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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SOLANO

MARIA CAIN, individually, and on behalf of
other aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

FAIRFIELD POST-ACUTE REHAB, an
unknown business entity; FAIRFIELD HEALTH
CARE, INC., an unknown business entity; and
DOES 1 through 100, inclusive,

Defendants.

Case No.: FCS056452

Honorable Christine A. Carringer
Department 12

**[PROPOSED] ORDER AND JUDGMENT
GRANTING APPROVAL OF PRIVATE
ATTORNEYS GENERAL ACT (CAL. LABOR
CODE § 2698, ET SEQ.) SETTLEMENT
AGREEMENT AND AWARD OF
ATTORNEYS' FEES AND COSTS,
ENHANCEMENT AWARD, AND
SETTLEMENT ADMINISTRATION COSTS**

[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, Enhancement Award,
and Settlement Administration Costs; Declaration of
Plaintiff's Counsel (Edwin Aiwazian); and
Declaration of Plaintiff (Maria Cain) filed
concurrently herewith]

Date: December 15, 2022
Time: 8:30 a.m.
Department: 12

Complaint Filed: April 27, 2021
Trial Date: None Set

1 This matter has come before the Honorable Christine A. Carringer in Department 12 of the Superior
2 Court of the State of California, for the County of Solano, on December 15, 2022 at 8:30 a.m., on Plaintiff
3 Maria Cain’s (“Plaintiff”) Motion for Approval of Private Attorneys General Act (Cal. Labor Code § 2698,
4 *Et Seq.*) Settlement Agreement and Award of Attorneys’ Fees and Costs, Enhancement Award, and
5 Settlement Administration Costs (“Motion for Approval of Settlement”). Lawyers *for* Justice, PC appeared
6 for Plaintiff and Seyfarth Shaw LLP appeared for Defendant Fairfield Health Care, Inc. dba Fairfield Post-
7 Acute Rehab (“Defendant”).

8 On or around October 31, 2022, Plaintiff and Defendant (together, the “Parties”) executed the Private
9 Attorneys General Act Settlement Agreement and Release (“Settlement,” “Settlement Agreement,” or
10 “Agreement”).

11 The Court has reviewed and considered (1) the Motion for Approval of Settlement, (2) the
12 Declarations of Plaintiff’s Counsel Edwin Aiwarzian and Plaintiff Maria Cain, and (3) the Settlement
13 Agreement.

14 Having duly considered the Parties’ papers and oral argument, and good cause appearing,

15 **IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:**

- 16 1. The Motion for Approval of Settlement is granted.
- 17 2. All terms used herein shall have the same meaning defined in the Settlement Agreement.
- 18 3. The Court finds that Plaintiff has satisfied the prerequisites under the California Private
19 Attorneys General Act (Cal. Labor Code § 2698, *et seq.*) (“PAGA”), including, and not limited to, providing
20 the California Labor and Workforce Development Agency (“LWDA”) and Defendant with notice of the
21 specific provisions of the California Labor Code alleged to have been violated, including, and not limited
22 to, the facts and theories to support the alleged violations, in conformity with California Labor Code §
23 2699.3(a).
- 24 4. The Court also finds that the Settlement Agreement has been submitted to the LWDA in
25 conformity with California Labor Code § 2699(l)(2) and that the LWDA has not sought to intervene or
26 appear in the above-captioned action (“Action”).

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1 5. The PAGA Settlement Members covered under the Settlement consist of the following
2 individuals:

3 All persons employed by Defendant as non-exempt employees in the State of California at any
4 time during the PAGA Period (“PAGA Settlement Members”).

5 6. The Court finds that the Parties reached the Settlement as a result of arm’s-length
6 negotiations.

7 7. Pursuant to California Labor Code § 2699(l)(2), the Court has reviewed the sum allocated
8 for payment of penalties under PAGA (“PAGA Fund”), and determines that it is fair, just, reasonable, and
9 adequate. The Court hereby approves the PAGA Fund. The PAGA Fund shall be the PAGA Settlement
10 Amount (\$350,000.00) less the approved Attorneys’ Fees and Costs to Lawyers *for* Justice, PC (“Plaintiff’s
11 Counsel”), Enhancement Award to Plaintiff, and Settlement Administration Costs to Atticus Administration,
12 LLC (the “PAGA Settlement Administrator”). Seventy-five percent (75%) of the PAGA Fund shall be
13 distributed to the LWDA (“LWDA Payment”) and twenty-five percent (25%) of the PAGA Fund shall be
14 distributed to the PAGA Settlement Members (“Employees’ Portion”) in accordance with this Order and
15 Judgment and the Settlement Agreement.

16 8. The Court has considered the Settlement, and the monetary allocations provided thereby, and
17 finds that they are fair, just, reasonable, and adequate. The Court hereby directs the PAGA Settlement
18 Administrator to administer the Settlement and to make the payments as provided for by, and consistent
19 with, this Order and Judgment and the Settlement Agreement.

20 9. The Court approves the payment of \$140,000.00 to Lawyers *for* Justice, PC for attorneys’
21 fees. This amount shall be paid from the PAGA Settlement Amount and shall be disbursed in accordance
22 with this Order and Judgment and the Settlement Agreement.

23 10. The Court approves the payment of \$19,322.33 to Lawyers *for* Justice, PC for reimbursement
24 of litigation costs and expenses incurred in the Action. This amount shall be paid from the PAGA Settlement
25 Amount and shall be disbursed in accordance with this Order and Judgment and the Settlement Agreement.

26 11. The Court approves payment in the amount of \$10,000.00 to Plaintiff Maria Cain for her
27 Enhancement Award. This amount shall be paid from the PAGA Settlement Amount and shall be disbursed
28 in accordance with this Order and Judgment and the Settlement Agreement.

12. The Court approves payment up to the amount of \$5,000.00 to Atticus Administration, LLC for the Settlement Administration Costs. This amount shall be paid from the PAGA Settlement Amount and shall be disbursed in accordance with this Order and Judgment and the Settlement Agreement.

13. The Parties are directed to perform in accordance with the terms set forth in this Order and Judgment and the Settlement Agreement.

14. The Court further finds that notice of the Settlement need not be provided to the PAGA Settlement Members; however, the Court approves the Cover Letter, attached hereto as “**EXHIBIT 1**,” and the PAGA Settlement Administrator shall distribute the Cover Letter to the PAGA Settlement Members at the same time that it distributes their share of the Employees’ Portion (“Individual Settlement Share”).

15. Within twenty-one (21) calendar days of the Effective Date, Defendant shall deposit the PAGA Settlement Amount into a qualified settlement account established by the PAGA Settlement Administrator for administration of the Settlement.

16. No later than twenty-one (21) calendar days after the date of this Order and Judgment, Defendant will provide the PAGA Settlement Administrator with the PAGA Settlement Members List, in accordance with this Order and Judgment and the Settlement Agreement. The Settlement Administrator shall distribute the Individual Settlement Share checks to PAGA Settlement Members, LWDA Payment to the LWDA, Enhancement Award to Plaintiff, Attorneys’ Fees and Costs to Plaintiff’s Counsel, and payment to itself for the Settlement Administration Costs, as provided for by this Order and Judgment and the Settlement Agreement, no later than nine (9) calendar days after receipt of the PAGA Settlement Amount.

17. The Individual Settlement Share checks issued to PAGA Settlement Members shall remain valid and negotiable for ninety (90) calendar days, and thereafter, shall be cancelled. Funds associated with such cancelled checks shall be transmitted by the PAGA Settlement Administrator to the California State Controller’s Office Unclaimed Property Division, in the name of the PAGA Settlement Member(s) whose check is cancelled and in the amount of his or her respective Individual Settlement Share(s).

18. PAGA Settlement Members shall not have the right to opt out of or object to the Settlement. Upon the entry of this Order and Judgment and full funding of the PAGA Settlement Amount, Plaintiff and the State of California with respect to PAGA Settlement Members, will be deemed to have knowingly and voluntarily released and forever discharged the Released Parties from the Released Claims.

1 19. “Released Parties” means Defendant and its past, present, and future subsidiaries, parents,
2 affiliates, predecessors, insurers, agents, employees, successors, assigns, officers, officials, directors, attorneys,
3 personal representatives, executors, and shareholders, including their respective pension, profit sharing, savings,
4 health, and other employee benefits plans of any nature, the successors of such plans, and those plans’ respective
5 current or former trustees and administrators, agents employees, and fiduciaries.

6 20. “Released Claims” means any and all claims pertaining to Plaintiff or the PAGA Settlement
7 Members arising during the PAGA Period for civil penalties under California Labor Code section 2698, *et*
8 *seq.* (“PAGA”) as well as any interest, fees, and costs available under PAGA, based on the factual allegations
9 in the Operative Complaint or the PAGA Notice, or both, including but not limited to, for failure to pay
10 minimum, regular, and overtime wages, failure to provide compliant meal periods and associated premiums,
11 failure to provide compliant rest periods and associated premiums, failure to timely pay wages during
12 employment, failure to timely pay wages upon termination, failure to provide compliant and accurate wage
13 statements, failure to maintain complete and accurate payroll records, failure to reimburse necessary business-
14 related expenses and costs, and for violations of Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510,
15 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission
16 Wage Orders, including *inter alia*, Wage Orders 4-2001 and 5-2001.

17 21. “PAGA Period” means the period February 19, 2020 through the date of approval of the
18 Settlement.

19 22. No individualized notice of this Order and Judgment is required to be provided to the PAGA
20 Settlement Members. This Order and Judgment shall be submitted to the LWDA through the online system
21 established for the filing of notices and documents, in conformity with California Labor Code § 2699(l)(3).

22
23 Date: _____

24 Honorable Christine A. Carringer
25 Judge of the Solano Superior Court
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27
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EXHIBIT 1

Exhibit A

<<Mailing Date>>

To: <<First Name>><<Last Name>>
<<Street Address>>
<<City>> <<State>> <<Zip>>

Re: Settlement Payment from *Maria Cain v. Fairfield Health Care, Inc. dba Fairfield Post-Acute Rehab*,
Solano Superior Court, Case No. FCS056452

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of <<amount of payment>> ("Individual Settlement Share"). This check is your payment from the settlement in the lawsuit entitled *Maria Cain v. Fairfield Health Care, Inc. dba Fairfield Post-Acute Rehab*, Solano Superior Court, Case No. FCS056452 ("Action").

The lawsuit was filed on April 27, 2021, by Maria Cain ("Plaintiff") against her former employer, on behalf of the State of California, with respect to herself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* ("PAGA"), for multiple alleged violations of the California Labor Code and Industrial Welfare Commission Wage Orders, including, *inter alia*, for failure to properly pay minimum and overtime wages, failure to provide compliant meal and rest periods and associated premiums, failure to pay wages during employment and upon termination, failure to provide compliant wage statements, failure to maintain requisite payroll records, and failure to reimburse business expenses. Prior to filing the lawsuit, on February 19, 2021, Plaintiff submitted a letter to the California Labor and Workforce Development Agency ("LWDA"), pursuant to PAGA, to provide notice of her intent to seek civil penalties under PAGA for Defendant's alleged violations of California Labor 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 5-2001, thereby initiating LWDA Case Number LWDA-CM-822285-21 (the "PAGA Notice").

Defendant denies all of Plaintiff's allegations and denies any wrongdoing of any kind associated with Plaintiff's allegations.

A settlement was reached between Plaintiff and Defendant Fairfield Health Care, Inc. dba Fairfield Post-Acute Rehab ("Defendant").

On << Date>>, the settlement was approved by the Court, with a portion to be paid to the State of California Labor and Workforce Development Agency and a portion to be paid to all persons employed by Defendant or Releasees as non-exempt employees in the State of California at any time during the PAGA Period ("PAGA Settlement Members"). The period February 19, 2020, through <<the date of approval of the PAGA settlement>> is the "PAGA Period".

You are receiving a portion of the settlement (the enclosed Individual Settlement Share) because you have been identified as a PAGA Settlement Member. Your Individual Settlement Share is based on the total number of pay periods that you worked for any of the Defendant in California during the PAGA Period. The Individual Settlement Share is 100% penalties, which will be reported on an IRS Form 1099. You are responsible for paying all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

Under the settlement, as of <<date of entry of order by the Court approving the Settlement and full funding of the PAGA Settlement Amount>>, the Released Parties were fully released and forever discharged from any and all Released Claims.

"Released Parties" means Defendant and its past, present, and future subsidiaries, parents, affiliates, predecessors, insurers, agents, employees, successors, assigns, officers, officials, directors, attorneys, personal representatives, executors, and shareholders, including their respective pension, profit sharing, savings, health, and other employee benefits plans of any nature, the successors of such plans, and those plans' respective current or former trustees and administrators, agents employees, and fiduciaries.

"Released Claims" means any and all claims pertaining to Plaintiff or the PAGA Settlement Members arising during the PAGA Period for civil penalties under California Labor Code section 2698, *et seq.* ("PAGA") as well as any interest, fees, and costs available under PAGA, based on the factual allegations in the Operative Complaint or the PAGA Notice, or both, including but not limited to, for failure to pay minimum, regular, and overtime wages, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to timely pay wages during employment, failure to timely pay wages upon termination, failure to provide compliant and accurate wage statements, failure to maintain complete and accurate payroll records, failure to reimburse necessary business-related expenses and costs, and for violations of Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552,

1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 5-2001.

The enclosed check is valid for 90 calendar days from the original date of issuance and mailing, and if it is not cashed, deposited, or otherwise negotiated within the 90-day timeframe, it will be canceled, and the funds associated with the canceled check will be transmitted to the State Controller's Office Unclaimed Property Division in your name; please contact the State Controller's Office Unclaimed Property Division for more information; please note that deadlines may apply for you to seek or otherwise retrieve funds.

Do not call or write the Court, Office of the Clerk of the Court, Defendants, or Defendants' counsel to ask questions about the settlement or to ask tax-related questions. If you have any such questions, you may contact [PAGA Settlement Administrator] at [toll-free phone number].