 approximately 7.5% of the maximum likely value in this matter. The average net award is
8 approximately \$899.00. I believe the Agreement represents a reasonable compromise of claims based
9 on the legal and factual disputes in this case. The ability to secure a guaranteed settlement now and
10 ensure Class Members receive some compensation, rather than proceed to further litigation and
11 potentially recover nothing, was a motivating factor in reaching this Agreement.

12 11. I am a shareholder at Shimoda Law Corp. In agreeing to represent Plaintiff and take on
13 the case for all Class Members, I agreed to take this case on a contingency basis, meaning that I would
14 take a percentage of any settlement or judgment should we recover a monetary amount. I took a risk
15 that we would not recover any money in this matter if we were unsuccessful at trial. I also took on the
16 risk that the case may not be certified as a class action and/or be subject to an unfavorable summary
17 judgment ruling. However, I believe it is important to make sure employees are able to find affordable
18 representation in order to ensure that employers are complying with all their legal obligations towards
19 employees and paying employees all their hard-earned wages.

20 12. I have been a regular panel speaker for the CEB (Continuing Education of the Bar)
21 Employment Review seminars from 2014 to the present. My speaking engagements include the
22 following: 1) Lorman Military Leave Law Speaker; 2) Restaurant Association Speaker at Annual
23 Seminar (Los Angeles); 3) Federal Bar Association, Sacramento Chapter: 2015 Amendments to the
24 Federal Rules of Civil Procedure (Mar. 30, 2016); 4) CEB – Employment Law Practice: 2016 Year in
25 Review (Jan. 20, 2017); 5) CEB – Employment Law Practice: 2015 Year in Review (Jan. 22, 2016); 6)
26 CEB – Employment Law Practice: Year in Review (2014) (Jan. 9, 2015); 7) CEB - Employment Law
27 Practice: Year in Review (2013) (Jan. 10, 2014); 8) Sacramento County Bar Association - Class
28 Actions from the Trenches: Real World Experiences from the Plaintiff and Defense Bar (Feb. 21,

2012); 9) Sacramento Employer Advisory Council – Wage and Hour Workshop: Going Beyond the Exemption Discussion (Apr. 7, 2016); 10) Sacramento Employer Advisory Council - Wage & Hour Panel and AB 1825 Training: Updates on California’s New Wage Laws and Manager Compliance Training (Apr. 25, 2017); 11) Sacramento County Bar Association, Labor and Employment Section – PAGA Representative Litigation: Emerging Trends and Issues (May 17, 2016); 12) Sacramento Business Journal Panel – Overtime Rules (Jun. 23, 2016); 13) Association of Defense Counsel of Norther California & Nevada - Employment Law Update – Do the Math: Calculation Exposure and Damages in Wage and Hour Cases (Aug. 12, 2016); 14) California Employment Lawyers Association - PAGA Today and PAGA Tomorrow: Moderate-Advanced Issues In PAGA Litigation (Oct. 20, 2017); 15) California Employment Lawyers Association Advanced Wage and Hour Seminar – Better Know a Venue Roundup (May 17, 2019). I have been AV rated by Martindale Hubbell since 2013, was recognized as a Super Lawyer (Rising Star) from approximately 2009 to 2013 and was recognized as a Super Lawyer from 2014 to present.

13. I have practiced law in California since being admitted to the State Bar in 2003, litigating wage and hour class actions and individual wage and hour litigation among other cases. I began practicing class action law on the defense side at the firm of Orrick, Herrington & Sutcliffe LLP. I then switched to plaintiff class action work in 2005. My class action experience is in wage and hour law. I have litigated several class action cases in California State and Federal Courts, including up to certification, settlement, preliminary and final approval, and disbursement of monies, and have been found to be satisfy the adequacy requirements for class counsel. Some of the class action and/or PAGA cases I am litigating and/or have litigated as lead or co-counsel include the following:

- *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- *Acosta v. Acosta Sales, LLC, et al.*, Case No. 2:11-CV-01796 (C.D. Cal.);
- *Afoa v. Milestone Retirement Communities, LLC, et al.*, Case No. 34-2020-00282555 (Sac. Sup. Ct.)
- *Atchley v. Blaggs Food Service, LLC*, 34-2017-0215930 (Sac. Sup. Ct.);
- *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- *Arnall v. North American Merchandising Service Inc.*, Case No. 06AS01439 (Sac. Sup. Ct.);

- 1 • *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- 2 • *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- 3 • *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- 4 • *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac.
- 5 Sup. Ct.);
- 6 • *Benak v. MDStat Urgent Care, Inc.*, No. 34-2015-00188181 (Sac. Sup. Ct.);
- 7 • *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup.
- 8 Ct.);
- 9 • *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup.
- 10 Ct.);
- 11 • *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac.
- 12 Sup. Ct.);
- 13 • *Carlos v. Abel Mendoza, Inc., et al.*, Case No. 34-2016-00195806 (Sac. Sup. Ct.);
- 14 • *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup.
- 15 Ct.);
- 16 • *Carr et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- 17 • *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-
- 18 00209613 (Sac. Sup. Ct.);
- 19 • *Cota v. Milestone Management (CA) – Meadows, LLC.*, Case No. 34-2020-00280648 (Sac.
- 20 Sup. Ct.);
- 21 • *Coy v. Southern Home Care Services, Inc., et al.*, Case. No. 2:21-CV-00067-JAM-CKD
- 22 (E.D. Cal.);
- 23 • *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- 24 • *Colbert v. American Home Craft Inc.*, Case No. 05AS05012 (Sac. Sup. Ct.);
- 25 • *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.)
- 26 • *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242
- 27 (San Joaquin Sup. Ct.);
- 28 • *Dugue v. Sierra Forever Families, et al.*, Case No. 34-2017-00210770 (Sac. Sup. Ct.);

- 1 • *Fadhl v. Siemens Healthcare Diagnostics, Inc., et al.*, Case No. 34-2017-00209518 (Sac.
2 Sup. Ct.);
- 3 • *Dreyer v. Automation Anywhere, Inc.* Case. No 20CV372730 (Santa Clara Sup. Ct.);
- 4 • *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
- 5 • *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- 6 • *Garcia v. Aquality Water Management, Inc.* Case No. 34-2021-00292794 (Sac. Sup. Ct.);
- 7 • *Gerard v. Les Schwab Tires Center of California, Inc.*, Case No. 34-2007-30000003 (Sac.
8 Sup. Ct.);
- 9 • *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- 10 • *Gomez v. Vander Shaaf Dairy*, Case No. STK-CV-UOE-2020-3954 San Joaquin Sup. Ct.);
- 11 • *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- 12 • *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- 13 • *Hawkins v. Twitch Interactive, Inc.*, Case No. 34-2020-00281761 (Sac. Sup. Ct.);
- 14 • *Hernandez et al. v. MP Nexlevel, LLC et al*, Case No. 3 :16-cv-03015-JCS (N.D. Cal.);
- 15 • *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac Sup. Ct.);
- 16 • *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- 17 • *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- 18 • *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- 19 • *Kee, et al. v. Dr. Jeffrey A. Saladin, Dental Corporation, et al.*, Case. No.34-2020-00290072
20 (Sac. Sup. Ct.);
- 21 • *Koretsky v. Furniture USA, Inc.*, Case No. 34-2014-00172142 (Sac. Sup. Ct.);
- 22 • *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- 23 • *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.);
- 24 • *Mattos v. Ingomar Packing Company, LLC*, Case No. 19CV-03181 (Merced Sup. Ct.);
- 25 • *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac.
26 Sup. Ct.);
- 27 • *Miller v. Leaders in Community Alternatives*, Case No. FCSO47249 (Solano Sup. Ct.);
- 28 • *Pickens v. Elica Health Centers*, Case No. 34-2016-00200382 (Sac. Sup. Ct.);

- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Pek, et al v. Varris Management, Inc.*, Case No. STK-CV-UOE-2020-3954 (San Joaquin Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Rickwalt v. Direct Reconditioning, LLC, et al.*, Case No. 34-2015-00175642 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac. Sup. Ct.);
- *Rogers v. Les Scwhab Tires Center of California, Inc.*, Case No. 34-2009-00066320 (Sac. Sup. Ct.);
- *Schechter et al. v. Isys Solutions, Inc.*, Case No. RG10550517 (Alameda Sup. Ct.);
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Valentin v. Sacramento Laundry Company, Inc.* Case No. Case No. 34-2019-00270987 (Sac. Sup. Ct.)
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.);
- *Williams v. Civic Development Group*, Case No. 06AS00267 (Sac. Sup. Ct.);
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.); and
- *Whiteside v. SPSG Partners, et al.*, Case. No. 2:20-cv-01643-TLN-DMC (Sac. Sup. Ct.).

14. The preceding list does not include those cases where, for various reasons, the case was filed as a class action and/or PAGA action, but did not maintain that status through the end of the case.

15. My associate, Jessica L. Hart, Esq., also worked with me on this matter and was critical in assisting with all aspects of the litigation of this case. Ms. Hart graduated from University of California Davis School of Law. Prior to joining Shimoda Law Corp., Ms. Hart worked alongside a number of attorneys in the Sacramento area focusing almost exclusively on plaintiff's side litigation and employment law. Since joining my firm, Ms. Hart has worked on a variety of individual, class action, and Private Attorneys General Act cases involving wage and hour claims. As an associate,

1 some of the class action and/or PAGA cases Ms. Hart is litigating and/or has litigated as co-counsel
2 include the following:

- 3 • *Afoa v. Milestone Retirement Communities, LLC, et al.*, Case No. 34-2020-00282555
4 (Sac. Sup. Ct.);
- 5 • *Cota v. Milestone Management (CA) – Meadows, LLC*, Case No. 34-2020-00280648
6 (Sac. Sup. Ct.);
- 7 • *Coy v. Southern Home Care Services, Inc., et al.*, Case. No. 2:21-CV-00067-JAM-CKD
8 (E.D. Cal.);
- 9 • *Dreyer v. Automation Anywhere, Inc.* Case. No 20CV372730 (Santa Clara Sup. Ct.);
- 10 • *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242
11 (San Joaquin Sup. Ct.);
- 12 • *Fang v. Interpress Technologies, Inc.* Case. No. 34-2021-00292937 (Sac. Sup. Ct.);
- 13 • *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
- 14 • *Garcia v. Aquality Water Management, Inc.* Case No. 34-2021-00292794 (Sac. Sup.
15 Ct.);
- 16 • *Hawkins v. Twitch Interactive, Inc.*, Case No. 34-2020-00281761 (Sac. Sup. Ct.);
- 17 • *Hussaini v. Integrated Resources, Inc, et al.*, Case. No. 34-2021-00297152 (Sac. Sup.
18 Ct.);
- 19 • *Kee, et al. v. Dr. Jeffrey A. Saladin, Dental Corporation, et al.*, Case. No.34-2020-
20 00290072 (Sac. Sup. Ct.);
- 21 • *Leon v Golden Bay Fence Plus Iron Works, Inc., et al.*, Case No. STK-CV-UOE-2021-
22 0000543 (San Joaquin Sup. Ct.);
- 23 • *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.);
- 24 • *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954
25 (Sac. Sup. Ct.);
- 26 • *Madrigal Vargas v. Mary Ann's Baking Co., Inc.*, Case No. 2:21-CV-00320-JAM-JDP
27 (E.D. Cal.);
- 28 • *Pek, et al v. Varris Management, Inc.*, Case No. STK-CV-UOE-2020-3954 (San Joaquin
Sup. Ct.).

- 1 • *Perez v. Too Infinity Management, LLC, et al.*, Case No. 34-2020-00285276 (Sac. Sup.
- 2 Ct.);
- 3 • *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup.
- 4 Ct.);
- 5 • *Valentin v Sacramento Laundry Company, Inc.* Case.No. 34-2019-00270987 (Sac. Sup.
- 6 Ct.); and
- 7 • *Whiteside v. SPSG Partners, et al.*, Case. No. 2:20-cv-01643-TLN-DMC (Sac. Sup. Ct.);

8 16. I am requesting attorneys' fees and costs pursuant to the common fund doctrine as I
9 believe it to be applicable to the present case pursuant to *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977),
10 *Laffitte v. Robert Half Internat. Inc.*, 1 Cal.5th 480 (2016), and *Paul, Johnson, Alston & Hunt v.*
11 *Grauly*, 886 F.2d 268, 271 (9th Cir. 1989). Plaintiff and our firm have been able to secure an
12 identifiable benefit on behalf of the class and equity counsels that the cost of the representation should
13 be born equally amongst all class members receiving these benefits. The settlement recovery provides
14 an excellent result and is the product of substantial time and effort in analyzing the facts and law
15 applicable to this case. I agreed to take this case on a contingency and as a class action with the
16 possibility that I would not receive any compensation for my time and efforts due to issues regarding
17 the merits and/or certification and have carried that risk over the course of the case. I have reviewed
18 fee arrangements and Court ordered fee awards in similar class cases and I believe that the thirty-five
19 percent (35%) fee request is within the accepted ranges. In my experience with contingency cases in
20 employment law cases, the typical percentage negotiated between parties ranges from thirty-five to
21 forty percent (35% to 40%) in individual litigation. In class action litigation, my experience in my own
22 firm and working with several other firms has been that the typical percentage negotiated between
23 parties and approved by a court ranges from thirty to forty percent (30% to 40%) based on the same
24 factors. I have also reviewed several recent Federal District Court cases where the Court has approved
25 common fund-based fee requests. These cases include *In re Activision Sec. Litigation*, 723 F.Supp.
26 1373, 1379 (N.D. Cal. 1989), *Watson v. Raytheon Company*, USDC Southern District, Case No. 3:10-
27 cv-0063, *Dirienzo v. Dunbar Armored, Inc.*, USDC Southern District, Case No. 3:09-cv-02745, *Green,*
28 *et al. v. Penske Logistics, L.L.C., et al.*, USDC Southern District, Case No. 3:09-cv-00069, *Benitez et*

1 *al. v. Wilbur*, USDC Eastern District, Case No. 1:08-cv-01122, *Chavez et al. v. Petrissans et al.*, USDC
2 Eastern District, Case No. 1:08-cv-00122, and *Willis et al. v. Cal-Western Transport*, USDC Eastern
3 District, Case No. 1:00-cv-05695, which are cited in Plaintiff's Memorandum of Points and
4 Authorities. I believe my request of \$147,000 (approximately 35%) for attorneys' fees is justified
5 given the results obtained on behalf of the class. Moreover, at this time, my firm has advanced all costs
6 for Plaintiff and Class Members and has not received any compensation whatsoever for our time
7 expended in this case. The expected costs through final approval are not expected to exceed \$15,000.
8 Attached as Exhibit E is a true and correct copy of the costs incurred prior to the filing of this Motion
9 and the expected costs incurred through the final approval and fairness hearing. Any difference in the
10 actual costs and the maximum amount allocated under the Agreement will be added to the Net
11 Settlement Amount.

12 17. I have used several class action administrator companies in the wage and hour class
13 actions I have resolved in the past and believe Simpluris, Inc. will provide the best service to administer
14 the proposed class settlement. Simpluris, Inc. has provided a quote for the estimated maximum cost of
15 administering the class settlement of approximately \$4,406.60. A true and correct copy of a cost
16 estimate provided by Simpluris, Inc. is filed with this Motion as Exhibit D. This is only an estimate, and
17 final pricing may vary depending on the issues, if any, that arise during the administration of the
18 settlement. However, the difference between the actual, lesser costs and \$4,406.60, if any, will be paid
19 to the participating Class Members on a pro rata basis.

20 18. A copy of the Agreement and the entire Motion was submitted to the LWDA for review
21 at the same time the Motion was submitted to the Court pursuant to California Labor Code section
22 2699(1)(2). A true and correct copy of documents demonstrating the settlement documents were
23 provided to the LWDA and that the LWDA has confirmed receipt are being filed with this Motion as
24 Exhibit G.

25 19. A true and correct copy of the proposed Notice of Settlement is being filed with this
26 Motion as Exhibit F.
27
28

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is
2 true and correct. Executed this 25th day of May 2021 in Elk Grove, California.

3
4 
5 _____
6 Galen T. Shimoda
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FILED BY FAX

1 Galen T. Shimoda (Cal. State Bar No. 226752)
 2 Justin P. Rodriguez (Cal. State Bar No. 278275)
 3 Brittany V. Berzin (Cal. State Bar No. 325121)
 4 Jessica L. Hart (Cal State Bar No. 331441)

Shimoda Law Corp.

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 6 Elk Grove, CA 95624
 7 Telephone: (916) 525-0716
 8 Facsimile: (916) 760-3733

9 Attorneys for Plaintiff LINDA HUDSON
 10 individually and on behalf of similarly situated employees

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

11
 12 LINDA HUDSON, individually and on behalf
 13 of all other similarly situated employees,

14 Plaintiff,

15 vs.

16 STOCKTON NURSING AND REHAB
 17 CENTER, LLC, A California Limited Liability
 18 Company; EDURO HEALTHCARE LLC, a
 19 Delaware Limited Liability Company;
 20 GRANT GARRISON, an individual; and
 21 DOES 1 to 100, inclusive,

22 Defendants.

Case No. STK-CV-UOE-2020-0008507

**DECLARATION OF LINDA HUDSON IN
 SUPPORT OF PLAINTIFF'S MOTION FOR
 PRELIMINARY APPROVAL OF CLASS
 ACTION AND PAGA SETTLEMENT**

Date:

Time: 9:00 a.m.

Dept.: 11B

Judge: Robert T. Waters

Filed: October 7, 2020

FAC Filed: November 06, 2020

Trial Date: none set

1 I, Linda Hudson, declare:

2 1. I am a competent adult, I have personal knowledge of the facts set forth in this
3 declaration, and I am making this declaration on behalf of myself, as a named plaintiff, and in support
4 of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement.

5 2. I worked for Defendants Stockton Nursing and Rehab Center, LLC, Eduro Healthcare
6 LLC, and Grant Garrison, ("Defendants") from approximately June 1, 2019 to November 1, 2020 as a
7 non-exempt Treatment Nurse receiving an hourly wage. Thereafter, I was promoted to into a salaried,
8 exempt position until I separated from my employment on June 8, 2020. As a non-exempt employee, I
9 was subject to all of Defendants' policies and practices that have been alleged as unlawful in the
10 Complaint and the notice sent to the Labor and Workforce Development Agency, including the
11 following: failure to pay overtime, failure to pay minimum wages, failure to provide accurate wage
12 statements, failure to timely pay final wages, failure to provide meal and rest periods or pay premiums
13 in lieu thereof and failure to provide reimbursement for expenses.

14 3. I have actively participated in the litigation of this case. I have given a detailed account
15 of all the facts related to my employment and the claims asserted in the Complaint. I provided
16 extensive documentation in support of the claims brought against Defendants including paystubs,
17 Defendants' policies, and other documents related to my work with Defendants and to the claims
18 brought in the class action. I met with and assisted my attorneys Galen T. Shimoda and Jessica L. Hart
19 in understanding the documents and providing context for Defendants' payroll process as it applied to
20 me and how I believed it applied to Defendants' other employees.

21 4. My attorneys explained to me the risks and benefits of bringing a class action and a
22 claim under the Private Attorneys General Act. I understood that I took on the risk, both professionally
23 and financially, in pursuing the case as a class and representative action rather than pursuing my claims
24 individually. I understood that pursuing the case as a class action meant that it would take substantially
25 longer than pursuing a claim with the California Labor Commissioner and that I risked getting nothing
26 in the end, but I believed it was important to make sure that Defendants followed the law for everyone.

27 5. I maintained communication with my attorneys throughout the litigation, discussing the
28 facts and policies at issue in the case with the Shimoda Law Corp. I asked questions when I needed

1 clarification about various aspects of this case to make sure there were continually steps taken to
2 advance the interests of the class. I also understood that the recovery in this case was for the benefit of
3 my fellow coworkers, not just for me. When my attorneys contacted me asking about more information
4 or documents related to the case, I made myself available and tried to give or obtain any additional
5 information I could. I participated in the negotiations and settlement discussions in this case, including
6 participating in mediation, speaking with my attorney to answer questions, provide any additional
7 information needed to assist the negotiations, and discussing the potential terms of the Agreement to
8 evaluate its adequacy.

9 6. I have reviewed the final *Joint Stipulation of Class Action and PAGA Settlement and*
10 *Release*, discussed the terms with my attorney, and asked my attorney any questions I had. I believe
11 the settlement terms and allocations are fair and reasonable given the facts of the case.

12 7. As a Class Representative, I took on the risk of having to pay Defendants' costs if we
13 were unsuccessful in bringing our claims.

14 8. I understand that any Class Representative Enhancement Payment I may receive is for
15 my participation as a Class Representative and it is not contingent on my support or approval of the
16 Agreement. I do not believe I have any conflicts with any Class Members.

17 I declare under penalty of perjury under the laws of the State of California that the foregoing is
18 true and correct. Executed this 24th of May 2021 in Stockton, California.

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22 Linda Hudson
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1 Galen T. Shimoda (Cal. State Bar No. 226752)
2 Justin P. Rodriguez (Cal. State Bar No. 278275)
3 Brittany V. Berzin (Cal. State Bar No. 325121)
4 Jessica L. Hart (Cal. State Bar No. 331441)

Shimoda Law Corp.

5 9401 East Stockton Boulevard, Suite 120
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7 Telephone: (916) 525-0716
8 Facsimile: (916) 760-3733

9 Attorneys for Plaintiff LINDA HUDSON
10 individually and on behalf of similarly situated employees

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

11
12 LINDA HUDSON, individually and on behalf
13 of all other similarly situated employees,

14 Plaintiff,

15 vs.

16 STOCKTON NURSING AND REHAB
17 CENTER, LLC, a California Limited Liability
18 Company; EDURO HEALTHCARE LLC, a
19 Delaware Limited Liability Company;
20 GRANT GARRISON, an individual; and
21 DOES 1 to 100, inclusive,

22 Defendants.
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Case No. STK-CV-UOE-2020-0008507

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date:

Time: 9:00 a.m.

Dept.: 11B

Judge: Robert T. Waters

Filed: October 7, 2020

FAC Filed: November 06, 2020

Trial Date: none set

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Preliminary Approval of Class Action and PAGA Settlement ("Motion") in the
3 above referenced case came before this Court, on _____ at 9:00 a.m., in Department 11B
4 before Robert T. Waters, presiding. Named Plaintiff Linda Hudson ("Plaintiff") filed this putative
5 class action on October 7, 2020. The operative Complaint alleges that Defendants Stockton Nursing
6 and Rehab Center, LLC, Eduro Healthcare, LLC, and Grant Garrison, ("Defendants") violated
7 California law by 1) Failing to Pay Overtime (Labor Code §§ 510, 1194); 2) Failing to Pay Minimum
8 Wages (Labor Code § 1194); 3) Failing to Provide Meal Periods (Labor Code §§ 512, 226.7); 4)
9 Failing to Provide Rest Periods (Labor Code §§ 226.7); 5) Failing to Provide Accurate Wage
10 Statements (Labor Code § 226); 6) Failing to Provide Reimbursements (Labor Code § 2802); 7)
11 Waiting Time Penalties (Labor Code §§ 201-203); and 8) Unfair Competition (Business & Professions
12 Code § 17200, *et seq.*). Plaintiff has also alleged Defendants are liable for a civil penalties under the
13 Private Attorneys General Act ("PAGA") based on these violations. Plaintiff sought attorneys' fees
14 and costs as part of this Action. Defendants denied all of Plaintiff's claims and denied that this case
15 was appropriate for class treatment. No class has been certified.

16 The parties have agreed to settle the class and PAGA claims. Defendants will provide
17 monetary consideration in exchange for a release of claims consistent with the terms of the proposed
18 settlement as set forth in the Joint Stipulation Regarding Class Action and PAGA Settlement and
19 Release ("Agreement"). Any capitalized terms herein shall have the same meaning as set forth in the
20 Agreement. The Court, having received and considered Plaintiff's Motion for Preliminary Approval
21 of Class Action and PAGA Settlement, the declarations in support, the Agreement, the proposed
22 Notice of Settlement, and other evidence, HEREBY ORDERS AND MAKES DETERMINATIONS
23 AS FOLLOWS:

24 **1. PRELIMINARILY CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF**
25 **CLASS REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

26 The Court finds that certification of the following class for settlement purposes only is
27 appropriate under the California Code of Civil Procedure and related case law:
28

1 All non-exempt employees who have or continue to work for Defendants
2 at the Stockton Nursing and Rehab Center from June 1, 2019 to either (1)
3 the date a signed order preliminarily approving the class settlement is
4 filed, or (2) 60 days after the *Joint Stipulation Regarding Class Action and*
5 *PAGA Settlement and Release* is signed, whichever is earlier.

6 The Court recognizes that the foregoing definition is for Class Member identification purposes
7 only and is not intended to capture the claims at issue or limit or alter the released claims under the
8 Agreement.

9 The Court finds that Class Members meet the ascertainability and numerosity requirements since
10 the parties can identify with a matter of certainty, based on payroll records, individuals who fall within
11 the definition and the number of Class Members would make joinder impractical. The commonality and
12 predominance requirements are met for settlement purposes since there are questions of law and fact
13 common to Class Members. The common questions of law or fact in this case all stem from Plaintiff's
14 contentions that Defendants caused the violations outlined above by 1) failing to pay overtime and
15 minimum wages due to their failure to pay for off-the-clock work, improper rounding policy, and
16 improper calculations of the Regular Rate of Pay ("RROP"); 2) consistently failing to adequately staff
17 schedules, or otherwise allow Plaintiff and similarly situated employees to take timely and complete
18 meal breaks; 3) consistently failing to adequately staff schedules, or otherwise allow Plaintiff and
19 similarly situated employees to take rest breaks on time or at all; 4) failing to reimburse expenses for
20 work-related cell phone use; 5) failing to maintain accurate records and provide accurate itemized wage
21 statements; and 6) failing to pay wages owed within the legally required time period after an employee's
22 separation. The PAGA, waiting time penalty, wage statement violation, and unfair competition claims
23 also derive from these violations. Additionally, Class Members seek the same remedies under state
24 law. The typicality requirement for settlement purposes is also satisfied since the claims of the Class
25 Representative is based on the same facts and legal theories as those applicable to the class members.

26 The Court also finds that preliminarily and conditionally certifying the settlement class is
27 required to avoid each Class Member from litigating similar claims individually. This settlement will
28 achieve economies of scale for Class Members with relatively small individual claims and conserve the
resources of the judicial system. The Court finds that Plaintiff Linda Hudson and Plaintiff's counsel,

1 Galen T. Shimoda and Jessica L. Hart of the Shimoda Law Corp., to be adequate representatives of the
2 settlement class. The Court appoints them as class representative and class counsel, respectively.

3 **2. PRELIMINARILY APPROVING CLASS ACTION AND PAGA SETTLEMENT**

4 The Court has reviewed the Agreement, which was submitted with Plaintiff's Motion as Exhibit
5 A. The Court finds on a preliminary basis that the Agreement falls within the range of reasonableness
6 of a settlement, which could ultimately be given final approval by this Court. The Court also
7 acknowledges that Class Members may object to the settlement at a fairness hearing approved by this
8 Court or opt-out of being bound by the preliminarily approved Agreement.

9 Because the Court finds the Parties' settlement to have been agreed upon only after an extensive
10 investigation and arms-length negotiations, and in an attempt to avoid further delays and costs, the
11 Court preliminarily approves the Agreement and all terms therein as if stated here in full, including the
12 \$420,000 Gross Settlement Amount.

13 The Court orders that Plaintiff Linda Hudson will receive \$12,500 as a Class Representative
14 Enhancement Payment in addition to any amount Plaintiff may be entitled to under the Agreement's
15 pro rata distribution formula for Plaintiff's time and effort on behalf of Class Members.

16 The Court orders and approves Simpluris, Inc. to act as the Claims Administrator in this case.
17 The Claims Administrator will take its fees out of the Gross Settlement Amount, which are not to
18 exceed \$7,500. Any difference between the actual cost of the Claims Administrator and the approved
19 payment will be redistributed to Qualified Claimants on a pro-rata basis.

20 The Court finds that an award of fees under the common fund doctrine is appropriate in this
21 case because there is a sufficiently identifiable class of beneficiaries (*i.e.* Class Members), the benefits
22 can be accurately traced as set forth in the Agreement, Plaintiff and Class Counsel were able to
23 negotiate on behalf of Class Members, and the fee can be shifted with exactitude to those benefiting as
24 the fee request is a specific, lump-sum percentage of the Gross Settlement Amount. *See Paul, Johnson,*
25 *Alston & Hunt v. Gaulty*, 886 F.2d 268, 271 (9th Cir. 1989); *Serrano v. Priest*, 20 Cal.3d 25, 34-35
26 (1977); *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016). The Court finds the attorneys'
27 fees request of thirty five percent (35%) of the Gross Settlement Amount, *i.e.* \$147,000, to be
28 appropriate compensation for Class Counsel. The attorneys' fees request is within the range that has

1 been approved by other Courts in similar cases and is reasonable in light of the circumstances of this
2 case, the substantial and beneficial results obtained on behalf of Class Members, and the contingent
3 nature of the recovery over the course of this case, which included potential loss at summary judgment,
4 certification, and/or trial proceedings. Additionally, the Court orders that up to \$15,000 of the
5 settlement proceeds will be paid to Class Counsel for reasonable costs incurred in this case. Any
6 difference between the actual costs incurred and the \$15,000 shall be paid to the Qualified Claimants on
7 a pro-rata basis.

8 The Court approves of the twenty-five thousand dollars (\$25,000) PAGA Payment, which shall
9 be paid from the Gross Settlement Amount, not in addition to the Gross Settlement Amount, to resolve
10 the alleged PAGA claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to the Labor
11 and Workforce Development Agency ("LWDA") and Twenty-Five percent (25%) will be paid to
12 Aggrieved Employees on a pro rata basis as described in the Agreement. The Court also finds that the
13 Agreement provides a recovery that creates an effective substantial deterrent to any potential future non-
14 compliance, furthering the purpose of the Labor Code and LWDA.

15 The Court approves of the identified *cy pres* distribution plan wherein any checks issued to
16 Qualified Claimants and/or Aggrieved Employees that are not cashed by the deadline to do so shall be
17 paid out 50/50 to the SEIU 2015 Disaster Relief Fund and the Center for Workers Rights.

18 The releases and waivers for Class Members who do not opt out of being bound by the
19 Agreement (*i.e.* Qualified Claimants), Aggrieved Employees, and the Class Representative are also
20 approved by the Court as set forth in the Agreement.

21 **3. APPROVAL OF DISTRIBUTION TO THE CLASS, THE NOTICE OF SETTLEMENT,**
22 **OPPORTUNITY TO OPT OUT OF, AND OBJECT TO, THE SETTLEMENT**

23 The Court finds that the proposed Notice of Settlement, which was submitted with Plaintiff's
24 Motion as Exhibit F, fairly and adequately advises Class Members of the terms of the Agreement, the
25 rights being waived, their right to opt out, the ability to dispute the number of workweeks worked
26 during the Class Period, their pro rata share of the Net Settlement Amount, how to participate in the
27 settlement, how to file documentation in opposition to the proposed settlement, and when to appear at
28 the fairness hearing to be conducted on the date set forth below. The Court further finds that the Notice

of Settlement and proposed distribution of such notice by first class mail to each identified Class Member at his or her most recent address based on a National Change of Address database search from the Class Members' last known address and a skip trace on any Class Members who have the Notice of Settlement returned as "undeliverable" or "not at this address" comports with all constitutional requirements, including those of due process.

The Court also finds that because there is a strong interest in providing Class Members the opportunity to participate in the settlement, along with the Parties' efforts to minimize any intrusion to privacy rights, the sharing of employment information, including social security numbers, is not a serious intrusion on their privacy rights. Hence, the Court orders Defendants to provide first and last name, last known mailing address, social security number, hire and termination dates, total number of workweeks during which the Class Member performed any actual work to the Claims Administrator only, and not to Plaintiff or Class Counsel, in order to process this settlement as contemplated within the Agreement and approved by this Order. The Claims Administrator shall only use this information for settlement purposes identified herein, and this information shall be kept confidential, not be shared with any third-party, and used only to administer the settlement.

4. IMPLEMENTATION SCHEDULE

Accordingly, with good cause shown, the Court hereby approves and orders that the following implementation schedule be adhered to:

Last day for Defendants to provide Claims Administrator with Class Member information	Within 14 calendar days after the Preliminary Approval Date
Last day for Claims Administrator to complete NCOA search, update Class Member mailing information, and mail Notice of Settlement	Within 14 calendar days after the Claims Administrators' receipt of Class Members' information from Defendants
Last day for Class Members to opt-out, submit disputes, submit objections, and submit data requests	45 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later

Last day for Claims Administrator to provide Parties with signed declaration reporting on settlement administration statistics	Within 21 calendar days after end of the Notice Period
Last day for Claims Administrator to calculate the final Net Settlement Amount, the final Claim Amounts for Qualified Claimants and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations Class Counsel and Defendants' Counsel	Within 7 calendar days after the Final Approval Date
Last day for Defendants to fund settlement	Within 21 calendar days after the Final Approval Date
Last day for Claims Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Claims Administrator Costs, payment to Qualified Claimants, and payment to Aggrieved Employees	Within 14 days of Defendants' last day to fund the settlement
Last day for Qualified Members and Aggrieved Employees to cash settlement checks	120 days after issuance of checks to Qualified Members and Aggrieved Employees
Last day for Claims Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 days after settlement check cashing deadline
Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 days after settlement check cashing deadline

FINAL APPROVAL AND HEARING

The Court hereby grants Plaintiff's Motion and sets final approval hearing on the proposed date of November 2, 2021 at 9:00 a.m., with briefs and supporting documentation to be submitted according to the California Code of Civil Procedure, in this Department. Class Members who object in a timely manner, and in the manner set forth in the Agreement, may appear and present such objections at the fairness hearing in person or by counsel.

1 If for any reason the Court does not grant final approval of the Agreement, all evidence and
2 proceedings held in connection therewith shall be without prejudice to the status quo and rights of the
3 parties to the litigation, including all challenges to personal jurisdiction and to class certification for any
4 purpose other than approving a settlement class. The parties will revert to their respective positions as
5 if no settlement had been reached at all.

6 **IT IS SO ORDERED.**

7
8 Date: _____

By: _____
Judge of the Superior Court

1 Galen T. Shimoda (Cal. State Bar No. 226752)
2 Justin P. Rodriguez (Cal. State Bar No. 278275)
3 Brittany V. Berzin (Cal. State Bar No. 325121)
4 Jessica L. Hart (Cal. State Bar No. 331411)

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5 9401 East Stockton Boulevard, Suite 120
6 Elk Grove, CA 95624
7 Telephone: (916) 525-0716
8 Facsimile: (916) 760-3733

9 Attorneys for Plaintiff LINDA HUDSON
10 individually and on behalf of similarly situated employees

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

11
12 LINDA HUDSON, individually and on behalf
13 of all other similarly situated employees,

14 Plaintiff,

15 vs.

16 STOCKTON NURSING AND REHAB
17 CENTER, LLC, a California Limited Liability
18 Company; EDURO HEALTHCARE LLC, a
19 Delaware Limited Liability Company;
20 GRANT GARRISON, an individual; and
21 DOES 1 to 100, inclusive,

22 Defendants.
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Case No. STK-CV-UOE-2020-0008507

PROOF OF SERVICE

Date:

Time: 9:00 a.m.

Dept.: 11B

Judge: Robert T. Waters

Filed: October 7, 2020

FAC Filed: November 06, 2020

Trial Date: none set

1 *Hudson v Stockton Nursing and Rehab Center, LLC, et al.*
2 *San Joaquin Superior Court Case No. STK-CV-UOE-2020-0008507*

3 **PROOF OF SERVICE — CCP §§ 1010.6, 1013a and 2015.5**
4 **and California Rules of Court, Rule 1.21, Rule 2.150, and Rule 2.251**

5 I, Rylee K. Fonseca, declare that:

6 I am a citizen of the United States and am over the age of eighteen years and not a party
7 to the within above-entitled action.

8 On May 25, 2021, I served the following documents on the party below:

- 9 • Letter to Court Requesting Hearing Date
- 10 • Plaintiff's Notice Of Motion And Motion For Preliminary Approval Of Class
11 Action And PAGA Settlement
- 12 • Memorandum Of Points & Authorities In Support Of Plaintiff's Motion For
13 Preliminary Approval Of Class Action And PAGA Settlement
- 14 • Exhibit List And Exhibits In Support Of Plaintiff's Motion For Preliminary
15 Approval Of Class Action And PAGA Settlement
- 16 • Declaration Of Galen T. Shimoda In Support Of Plaintiff's Motion For
17 Preliminary Approval Of Class Action And PAGA Settlement
- 18 • Declaration Of Linda Hudson In Support Of Plaintiff's Motion For Preliminary
19 Approval Of Class Action And PAGA Settlement
- 20 • [Proposed] Order Granting Plaintiff's Motion For Preliminary Approval Of Class
21 Action And PAGA Settlement

17 Jose-Manuel A de Castro (SBN 213769) 18 David G. Larmore (SBN 216041) 19 Lori V. Minassian (SBN 223542) 20 De Castro Law Group, P.C. 21 7590 Glenoaks Boulevard Suite 201, Los Angeles, California 91504 Email: ykarimi@decastrolawgroup.com jmdecastro@decastrolawgroup.com	
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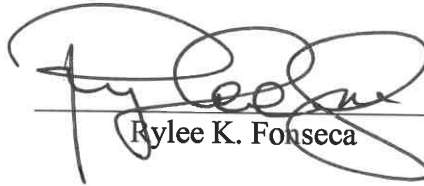
22 [] [By Mail] I am familiar with my employer's practice for the collection and
23 processing of correspondence for mailing with the United States Postal
24 Service and that each day's mail is deposited with the United States Postal
25 Service that same day in the ordinary course of business. On the date set forth
26 above, I served the aforementioned document(s) on the parties in said action
by placing a true copy thereof enclosed in a sealed envelope with postage
thereon fully prepaid, for collection and mailing on this date, following
ordinary business practices, at Elk Grove, California, addressed as set forth
above.

27 [] [By Personal Service] By personally delivering a true copy thereof to the
28 office of the addressee above.

1 [XXX] [By Electronic Mail] I e-mailed the documents(s) to the person(s)
2 shown above. No error was reported by the e-mail service that I used.

3 [] [By Overnight Courier] By causing a true copy and/or original thereof to be
4 personally delivered via the following overnight courier service:_____.

5 I declare under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct, and that this declaration was executed on May 25, 2021, at Elk
7 Grove, California.

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9 Rylee K. Fonseca
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