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Attorneys for Plaintiff JONATHAN MARTINEZ

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

PartyOne 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]

**DECLARATION OF DANIEL GAINES IN
SUPPORT OF 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

1
2 I, DANIEL F. GAINES, hereby declare and state as follows:

3 1. I am an attorney duly admitted to the practice of law in the State of California. I am
4 a shareholder of Gaines & Gaines, APLC, counsel for Plaintiff Jonathan Martinez in this action. I
5 have personal knowledge of the facts set forth herein and if called as a witness to testify to them, I
6 could and would do so competently.

7 2. I obtained my BS degree from the University California at Berkeley in 2003. I
8 majored in Business Administration at the Haas School of Business.

9 3. Thereafter, I attended the University of Virginia School of Law. At Virginia, I was
10 a member of the editorial board of the Virginia Tax Review. I was also the recipient of the Lacy
11 Armour Scholarship, awarded to recognize academic excellence. At Virginia, I focused my studies
12 on tax and real estate. I earned my JD and became a member of the California Bar in 2007.

13 4. Since becoming a member of the Bar, I have practiced law with my partner/father,
14 Kenneth, at Gaines & Gaines, APLC. Our practice specializes in litigation, with an emphasis in
15 business, real estate, and employment disputes like this one. Over 75% of my practice is devoted
16 to complex employment litigation similar to the instant action.

17 5. My firm has represented employees in employment matters such as this one, with
18 an emphasis in wage and hour issues. I have participated in and have been certified as Court-
19 approved class counsel in dozens of class and representative action matters since my admission to
20 the Bar. A true and correct list of the cases in which I have been appointed as class counsel is
21 attached hereto as Exhibit "B".

22 6. On September 15, 2020, Plaintiff complied with the requirements set forth in Labor
23 Code § 2698 *et seq.*, the Labor Code Private Attorneys General Act (hereinafter, "PAGA") by
24 sending a letter, by online submission to the Labor and Workforce Development Agency
25 ("LWDA") and by certified mail to Defendant, setting forth the facts and theories of the violations
26 alleged against Defendant. A true and correct copy of the letter submitted to the LWDA is attached
27 hereto as Exhibit "A".

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7. 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.

8. The parties thereafter conducted informal discovery to ascertain the size of the aggrieved employee group, the number of affected pay periods at issue among them, and the strength of Plaintiff's claims.

9. Being fully apprised of the value and strength of Plaintiff's claims, the parties participated in private negotiations in an attempt to resolve the claims asserted in the action.

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

11. The amount of the settlement is \$25,000 which represents over 13.8% of the maximum recoverable discretionary penalties and includes an apportionment of attorneys' fees and costs and a general release payment to Plaintiff.

12. The settlement amount represents a fair compromise of the claims.

13. Defendant has incurred financial issues as a result of losing business since the start of the pandemic in March, 2020.

14. Attached hereto as Exhibit “C” is a true and correct copy of the parties’ PAGA Settlement and Release Agreement.

15. Plaintiff and Defendant separately entered into a Confidential Individual Settlement Agreement and Release whereby Defendant agreed to pay Plaintiff in exchange for his general release of all claims. Plaintiff shall submit a copy of this individual settlement agreement under seal for in-camera review, should the Court request it.

1 I declare, under penalty of perjury, under the laws of the State of California, that the
2 foregoing is true and correct. Executed this 29th day of November, 2021 at Calabasas, California.
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5 *Daniel F. Gaines*
6 DANIEL F. GAINES
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EXHIBIT A

GAINES & GAINES

A PROFESSIONAL LAW CORPORATION

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27200 AGOURA ROAD, SUITE 101

PHONE (818) 703-8985

FAX (818) 703-8984

September 15, 2020

CALABASAS, CALIFORNIA 91301

Via Certified Mail

Labor & Workforce Development Agency
By online submission

Del Rio Care, LLC dba Cloisters of the Valley Assisted Living
1817 Avenida Del Diablo
Escondido, CA 92029

Defendant mailed certified # 70180360000011916328

Agent for Service of Process for Del Rio Care, LLC dba Cloisters of the Valley Assisted Living
National Registered Agents, Inc.

28 Liberty Street

New York, NY 10005

Agent mailed certified # 70180360000011916335

Re: ***Labor Code Violations of Del Rio Care, LLC dba Cloisters of the Valley Assisted Living – Compliance Letter of California Labor Code § 2698 - Private Attorneys General Act***

Dear LWDA:

This office represents Jonathan Martinez, a former non-exempt California employee of Del Rio Care, LLC dba Cloisters of the Valley Assisted Living (“Defendant”). The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.*

Our client was employed by Defendant in Southern California. Herein, we set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to our client and other of its non-exempt California employees (“Aggrieved Employees”).

Our client alleges that Defendant failed to properly compute shift differential wages and other non-base hourly wages earned by our client and other Aggrieved Employees into their regular rate of pay for purposes of paying them overtime at the correct rates, in violation of Labor Code §§ 510, 558 and 1194. Defendant failed to properly blend shift differential wages and other non-base hourly wages and instead paid our client and other Aggrieved Employees overtime based *only* on the base hourly rate of pay, thus depriving our client and other Aggrieved Employees of all overtime wages earned.

Defendant failed to pay premium wages to our client and Aggrieved Employees who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order 5-2001. Our client and all other Aggrieved Employees were routinely not authorized and unable to take a 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour’s pay for each missed rest period. Further, when our client and Aggrieved Employees

would work in excess of ten hours in a shift, they were never authorized to take a third legally compliant rest period. This violates Labor Code § 226.7 and IWC Wage Order 5-2001.

Defendant failed to pay our client and all other Aggrieved Employees premium wages for missed meal periods, in violation of Labor Code §§ 226.7, 510, 512, and 1194 and IWC Wage Order 5-2001. Our client and other Aggrieved Employees were routinely denied, and not authorized to take, an uninterrupted, timely 30-minute meal period for every shift worked over five hours in duration, and a second 30-minute meal period for every shift worked over ten hours in duration, but were not paid premium wages of one hour's pay for each missed meal period. Moreover, when our client and Aggrieved Employees would work in excess of ten hours in a workday, they were denied a legally compliant second meal period. This violates Labor Code §§ 226.7, 510, 512, and 1194 and IWC Wage Order 5-2001.

Our client alleges that Defendant failed to provide him and other Aggrieved Employees with wage statements that fully and accurately itemized the requirements set forth in Labor Code §§ 226(a) and 226.3. Our client and other Aggrieved Employees were not paid all overtime wages due and meal and rest period premium wages due. As such, the wage statements provided by Defendant failed to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in violation of Labor Code §§ 226(a)(9) and 226.3. Separately, the wage statements issued to our client and other Aggrieved Employees failed to set forth the accurate total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3. The hours worked set forth on the wage statements reflects twice as many hours than were actually worked.

Our client further alleges that Defendant failed to pay him all wages due at the separation of his employment based on the time frames required by Labor Code §§ 201 and 202. As stated above, our client and other Aggrieved Employees were not paid all wages due during the course of their employment and, as a result of this failure, they were not timely paid all wages due at the separation of their employment. Further, and independent of the above allegation, when our client resigned from his position with Defendant, he was not issued his wages within 72 hours of his resignation; rather, he was finally issued his wages seven days after his resignation. This violates Labor Code §§ 201-202 and is alleged on behalf of our client and Aggrieved Employees no longer employed by Defendant.

The \$75 PAGA filing fee has been mailed to the LWDA concurrently with the transmission of this letter.

We invite Defendant or its attorney to contact our office to discuss this matter, including whether an early resolution of the claims can be reached.

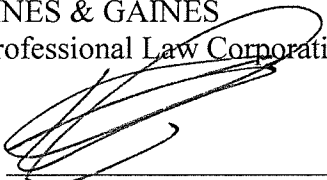
Our office awaits your response.

Labor & Workforce Development Agency
Del Rio Care, LLC dba Cloisters of the Valley Assisted Living
National Registered Agents, Inc.
September 15, 2020
Page 3

Very truly yours,

GAINES & GAINES
A Professional Law Corporation

By:



EVAN S. GAINES

EXHIBIT B

Adams v. Newell Rubbermaid, USDC – Central District of California (Los Angeles), Case No. EDCV 08-1499 JTM (CTx)

Adams v. Sam's West, Inc., San Bernardino County Superior Court, Case No. CIVDS1403987

Agredano v. GS Brothers, Inc., Los Angeles County Superior Court, Case No. BC445561

Allen v. Toms Sierra Company, Nevada County Superior Court, Case No. CU18-082823

Allen v. Valley Inventory Service, Inc., Solano County Superior Court, Case No. FCS034682

Alvarez v. Pilot Travel Centers, LLC, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-4605

Alonzo v. Camblin Steel Service, Inc., Placer County Superior Court, Case No. SCV0034165

Amenhotep v. Google, Inc., Santa Clara County Superior Court, Case No. 17CV311528

Anaya v. Progressive Logistics Services, LLC, Riverside County Superior Court, Case No. RIC1308270

Andre v. Newell Rubbermaid, Inc., San Bernardino County Superior Court, Case No. CIVVS1200282

Anduha v. ABC Phones of North Carolina, Inc., Stanislaus County Superior Court, Case No. 2022729

Anslow v. Wellington Energy, Inc., USDC – Northern District of California (San Francisco), Case No. CV11-1596-JCS

Aranda, et al. v. Universal Lumpers of California, Inc., San Joaquin County Superior Court, Case No. STK-UOE-2017-7826

Armendariz v. Integrated Pain Management Medical Group, Inc., Kern County Superior Court, Case No. BCV-19-100267-SDS

Barrow, et al. v. Desmond Foods, L.P., Sacramento County Superior Court, Case No. 34-2015-00187227

Batmanghelich v. Sirius XM Radio Inc., USDC – Central District of California (Los Angeles), Case No. CV 09-9190 VBF (JCx)

Bosser v. Hooked on Solar, Yolo County Superior Court, Case No. CVCV-2016-876

Bourland v. Horizon Personnel Services, Inc., Sacramento County Superior Court, Case No. 34-2014-00161365-CU-OE-GDS

Bowen v. IMI Material Handling Logistics, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-0000192

Branson v. Mladen Buntich Construction, San Bernardino County Superior Court, Case No. CIVDS1609129

Brandt v. Sacramento Auto Insurance Center, Inc., San Joaquin County Superior Court, Case No. 39-2009-00202938-CU-OE-STK

Brown v. 22nd District Agricultural Association, United States District Court, Southern District of California, Case No. 15-cv-2578-DHB

Brown v. Sierra Central Credit Union, Sutter County Superior Court, Case No. CVCS18-0002161

Burgess v. Blue Cross and Blue Shield of South Carolina, San Joaquin County Superior Court, Case No. 39-2012-00277449-CU-BT-STK

Burgess v. Strategic Retail Solutions, LLC, Los Angeles County Superior Court, Case No. BC413791

Calhoun v. Celadon Trucking Services, Inc., USDC – Central District of California (Los Angeles), Case No. 5:16-cv-01351-PSG-FFM

Caporicci v. Owens & Minor Distribution, Inc., San Joaquin County Superior Court, Case No. 39-2013-00295662-CU-OE-STK

Carl v. Advanced Call Center Technologies, LLC, Sacramento County Superior Court, Case No. 34-2013-00148310

Carlisle, et al. v. Professional Technical Security Services, Inc., Case No. CGC18569791

Carrete v. Gamestop, Inc., Imperial County Superior Court, Case No. ECU08501

Carrillo v. Bimbo Bakeries, Inc., San Bernardino County Superior Court, Case No. CIVDS1606813

Caudillo v. Aegis Treatment Centers, LLC, Merced County Superior Court, Case No. 18CV-0744

Cerami v. Metlife, Inc., USDC – Central District of California (Orange County), Case No. 11-CV-00681-CJC (MLGx)

Charles v. Aaron's Inc., Los Angeles County Superior Court, Case No. BC431468

Charles v. Nursefinders, LLC, Imperial County Superior Court, Case No. ECU07422

Cheifer v. JetBlue Airways Corporation, Los Angeles County Superior Court, Case No. BC451887

Cheifer, et al. v. WHGM, Inc., Los Angeles County Superior Court, Case No. LC104900

Chong, et al. v. Crescent Northwoods Inn, Inc., Del Norte County Superior Court, Case No. CVUJ-2018-1133

Church v. GameStop, Inc., et. al., USDC – Central District of California (Los Angeles), Case No. 11-CV-00132-VAP-RZ

Clothier v. Spar Marketing Services, Inc., Alameda County Superior Court, Case No: RG12-639317

Coleman v. Wireless Lifestyle, Inc., USDC – Western District of Missouri, Case No. 4:12-cv-00855-ODS

Colombo-Beyeler, et al. v. Viking River Cruises, Inc., San Bernardino County Superior Court, Case No. CIVDS1611608

Conlee v. Clark Pacific Corporation, Yolo County Superior Court, Case No. CV14-1409

Contreras v. Osmose Utilities Services, Inc., San Bernardino County Superior Court, Case No. CIVDS1513998

Contreras v. West American Service Corporation, Kings County Superior Court, Case No. 14C0280

Corona v. Yosemite Meat & Locker Service, Inc., Stanislaus County Superior Court, Case No. 2006828

Cortellessa v. Dotnext, Inc., Alameda County Superior Court, Case No. RG09429971

County v. Ingram Mirco, Inc., San Bernardino Superior Court, Case No. CIVRS 1304445

Covarrubias, et al. v. Petersendean Builder Group, Inc., Kern County Superior Court, Case No. BCV-16-101122

Cowen, et al. v. Evergreen Alliance Golf Limited, L.P., d/b/a Arcis Golf, San Bernardino County Superior Court, Case No. CIVDS1719283

Cruz-Garcia v. Lemonade Restaurant Group, LLC, Los Angeles County Superior Court, Case No. BC478205

Cunningham v. Performance Contracting, Inc., Contra Costa County Superior Court, Case No. C16-02157

Dabney v. Coneybeare, LLC, et al., Orange County Superior Court, Case No. 30-2018-00999989-CU-OE-CXC

Dabney, et al. v. Panera, LLC., San Bernardino County Superior Court, Case No. CIVDS1516030

Diaz, et al. v. Seaworld Entertainment, Inc., Imperial County Superior Court, Case No. ECU10046

Diggs v. Western Waterproofing Company, Inc., San Francisco County Superior Court, Case No. CGC-14-539281

Dismuke v. Rhodes Retail Services, Inc., Sacramento County Superior Court, Case No. 34-2011-00105001

Dorsette v. TA Operating, LLC, USDC – Central District of California (Los Angeles), Case No. EDCV 09-1350 PA (RZx)

Duran v. The Image of California, Inc., Kern County Superior Court, Case No. S-1500-CV-284056 DRL

Edwards v. Trans World Entertainment Corp., San Diego County Superior Court, Case No. 37-2010-00095123-CU-OE CTL

Esakhani v. Central Valley Gaming, Stanislaus County Superior Court, Case No. 2020667

Escobar v. SMSSI of California, Inc., San Francisco Superior Court, JCCP No. 4776

Espinosa v. Taltech Construction, et al., Los Angeles County Superior Court, Case No. BC590176

Espinosa v. Bodycote Thermal Processing, Inc., Los Angeles County Superior Court, Case No. BC501617

Espinoza v. Pabco Building Products, LLC, Los Angeles County Superior Court, Case No. VC065660

Estrada v. Net Source Communications, Inc., Los Angeles County Superior Court, Case No. BC431169

Estrada v. OS Restaurant Services, LLC, Santa Clara County Superior Court, Case No. 16CV293249

Estupinan v. Global Development Strategies, Inc., Santa Clara County Superior Court, Case No. 110CV178898

Fadhl. v. Siemens Healthcare Diagnostics Inc., Sacramento County Superior Court, Case No. 34-2017-00209518

Fernandez v. The Regents of the University of California, Los Angeles County Superior Court, Case No. BC656256

Ferrer v. Dish Network Corporation, Los Angeles County Superior Court, Case No. BC441354

Findora v. Barry Callebaut USA LLC, Napa County Superior Court, Case No. 19CV000219

Flores v. Cintas Corporation, Los Angeles County Superior Court, Case No. BC400422

Friel v. Midwest Construction Services, Inc., San Joaquin County Superior Court, Case No. 39-2015-00329204-CU-OE-STK

Gagnon v. Banc of California, Contra Costa County Superior Court, Case No. C 15-00196

Galarza v. Bayou Well Services, LLC, Kern County Superior Court, Case No. S-1500-CV-279372 DRL

Galarza v. C & H Testing Service LLC, Kern County Superior Court, Case No. BCV-15-100008 SPC

Garcia v. Old Dominion Freight Line, Inc., San Bernardino County Superior Court, Case No. CIVDS1404636

Geer v. Applied Aerospace Structures Corp., San Joaquin County Superior Court, Case No. 39-2014-00313702-CU-OE-STK

Getz v. California Cinema Investments, Inc., Ventura County Superior Court, Case No. 56-2013-00437706-CU-MC-VTA

Gibbs v. M. Lehmann Enterprises, Orange County Superior Court, Case No. 30-2013-00678538-CU-OE-CXC

Gilles v. Schaefer Ambulance Service Inc., Imperial County Superior Court, Case No. ECU07970

Goldman, et al. v. Defender's, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-0009973

Gomez v. Low Desert Empire Pizza, Inc., San Bernardino County Superior Court, Case No. CIVVS900392

Gomez v. Pizza Hut of Southeast Kansas, Inc., San Bernardino County Superior Court, Case No. CIVVS900679

Gonzalez v. Harris Farms, Inc., USDC – Eastern District of California (Fresno), Case No. 1:14-cv-00038-LJO-SAB

Guerrero v. Main Electric Supply Company LLC, Ventura County Superior Court, Case No. 56-2019-00525427-CU-OE-VTA

Gutierrez v. Asset Management Specialists, Inc., Fresno County Superior Court, Case No. 12CECG03577

Gutierrez v. Linkus Enterprises, Inc., Madera County Superior Court, Case No. MCV065774

Gutierrez v. Shiekh, LLC, San Bernardino County Superior Court, Case Nos. CIVRS1206525, CIVRS1303408

Hairston v. Stanislaus Surgical Hospital, Stanislaus County Superior Court, Case No. CV-19-000651

Hindman v. Service Quick, Inc., San Bernardino County Superior Court, Case No. CIVDS1724229

Hogan v. iMobile of CA LLC, San Bernardino County Superior Court, Case No. CIVDS1409263

Hogan v. Wireless Evolution Inc., Riverside County Superior Court, Case No. MCC1300669

Hogan v. Wireless That's It! LLC, Riverside County Superior Court, Case No. RIC1201997

Holmes v. Bottling Group, LLC, Stanislaus County Superior Court, Case No. 2022584

Hooper, et al. v. URS Midwest, Inc., et al., San Bernardino Superior Court, Case No. CIVDS1607489

Humphrey v. Freedomroads, LLC, Shasta County Superior Court, Case No. 178228

Hurtado v. Rush Truck Centers of California, Inc., Los Angeles County Superior Court, Case No. BC427672

Hyde v. Dent Wizard International Corporation, Sacramento County Superior Court, Case No. 34-2015-00173882

Ibrihim v. Imperfect Foods, Inc., San Joaquin County Superior Court, Case No. STK-VI-UOE-2019-0000846

Id-deen v. Educational Services of America, Solano County Superior Court, Case No. FCS040803

Isherwood v. Mason Dixon Intermodal, Inc., San Joaquin County Superior Court, Case No. 39-2012-00279891-CU-OC-STK

Jahanbin v. Pacific Mercantile Bank, Orange County Superior Court, Case No. 30-2011-00480705CU-OE-CXC

Jenkins v. Sedgwick Claims Management Services, Inc., Los Angeles Superior Court, Case No. LC101648

Job v. California Security Services, Yuba County Superior Court, Case No. 14-0000820

Johnson v. The Goodyear Tire & Rubber Company, USDC – Northern District of California (San Francisco), Case No. 3:13-cv-01069-MMC

Jolin v. Bay Cities Recovery, Inc., El Dorado County Superior Court, Case No. PC20100458

Jordan v. Sutter Memorial Hospital, Stanislaus County Superior Court, Case No. 2023344

Keebaugh v. Mike Thompson Recreational Vehicles, San Bernardino County Superior Court, Case No. CIV-DS-1500718

Kelly v. Robin's Enviro Vac, Inc., Kern County Superior Court, Case No. S-1500-CV-282277
DRL

King v. Levy Premium Foodservice Limited Partnership, Alameda County Superior Court, Case No. HG15786353

Kunsman v. Punch Bowl Sacramento, LLC, et al., Sacramento County Superior Court, Case No. 34-2018-00243175

LaFear v. Encore Education Corporation, San Bernardino County Superior Court, Case No. CIVDS1802251

Lanzarin v. AWI Management Corporation, Solano County Superior Court, Case No. FCS041809

Lee, et al. v. Foster Dairy Farms, Stanislaus County Superior Court, Case Nos. 2006542, 2015679

Lemus, et al. v. Eastridge Workforce Technology, Inc., San Bernardino County Superior Court, Case No. CIV-DS-1611470

Lewis v. American Casino & Entertainment Properties LLC, San Bernardino County Superior Court, Case No. CIVDS1719094

Lemus v. On Assignment Staffing Services, San Bernardino County Superior Court, Case No. CIV-DS-1600497

Leon v. Piercey West Inc., Los Angeles County Superior Court, Case No. BC656874

Lopez v. Creative Communication Technologies, Inc., Imperial County Superior Court, Case No. ECU07851

Lopez v. Go Green Auto Spa Franchise, Inc., et al., Los Angeles County Superior Court, Case No. BC 562212

Lopez v. Truck Accessories Group, LLC, Yolo County Superior Court, Case No. CV13798

Ludlow v. Prince Telecom, LLC, Stanislaus County Superior Court, Case No. 684239

Luna v. Express Locations, LLC, Imperial County Superior Court, Case No. ECU09779

Macias v. American Tire Distributors, Inc., Kern County Superior Court, Case No. BCV-18-101586

Maldonado v. Hardwood Flooring Liquidators, Inc., Los Angeles County Superior Court, Case No. BC642170

Mansfield v. Cambridge Real Estate Services, Inc., Butte County Superior Court, Case No. 160175

Martinez v. DPI Specialty Foods West, San Joaquin County Superior Court, Case No. 39-2015-00327311-CU-OE-STK

Martinez v. Styles For Less, Inc., San Bernardino County Superior Court, Case No. CIVVS1203057

Mayne v. John Muir Behavioral Health, Contra Costa County Superior Court, Case No. C17-00998

Maze v. Bulldog Freightway, Inc., Imperial County Superior Court, Case No. ECU08716

McCormick v. G & O Body Shop, Inc., El Dorado Superior Court, Case No. PC20130291

McCrary v. Campbell Soup Supply Company, San Joaquin County Superior Court, Case No. 39-2013-00297698-CU-OE-STK

McDaniel v. Vancary, Inc., Tulare County Superior Court, Case No. 268036

Melgar-Farela v. Guardian Compliance, Inc., Los Angeles County Superior Court, Case No. BC481865

Mendiola v. Tyco Electronics Corporation, Riverside County Superior Court, Case No. RIC1400721

Mettler v. Les Schwab Tire Centers of California, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-476

Miller v. California Subshine, Inc., Los Angeles County Superior Court, Case No. BC637754

Miller v. Southwest Airlines Co., USDC – Northern District of California (San Francisco), Case No. 3:12-cv-05978-CRB

Mitchell v. Crossmark, Inc., USDC – Central District of California (Los Angeles), Case No. CV 11-2818-JAK (FMOx)

Moghrabi v. Vitaligent, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-1650

Molina v. Berkshire Hathaway Energy Company, et al., Imperial County Superior Court, Case No. ECU000522

Moore v. Horizon Solar Power, Inc., San Bernardino County Superior Court, Case No. CIVDS1410001

Murray v. Select Media Services, LLC, Los Angeles County Superior Court, Case No. BC424506

Myles v. Central Transport LLC, San Bernardino County Superior Court, Case No. CIVDS1401434

Navarro v. Mariana Packing Co., Inc., Solano County Superior Court, Case No. FCS045935

Nehrlich, et al. v. RPM Mortgage, Inc., Orange County Superior Court, Case No. 30-2013-00666783-CU-OE-CXC

Overton v. Hat World, Inc., USDC – Eastern District of California (Sacramento), Case No. 2:11-CV-01645-LKK-KJN

Perez v. Alcatel-Lucent USA Inc., Imperial County Superior Court, Case No. ECU07977

Perez v. Major Gloves and Safety, Inc., San Bernardino County Superior Court, Case No. CIVDS1710445

Perry v. Cardinal Health 200, LLC, Solano County Superior Court, Case No. FCS035303

Phraxayavong-Briones v. RSM, Inc., Sacramento County Superior Court, Case No. 34-2012-00117524

Pugh v. Wi Spa, LLC, Imperial County Superior Court, Case No. ECU07932

Quist v. Knight Transportation, Inc., San Bernardino Superior Court, Case No. CIVDS 1615414

Quitco v. Aviation Fuel Systems Repair, Inc., San Bernardino Superior Court, Case No. CIVRS1302311

Rambeau v. C.C.M. Corporation, et al., Sacramento County Court, Case No. 34-2018-00244842

Rankins v. Roman Empire Living Skills, Inc., Los Angeles County Superior Court, Case No. BC713399

Rees v. Advantel, Incorporated, Santa Clara County Superior Court, Case No. 16-CV-292219

Renfrow v. Janra Enterprises, Inc., Sacramento County Superior Court, Case No. 3402010-00080471

Reynolds v. Diamond Pet Food Processors of Ripon, San Joaquin County Superior Court, Case No. 39-2014-00310818

Richard v. A-Para Transit Corp., Alameda County Superior Court, Case No. HG17870373

Richardson v. TEC Equipment, Inc., et al., Los Angeles County Superior Court, Case No. VC065536

Robles v. North County Health Project Incorporated, San Diego Superior Court, Case No. 37-2014-00001751-CU-OE-NC

Rodas v. Monetary Management of California, Inc., USDC – Eastern District of California (Sacramento), Case No. 2:14 cv 01389 TLN AC

Rodriguez v. 20/20 Plumbing & Heating, Inc., San Bernardino County Superior Court, Case No. CIVDS1705362

Rodriguez v. Commerce Distribution Company, Los Angeles County Superior Court, Case No. BC656259

Rodriguez v. Valley Oak, San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-7980

Roden v. Service Champions, San Bernardino County Superior Court, Case No. CIVDS1613183

Russell v. Bradshaw International, Imperial County Superior Court, Case No. ECU00853

Rutledge, et al. v. Healthport Technologies, LLC, Alameda County Superior Court, Case No. RG16835813

Sabala v. Econtactlive, Inc., Stanislaus County Superior Court, Case No. 684981

Sabatier v. Picture Perfect Installation, Inc., Riverside County Superior Court, Case No. RIC10004953

Salameh v. Sonomaidence OPCO, LLC, Sonoma County Superior Court, Case No. SVC264228

Salazar v. Tag-3 Medical Investment Group, LLC, Los Angeles County Superior Court, Case No. BC527698

Salbeck v. Ingredion Incorporated, San Joaquin County Superior Court, Case No. STK-UOE-2017-0012622

Sampson v. Healthnet of California Inc., Sacramento County Superior Court, Case No. 34-2015-00183785-CU-OE-GDS

Sanchez v. Don Roberto Jewelers, Inc., Imperial County Superior Court, Case No. ECU06819

Sanders v. Lionakis, Sacramento County Superior Court, Case No. 34-2017-00223601

Santana v. United Staffing Associates, LLC, Tulare County Superior Court, Case No. 249338

Schrader v. Adidas Promotional Retail Operations, Inc., Los Angeles County Superior Court, Case No. BC414168

Sebrell v. Pomeroy IT Solutions, San Bernardino County Superior Court, Case No. CIVDS1721560

Seymour v. Quest Service Group, LLC, Sacramento County Superior Court, Case No. 34-2017-00206917

Silva v. Trical, San Benito County Superior Court, Case No. CU-16-00218

Simler v. Polly's Inc., Riverside County Superior Court, Case No. RIC 1117862

Sipin, Scott v. Salesforce.com, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2019-0004629

Skuro v. BMW of North America, LLC, USDC – Central District of California (Los Angeles), Case No.: CV 10-8672-GW (FFMx)

Smith v. Steelcase, Inc., San Bernardino County Superior Court, Case No. CIVDS1725850

Sohal v. Foster Poultry Farms, Stanislaus County Superior Court, Case No. 2026605

Solomon v. City of Los Angeles, Los Angeles County Superior Court, Case No. BC570345

Solano v. Vozzcom, Inc., Imperial County Superior Court, Case No. ECU09519

Smith, et al. v. Sente Development, Inc., Sacramento County Superior Court, Case No. 34-2016-00196614

Solorzano v. FDS Manufacturing Corporation, Los Angeles County Superior Court, Case No. BC542532

Solowitz v. BakeMark USA LLC, Los Angeles County Superior Court, Case No. BC467838

Spampinato v. Wind & Sea Restaurants, Inc., San Bernardino County Superior Court, Case No. CIVVS1205154

Spitzer, et al. v. FRHI Hotels & Resorts (Canada) Inc., San Bernardino County Superior Court, Case No. C IVDS1712220

Stephens v. C.S., Inc., Riverside County Superior Court, Case No. PSC1301224

Stevenson v. Harvest Management Sub LLC, Ventura County Superior Court, Case No. 56-2011-00397420-CU-OE-SIM

Thompson v. Continental Labor Resources, Inc. d/b/a Continental Labor & Staffing Resources, Kern County Superior Court, Case No. S-1500-CV-278751-DRL

Thompson v. Sidhu Truck Line, Inc., Kern County Superior Court, Case No. BCV-15-101308-DRL

Tigas v. Ajilon Communications, Los Angeles County Superior Court, Case No. BC409737

Torres v. Coastal Employment Inc., Los Angeles County Superior Court, Case No. BC529207

Tran v. CSP Fiber Services, San Bernardino County Superior Court, Case No. CIVDS172758

Tripp v. California Guest Services, Inc., Plumas County Superior Court, Case No. CV16-00036

Valdez v. Diamond Landscaping, Inc., Los Angeles County Superior Court, Case No. BC497097

Valencia v. American Team Managers, Inc., Orange County Superior Court, Case No. 30-2016-00857365-CU-CR-CXC

Van Son v. Rush Truck Centers of California, Inc., Los Angeles County Superior Court, Case No. BC494747

Vasquez v. Schurman Fine Papers, San Joaquin County Superior Court, Case No. STK-CV-LMC-2015-10035

Velasquez v. Modesto Ventures, LLC, Sacramento County Superior Court, Case No. 32-2012-00126159

Victoria v. Bali Limousines Inc., San Mateo County Superior Court, Case No. CIV507774

Victorian v. Vision X, Inc., Los Angeles County Superior Court, Case No. BC400333

Wade v. Frito Lay, Kern County Superior Court, Case No. BCV-17-102014

Walls v. E. & J. Gallo, Stanislaus County Superior Court, Case No. 2015874

Warner v. Waterdrops Express Car Wash, LLC, Tulare County Superior Court, Case No. 265708

Waybright v. EAH, Inc., Stanislaus County Superior Court, Case No. 2011677

Weiss v. C.A.R. Enterprises, Inc., Riverside County Superior Court, Case No. RIC1113165

White v. Sally Beauty Supply, LLC, Imperial County Superior Court, Case No. ECU08177

Williams v. Dennis Dillon RV, LLC, San Bernardino County Superior Court, Case No. CIVDS 16006879

Williams v. Closet World, Inc., Los Angeles County Superior Court, Case No. BC400178

Williams v. Progress Rail Services Corporation, Kern County Superior Court, Case No. S-1500-CV-280236 DRL

Wing v. Three Group, Inc., Los Angeles County Superior Court, Case No. BC643883

Wilson v. ALSCO, Inc., Imperial County Superior Court, Case No. ECU07406

Wilson v. Michael C. Stead, Inc., Contra Costa Superior Court, Case No. C1400135

Winningham v. Storer Transportation Service, San Joaquin County Superior Court, Case No. 39-2015-00324708-CU-STK

Woody v. WBN Home Design, San Bernardino County Superior Court, Case No. CIVDS1613367

Woods, et al. v. F&B Innovations, LLC, San Bernardino County Superior Court, Case No. CIVDS1717765

Woodyard v. Bellus ALC Acquisition, LLC, USDC – Central District of California (Los Angeles), Case No. 2:13-cv-05285 SJO AGRx

Wright v. Social Vocational Services, Inc., Kern County Superior Court, Case No. BCV-15-101264

Ybarra v. New Legend, Inc., Sutter County Superior Court, Case No. CVCS-16-2097

Zaragoza v. Center Automotive, Inc., Los Angeles Superior Court, Case No. BC505194

EXHIBIT C

PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE SECTION 2698 ET SEQ.)
SETTLEMENT AGREEMENT AND RELEASE

Jonathan Martinez v. Del Rio Care, LLC

(San Diego County Superior Court, Case Number 37-2020-00014368-CU-OE-CTL)

This Private Attorneys General Act (Labor Code Section 2698 et seq.) Settlement Agreement and Release (“Agreement”) is made by and between Plaintiff Jonathan Martinez (referred to herein as “Plaintiff”) and Del Rio Care, LLC (referred to herein as “Defendant”), (hereinafter, collectively referred to as the Parties)” Subject to the approval of the Court, the settlement of the Action (as defined below) shall be effectuated upon and subject to the following terms and conditions. Capitalized terms as used herein shall have the meanings set forth elsewhere in this Agreement.

RECITALS

A. WHEREAS, on September 15, 2020, Plaintiff notified the Labor and Workforce Development Agency (“LWDA”) of his intent to file an action under California’s Private Attorneys General Act, California Labor Code § 2698 *et seq.* (“PAGA”) (the “LWDA Letter”). Plaintiff allowed the LWDA an opportunity to investigate his claims as required by the Labor Code.

B. WHEREAS, on or about November 30, 2020, Plaintiff filed an action against Defendant in the Superior Court of California, County of San Diego, Case Number 37-2020-00014368-CU-OE-CTL (“Action”). The Action contained a single cause of action under the PAGA related to Plaintiff’s employment with Defendant. The allegations contained in the Action are incorporated by reference in these Recitals.

C. WHEREAS, Defendant denies all allegations.

D. WHEREAS, Plaintiff and Defendant are desirous of adjusting and finally settling any and all existing or potential claims, contentions and disputes between each other, their agents, attorneys, servants, employees and assigns, as more fully set forth below, for any event or occurrence in any way related to the matters set forth in the Action, such that a full, final and complete resolution of any claims between the Parties may be effected.

E. WHEREAS, all Parties desire to be released from any present and potential liability or obligation and desire to compromise all disputes and claims arising between them based on or arising out of the facts of the Action in consideration of the benefit to be received from avoidance of any further expenses and costs of litigation and agree to enter into this Agreement.

F. WHEREAS, although each Party disputes any claims the other Party may allege for relief, damage, fees, costs, or expenses in connection with the Action, and specifically denies any liability therefor, the Parties desire to avoid the risks and expenses attendant to litigation and to reach a compromise and settlement of all matters, claims, and causes of action on the terms described herein. As set forth below, the Parties wish to forever release, waive, and discharge all claims whatsoever they have against each other resulting from, or in connection with, the foregoing allegations, in exchange for the consideration set forth below as currently constituted as of the date of execution of this Agreement, subject to Court approval, and with no modifications now or in the future.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is hereby agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

A. Definitions

1. “Action” means the case entitled *Jonathan Martinez v. Del Rio Care, LLC* pending in the Superior Court of the State of California for the County of San Diego (“Court”), Case No. 37-2020-00014368-CU-OE-CTL.

2. “Agreement” or “Settlement Agreement,” means this Private Attorneys General Act (Labor Code section 2698 *et seq.*) Settlement Agreement and Release.

3. “Aggrieved Employees” means any and all individuals employed by Defendant in California as non-exempt hourly employees during the Settlement Period, i.e. time period September 15, 2019 to the date of Court approval of this Settlement Agreement.

4. “Aggrieved Employee List” means the list of the Aggrieved Employees that includes the (1) name; (2) last known home address and telephone number; (3) number of pay periods worked for Defendant in a non-exempt position in California during the Settlement Period; and (4) Social Security Number for each Aggrieved Employee, which Defendant will diligently and in good faith compile from its records.

5. “Attorney’s Costs” means such litigation costs as the Court may award to Plaintiff’s Counsel from the Total Monetary Settlement Amount for the costs Plaintiff’s Counsel has incurred and will incur in the investigation, litigation, and resolution of the Action, and in administration of the Settlement, and which shall not exceed One Thousand Five Hundred Dollars (\$1,500.00). Defendant shall not oppose or object to any request made consistent with this section.

6. “Attorneys’ Fees” means such attorneys’ fees as the Court may award to Plaintiff’s Counsel from the Total Monetary Settlement Amount for the services Plaintiff’s Counsel has rendered and will render to the Aggrieved Employees in the Action, and which shall not exceed 35% of the Total Monetary Settlement Amount (i.e. estimated to be Ten Thousand Five Hundred Dollars (\$10,500)). Defendant shall not oppose or object to any request made consistent with this section.

7. “Defense Counsel” means Sam Sherman, Esq. and Corrin Johnson, Esq. of Tencer Sherman, LLP, 12520 High Bluff Drive, Suite 230, San Diego, CA 92130.

8. “Effective Date” means the date this Settlement is approved by the Court, as provided herein.

9. “Individual Settlement Payment” means the portion of the PAGA Settlement Fund allocated to each Aggrieved Employee. One hundred percent (100%) of the Individual Settlement Payments made to Aggrieved Employees shall be deemed miscellaneous income for which an IRS Form 1099 will be issued if required by law, as determined by the Settlement Administrator.

10. “Notice” means the form of notice that will be sent to each Aggrieved Employee accompanying their Individual Settlement Payments, which shall be substantially in the form attached hereto as **Exhibit A**.

11. “PAGA Settlement Fund” means the amount from the Total Monetary Settlement Amount that is allocated to PAGA civil penalties. Seventy-five percent (75%) of the PAGA Settlement Fund will be distributed to the LWDA and twenty-five percent (25%) will be distributed to Aggrieved Employees.

12. “Plaintiff’s Counsel” means Daniel F. Gaines Esq., Alex P. Katofsky, and Sepideh Ardestani, Esq., of Gaines & Gaines, APLC, 27200 Agoura Rd., Suite 101, Calabasas, California 91301.

13. “Released Claims” means all claims for penalties under the PAGA, including costs and attorneys’ fees related thereto, predicated on claims alleged or which could have been alleged based on the facts as alleged in the operative Complaint in the Action and/or the LWDA Letter, including but not limited to the alleged failure to provide all overtime wages, failure to provide meal breaks and rest breaks, failure to provide complete and accurate wage statements, and failure to timely pay wages upon separation of employment, that accrued during the Settlement Period during employment in a non-exempt position in California.

14. “Released Parties” means Defendant Del Rio Care, LLC dba Cloisters of the Valley Assisted Living, and all of its past, present or future parent entities, and all of Defendant’s partners, subsidiaries, affiliates, divisions, its employee benefit and/or pension plans or funds, executors, predecessors, successors and assigns and all of its past, present or future directors, officers, managers, members, shareholders, principals, attorneys, agents, trustees, administrators, representatives, insurers, fiduciaries, employees, or assigns.

15. “Settlement Administrator” means ILYM Group, Inc., a third-party settlement claims administrator appointed by the Court for the purposes of administering this Settlement. The Parties each represent that each does not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

16. “Settlement Administration Costs” means the amount from the Total Monetary Settlement Amount which shall be allocated, subject to the Court’s approval, to the Settlement Administrator for services rendered in administering the Settlement, and which shall not exceed Five Thousand Dollars (\$5,000.00).

17. “Settlement Approval” means the settlement approval order that will be entered by the Court.

18. “Settlement Fund Account” means the bank account established by the Settlement Administrator pursuant to the terms of this Settlement Agreement, from which all monies payable under the terms of this Settlement shall be paid, as set forth herein.

19. “Settlement Period” means the period from September 15, 2019 through and including the Effective Date

20. “Total Monetary Settlement Amount” means the amount of Twenty-Five Thousand Dollars (\$25,000.00) that Defendant will pay when and if the Court approves this Settlement and the Effective Date occurs. The Total Monetary Settlement Amount will be used to pay: (a) the PAGA Settlement Fund to the LWDA and Aggrieved Employees; (b) the award of Attorney’s Fees to Plaintiff’s Counsel; and (c) the award of Attorney’s Costs to Plaintiff’s Counsel. Under no circumstances will Defendant be required to pay more than Twenty-Five Thousand Dollars (\$25,000.00). In no event will any part of the Total Monetary Settlement Amount revert to Defendant.

B. Consideration

1. **Monetary Settlement Components:** Provided that the Court approves the Settlement and the Effective Date occurs, Defendant will pay the Total Monetary Settlement Amount of Twenty-Five Thousand Dollars (\$25,000.00). All amounts to be paid by Defendant shall be deposited into the Settlement Fund Account, which shall be administered by the Settlement Administrator. All amounts to be paid to anyone pursuant to this Settlement Agreement shall be paid out of the Settlement Fund Account.
2. **Allocation of Total Monetary Settlement Amount:** The Total Monetary Settlement Amount shall be allocated as follows:

(a)	Individual Settlement Payments:	\$2,437.50
(b)	Penalties to LWDA:	\$7,312.50
(c)	Attorneys’ Fees:	\$8,750
(d)	Attorneys’ Costs:	\$1,500
(e)	Settlement Administration Costs:	up to \$5,000
3. **Plaintiff’s General Release Payment:** The Parties agree that Plaintiff will separately receive a confidential general release payment for his individual claims related to his employment with Defendant. If the Court conditions its approval of this Agreement in reviewing the Individual Settlement Agreement, then Plaintiff shall submit a copy to the Court under seal for in camera review.
4. **Escalator Clause Re: Aggrieved Employees and Pay Periods.** Defendant has represented and warranted to Plaintiff and Plaintiff’s Counsel that there are no more than 1,800 pay periods during the Settlement Period through September 30, 2021. Should the number of total pay periods increase by more than 3% beyond these representations, Plaintiff may terminate this Agreement.
5. **Payment and Disbursement of Total Monetary Settlement Amount.** The Total Monetary Settlement Amount shall be issued as follows:

a. Within fifteen (15) calendar days of the Effective Date, Defendant shall pay the Settlement Administrator the Total Monetary Settlement Amount and provide it with the Aggrieved Employee List. No later than fifteen (15) calendar days thereafter, the Settlement Administrator shall disburse the following:

- i. to the “Labor and Workforce Development Agency” the sum of Seven Thousand Three Hundred Twelve Dollars and Fifty Cents Dollars (\$7,312.50), which represents PAGA Penalties;
- ii. to “Gaines & Gaines APLC Client Trust Account” the sum of Eight Thousand Seven Hundred Fifty Dollars Dollars (\$8,750), which represents Attorneys’ Fees;
- iii. to “Gaines & Gaines APLC Client Trust Account” the sum of One Thousand Five Hundred Dollars (\$1,500), which represents Attorneys’ Costs;
- iv. to itself, up to Five Thousand Dollars (\$5,000), to pay for Settlement Administration Costs; and
- v. to the Aggrieved Employees, Individual Settlement Payment checks, together with the Notice attached hereto as Exhibit A.

b. The Parties agree that no payments of the Total Monetary Settlement Amount may be issued unless (1) Plaintiff and Plaintiff’s Counsel have executed this Agreement and provided a signed copy of the Agreement to Defendant; and (2) the time to rescind under the ADEA as set forth in Paragraph 13 of this Agreement has passed and Plaintiff has not rescinded this Agreement. Further, the Parties further agree that no payments of the Individual Settlement Payments may be issued until the Effective Date has passed.

6. **Distribution of the Individual Settlement Payments.** No later than fifteen (15) calendar days after receipt of the Aggrieved Employee List and receipt of the settlement funds set forth in paragraph 2 of this Agreement, the Settlement Administrator shall mail the Individual Settlement Payments to each of the Aggrieved Employees. The amount of each Aggrieved Employee’s Individual Settlement Payment will be calculated based on the total number of pay periods each Aggrieved Employee worked for Defendant in a non-exempt position in California during the Settlement Period. The precise amount of the pay period value will be calculable once the amount of the PAGA Settlement Fund is set based on the amounts approved by the Court with respect to the Attorneys’ Fees, Attorneys’ Costs, and Settlement Administration Costs. To establish the pay period value, the Settlement Administrator will first determine the total number of pay periods worked by Aggrieved Employees for Defendant in a non-exempt position in California during the Settlement Period. Twenty-five percent (25%) of the PAGA Settlement Fund will then be divided by the total number of such pay periods to determine the pay period value. The Individual Settlement Payment to each Aggrieved Employee will be determined by multiplying the pay period value and the total number of pay periods each Aggrieved Employee worked for Defendant in a non-exempt position in California during the Settlement Period.

7. **Deadline for Negotiating Individual Settlement Payments.** Aggrieved Employees shall have one hundred eighty (180) calendar days after mailing by the Settlement Administrator to cash their Individual Settlement Payments. If any Aggrieved Employee's check is not cashed within that period, the check will be void and a stop-payment will be issued, and all residue from unclaimed funds shall be directed to Legal Aid Society of San Diego. The release will be binding upon all Aggrieved Employees, even if they do not cash their checks within the 180-day period. In the event that any settlement check is returned to the Settlement Administrator within 180 days of mailing, the Settlement Administrator will, within five (5) business days of receipt of the returned settlement check, perform a skip trace to locate the individual, and notify Defense Counsel and Plaintiff's Counsel of the results. If a new address is located by these means, the Settlement Administrator will have ten (10) business days to re-issue the check. Neither Defendant, Defense Counsel, Plaintiff's Counsel, nor Plaintiff will have any liability for lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized negotiation of settlement checks. Without limiting the foregoing, in the event a Aggrieved Employee notifies Settlement Administrator that he or she believes that a settlement check has been lost or stolen, the Settlement Administrator shall immediately stop payment on such check. If the check in question has not been negotiated prior to the stop payment order, the Settlement Administrator will issue a replacement check.
8. **Individual Settlement Payments are Conditional Pending Court Approval:**
- e. This Agreement is made conditional upon Court approval of this Settlement Agreement. The parties agree that Plaintiff's Counsel shall be responsible for obtaining approval of this Settlement, and Defendant agrees not to oppose Plaintiff's Motion or Joint Stipulation for Court Approval of this Agreement. Plaintiff and his counsel shall seek the Court's approval of this Settlement within twenty-one (21) business days of execution by the Parties. If the Court does not approve this Agreement, as written and agreed to by the parties, this Settlement Agreement shall be null and void.
 - d. The Parties acknowledge that the allocations of Total Monetary Settlement Amount are not guaranteed and could change pending any revisions ordered by the Court. Thus, the Total Monetary Settlement Amount allocations are expressly conditioned upon Court Approval. The Parties Agree that the Total Monetary Settlement Amount is not subject to increase and any changes requested by the Court shall not be a basis to void this Agreement unless the Court increases the Total Monetary Settlement Amount.
 - e. The Parties agree to fully cooperate with each other to accomplish the terms of this Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Agreement. The Parties shall use their best efforts, including all efforts contemplated by this Agreement, and other efforts that may become necessary to effectuate this Agreement and the terms set forth herein.
9. **Dismissal of Complaint:** Within three (3) business days of receiving notice from the Settlement Administrator that the Total Monetary Settlement Amount has been paid, Plaintiff shall dismiss the complaint with prejudice.

10. **Appointment of Settlement Administrator:** The Parties have agreed to the appointment of ILYM as the Settlement Administrator to perform the duties of a settlement administrator, including using standard devices to obtain forwarding addresses, independently reviewing and verifying documentation associated with any claims, resolving any disputes regarding the calculation or application of the formula for determining the Individual Settlement Payments, drafting and mailing the settlement checks to Aggrieved Employees, issuing 1099 Tax Forms, and performing such other tasks as set forth herein or as the Parties mutually agree or that the Court orders.
11. **Settlement Administration Costs:** Subject to Court Approval pursuant to Paragraph 6, the Settlement Administrator will be paid for the reasonable costs of administration of this Settlement Agreement and calculation and distribution of the Individual Settlement Payments (the “Settlement Administration Costs”). The Settlement Administration Costs will be paid out of the amount characterized in this Agreement as Settlement Administration Costs, in an amount of up to \$5,000. The Settlement Administration Costs include, inter alia, the issuing of 1099 Forms, preparing, distributing and tracking the Individual Settlement Payments, confirming/auditing for compliance with this Agreement, and calculating and distributing all payments to be made pursuant to the Settlement. If the Settlement Administration Costs are less than \$5,000, any remaining funds shall be directed to the PAGA Settlement Fund.
12. **Aggrieved Employee List:** Within fifteen (15) calendar days after the Effective Date, Defendant shall provide to the Settlement Administrator the Aggrieved Employee List. The Settlement Administrator will run a check of the Aggrieved Employees’ addresses against those on file with the U.S. Postal Service’s National Change of Address List. The Aggrieved Employee List provided to the Settlement Administrator will remain confidential and will not be used or disclosed to anyone, except as required by applicable tax authorities, pursuant to Defendant’s express written consent, or by order of the Court. Redacted information from the Aggrieved Employee List, including pay period calculations, may be provided to Plaintiff’s Counsel for the limited purpose of implementing this Agreement.
13. **Tax Liability:** Neither the Parties nor their counsel make any representation as to the tax treatment or legal effect of Individual Settlement Payments. Plaintiff is not relying on any statement or representation by Defendant and Defendant’s Counsel regarding the tax allocation or treatment of any amounts paid to them under the terms of this Agreement. The Parties further agree to hold Defendant harmless for any and all tax consequences related to the allocation of the payments made under this Section. Plaintiff understands and agrees that he will be solely responsible for the payment of any taxes and penalties assessed on the respective payments made to him, as described herein. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the “Code”) and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring Defendant into compliance with any such changes.

14. **Attorneys' Fees and Costs.** Except as otherwise provided for in this Agreement, the Parties, and each of them, shall bear their own costs, expenses and attorneys' fees in connection with this Agreement and the Action.
15. **Settlement Based on Objective Analysis.** The Parties to this Agreement acknowledge that the Agreement is based upon an analysis of the rights and liabilities of the Parties, and was made after due consideration of those rights and liabilities, as well as the costs of future litigation in the Action.
16. **No Admission of Liability.** Nothing in this Agreement shall be deemed or construed to be an admission of wrongdoing or liability on the part of any of the Parties hereto, and such liability or wrongdoing is specifically denied. The Parties have maintained and continue to maintain that their Action were and are lawful and proper.
17. **LWDA Notice.** Pursuant to California Labor Code § 2699(l), Plaintiff will provide a copy of this Settlement to the LWDA concurrently with the filing of the motion or stipulation for approval of this Settlement. Plaintiff will also file a declaration in support of his motion or stipulation for Settlement Approval confirming that he has submitted the Settlement to the LWDA in compliance with Labor Code § 2699(l).
18. **Dismissal and Continued Jurisdiction Pursuant to Code of Civil Procedure Section 664.6.** After the Court approves the Settlement, the Effective Date has passed, and the Action has been dismissed with prejudice, the Court shall have continuing and exclusive jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement; (b) matters relating to the administration of the Settlement; and (c) such post-Approval and related matters as may be appropriate under Court rules, California law, and as set forth in this Settlement Agreement.
19. **No Right of Aggrieved Employees to Object or Opt-Out.** The Parties agree there is no statutory or other right for any Aggrieved Employee to object, opt out or otherwise exclude himself or herself from this Settlement. Except as otherwise stated, the Parties will vigorously defend against any attempt by any Aggrieved Employee or by any entity or agency to object to/opt-out of this settlement. The Parties will jointly defend against any appeal filed with respect to the Order approving the Settlement
20. **Release of Defendant.** Subject to the occurrence of the Effective Date and conditioned upon Defendant's full payment of the Total Monetary Settlement Amount, Plaintiff and the Aggrieved Employees hereby release the Released Parties of the Released Claims.
21. **Reliance on Advice of Counsel.** Each Party to this Agreement further acknowledges by executing this Agreement that he, she or it has been advised to speak independently with counsel prior to executing this Agreement, and has had an adequate opportunity to consult with legal counsel prior to executing this Agreement, and that they have executed this Agreement with full knowledge of its meaning and effect.
22. **Subsequent Facts.** The Parties acknowledge that they may hereafter discover facts different from and in addition to those now known or believed to be true in entering into this Agreement. The Parties expressly agree to assume the risk of the possible discovery of additional or different facts, including facts which may have been concealed or hidden and agree that this Agreement shall remain effective in all respects regardless of such

additional or different facts. If any subsequent facts are discovered, the Parties shall not be entitled to any relief in connection therewith, including, without limitation, any alleged right to set aside or rescind this Agreement.

23. **Full Defense.** This Agreement may be pleaded as a full and complete defense and may be used as a basis for an injunction against, or stay and dismissal of, any action, suit or other proceeding which may be instituted, prosecuted or attempted by any of the Parties.
24. **No Duress.** Each Party hereto acknowledges that such Party understands this Agreement and has entered into it of such Party's own free will and not under duress of any kind.
25. **No Assignments.** The Party releasing claims herein each warrant that they have made no assignment and will make no assignment of any claim, cause of action or right of any kind whatsoever released by this Agreement, that no other person or entity of any kind has, or has had, any interest in any of the claims, demands, obligations, Action or causes of action, debts, liabilities, rights, contracts, damages, attorneys' fees, costs, expenses, losses or claims released herein and that no complaint or claim has been filed with any court, administrative agency or regulatory body. Each Party represents and warrants that they have the sole right and exclusive authority to execute this Agreement and receive the sums specified herein.
26. **Authorized Signatory.** Each of the undersigned represents and warrants, by executing this Agreement, that he, she, or it is authorized to enter into this Agreement and agrees to be bound by all the terms and conditions of this Agreement.
27. **Agreement Deemed Prepared by Each Party.** Each Party to this Agreement, by the execution of this Agreement, acknowledges that this Agreement shall be deemed to be prepared by each and every Party hereto.
28. **Modified Only by Writing.** This Agreement may only be modified or changed by a writing signed by each and every Party hereto.
29. **Construed Under California Law.** This Agreement shall be construed and interpreted according to the laws of the State of California. The prevailing party in any dispute related to this Agreement shall recover reasonable attorneys' fees and costs.
30. **Venue.** The Parties to this Agreement hereby agree that the proper venue for any lawsuit or other proceeding arising out of the terms of this Agreement or any Party's rights under this Agreement shall be San Diego County, California.
31. **Effect of Separate Provisions.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall remain in full force and effect, and shall, in no way, be affected, impaired or invalidated.
32. **Multiple Copies.** This Agreement may be executed in multiple copies, including with signatures by fax, or electronically, including by DocuSign, each of which shall be deemed to be an original.

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33. **Complete and Final Agreement.** This Agreement contains the complete and final agreement between the Parties, and shall be binding upon and shall inure to the benefit of each Party's heirs, successors, legal representatives, parent, subsidiary and affiliated corporations, and their predecessors, successors and assigns. The terms, conditions and agreements contained in this Agreement constitute the entire agreement between the Parties hereto, and except as expressly stated herein, there are no other agreements, whether oral or written, between the Parties. No oral representations or agreements shall be considered as part of this Agreement, and this Agreement supersedes all prior and contemporaneous oral and written agreements and discussions.

ALL PARTIES HAVE READ THIS AGREEMENT COMPLETELY AND HAVE HAD THEIR ATTORNEYS EXPLAIN IT TO THEM. THE PARTIES FULLY UNDERSTAND THE CONSEQUENCES AND EFFECT OF THIS AGREEMENT AND ITS SIGNIFICANCE

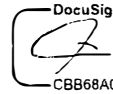
ON THE RELEASE OF ALL CLAIMS EACH MAY HAVE AGAINST THE OTHER, EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement consisting of eleven (11) pages, including signature pages, as of the year and date shown opposite his/her/its name.

noviembre 9, 2021

DATED: November __, 2021

Plaintiff, JONATHAN MARTINEZ

DocuSigned by:

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By: JONATHAN MARTINEZ

DATED: November __, 2021

DEL RIO CARE, INC.

By: Scott Kirby

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ALL PARTIES HAVE READ THIS AGREEMENT COMPLETELY AND HAVE HAD THEIR ATTORNEYS EXPLAIN IT TO THEM. THE PARTIES FULLY UNDERSTAND THE CONSEQUENCES AND EFFECT OF THIS AGREEMENT AND ITS SIGNIFICANCE

ON THE RELEASE OF ALL CLAIMS EACH MAY HAVE AGAINST THE OTHER, EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN.

IN WITNESS WHEREOF, each of the undersigned has executed this Agreement consisting of eleven (11) pages, including signature pages, as of the year and date shown opposite his/her/its name.

DATED: November __, 2021

Plaintiff, JONATHAN MARTINEZ

By: JONATHAN MARTINEZ

DATED: November 17, 2021

DEL RIO CARE, INC.



By: Scott Kirby

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APPROVED AS TO FORM ONLY

DATED: November 18, 2021

TENCER SHERMAN LLP

By: 

Sam G. Sherman, Esq.
Attorney for Defendant, DEL RIO CARE,
INC

DATED: November 10, 2021

GAINES & GAINES APC

By: 

Sepideh Ardestani, Esq.
Attorney for Plaintiff JONATHAN
MARTINEZ

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 **DECLARATION OF DANIEL GAINES**
6 **IN SUPPORT OF STIPULATION AND [PROPOSED] ORDER APPROVING SETTLEMENT OF PRIVATE**
7 **ATTORNEYS GENERAL ACT CLAIMS AND DISMISSING ACTION WITH PREJUDICE** on the interested
8 parties in this action by placing a true copy thereof 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