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7 *Attorneys for Plaintiffs*

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

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

12 Plaintiffs,

13 vs.

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

17 Defendants.

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

Honorable Lauri A. Damrell
Department 28

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR APPROVAL OF
PRIVATE ATTORNEYS GENERAL
ACT (CAL. LABOR CODE § 2698,
ET SEQ.) SETTLEMENT AGREEMENT
AND AWARD OF ATTORNEYS' FEES
AND COSTS, GENERAL RELEASE
FEE, AND SETTLEMENT
ADMINISTRATION COSTS;
MEMORANDUM OF POINTS AND
AUTHORITIES**

[Declaration of Andre Sherman; Declaration
of Plaintiff Lilia Olague; filed concurrently
herewith]

Reservation ID: 2719344
Date: May 5, 2023
Time: 9:00 a.m.
Department: 28

Complaint Filed: April 13, 2021
Trial Date: None Set

1 **PLEASE TAKE NOTICE** that on May 5, 2023 at 9:00 a.m. or as soon thereafter as the
2 matter may be heard before the Honorable Lauri A. Damrell in Department 28 of the Superior
3 Court of the State of California, for the County of Sacramento, located at 720 9th St, Sacramento,
4 California 95814, Plaintiff Lilia Olague (“Plaintiff”) will and hereby does move for entry of the
5 following orders:

- 6 1. Granting approval, pursuant to California Labor Code section 2699(l)(2), of the
7 settlement between Plaintiff and Defendant CiminoCare, Inc. (“Defendant”) of the
8 claims brought pursuant to the Private Attorneys General Act of 2004 (“PAGA”), as
9 set forth in the Private Attorney General Act Joint Stipulation of Settlement and
10 Release (“Settlement,” “Agreement,” or “Settlement Agreement”), attached as
11 “**EXHIBIT 1**” to the Declaration of Andre Sherman, including and not limited to, the
12 plan of allocation and distribution of the Gross Settlement Amount for payment of the
13 LWDA Payment to the California Labor and Workforce Development Agency
14 (“LWDA”), Individual Settlement Shares to the Aggrieved Employees, Attorneys’
15 Fees and Costs to Plaintiff’s Counsel, Settlement Administration Costs to the PAGA
16 Settlement Administrator, and General Release Fee to Plaintiff;
- 17 2. Approving the Net Settlement Amount, estimated to be no less than \$137,000.00
18 which will be distributed to the LWDA and the Aggrieved Employees, pursuant to
19 California Labor Code section 2699(i), of which seventy-five percent (75%) will be
20 paid to the LWDA (“LWDA Payment”) and twenty-five percent (25%) will be paid
21 to the Aggrieved Employees (“Employees’ Portion”);
- 22 3. Appointing Phoenix Class Action Administration Solutions (“Phoenix”) as the PAGA
23 Settlement Administrator;
- 24 4. Directing Defendants to transmit the Gross Settlement Amount of \$250,000.00 into a
25 qualified settlement account established by the PAGA Settlement Administrator for
26 administration of the Settlement, and directing the PAGA Settlement Administrator to
27 distribute the Gross Settlement Amount in accordance with the Settlement
28 Agreement. Defendant shall: deposit \$250,000 in two installments with the

1 Settlement Administrator. \$125,000 payable five (5) days after final court approval of
2 the settlement, and \$125,000 payable six (6) months thereafter;

3 5. Directing the mailing of Individual Settlement Share checks to the Aggrieved
4 Employees along with the proposed Cover Letter, which is substantially similar in
5 content and form to that attached as “**EXHIBIT 2**” to the [Proposed] Order and
6 Judgment Granting Approval of Private Attorneys General Act (Cal. Labor Code §
7 2698, *Et Seq.*) Settlement Agreement and Award of Attorneys’ Fees and Costs,
8 General Release Fee, and Settlement Administration Costs (“[Proposed] Order and
9 Judgement”) filed;

10 6. Awarding \$10,000.00 to Plaintiff Lilia Olague as a General Release Fee;

11 7. Awarding up to \$10,000.00 to the PAGA Settlement Administrator as Settlement
12 Administration Costs; and

13 8. Awarding to Plaintiff’s Counsel, Sherman and Sherman, APC, \$87,500.00 as
14 compensation for reasonable attorneys’ fees and \$9,500.00 for reimbursement of
15 litigation costs and expenses (“Attorneys’ Fees and Costs”), pursuant to California
16 Labor Code section 2699(g)(1).

17 The Settlement Agreement and related moving and supporting papers for this motion are
18 being concurrently submitted to the California Labor and Workforce Development Agency in
19 conformity with California Labor Code section 2699(l)(2).

20 This motion is made pursuant to California Labor Code section 2699(l)(2), which
21 provides for review and approval by the Court of the settlement of a civil action filed pursuant to
22 PAGA, and Rule 3.1113(e) of the California Rules of Court, which permits the Court to consider
23 extended page limits for memoranda. Plaintiff respectfully requests this Court to do so here.

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1 This motion will be based upon the following Memorandum of Points and Authorities,
2 the Settlement Agreement, the Declarations of Plaintiff's Counsel Andre Sherman and Plaintiff
3 Lilia Olague in support thereof, as well as the pleadings and other records on file with the Court
4 in this matter, and such evidence and oral argument as may be presented at the hearing on this
5 motion.

6 Dated: April 11, 2023 SHERMAN & SHERMAN, APC

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10 By: _____
11 Andre Sherman
12 *Attorneys for Plaintiffs*
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