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Attorneys for Plaintiff JONATHAN MARTINEZ

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

JONATHAN MARTINEZ, on behalf of
himself and all “aggrieved employees”
pursuant to Labor Code § 2698 *et seq.*,

Plaintiff,

v.

DEL RIO CARE, LLC, a California
limited liability company, dba
CLOISTERS OF THE VALLEY
ASSISTED LIVING, and DOES 1 through
10, inclusive,

Defendants.

Case No. 37-2020-000143638-CU-OE-CTL

[Assigned for all purposes to The Honorable
Ronald D. Frazier, Dept. C65]

**STIPULATION AND [PROPOSED] ORDER
APPROVING SETTLEMENT OF PRIVATE
ATTORNEYS GENERAL ACT CLAIMS,
AND DISMISSING ACTION WITH
PREJUDICE**

Action Filed: November 30, 2020
Trial Date: N/A

STIPULATION

IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. On November 30, 2020, Plaintiff filed his representative action complaint in the above-captioned court, individually and on behalf of all “aggrieved employees” pursuant to Labor Code §§ 2698 *et seq.* setting forth various Labor Code violations alleged in his letter to the LWDA. (Gaines Decl. at ¶ 6).

1 2. The parties thereafter conducted informal discovery in an attempt to reach early
2 resolution. (Gaines Decl. at ¶ 7).

3 3. The parties participated in private negotiations in an attempt to resolve the claims
4 asserted in the action. (Gaines Decl. at ¶ 8).

5 4. The parties engaged in arm's-length negotiations and reached a resolution of the
6 PAGA claims asserted in the action. Based on the information and documents obtained through
7 informal discovery and during mediation, Plaintiff assessed the maximum value of the PAGA
8 claims (without stacking) to be approximately \$180,000 (at the rate of a \$100 penalty for 1,800 pay
9 periods at issue for approximately 191 aggrieved employees during the applicable time frame).
10 (Gaines Decl. at ¶ 9).

11 5. The amount of the settlement is \$25,000 which represents over 13.8% of the
12 maximum recoverable discretionary penalties and includes an apportionment of attorneys' fees and
13 costs and a general release payment to Plaintiff. (Gaines Decl. at ¶ 10).

14 6. The settlement amount represents a fair compromise of the claims. (Gaines Decl. at
15 ¶ 12). Defendant has incurred financial issues as a result of losing business since the start of the
16 pandemic in March, 2020. (Gaines Decl. at ¶ 11).

17 7. Based on their extensive experience litigating over 200 representative actions,
18 counsel for Plaintiff believes the settlement here is fair and reasonable and warrants approval by
19 the Court. (Gaines Decl. at ¶¶ 2-5; Exhibit "A" to Gaines Decl.).

20 10. The parties request that the Court enter the accompanying order, approving their
21 settlement (attached to the Gaines Declaration as Exhibit "B"), as permitted by Labor Code §
22 2699(l), and dismissing this Action with prejudice. (Gaines Decl. at ¶ 12).

23 11. Plaintiff and Defendant separately entered into a Confidential Individual Settlement
24 Agreement and Release whereby Defendant agreed to pay Plaintiff in exchange for his general
25 release of all claims. Plaintiff shall submit a copy of this individual settlement agreement under
26 seal for in-camera review, should the Court request it. (Gaines Decl. at ¶ 13).

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By: 
SAM SHERMAN

The Court, having reviewed the parties' Private Attorneys General Act (Labor Code Section 2698 *et. seq.*) Settlement Agreement and Release (the "Settlement" or "Settlement Agreement") attached as Exhibit "B" to the concurrently-filed Declaration of Daniel F. Gaines, together with the Stipulation of the Parties and the Declaration of Daniel F. Gaines and exhibits attached thereto, hereby ORDERS:

2. The Court approves the penalties to be paid to the aggrieved employees and the State of California as set forth in the Settlement, pursuant to Labor Code § 2699(l). The Court further approves all payments to be made to Plaintiff's counsel and Plaintiff Martinez based on the terms of the Settlement.

4. Upon entry of this Order, the Parties shall effectuate all terms of the Settlement based on the provisions and timelines set forth in the Settlement Agreement.

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1 5. The Court shall retain jurisdiction, pursuant to Code of Civil Procedure section
2 664.6 and otherwise as permitted by law, to enforce this Settlement.
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4 **IT IS SO ORDERED.**
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6 Dated: _____
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JUDGE OF THE SUPERIOR COURT
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1 **PROOF OF SERVICE AND CERTIFICATION**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to
3 the within action; my business address is 27200 Agoura Road, Suite 101, Calabasas, CA 91301

4 _____ (For messenger) my business address is:

5 On November 29, 2021, I served the foregoing document described **STIPULATION AND [PROPOSED]**
6 **ORDER APPROVING SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT CLAIMS, AND**
7 **DISMISSING ACTION WITH PREJUDICE** on the interested parties in this action by placing a true copy thereof
8 enclosed in sealed envelopes addressed as follows:

9 **Sam Sherman, Esq.**
10 **TENCERSHERMAN, LLP**
11 **12520 High Bluff Drive, Suite 240**
12 **San Diego, CA 92130**

13 X (BY ☒ U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was
14 mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection
15 and processing correspondence for mailing. It is deposited with United States postal service on that same
16 day in the ordinary course of business. I am aware that on motion of party served, service is presumed
17 invalid if postal cancellation date or postage meter date is more that one day after date of deposit for
18 mailing in affidavit.

19 _____ (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or
20 other facility regularly maintained by the express service carrier or delivered the sealed envelope to an
21 authorized carrier or driver authorized by the express carrier to receive documents.

22 _____ (BY FACSIMILE TRANSMISSION) On _____, at _____, at Calabasas, California, I served the above-
23 referenced document on the above-stated addressee by facsimile transmission pursuant to Rule 2008 of
24 the California Rules of Court. The telephone number of the sending facsimile machine was (818)703-
25 8984 and the telephone number(s) of the receiving facsimile machine was (916) 920-4402. A
26 transmission report was properly issued by the sending facsimile machine, and the transmission was
27 reported as complete and without error. Copies of the facsimile transmission cover sheet and the
28 transmission report are attached to this proof of service.

_____ (BY PERSONAL DELIVERY) By causing a true copy of the within document(s) to be personally hand-
delivered to the office(s) of the addressee(s) set forth above, on the date set forth above.

 X (ONLINE TO THE LWDA): I caused the above-described document to be delivered to the Labor
Workforce Development Agency via online process at the PAGA Filing website in accordance with
the procedure imposed by the LWDA.

I certify that the above document was printed on recycled paper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 29, 2021, at Calabasas, California.

Beatriz Franco
BEATRIZ FRANCO