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Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

LILIA OLAGUE, individually, and on behalf
of other aggrieved employees pursuant to the
California Private Attorneys General Act of
2004 ("PAGA");

Plaintiffs

v.

CIMINOCARE, INC.; a California domestic
stock corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 34-2021-00298633-CU-OE-GDS

Honorable Richard Sueyoshi
Department 53

**DECLARATION OF ANDRE SHERMAN
IN SUPPORT OF PLAINTIFF'S
MOTION FOR APPROVAL OF
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698, ET SEQ.)
SETTLEMENT AGREEMENT AND
ATTORNEYS FEES AND LITIGATION
COSTS AND INCENTIVE AWARD**

[Notice of Motion and Motion for Approval
of Private Attorneys General Act (Labor
Code § 2698, et seq.) Settlement Agreement;
Declaration of Plaintiff Lilia Olague; filed
concurrently herewith]

Hearing Date: January 24, 2023
Hearing Time: 1:30 p.m.
Hearing Place: Department 53

Complaint Filed: April 13, 2021
Trial Date: None Set
Reservation ID: 2625453

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I, ANDRE SHERMAN, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a current member of Sherman & Sherman, APC, and attorney of record for Plaintiff Lilia Olague (“Plaintiff Olague”), a named plaintiff in the action entitled *Lilia Olague v. CiminoCare, Inc.*, Sacramento County Superior Court Case No. 34-2021-00298633-CU-OE-GDS. I make this declaration of my personal knowledge and/or based on information and belief and could testify thereto if called as a witness.

2. Before forming my current firm 2020, I practiced law for over 20 years as a trial lawyer with a firm specializing in the representation of plaintiffs in mass torts and complex litigation, class actions, and significant personal injury claims. I personally focused on complex litigation, class actions, including employment class and mass torts actions, in addition to catastrophic personal injury litigation. I have represented all types of individuals and businesses in both state and federal courts in California and across the nation.

3. I have extensive experience, and success in pursuing claims on behalf of classes and large groups of plaintiffs. Below is a partial list of class actions and multi-plaintiff litigation on which I have worked or am currently working, including some recent class certifications:

- Represented the plaintiff with co-counsel in a wage-and-hour class action against a container manufacturer, on behalf of non-exempt employees. On October 15, 2018, the court granted the plaintiff's motion for class certification. The Tulare County Superior Court Case Number is VCU264528.
- Represented the plaintiffs with co-counsel in a wage-and-hour class and PAGA representative action against a national retailer of apparel and fashion accessories, on behalf of non-exempt employees. On October 9, 2019, the court granted the plaintiffs' motion for class certification in part and certified a class. The Sacramento County Superior Court Case Number is 34-2015-00175330-CU-OE-GDS.

- Represented the plaintiff in a wage-and-hour class and PAGA representative action against a medical equipment supplier on behalf of non-exempt employees. On February 13, 2020, the court granted the plaintiff's motion for class certification and certified a class. The San Bernardino County Superior Court Case Number is CIVDS1505744.
- Represented the plaintiffs with co-counsel in a wage-and-hour class and PAGA representative action against a plastic packaging company on behalf of non-exempt employees. On June 8, 2020, the court granted in part the plaintiffs' motion for class certification and certified a class. The San Bernardino County Superior Court Case Number is CIVDS1507361.
- Represented the plaintiff in a wage-and-hour class action against a retail clothing company involving allegations of off-the-clock work, interrupted, late, and missed rest and meal breaks, and denial of reimbursement for necessary business expenses. Court granted final approval of a class action settlement. The Los Angeles Superior Court Case Number is BC488069;
- Represented the plaintiffs in a wage-and-hour class action against a financial institution involving allegations of off-the-clock work, interrupted, late, and missed rest and meal breaks, and denial of reimbursement for necessary business expenses. The Court granted final approval of a class action settlement. The San Bernardino Superior Court Case Number is CIVDS1503956;
- Represented the plaintiff in a wage-and-hour class action against a furniture company involving allegations of misclassification of salaried store-level individuals classified as exempt-individuals, as well as allegations of off-the-clock work, interrupted, late, and missed rest and meal breaks, and denial of reimbursement for necessary business expenses. The court granted final approval of a class action settlement. The Santa Clara Superior Court Case Number is 1-15-CV-276297;

- Represented the plaintiff in a wage-and-hour class action against a candle retail company involving allegations of off-the-clock work, interrupted, late, and missed rest and meal breaks, and denial of reimbursement for necessary business expenses. The court granted final approval of a class action settlement. The Riverside Superior Court Case Number is RIC1311964;
- Represented the plaintiffs in a wage-and-hour class action against a consumer packaging company involving allegations of off-the-clock work, interrupted, late, and missed rest and meal breaks, and denial of reimbursement for necessary business expenses. The court granted final approval of a class action settlement. The Los Angeles Superior Court Case Number is BC590429.
- *Carrillo v. Rent-A-Center, Inc.*, San Diego Superior Court Case No. JCCP 4244. This matter involved representation of a class of consumers who participated in “rent-to-own” programs which allegedly violated portions of the Karmette Rental Purchase Act. An eight-figure class settlement was obtained on behalf of class members.

4. I have additionally served as lead, liaison, and executive committee counsel on local and national multi-plaintiff pharmaceutical, and product defect cases.

5. David Ventura was an associate attorney at my office. He received his undergraduate degree from California State University, Fullerton and earned a Juris Doctorate from Trinity Law School. He was admitted to practice in California in 2015. He is admitted to practice in the Courts of the State of California. The focus of his practice was on personal injury and class action wage and hour law. He has worked on multiple class action cases that are being litigated or pending final approval, including *Tigran Gasparian, et al. v. R & B Medical Group, Inc.* (Los Angeles County Superior Court Case No. 21STCV20158), *Christian Garcia, et al. v. E.S. Kluft & Company, Inc.* (Los Angeles County Superior Court Case No. 22STCV12471), *Jorge Garcia, et al. v. PRC Restoration, Inc.* (Los Angeles County Superior Court Case No. 21STCV37638), *Lilia Olague, et al. v. CiminoCare, Inc.* (Sacramento County Superior Court Case No. 34-2021-00298633-CU-OE-GDS), *Jesse Gibson, et al. v. Nutrition Corp, Inc.* (Orange County Superior Court Case No. 30-2021-01238445-CU-OE-CXC), *Cherylanette Green, et al. v.*

1 *East Oakland Community Project* (Alameda County Superior Court Case No. 22CV009840),
2 *Gabriel Martinez, et al. v. Magnesite Specialties, Inc.* (Los Angeles County Superior Court Case
3 No. 22STCV11615), *Isabella Mauries, et al. v. Mercedes Diaz Homes, Inc.* (Los Angeles County
4 Superior Court Case No. 21STCV20211), *Maria Olivares, et al. v. Protection Patrol Services,*
5 *Inc.* (Los Angeles County Superior Court Case No. 22STCV09321), *Rudolfo Samaniego, et al. v.*
6 *All City Plumbing, Drain Cleaning & Rooter* (San Bernardino County Superior Court Case No.
7 CIVSB2111159).

8 **WORKED PERFORMED BY ANDRE SHERMAN**

9 6. I have fully and actively participated in many aspects of this litigation. The tasks
10 performed included, and were not limited to, conducting research and investigation; reviewing
11 and analyzing a large volume of documents obtained from Defendants and other sources;
12 interviewing and gathering information from Plaintiffs and other putative class members,
13 aggrieved employees, and percipient witnesses; drafting, reviewing, and revising pleadings and
14 court filings; developing a strategy for litigation, settlement negotiations, and mediation;
15 preparing for and attending mediation and settlement negotiations; drafting and reviewing
16 settlement papers.

17 7. Sherman & Sherman, APC engaged in informal and formal discovery and motion
18 practice, communicating with Plaintiff Olague, and preparing for and attending the first
19 mediation and participating in ongoing settlement negotiations in connection therewith, among
20 other work performed. Sherman & Sherman, APC analysed a large volume of documents and
21 data produced and obtained during litigation in order to find the pertinent documents,
22 information, and data that would be helpful to the evaluation of the claims.

23 8. I reviewed numerous documents either obtained from Defendant, Plaintiffs, or
24 other sources. These documents provided counsel with a critical understanding of the nature of
25 the work performed by aggrieved employees and Defendants' policies and procedures, and were
26 used in analyzing certifiability, liability, and monetary exposure in connection with all phases of
27 the litigation.
28

1 9. Sherman & Sherman, APC has spent a considerable number of hours litigating the
2 matter, and I was responsible for the work performed by Sherman & Sherman, APC in the
3 matter. I have reviewed records reflecting the work I performed, and attest that Plaintiff's
4 Counsel spent over 150 hours, while at Sherman & Sherman, APC, performing legal services in
5 the above-captioned matter.

6 10. The hourly rate of at least \$850 is commensurate with my individual background,
7 training, and experience.

8 11. The hourly rate of \$500 is commensurate with David Ventura's individual
9 background, training, and experience.

10 **APPROVAL OF THE PAGA SETTLEMENT**

11 12. Marked and attached hereto as "**EXHIBIT 1**" is the Private Attorneys General
12 Act (Labor Code § 2698, ET SEQ.) Joint Stipulation of Settlement and Release Agreement
13 ("Settlement Agreement," "Settlement," or "Agreement") entered by and between Plaintiff and
14 Defendants CIMINOCARE, INC. ("Defendants").

15 13. The "Aggrieved Employees" covered under the Settlement consist of the
16 following individuals all non-exempt employees of Defendants in the State of California at any
17 time during the PAGA Period, including Plaintiff ("Aggrieved Employees"). The PAGA Period
18 is the period of time beginning on October 28, 2019 through December 31, 2021 ("PAGA
19 Period"). Based on information provided by Defendants and Plaintiff's expert's analysis, there
20 are approximately 10,336 pay periods during the PAGA Period. It should also be noted that
21 Plaintiff has satisfied the prerequisites under California Labor Code § 2699.3(a), including and
22 not limited to, providing the California Labor and Workforce Development Agency ("LWDA")
23 and the employer with written notice of the specific provisions of the California Labor Code
24 alleged to have been violated, including the facts and theories to support the alleged violations,
25 by way of written correspondence on October 28, 2020, submitted to the LWDA and Defendants
26 by notice letter. Attached as "**EXHIBIT A**" to the Settlement Agreement is a true and correct
27 copy of LWDA PAGA Notice Letter submitted in the PAGA Action sent to the LWDA and
28 Defendants. On or about April 13, 2021, Plaintiff filed the PAGA Action via a Complaint for

1 Civil Penalties for violation of PAGA. Plaintiff sought on behalf of the State of California to
2 represent herself and all Aggrieved Employees.

3 14. The effectiveness of Plaintiff's Counsel in prosecuting this case has translated
4 into a substantial sum of monetary benefits for Plaintiff, the Aggrieved Employees' Settlement,
5 and the LWDA in the following respects: (1) their recoveries over a reasonably short period of
6 time as opposed to waiting additional years for the same, or possibly worse, result; (2) a
7 guaranteed result that compares favorably with other similar representative action settlements of
8 this type; and (3) significant savings in attorneys' fees and costs which would have only
9 increased significantly had the case progressed through trial and/or appeals.

10 15. I have been actively engaged in this litigation of this matter since initiating the
11 PAGA Action on April 13, 2021, as have other attorneys and members in our firm. Sherman &
12 Sherman, APC has actively participated in all phases of the litigation process. Before initiating
13 the PAGA Action, Sherman & Sherman, APC investigated and researched the facts and
14 circumstances underlying the pertinent factual and legal issues and applicable law. This required
15 thorough discussions and interviews between attorneys at our firm and Plaintiff, and research
16 into the various legal issues involved in the case, namely, the current state of the law as it applied
17 to representative adjudication of PAGA penalties, off-the-clock, meal and rest breaks, wage-and-
18 hour enforcement, Plaintiff's claims, and potential defenses. After conducting initial
19 investigation, our firm determined that Plaintiff's claims were well-suited for a representative
20 action adjudication owing to what appeared to be a common course of conduct affecting a
21 similarly situated group of current and former non-exempt employees who worked for
22 Defendants in the State of California, who were not properly compensated for, *inter alia*, all
23 hours worked, noncompliant meal and rest breaks, business expenses, and associated waiting
24 time penalties.

25 16. Throughout this litigation, we used the pre-mediation time period to investigate
26 the veracity, strength, and scope of the PAGA claims, and also to prepare the matter for
27 representative adjudication. Plaintiff's Counsel propounded multiple sets of written discovery
28 requests, and reviewed and analyzed Defendants' written policies and employment practices

1 applicable to Plaintiff and the Aggrieved Employees. Prior to and during the mediation,
2 Plaintiff's Counsel conducted formal and informal investigations and discovery into the facts of
3 the case, including, but not limited to, obtaining, reviewing, and analyzing a volume of
4 documents and a large sampling of payroll data for the Aggrieved Employees, which included,
5 among other things, hours reported, hours paid, overtime reported and paid, reported meal and
6 rest breaks, timing of breaks taken, and reimbursements paid. Plaintiff's Counsel also reviewed
7 Defendants' operations and employment policies, practices, and procedures. Furthermore,
8 Plaintiff's Counsel conducted interviews with, and obtained information from, Plaintiff and
9 Aggrieved Employees. Other work performed by Plaintiff's Counsel included and was not
10 limited to: (a) case strategy and analysis; (b) drafting, reviewing, and revising pleadings and a
11 mediation brief; (c) preparing for and appearing for court proceedings; (d) undertaking
12 calculations of the value of the claims; and (e) preparing for and attending the mediation and
13 settlement negotiations.

14 17. As outlined herein, the Parties have conducted extensive formal and informal
15 discovery and investigation during the course of this litigation. Discovery included one (1) set of
16 form interrogatories, one (1) set of special interrogatories, one (1) set of requests for production,
17 and one (1) set of request for admissions. Plaintiff's Counsel analyzed a volume of documents
18 and data either produced by Defendants and Plaintiff or obtained by Plaintiff's Counsel through
19 other sources. These documents and data provided a critical understanding of the nature of the
20 work performed by the Aggrieved Employees, as well as Defendants' operations and
21 employment policies, practices, and procedures, and were used in analyzing liability, damages,
22 and valuation issues in connection with all phases of the litigation, and ultimately with the
23 mediation and settlement negotiation process. Plaintiff's Counsel also performed significant
24 research into the law concerning Defendants' defenses.

25 18. After conducting significant investigation of the facts and law during the
26 prosecution of the PAGA Action, counsel for the Parties engaged in extensive settlement
27 negotiations to try to resolve the entire matter. The Parties participated in private mediation
28 before Eve Wagner, Esq. on December 23, 2021, a mediator well-regarded and experienced in

1 mediating wage-and-hour class and representative actions. The Parties discussed various aspects
2 of the case, including the risks and delays of further litigation, the risks to both Parties of
3 proceeding with a representative trial, the law relating to off-the-clock, meal and rest breaks,
4 wage-and-hour enforcement, and the evidence produced and analyzed. Arriving at a settlement
5 that was acceptable to both Parties was not easy. Defendants and their counsel felt very strongly
6 about Defendants' ability to prevail on the merits and to raise manageability issues, while
7 Plaintiff and Plaintiff's Counsel believed that a representative trial was manageable and that they
8 would prevail at trial. During all settlement discussions, the Parties conducted their negotiations
9 at arms' length in an adversarial position.

10 19. Under the auspices of the mediator, the Parties were ultimately able to reach a
11 settlement via a mediator's proposal. The Parties reached the proposed Settlement in light of the
12 additional costs and risks to the Parties that would attend further litigation. These risks of further
13 litigation include, and are not limited to, a determination that the PAGA trials are unmanageable,
14 Plaintiff is not an aggrieved employee, and losing on the merits at trial.

15 20. The "Maximum Settlement Amount" means the amount of \$250,000 that
16 Defendants will pay because of the Settlement. The "Net Settlement Amount" shall be the
17 Maximum Settlement Amount, less the following amounts: (1) the attorneys' fees in the amount
18 of \$87,500 to Plaintiff's Counsel; (2) the litigation costs in the sum of up to \$9,500 for
19 reimbursement of documented actual litigation costs and expenses to Plaintiff's Counsel; (3) the
20 Incentive Award in the amount of \$10,000 to Plaintiff; and (4) the Settlement Administration
21 Costs in the sum currently estimated at \$6,000 but not to exceed \$10,000 to Phoenix Class
22 Action Administration Solutions the Settlement Administrator, for administering the settlement.
23 Assuming the proposed Attorneys' Fees and Litigation Costs and the Incentive Award are each
24 approved, the Net Settlement Amount is currently estimated to be approximately \$137,000.
25 Seventy-five percent (75%) of the Net Settlement Amount \$102,750 will be paid to the LWDA,
26 and twenty-five percent (25%) of the Net Settlement Amount \$34,250 will be paid to the
27 Aggrieved Employees ("Settlement Share"), pursuant to Labor Code section 2699(i). Each
28 Aggrieved Employee will receive a Settlement Share pro rata and in proportion to each

Aggrieved Employees' Pay Periods Worked for Defendants during the PAGA Period, as calculated by Defendants. The formula for distribution is: (25% of the Net Settlement Amount) $\times$ (an Aggrieved Employee's Pay Periods worked during the PAGA Period $\div$ Sum of all Aggrieved Employees' Pay Periods worked during the PAGA Period) = Share Distribution to an Aggrieved Employee. One hundred percent (100%) of the payments distributed to Aggrieved Employees will be deemed as payments for civil penalties and will not to be subject to local, state, or federal tax withholdings. The Settlement Administrator shall issue IRS Forms 1099 (if required) to Aggrieved Employees who receive settlement checks for their Settlement Share.

21. Based on our investigation and information discovered, Plaintiff's Counsel believe that there is sufficient evidence to support the allegations that Defendants violated the Labor Code and owe statutory penalties because of said violations. While Plaintiff's Counsel believes that the PAGA claim has merit and that Plaintiff will ultimately succeed in this litigation and prevail at trial, Plaintiff and her Counsel also recognize Defendants' defenses, the costs of further litigation, and multiple risks to recovery. For example, although wage-and-hour actions are amenable to resolution as to a group of employees, some courts have also found that, for various reasons, the issues raised by Plaintiff – including noncompliant meal breaks, noncompliant rest breaks, and failure to pay wages – raise individualized issues and/or are unmanageable and are thus not suitable for adjudication as to a group of employees. Thus, Plaintiff faced the risk that the Court may determine that the PAGA claim requires individualized inquiries that would render adjudication of the PAGA claim unmanageable or at odds with Defendants' right to due process.

22. Plaintiff and her counsel have also considered the uncertainty and risk of the outcome of further litigation, including the difficulties and delays inherent in such litigation. To recover civil penalties, Plaintiff would have to prove the underlying Labor Code violations, demonstrate that the Aggrieved Employees suffered, and show that Defendants' conduct gave rise to penalties. Plaintiff's core allegation is that Defendants have systematically violated the Labor Code, with respect to Plaintiff and Aggrieved Employees, *inter alia*, by failing to properly compensate minimum and overtime wages, failing to provide compliant meal and rest breaks and

1 pay associated premium pay, failing to timely pay wages, failing to provide compliant wage
2 statements, and failing to reimburse employees for necessary business expenses.

3 23. From the inception of this litigation, Defendants indicated that they would
4 aggressively litigate this case and contended that they would ultimately succeed in the PAGA
5 Action. Defendants maintained several defenses to Plaintiff's theory of liability, which, if
6 successfully argued and proven, had the potential to eliminate or substantially reduce recovery.
7 Throughout this litigation, Defendants maintained, and continue to maintain, that they had, and
8 continue to have, legally compliant employment policies and practices throughout the statutory
9 period. Defendants denied that they ever violated any provision of the Labor Code, including,
10 but not limited to, those sections for which Plaintiff seeks penalties under the PAGA. Defendants
11 further denied, and continue to deny, that the PAGA Action is appropriate for representative
12 treatment for any purpose other than the Settlement.

13 24. Plaintiff would inevitably face several challenges in court. For example,
14 Defendants may challenge Plaintiff's standing as an Aggrieved Employee and deny that any of
15 Defendants' other employees whom Plaintiff seeks to represent are aggrieved. Aside from
16 challenges to standing, Defendants would also have likely sought bifurcation of discovery and/or
17 trial of the PAGA claim – at the time, multiple courts were taking such an approach—for
18 example, limiting discovery or trial of the issues to Plaintiff and/or the specific locations where
19 Plaintiff arguably worked. Defendants also contended that an important feature of the PAGA
20 statute is that the Court has discretion to reduce the penalties to be assessed against the employer
21 pursuant to section 2699(e)(1)-(2). Defendants denied and continue to deny that they ever
22 violated any provision of the Labor Code and argued, that, even if, *arguendo*, such violations
23 occurred, they would not be treated as having engaged in subsequent violations giving rise to
24 heightened penalties and that the Court was unlikely to assess cumulative penalties for the
25 maximum number of possible, separate Labor Code violations. Defendants also contended that
26 the Court would not assess cumulative penalties because it would be unjust, arbitrary,
27 oppressive, and/or confiscatory, especially where certain conduct may be regulated by multiple
28 provisions of the Labor Code that are interrelated and work in tandem.

25. Both sides have also had the opportunity to review documents and data regarding Plaintiff's and the Aggrieved Employees' employment with Defendants, including, but not limited to, Plaintiff's employment records, Aggrieved Employees' general job responsibilities, payroll data, workweek data, and Defendants' exemplar operations and employee handbook, to determine the potential value and strength of the PAGA claim. Both Parties' counsel has invested time reviewing and analyzing the relevant documents and data, and the available information made it possible to calculate the potential value of the PAGA claim. Accordingly, the Parties have conducted a thorough investigation and review of information to be sufficiently informed of the nature and extent of the claim asserted in this PAGA Action, and to enable both sides to fully scrutinize the Settlement for its fairness, adequacy, and reasonableness. The Parties have also considered the settlement negotiations conducted by the Parties and the recommendations of Eve Wagner, Esq. who is highly experienced in mediating complex employment matters. The Parties have finally agreed that this case is well-suited for settlement given the legal issues relating to the PAGA claim, as well as the costs, expenses, and risks to both sides that would attend further litigation. The Settlement considers the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded as the litigation continued, at trial, and/or appeals.

ESTIMATED PAGA EXPOSURE

26. The provisions of the Labor Code potentially triggering PAGA penalties in this case include but are not limited to Labor Code sections 201, 204, 226(a), 226.7, 510, 512(a), 1194, 1197, 1197.1, 1198, 2800, and 2802. Defendants asserted that, regardless of the results of the underlying causes of action, PAGA penalties are not mandatory but permissive and discretionary. Defendants also maintained that, in addition to its strong arguments against the underlying claims, it had a strong argument that it would be unjust to award maximum PAGA penalties given the current unsettled state of law.

27. Plaintiff's Counsel calculated penalties under this cause of action by multiplying the number of active Aggrieved Employees (because of the shortened statutory period for this claim) by the civil penalties that each could be awarded for the Labor Code sections enumerated

under Labor Code section 2699.5 that were applicable in this case. Plaintiff's Counsel then applied discounts considering the countervailing arguments regarding the other causes of action, as well as the Court's power to award "a lesser amount than the maximum civil liability." Lab. Code § 2699(e)(2). Defendant has estimated that there are approximately 722 Aggrieved Employees and 10336 pay periods, as also referenced in the executed MOU attached hereto as "EXHIBIT 2".

28. Given the state of the law and the range of PAGA penalties requested and awarded in California courts, it is difficult to determine a reasonable value and actual exposure for PAGA penalties. However, if PAGA penalties are granted on any one of the violations alleged in Plaintiff's operative complaint, the total penalties exposure for the eligible pay periods could be approximately up to \$2,310,400 ([32 x \$100] x 722 employees).¹

29. Although Plaintiff argued she could obtain over \$5 million for PAGA penalties, it seems highly unlikely that the Court would award such a large amount. Under a more conservative approach, Plaintiff's Counsel considered the possibility that the Court could assess only the initial violation rate, bringing the basic PAGA penalty to \$433,200 [722 employees x \$100 x 6 theories of recovery].

30. Plaintiff also recognized the risk that any PAGA award could be significantly reduced. Many of the causes of action brought were cumulative for which the Court may or may not stack the violations. Also, for the off-the-clock, overtime, reimbursement, and meal and rest period violations, they did not occur every single pay period. Thus, the maximum penalties for each pay period are not justified. It was indeed arguable whether the Court would award the maximum penalties under the law. Thus, a Maximum Settlement Amount of \$250,000 to PAGA civil penalties was reasonable and significant. Where PAGA penalties are negotiated in good faith and "there is no indication that [the] amount was the result of self-interest at the expense of other Class Members," such amounts are generally considered reasonable. *Hopson v.*

¹ A recent Ninth Circuit ruling suggests there may be no "subsequent" violation until an actual finding of a violation by a Labor Commissioner or court. (*Bernstein v. Virgin America, Inc.* (9th Cir. Feb. 23, 2021) 2021 WL 867583, at *11-12.) As a result, Plaintiff estimated the amount of PAGA penalties using the "initial" penalty amount of \$100 under PAGA.

1 *Hanesbrands Inc.*, Case No. 08-00844, 2009 U.S. Dist. LEXIS 33900, at *24 (N.D. Cal. Apr. 3,
2 2009); *see, e.g., Nordstrom Com. Cases*, 186 Cal. App. 4th 576, 579 (20 10) (“[T]rial court did
3 not abuse its discretion in approving a settlement which does not allocate any damages to the
4 PAGA claims.”) The negotiations were under the auspices of a well-respected mediator, Eve
5 Wagner, Esq. who regularly mediates wage and hour litigation involving PAGA claims.
6 Plaintiff’s Counsel negotiated that approximately an average of \$24.18 in penalties per aggrieved
7 pay period would be fair and reasonable $\$250,000 \div 10,336$ Pay Periods in PAGA Period date
8 range = \$24.18]. Considering the recent cases justifying \$5 per pay period, *see e.g., Carrington*
9 *v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, this would be a very good result.

10 31. I am aware that the common and acceptable rate for contingency representation in
11 wage and hour class and representative action litigation is commonly thirty-five percent (35%)
12 before trial, with the range being from thirty-three percent (33.3%) up to fifty percent (50%).

13 32. As set forth more fully in the accompanying Motion for Approval of Private
14 Attorneys General Act Settlement Agreement, Plaintiff’s Counsel seek an attorneys’ fees in the
15 sum of \$87,500, which represents approximately thirty-five percent (35%) of the Maximum
16 Settlement Amount of \$250,000, as set forth in the Settlement Agreement. The attorneys’ fees is
17 commensurate with: (a) the risk Plaintiff’s Counsel took in commencing this PAGA Action; (b)
18 the time, effort, and expense dedicated to the case; (c) the skill and determination Plaintiff’s
19 Counsel has shown; (d) the results Plaintiff’s Counsel has achieved throughout the litigation; (e)
20 the value of the settlement Plaintiff’s Counsel has achieved for the Aggrieved Employees; and (f)
21 the other cases Plaintiff’s Counsel has turned down in order to devote their time and efforts to
22 this matter.

23 33. While not necessarily required to be demonstrated because the contingent fee is
24 proper for such a settlement, Plaintiff’s Counsel have also incurred so many hours of work in
25 connection with this case that the fee request is also justified under a simple lodestar analysis.
26 Since the commencement of this matter, the total hours worked by Sherman & Sherman, APC
27 was over 150 hours. Marked and attached hereto as “**EXHIBIT 3**” is a Time Task chart setting
28 forth in detail the breakdown of time for the requisite tasks.

34. The base lodestar fee calculation, based upon the total of at least 164 hours worked, utilizing a reasonable hourly rate that is commensurate with attorneys' experience for all firms' time, is over \$100,000 without any multiplier. The hourly rates of \$850 per hour for myself and \$500 per hour for associate David Ventura is commensurate with our individual background and the background of our firm, training, and experience in litigating class actions, and in particular, wage-and-hour matters, as outlined below. In fact, the lodestar cross-check results in a negative multiplier, when cross-checked with the requested attorneys' fees of \$87,500. Moreover, our requested hourly rates are commensurate with the Laffey Matrix, marked and attached hereto as "**EXHIBIT 4.**" Considering the amount of the fee requested, the work performed, the risks incurred, and the contingent nature of representation, the requested fees and costs are reasonable and should be awarded.

LITIGATION COSTS AND EXPENSES INCURRED BY PLAINTIFF'S COUNSEL

35. To date, Plaintiff's Counsel has borne all the risks and costs of litigation and will not receive any compensation until recovery is obtained by Plaintiff and the Aggrieved Employees Plaintiff's Counsel has investigated and litigated this case for months before mediation, with the real possibility of an unsuccessful outcome and no fee recovery of any kind. Sherman & Sherman, APC has incurred \$9,399.23, in litigation costs and expenses as reflected in "**EXHIBIT 5**" attached hereto. These expenses were reasonable and necessary in the prosecution of this PAGA Action.

36. The Settlement anticipates that a neutral third-party administrator handles the distribution of the Settlement Shares and related administrative functions. I have worked with Phoenix before and I am familiar with their good reputation and work product.

37. Plaintiff's Counsel also respectfully requests the Court approve an Incentive Award in the amount of \$10,000 to Plaintiff, to be paid out of the Gross Settlement Amount. The proposed Incentive Award is fair and appropriate. By initiating this PAGA Action, Plaintiff stepped into the shoes of the LWDA and undertook the risks of initiating the PAGA Action and serving in a representative capacity. Plaintiff has spent a substantial amount of time and effort gathering and producing relevant documents and information, providing the facts and evidence

1 necessary to attempt to prove the allegations, speaking with other Aggrieved Employees about
2 the case, and discussing her employment with her counsel. Plaintiff was available whenever her
3 counsel needed her and actively tried to obtain information that would benefit the prosecution of
4 the PAGA claim. Thus, it is appropriate and just for Plaintiff to receive a reasonable Incentive
5 Award, in addition to the Settlement Share she will receive as an Aggrieved Employee, for her
6 services on behalf of the LWDA and the other Aggrieved Employees.

7 38. I submit that the Settlement is fair, reasonable, adequate, and in the best interests
8 of Plaintiff, LWDA, and the Aggrieved Employees. I further submit that the Settlement is within
9 the accepted range of recoveries for this type of litigation, given the inherent risk of litigation,
10 and the costs of further litigation.

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

13 Executed this 29th day of December, 2022, at Pasadena, California.

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17 ANDRE SHERMAN, Esq.
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EXHIBIT 1

JOINT STIPULATION OF SETTLEMENT AND RELEASE AGREEMENT

IT IS HEREBY STIPULATED AND AGREED, and, subject to approval by the Superior Court of the State of California, County of Sacramento (the “Superior Court”) and presentation to the California Labor Workforce Development Agency (LWDA), that this Joint Stipulation of Settlement and Release Agreement (“Agreement”) is made and entered into by and between Plaintiff Lilia Olague (“Plaintiff”), on behalf of herself and as a representative aggrieved employee pursuant to the Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code section 2698 *et seq.*, and Defendant Ciminocare, Inc. (“Defendant”) to settle the civil action entitled *Lilia Olague v. Ciminocare, Inc.*, Case Number 34-2021-0098633 (the “Lawsuit”), in the Sacramento County Superior Court. Plaintiff and Defendant are collectively referred to herein as the “Parties,” and each may be individually referred to herein as a “Party.”

RECITALS

This Agreement is made in consideration of the following facts:

A. Plaintiff is a former hourly-paid non-exempt employee of Defendant who worked for Defendant as a Caregiver from January 11, 2019 to August 5, 2020.

B. Plaintiff contends that she suffered one or more violations of the Labor Code during her work at Defendant and that she is an “aggrieved employee” under PAGA, Labor Code section 2698 *et seq.*, pursuant to which an “aggrieved employee” may, after exhausting administrative remedies with the California Labor and Workforce Development Agency (the “LWDA”), act as an agent of the State of California to bring an action to recover civil penalties from his or her former employer on behalf of himself or herself and other current or former employees for violations of the Labor Code.

C. On October 28, 2020, Plaintiff submitted a letter to the LWDA (the “PAGA Notice”), alleging that Defendant subjected Plaintiff and other current and former hourly-paid or non-exempt employees of Defendant within the State of California to certain violations of the Labor Code, including sections 201, 202, 203, 204, 221, 226(a), 226.3, 226.7, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, premised upon Defendant’s alleged failure: (1) to compensate their hourly-paid or non-exempt employees for all hours worked; (2) failure to pay all minimum and overtime wages; (3) failure to provide, authorize, and/or permit meal and rest breaks (or pay premiums in lieu thereof); (4) failure to keep and provide complete and accurate wage statements; (5) failure to reimburse employees for all necessary business expenses and related costs; (6) failure to timely pay all wages due during employment and upon termination; and (7) failure to maintain accurate and complete payroll records, all of which are collectively referred to herein as the “PAGA Claims.”

D. On April 13, 2021, Plaintiff filed the Lawsuit. The Lawsuit includes the Complaint Plaintiff filed on April 13, 2021, which sought to recover civil penalties and attorneys' fees based on the PAGA Claims referenced in paragraph C above.

E. Defendant denies all of the allegations in the Lawsuit and any contention that Defendant committed any misconduct, wrongdoing, or any other actionable conduct of any kind, including any violation of the Labor Code.

F. The Parties have each independently analyzed and investigated the facts and law relevant to the Lawsuit through informal discovery. Pursuant to this informal discovery, Defendant produced, and Plaintiff reviewed, a substantial amount of documents and data, including, but not limited to, information pertaining to the employment policies, practices, and procedures implicated by the PAGA Claims, such as: (1) Defendant's meal and rest period, overtime, timekeeping, and payroll policies; (2) a sampling of timekeeping and payroll records; (3) wage statements for Plaintiff and other hourly-paid or non-exempt employees on whose behalf Plaintiff brought the PAGA Claims asserted in the Lawsuit; and (4) summaries of data pertaining to the number of employees allegedly affected by the PAGA Claims.

G. After evaluating the strengths and weaknesses of their respective positions; considering the time, expense, and risk associated with litigating the Lawsuit to judgment; and engaging in arm's-length settlement negotiations at an all-day mediation session with mediator Eve Wagner, Esq., an experienced and well-respected mediator, the Parties desire, and have agreed, to fully and finally settle any and all claims in the Lawsuit up to and through the Settlement Period (as defined herein).

NOW, THEREFORE, in consideration of the promises and agreements contained herein, the Parties agree to, and, pursuant to Labor Code section 2699(1)(2), seek the Court's approval of, the following settlement terms.

SETTLEMENT TERMS

1. **Superior Court Approval of the Agreement.** In accordance with Labor Code section 2699(1)(2), the Parties will present this Agreement to the Superior Court for its review and approval via stipulation or a noticed motion, which is set for hearing on July 7, 2022 at 1:30 p.m. in Department 53 of the Superior Court located at 720 9th Street, Sacramento, California 95814.

2. **Delivery of Agreement to the LWDA.** As required by Labor Code section 2699(1)(2), Plaintiff will cause this Agreement to be submitted to the LWDA at the same time that this Agreement is submitted to the Superior Court for approval.

3. **Effective Date.** This Agreement shall become fully effective the later of either: (i) the date the Superior Court approves the Settlement; or (ii) if the LWDA files an objection, the date there is a final resolution of the objection or appeal.

4. **No Admission of Liability.** The Parties acknowledge and agree that this Agreement is the result of, and evidences, a compromise and settlement of disputed claims in the Lawsuit and that this Agreement is made and entered into without any admission of liability or wrongdoing of any kind whatsoever by Defendant, who expressly denies and disclaims any liability or wrongdoing whatsoever. Accordingly, neither the execution of this Agreement, its creation, the payment of any sum or consideration hereunder, nor the performance of any obligation required by this Agreement is, or shall be construed as, an admission of wrongdoing or liability on the part of Defendant. Additionally, neither the execution of this Agreement, its creation, the payment of any sum or consideration hereunder, nor the performance of any obligation required by this Agreement is, or shall be construed as, an admission of the truth or accuracy of any allegation made by Plaintiff or Plaintiff's Counsel in the Lawsuit.

5. **Persons and Entities Covered by this Agreement.**

(a) **The Settlement Period.** This Agreement shall cover the period from October 28, 2019 through December 31, 2021, inclusive (the "Settlement Period").

(b) **The Settlement Group.** This Agreement shall cover all current and former hourly-paid employees of Defendant at any time from October 28, 2019 through December 31, 2021. Such employees shall be collectively referred to herein as the "Settlement Group." Each employee within the Settlement Group may be individually referred to herein as a "Settlement Group Member."

6. **Settlement Administration.**

(a) Counsel have met and conferred so that the parties can mutually agree as to the selection of the Settlement Administrator. Plaintiff's counsel will retain Phoenix Class Action Administration Solutions, to act as the "Settlement Administrator" with respect to this Agreement to facilitate and administer distribution of payments to Plaintiff, the Aggrieved Employees and Aggrieved Employees' Counsel, the LWDA and to process and administer all aspects of this Settlement.

(b) The Settlement Administrator shall be responsible for establishing a qualified settlement fund pursuant to 26 U.S.C. section 486B, making all payments required by this Agreement, handling all required state and federal tax withholding and reporting related thereto to the extent necessary, and issuing all appropriate tax forms to Plaintiff, Plaintiff's Counsel, the Settlement Group, and the LWDA resulting from the settlement payments under this Agreement.

(c) The Settlement Administrator will administer the settlement, including, but not limited to ascertaining best addresses through United States Postal Service national change of address databases and skip-tracing, re-mailing notices as required, distributing the Notice of Settlement Share and Settlement Payments, and handling inquiries about the calculation of individual Settlement Payments to Aggrieved Employees pursuant to the terms contained in this

Agreement. The Settlement Administrator shall establish a physical Settlement payment center address, telephone number, and facsimile number to receive and timely process Aggrieved Employees' inquiries about the Notice of Settlement and process the payments to the Aggrieved Employees under the terms of this Agreement. The Settlement Administrator shall maintain proof of mailing for the Notice of Settlement Share and Settlement Payments and provide copies of these documents to counsel for Defendants upon reasonable notice. The Settlement Administrator is not to destroy either proof of mailing or communications between the Settlement Administrator and any individual who is sent a Notice of Settlement Share and Settlement Payment without first receiving written confirmation from Counsel for Defendants authorizing them to do so. Any disputes concerning administration of payments made pursuant to the terms of the Agreement may be submitted to the Settlement Administrator.

(d) The Settlement Administrator shall not disburse the settlement funds except as provided herein, as ordered by the Court, or as agreed upon, in writing, by Counsel for Defendants and Plaintiff's Counsel. Subject to further orders and/or directions as may be made by the Court, the Settlement Administrator is authorized to execute such transactions as are consistent with the terms of this Agreement.

7. **Settlement Payments.**

(a) **Gross Settlement Amount.** In consideration of, and subject to, the promises, terms, and conditions set forth in this Agreement – including the releases set forth in Section 9 of this Agreement – Defendant shall pay the maximum gross sum of Two Hundred and Fifty Thousand Dollars (\$ 250,000.00) (the “Gross Settlement Amount”), in the manner and method set forth in this Agreement, to fully, finally, and completely settle the Lawsuit and the PAGA Claims alleged therein on behalf of the Settlement Group, including any and all associated claims for civil penalties, attorneys’ fees, and litigation costs and expenses. Nothing in this Agreement, aside from the conditions set forth in Section 10, shall require Defendant to pay, or make Defendant liable for, more than the Gross Settlement Amount to fully, finally, and completely settle the Lawsuit and all claims alleged therein.

(b) **Allocation of Gross Settlement Amount.** The Gross Settlement Amount shall consist of the following categories of payments: the proposed award of attorneys’ fees to Plaintiff’s Counsel in the Lawsuit, the proposed award of litigation costs and expenses to Plaintiff’s Counsel, the proposed payment of administration costs to the Settlement Administrator, the proposed payments of civil penalties to the LWDA and the Settlement Group, and the proposed enhancement payment to Plaintiff for her time and effort and for the risk she undertook in bringing and prosecuting the Lawsuit. Subject to approval by the Superior Court, these amounts shall be paid and allocated as set forth below in Sections 7(b)(i) through 7(b)(vi) of this Agreement.

(i) **Attorneys’ Fees Award.**

(A) Plaintiff's attorneys in the Lawsuit – Sherman & Sherman, APC ("Plaintiff's Counsel") – may submit a combined application to the Superior Court for an award of attorneys' fees in an amount not to exceed the gross sum of \$87,500.00 (35% of the Gross Settlement Amount) (the "Attorneys' Fees Award"). Defendant will not oppose or object to this application.

(B) Any Attorneys' Fees Award approved by the Superior Court will be paid by Defendant out of the Gross Settlement Amount and shall constitute a full and complete satisfaction of all claims Plaintiff may have for attorneys' fees arising out of the Lawsuit through the Effective Date of this Agreement, including work not yet performed.

(C) This Agreement is not contingent upon the Superior Court approving an Attorneys' Fees Award in an amount equal to the maximum amount requested under Section 7(b)(i)(A) of this Agreement. This Agreement shall remain fully effective and enforceable notwithstanding any decision by the Superior Court to approve an Attorneys' Fees Award that is less than the amount authorized by Section 7(b)(i)(A) of this Agreement or the amount requested by Plaintiff's Counsel.

(D) In the event that any portion of the Attorneys' Fees Award authorized by Section 7(b)(i)(A) of this Agreement is not approved by the Superior Court, only the approved amount shall be paid, and the payment of that amount shall constitute satisfaction of Defendant's obligations with respect to the Attorneys' Fees Award. Additionally, any difference between the Attorneys' Fees Award authorized by Section 7(b)(i)(A) and the Attorneys' Fees Award approved by the Superior Court will become part of the Net Settlement Amount.

(ii) **Litigation Costs Award.**

(A) Plaintiff's Counsel may submit an application to the Superior Court for an award for reimbursement of litigation costs and expenses incurred by Plaintiff's Counsel in connection with the Lawsuit that is currently estimated not to exceed the combined gross sum of \$9,500.00 (the "Litigation Costs Award"). Defendant will not oppose or object to this application.

(B) Any Litigation Costs Award approved by the Superior Court will be paid by Defendant out of the Gross Settlement Amount and shall constitute a full and complete satisfaction of all claims Plaintiff may have for litigation costs and expenses arising out of the Lawsuit through the Effective Date of this Agreement, including litigation costs and expenses not yet incurred.

(C) This Agreement is not contingent upon the Superior Court approving a Litigation Costs Award in an amount equal to the maximum amount authorized by Section 7(b)(ii)(A)7(b)(ii) of this Agreement. This Agreement shall remain fully effective and enforceable notwithstanding any decision by the Superior Court to approve a Litigation Costs

Award that is less than the amount authorized by Section 7(b)(ii)(A) of this Agreement or the amount requested by Plaintiff's Counsel.

(D) In the event that any portion of the Litigation Costs Award authorized by Section 7(b)(ii)(A) of this Agreement is not approved by the Superior Court, only the approved amount shall be paid, and the payment of that amount shall constitute satisfaction of Defendant's obligations with respect to the Litigation Costs Award. Additionally, any difference between the Litigation Costs Award authorized by Section 7(b)(ii)(A) and the Litigation Costs Award approved by the Superior Court will become part of the Net Settlement Amount.

(iii) **Administration Costs.**

(A) Subject to approval by the Superior Court, an amount currently estimated at \$6,000.00 but not to exceed \$10,000.00 will be paid to the Settlement Administrator out of the Gross Settlement Amount to cover the costs of the settlement administration process ("Administration Costs"). If the actual costs of the settlement administration process are less than the amount approved by the Superior Court, the balance will become part of the Net Settlement Amount.

(B) Any Administration Costs approved by the Superior Court will be paid out of the Gross Settlement Amount and shall constitute a full and complete satisfaction of any administration costs.

(C) This Agreement is not contingent upon the Superior Court approving Administration Costs in an amount equal to the maximum amount authorized by Section 7(b)(iii)(A) of this Agreement. This Agreement shall remain fully effective and enforceable notwithstanding any decision by the Superior Court to approve Administration Costs in an amount that is less than the amount authorized by Section 7(b)(iii)(A) of this Agreement.

(D) In the event that any portion of the Administration Costs authorized by Section 7(b)(iii)(A) of this Agreement is not approved by the Superior Court, no more than the approved amount shall be paid to the Settlement Administrator out of the Gross Settlement Amount. Additionally, the difference between the Administration Costs authorized by Section 7(b)(iii)(A) and the Administration Costs approved by the Superior Court will become part of the Net Settlement Amount.

(iv) **Plaintiff's Enhancement Payment.**

(A) Plaintiff may submit an application to the Superior Court for an award of an enhancement payment in an amount not to exceed \$10,000.00 for Plaintiff's time and effort and for the risk she undertook in bringing and prosecuting the Lawsuit ("Enhancement Payment"). Defendant shall not oppose any requests by Plaintiff for the Enhancement Payment, which will be paid out of the Gross Settlement Amount.

(B) This Agreement is not contingent upon the Superior Court approving the Enhancement Payment in an amount equal to the maximum amount authorized by Section 7(b)(iv)(A). This Agreement shall remain fully effective and enforceable notwithstanding any decision by the Superior Court to approve the Enhancement Payment in an amount less than that authorized by Section 7(b)(iv)(A).

(C) In the event that any portion of the Enhancement Payment authorized by Section 7(b)(iv)(A) is not approved by the Superior Court, no more than the approved amount shall be paid to Plaintiff from the Gross Settlement Amount. Additionally, any difference between the Enhancement Payment authorized by Section 7(b)(iv)(A) and the Enhancement Payment approved by the Superior Court will become part of the Net Settlement Amount.

(v) **PAGA Penalties Net Settlement Fund.** The portion of the Gross Settlement Amount remaining after the Attorneys' Fees Award, Litigation Costs Award, Enhancement Payment, and Administration Costs are paid shall be designated the "PAGA Net Penalties Fund," from which payments deemed to constitute a full and complete satisfaction of any and all claims in the Lawsuit for civil penalties under PAGA shall be made. Based on the terms of the Agreement, the PAGA Net Penalties Fund is estimated to be \$137,000.00. (This number may change if the Attorneys' Fees Award, Litigation Costs Award, Administration Costs and/or the Enhancement Payment are awarded in amounts other than those set forth above.) Subject to approval by the Superior Court, the PAGA Net Penalties Fund shall be allocated and paid as follows:

(A) **The LWDA Payment.** The gross sum of \$102,750.00, which represents seventy-five percent (75%) of the PAGA Net Penalties Fund, will be paid to the LWDA for enforcement of California's labor laws, including the administration of PAGA, and for education of employers and employees about their rights and responsibilities under the Labor Code.

(B) **Individual Settlement Awards.** The gross sum of 34,250.00, which represents twenty-five percent (25%) of the PAGA Penalties Fund, shall be designated as the "Net Settlement Amount" and will be paid to the Settlement Group on a pro rata basis. Each Settlement Group Member will receive a pro-rated share of the Net Settlement Amount based on the total number of pay periods the Settlement Group Member worked as an hourly-paid employee of Defendant during the Settlement Period. The maximum amount that each Settlement Group Member is entitled to receive ("Individual Settlement Award") is determined by multiplying the Net Settlement Amount by a ratio that is determined by dividing the total number of pay periods worked by the Settlement Group Member for Defendant in California during the Settlement Period by the total number of pay periods worked by all Settlement Group Members for Defendant in California during the Settlement Period, as expressed in the following formula:

(1) Settlement Group Member Payment = Net Settlement Amount, multiplied by the total number of pay periods worked by the Settlement Group Member, divided by the total number of pay periods worked by all Settlement Group Members.

(2) The Parties intend that the Net Settlement Amount shall be sufficient to pay all valid claims of Settlement Group Members in accordance with the formula set forth above. Accordingly, if for any reason the total value of payments to Settlement Group Members exceeds this amount, then payments to each Settlement Group Member will be adjusted on a pro-rata basis so that the total payout to Settlement Group Members does not exceed the Net Settlement Amount.

(c) **No Effect on Employee Benefits.** The payments made to Settlement Group Members pursuant to this Agreement shall not be utilized to calculate any additional benefits under any benefit plans to which any Settlement Group Members may be eligible, including, but not limited to, any profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, or other benefit plans available to the Settlement Group. It is the Parties' intention that this Agreement will not affect any rights, contributions, or amounts to which any Settlement Group Members may be entitled under any benefit plans.

(i) **Payments to Plaintiff's Counsel.** The Attorneys' Fees Award and Litigation Costs Award shall be treated as IRS Form 1099 income. Accordingly, the Settlement Administrator shall issue an IRS Form 1099 to Sherman & Sherman, APC in connection with their Attorneys' Fees Award and Litigation Costs Award.

(ii) **Payments to the LWDA.** The seventy-five percent (75%) of the PAGA Penalties Fund payable to the LWDA under Section 7(b)(vi)(A) of this Agreement shall be deemed to consist entirely of civil penalties recovered under PAGA and subject to treatment as IRS Form 1099 income.

(iii) **Payments to the Settlement Group.** Individual Settlement Awards shall be deemed to consist entirely of civil penalties recovered under PAGA and subject to treatment as IRS Form 1099 income. Accordingly, an IRS Form 1099 will be issued to each Settlement Group Member in connection with his or her Individual Settlement Award if it is \$600.00 or more.

(d) **Tax Indemnification.** Plaintiff, Plaintiff's Counsel, the Settlement Group, and applicable governmental authorities (including the LWDA) are solely responsible for all tax obligations, including all reporting and payment obligations, attributable to them that may arise as a consequence of this Agreement and the payment of the amounts set forth above in Section 7(b). Neither Defendant nor Defendant's attorneys make any express or implied promise, representation, or warranty regarding the tax consequences or tax treatment under federal or state tax laws for any sum paid pursuant to this Agreement. Each party to this Agreement acknowledges and agrees that neither Aggrieved Employees' Counsel nor Counsel for Defendants intend anything contained in this Joint Stipulation of Settlement and Release to constitute advice regarding taxes or taxability,

nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

8. **Distribution of Settlement Payments.**

(a) **Funding of Settlement by Defendant.** Five business (5) days after the Effective Date, Defendant shall: deposit \$250,000.00 in two installments with the Settlement Administrator: \$125,000.00 payable 5 days after final court approval of the settlement, and \$125,000.00 payable six (6) months thereafter.

(b) **Timing of Payment by Settlement Administrator.** Within fourteen (14) calendar days of the full funding of the Settlement, the Settlement Administrator will issue the payments required by Section 7 of this Agreement to the appropriate entities or persons. The Settlement Administrator shall obtain approval from all counsel of the calculations before mailing Individual Settlement Awards.

(c) **Payment of Individual Settlement Awards.**

(i) Individual Settlement Awards will be paid in the form of a check delivered to each Settlement Group Member at the last known address on file with Defendant or as updated by the Settlement Administrator. Each Individual Settlement Award will be accompanied by an explanatory letter, mutually approved by the Parties, substantially in the form attached hereto as **Exhibit A**.

(ii) Individual Settlement Award checks will remain negotiable for one hundred twenty (120) days after the date of their issuance (the "Check Stale Date"). Any Individual Settlement Award checks that are not cashed, deposited, or negotiated after the Check Stale Date will be void and the amount of those checks will be directed to the California State Controller for deposit in the Unclaimed Property Fund in the name of the employee.

(iii) Any checks to the Settlement Group that are returned as undeliverable on or before the Check Stale Date will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip trace or other reasonable method and will then perform a single remailing. Any Settlement Group Member who cannot be located after the above procedures are followed will continue to be bound by this Agreement, but the funds associated with his or her Individual Settlement Award will be directed to the California State Controller for deposit in the Unclaimed Property Fund in the name of the employee and held pursuant to the Unclaimed Property Law, California Civil Code section 1500, et seq., in the name of each Aggrieved Employee who failed to timely cash his/her check. The parties agree and acknowledge that the parties' intent is for any Aggrieved Employee who failed to timely cash his/her check to be able to claim the uncashed funds at a later date.

9. **Releases.**

(a) **Release of PAGA Claims.** This Agreement and the judgment to be entered by the Superior Court following this Agreement, forever bar Plaintiff, the LWDA, and any other representative, proxy, or agent thereof, including, but not limited to, any and all allegedly aggrieved employees, from pursuing any action against Defendant under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code section 2698, *et seq.*, based on or arising out of violations of Labor Code sections alleged in the Lawsuit, and claims that could have been asserted in the Lawsuit based upon the facts alleged in Plaintiff's complaint(s) through the end of the Settlement Period ("Released Claims"). The Released Claims include, but are not limited to, claims under the PAGA for civil penalties for alleged violations of Labor Code sections 201-204, 226, 226.3, 226.7, 256, 510, 512, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802; and claims for attorneys' fees, costs, or interest resulting therefrom. The parties understand and agree that Plaintiff and all Settlement Group Members, irrevocably and unconditionally release and forever discharge Defendant and all of their respective former, present, and future owners, parents, subsidiaries, affiliates, divisions, related entities, joint venturers, partners, corporations in common control, co-employers, service providers, predecessors, successors, and assigns, and past, present, and future officers, directors, employees, partners, shareholders, agents, associates, representatives, attorneys, insurers, and any other successors, assigns, or legal representatives of any of them (collectively the "Released Parties"), from said claims.

(b) **General Release by Plaintiff Olague:** As to Plaintiff, the release set forth in Paragraph 9(a) above is intended to settle any and all of the Released Claims, whether known or unknown, that Plaintiff may have against the Released Parties for any acts or omissions occurring on or before the issuance of a Preliminary Approval Order, except for Plaintiff's pro rata share of the settlement proceeds. Therefore, as to the Released Claims, Plaintiff waives any and all rights conferred under section 1542 of the California Civil Code, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Notwithstanding the provisions of Civil Code section 1542, and to implement a full and complete release and discharge, Plaintiff expressly acknowledges this Settlement is intended to include in its effect, without limitation, all known and unknown claims, including any claims that she does not know or suspect to exist in her favor against the Released Parties at the time of signing this Settlement, and that this Settlement contemplates the extinguishment of any such claim or claims. Plaintiff acknowledges she may later discover facts different from or in addition to those he now knows or believes to be true regarding the matters released or described in this Settlement, and nonetheless agrees that the releases and agreements contained in this Settlement shall remain fully effective in all respects notwithstanding any later discovery of any different or additional facts. Plaintiff

assumes any and all risks of any mistake in connection with the true facts involved in the matters, disputes, or controversies described in this Settlement or with regard to any facts now unknown to Plaintiff relating to those matters.

10. **Escalator Clause.** This Agreement was reached based on a total number of 10,336 pay periods. If the number of pay periods as of the end date of the Settlement Period (December 31, 2021) exceeds this figure by more than ten percent (10%), or 1,034 pay periods, Defendant shall increase the Gross Settlement Amount on a pro-rata basis according to the number of additional compensable pay periods over 1,034 pay periods.

11. **Dismissal.** Upon the Superior Court's approval of this Agreement and payment of all sums required by this Agreement, Plaintiff shall file a request for dismissal of the Action in its entirety as to Defendant with prejudice. Pursuant to Code of Civil Procedure section 664.6, the Superior Court shall retain jurisdiction to enforce the terms of this Agreement.

12. **Acknowledgement of Fair and Reasonable Settlement.** The Parties have arrived at this Agreement after arm's-length negotiations between experienced counsel and facilitated by a full-day mediation with Eve Wagner, Esq., an experienced and well-respected mediator. Each of the Parties acknowledges, agrees, and believes that this Agreement is a fair, adequate, and reasonable settlement of the Lawsuit. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Agreement. Each Party to this Agreement agrees and represents that it has investigated the facts relevant to this Agreement, and all matters pertaining thereto, to the full extent that each Party deems necessary. The Parties agree that this Agreement reflects their good faith compromise of the claims raised in the Lawsuit based on their assessment of the mutual risks and costs of further litigation and the assessments of their respective counsel.

13. **Authority to Enter into Agreement.** Each Party represents and warrants that it has the right and authority to execute this Agreement.

14. **Ownership of Claims.** The Parties represent that they have not transferred or assigned, or purported to transfer or assign, to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged.

15. **Authorization of Counsel.** Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Agreement.

16. **Attorneys' Fees.** Except as set forth in this Agreement, each side shall bear its own costs and attorneys' fees.

17. **Confidentiality.** Except as provided below to the extent necessary to effectuate the settlement or as required by court or legal process, the Parties and their respective Counsel will keep the facts relating to the existence of this Agreement, the negotiations leading to the execution of this Agreement, the terms of this Agreement, and the alleged factual basis for Plaintiff's claims, if any, confidential. Neither the Parties nor their respective counsel shall issue a press release, hold a press conference, publish information about the settlement on any website or through any social media or otherwise publicize the settlement or communicate its terms in public or in private, unless ordered by the Court. However, for the limited purpose of establishing adequacy of counsel in future actions, Plaintiff's counsel may reference the Action only by name and case number in a declaration establishing adequacy as class or representative counsel.

18. **Duty to Cooperate.** Each Party agrees that it will abide by this Agreement, and that the Parties and their counsel will cooperate with each other to effect the implementation of this Agreement. The Parties pledge their good faith and fair dealing in supporting the approval of this Agreement by the Superior Court, including, but not limited to, fully documenting the settlement, completing or filing any other documents or pleadings, arguing that the terms and conditions agreed upon should be enforced fully, commencing any required action (either in court or in arbitration), jointly appealing and/or otherwise exhausting judicial review of any adverse ruling, etc. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties may seek the assistance of Eve Wagner, Esq., the mediator who facilitated the negotiation of this Agreement. If the Parties cannot resolve their dispute with the assistance of the mediator, the Parties may seek the assistance of the Superior Court to resolve their disagreement.

19. **Nullification of Agreement.** Defendant's payment of the Gross Settlement Amount shall be subject to the Superior Court granting approval, and if the Superior Court fails to grant approval, the Parties shall be returned to their original respective positions as though this Agreement had never been entered into at all, with the exception that if any administration costs are due and payable, the Parties agree to split those costs.

20. **Defendant's Option to Revoke.** Should the settlement, or any terms therein, be modified, vacated, altered, or become otherwise subject to challenge by law, including, but not limited to, any law that became effective after the execution of this Agreement, so that this Agreement is not approved by the Superior Court in its entirety and therefore the intent of the Parties cannot be accomplished after jointly taken efforts to enforce it have been exhausted, Defendant shall have the option to revoke this Agreement at its sole discretion.

21. **Severability.** Should any clause or provision of this Agreement be declared illegal or unenforceable, it shall be modified as minimally as necessary to be enforceable. If the provision cannot be modified to be enforceable, such provision shall immediately become null and void, leaving the remainder of this Agreement in full force and effect.

22. **Governing Law and Interpretation.** This Agreement shall be governed in accordance with the laws of the State of California. The Agreement shall be interpreted in accordance with the plain meaning of its terms and shall not be strictly interpreted for or against any of the Parties to this Agreement. Given that all Parties hereto had the opportunity to draft, review, and edit the language of this Agreement, the Parties expressly waive the benefit of any legal principle or rule providing that in cases of uncertainty the language of a contract should be interpreted against the Party who caused the uncertainty to exist.

23. **Continuing Jurisdiction of the Superior Court.** Pursuant to Code of Civil Procedure section 664.6, the Superior Court shall retain continuing jurisdiction over the Lawsuit and the Parties to the fullest extent necessary to enforce and effectuate the terms and intent of this Agreement.

24. **Admissibility of Agreement.** The Parties agree that this Agreement is admissible for the purposes of proving up and or enforcing the terms of the Agreement, as set forth herein, pursuant to Evidence Code section 1123.

25. **Amendment and Modification.** This Agreement may not be modified, altered or changed, except by a written instrument signed by either the Parties or their successors-in-interest or counsel for all Parties.

26. **Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the Parties hereto and their respective agents, employees, representatives, officers, directors, parents, subsidiaries, affiliates, co-employers, predecessors, assigns, heirs, executors, administrators, insurers, and successors in interest.

27. **No Representations.** The Parties acknowledge that, except as expressly set forth herein, no representation of any kind or character has been made to induce the execution of this Agreement.

28. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures sent by facsimile transmission or scanned e-mail transmission have the same force, validity, and effect as original signatures.

* * *

IN WITNESS WHEREOF, the Parties – Plaintiff Lilia Olague and Defendant CiminoCare, Inc., and their counsel – knowingly and voluntarily accept the terms of this Settlement Agreement and Release by affixing their signatures below.

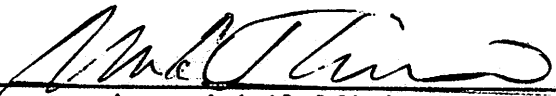
Date: 6/30/2022

PLAINTIFF LILIA OLAGUE

By: 
Lilia Olague

Date: June 23rd

DEFENDANT CIMINOCARE, INC.

By: 
Representative, on behalf of CiminoCare, Inc.

Date: 6/30/2022

SHERMAN & SHERMAN, APC

By: 
Andre Sherman, Esq.
Attorneys for Lilia Olague

Date: 6/29/2022

HANSON BRIDGETT LLP

By: 
Diane Marie O'Malley, Esq./Warren Hodges
Attorney for CiminoCare, Inc.

*Lilia Olague v. Ciminocare, Inc., Case
Number 34-2021-0098633 Joint
Stipulation of Settlement and Release
Agreement*

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EXHIBIT 2

MEMORANDUM OF UNDERSTANDING

1. Subject to final approval by the Court, which the parties and their counsel will recommend in good faith to the Court, and with the proviso that this Memorandum of Understanding (MOU) will be further memorialized in a stipulation of settlement, this MOU is entered into by and between Plaintiff Lilia Olague ("Plaintiff") and Defendant Ciminocare, Inc. ("Defendant") in the litigation styled *Lilia Olague v. Ciminocare, Inc.* (Sacramento Superior Court Case No. 3420210098633) (the "Action"). Plaintiff and Defendant shall be collectively referred to as the Parties.
2. The parties to this MOU are represented by competent counsel, and they have had an opportunity to consult with counsel prior to its execution.
3. The Parties pledge their good faith and fair dealing in providing assent to a final settlement agreement.
4. The Plaintiff shall seek approval of this Agreement by filing with the Court a stipulation and/or motion for approval.
5. The PAGA Settlement Group herein consists of all hourly paid, non-exempt persons employed by Defendant in the State of California during the PAGA Settlement Period (defined as October 28, 2019 through December 31, 2021).
6. The PAGA Settlement Group shall release, for the PAGA Settlement Period, all claims against Defendant brought in the Action including but not limited to claims under California Labor Code sections 201-204, 210, 218.5, 221, 226(a), 226.3, 226.7, 510, 512, 551, 552, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1198, 2800, and 2802 and IWC Wage Order 5-2002. The PAGA Settlement Group may not opt out of this settlement and release. The PAGA Settlement Group shall provide this release to all of Defendant's current and former agents, officers, employees, directors, owners, subsidiaries, affiliates, parent companies and other related parties standard in such a release of claims.
7. Defendant shall pay an amount no more than a Gross Fund Value ("GFV") of \$250,000 in settlement of the Action, payable in two installments. \$125,000 payable 30 business days after final approval, and \$125,000 payable six (6) months thereafter. Plaintiff will request that the Court approve an award of attorney's fees in an amount of up to Forty (40%) percent of the GFV, as well as reasonably incurred costs. Defendant will not oppose the reasonableness of these requests. Any reduction by the Court of these requests will revert to the PAGA Settlement Group.
8. Payment to the PAGA Settlement Group shall be made based upon the number of pay periods worked by the PAGA Settlement Group Member for Defendant during the PAGA Settlement Period.
9. Plaintiff will prepare and Plaintiff will file a motion and/or stipulation with the Court requesting Approval of the PAGA Settlement.
10. Plaintiff shall solicit bids from third party administrators and the Parties shall come to agreement on the usage of an administrator. The GFV shall pay for the fees for the administrator, which the Parties anticipate will be no more than \$10,000, based on Defendant's estimate that the Settlement Group of Aggrieved Employees consists of approximately 722 people.
11. Defendant will not oppose Plaintiff's Counsel's request for an enhancement award not to exceed \$10,000.00 for the proposed PAGA Group Representative to be paid out of the Total Settlement Amount. The Parties agree that the PAGA Group Representative will execute a full general release with Civil Code Section 1542 waiver in exchange for the enhancement award. Defendant will not oppose this request.
12. Defendant has represented that there were 10,336 pay periods worked by the Settlement Group

during the PAGA Period as of the mediation on December 23, 2021. If the final number of pay periods during the PAGA Period exceeds this number by more than 10%, Defendant has the option to increase the GFV by a proportionate amount for all additional pay periods above the 10% allowance. If Defendant declines to increase the GFV, Plaintiff shall retain the right, in his sole discretion, to nullify the settlement.

13. As of the executive of this document, Defendant confirms that there are no currently pending class or representative claims against it for the violations subject to the releases in Paragraphs 6.
14. Plaintiff shall provide a general release of any and all claims against Defendant as well as its agents, officers, employees, directors, owners, subsidiaries, affiliates, parent companies and other related parties standard in such an agreement.
15. For any PAGA Settlement Group member whose settlement award check is not timely cashed, their settlement award will be paid to a mutually agreeable cy pres designee pursuant to California Code of Civil Procedure section 384.
16. Except as provided herein, the Parties waive any and all claims for fees, costs, indemnity or contribution against any member of the Settlement Group, Defendant or its counsel.
17. The parties to this MOU pledge their good faith and fair dealing in supporting the approval of this settlement by the Court. Plaintiff shall amend the operative complaint to add any and all released claims set forth above. Neither this MOU, nor final form of settlement, shall constitute an admission on behalf of Defendant of any form of liability or the accuracy of any allegation made by Plaintiff or Plaintiff's counsel.
18. The parties to this MOU agree that it reflects their good faith compromise of the claims raised in this action, based upon their assessment of the mutual risks and costs of further litigation and the assessments of their respective counsel. The Parties intend to execute a more comprehensive long-form agreement, the initial draft of which will be prepared by Plaintiffs' counsel. Nonetheless, the Parties agree that this Memorandum of Agreement shall be fully enforceable and binding upon all parties pursuant to C.C.P. 664.6, and that it shall be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding the mediation confidentiality provisions that otherwise might apply under federal or state law.

IT IS SO AGREED:

05/03/2022

Dated: _____



Plaintiff Lilia Olague

Dated: 5/2/2022



Plaintiff's Counsel

Dated: 5/2/2022



Defendant CiminoCare, Inc.

Dated: 5/2/2022 _____



Defendant's Counsel

EXHIBIT 3

OLAGUE V. CIMINOCARE, INC.
(SACRAMENTO SUPERIOR COURT CASE No. 31-2021-00298633-CU-OE-GDS)
ATTORNEY TASK AND TIME CHART

TASK			
	AS	DV	FIRM TOTAL
Investigation and Research / Due Diligence			
Pre-Lawsuit Investigation of the Key Facts with a Focus on 1) Class Certification Elements, including Adequacy, Typicality, Superiority, and Commonality; 2) Merits of Plaintiff's Claims and the Merits of the Claims of the Putative Class Members; and 3) Potential Damages Exposure of Defendant with respect to the Damages Sustained by Lilia Olague	1.0	3.5	
Investigation of Defendant, Defendant's Business Relationships, and the Industry in which It Operates Which Provided Labor to Defendant	1.5	3.5	
Prepare a Discovery Strategy Plan of Action, including Topics of Inquiry Important to Liability, Manageability, and Civil Penalties.	1.0	2.5	
Meet and Communicate with Named Plaintiff Lilia Olague throughout the Pendency of the Case	1.5	9	
Analysis and Review of Time Records and Corresponding Wage Statements of Aggrieved Employees with a Focus on Violation Rates for Missed, Short, Late, or Interrupted Meal and Rest Periods, and Whether Any Corresponding Premium Pay Was Issued by Defendant or Regular Rate was Properly Calculated	1	6	
Pleadings and Court Filings			
Draft Plaintiff Lilia Olague's Complaint for Violation of Labor Code § 2698, et seq. (Private Attorneys General Act of 2004); Legal Research and Analysis of All Claims Involved (Filed 4.13.21)	.5	6	
Review Court's Order Re: Delay in Scheduling Initial Case Management Conference (Filed 4.13.21)	0.1	0.1	
Meet and Confer with Defense Counsel regarding service of process and Notice and Acknowledgment of Receipt	0.1	0.5	
Review and Analyze Defendant CiminoCare, Inc's Answer to Complaint; Research Affirmative Defenses in Defendant's Answer (Filed 7.27.21)	.2	0.5	

Review Court's Notice of Case Management Conference (1.14.22)	0.1	0.1	
Review Court's Minute Order Dated February 24, 2022	0.1	0.1	
Review Court's Minute Order Dated March 4, 2022	0.1	0.1	
Appearances			
Prepare for, attend Motion for Final Approval (Anticipated)	2.5		
Discovery and Depositions			
Draft Letter to Defense Counsel Re: Request for Personnel File, Pay Stubs and Time Records for Plaintiff Lilia Olague	0	2.5	
Review and Analyze Plaintiff Lilia Olague's Personnel File, Pay Stubs, and Time Records Produced by Defendant	1.5	5	
Draft Plaintiff Lilia Olague's Form Interrogatories - General (Set One), Requests for Production of Documents (Set One), Requests for Admissions (Set One) and Special Interrogatories (Set One) to Defendant CiminoCare, Inc. (Propounded on 9.7.21)	.5	2.5	
Review and Analyze Defendant CiminoCare, Inc.'s Responses to Plaintiff Lilia Olague's Special Interrogatories (Set One); Requests for Production of Documents (Set One); Form Interrogatories (Set One); and Request for Admissions (Set One) (Responded on 12.1.21)	0.5	1.5	
Mediation and Settlement			
Review Analyze Documents and Data produced by Defendant in Response to the Mediation Information Letter, including Sample Time Keeping and Corresponding Pay Records	6	11	
Prepare for Mediation, including Research Merits of Claims, Performing Damages Analysis, Drafting Mediation Brief, and Compiling Mediation Exhibits and Putative Class Members Declarations	5	18	

Prepare for and Attend Mediation with Mediator Eve Wagner (Via Zoom on 12.23.21)	9.0	8.5	
Negotiate, edit draft, and Finalize Settlement Agreement Terms with Defense Counsel; Meet and Confer and Revise Settlement Agreement and Class Notice	3.5	0	
Coordinate/Inquire/Setup Settlement Administration with Settlement Administrator	.5	1.5	
Letters and Correspondence			
Draft Notice to State of California Labor & Workforce Development Agency Re Lilia Olague's Claim for Penalties Under the Labor Code Private Attorneys General Act of 2004, California Labor Code sections 2698, <i>et seq.</i> (Submitted to LWDA on 10.28.20)	0	1.5	
Draft Correspondence to, and Respond to Correspondence from, Telephone conference calls with Defense Counsel throughout the Pendency of the Lawsuit	2.0	0	
Law and Motion			
Prepare Plaintiff's Notice of Motion and Motion for Approval of Private Attorneys General Act (Labor Code 2698 Et Seq.) Settlement Agreement, Plaintiff's Counsel Payment, and General Release Payment; Memorandum of Points and Authorities in Support thereof; and [Proposed] Order and Judgment Granting Approval of Private Attorney's General Act; Declarations in support	16.5	26	
Total Hour Per Lawyer:	54.7	109.9	
Total Hours Combined:	164.6		

EXHIBIT 4

LAFFEY MATRIX

History

Case Law

See the Matrix

Contact us

Home

Year	Adjustmt Factor**	Paralegal/ Law Clerk	Years Out of Law School *				
			1-3	4-7	8-10	11-19	20 +
6/01/22- 5/31/23	1.085091	\$225	\$413	\$508	\$733	\$829	\$997
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* $\frac{1}{2}$ Years Out of Law School $\frac{1}{2}$ is calculated from June 1 of each year, when most law students graduate. $\frac{1}{2}$ 1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). $\frac{1}{2}$ 4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier $\frac{1}{2}$ 1-3" from June 1, 1996 until May 31, 1999, would move into tier $\frac{1}{2}$ 4-7" on June 1, 1999, and tier $\frac{1}{2}$ 8-10" on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT 5

Item	Cost
LWDA Notice	\$75.00
Complaint Initiation/Filing	\$540.23
Notice of Acknowledgment and Receipt Filing	\$75.00
Mediation 12/23/21 with Eve Wagner, Esq.	\$5,950
Expert Analysis- Codici Consulting	\$2,600
PAGA Approval Motion Filing (Estimated)	\$159.00
Total	\$9,399.23

Date Paid

10/25/2021

4/15/2021

6/18/2021

12/7/2021

12/14/2021

12/28/2022