

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT

Subject to the terms and conditions hereof and approval by the Court, this Private Attorneys General Act Settlement Agreement (“Agreement”) is made and entered into on behalf of herself, Plaintiff CHEYANNE MALLAS, and in a representative capacity as a private attorney general on behalf of the State of California and all “Aggrieved Employees” (defined below) (“Plaintiff” or “Mallas”) and Defendant, ALEXANDER RIVKIN, MD, INC., (“Defendant” or “Rivkin”).

I. DEFINITIONS

The following terms, when used in this Agreement, shall have the following meanings:

1. “PAGA Action” means the matter entitled *Cheyenne Mallas, on behalf of herself and all others aggrieved employees v. Alexander Rivkin, MD, Inc.*, Los Angeles County Superior Court Case No. 21STCV21726, and as set forth in Plaintiff’s letter to the California Labor and Workforce Development Agency (“LWDA Letter”) dated March 9, 2021. This agreement includes a release of all claims therein and a release of all claims Plaintiff has or may have on behalf of herself and in a representative capacity.

2. “Aggrieved Employees” consist of all nonexempt former and current employees of Defendant including those workers who were treated as independent contractors by Defendant from June 10, 2020 until the date that the Court approves this Settlement, inclusive of Plaintiff. The number of Aggrieved Employees, including Plaintiff, is estimated to be forty (40) individuals and the number of pay periods from June 10, 2020 through January 11, 2023 is estimated to be One Thousand One Hundred Thirteen (1,113).

3. “PAGA Complaint” means the Representative Action Complaint entitled *Cheyenne Mallas, on behalf of herself and all others aggrieved employees v. Alexander Rivkin, MD, Inc.*, Los Angeles County Superior Court Case No. 21STCV21726, filed on June 10, 2021.

4. “Individual Action” means the individual wage-and-hour action filed by Plaintiff against Defendant entitled *Cheyenne Mallas v. Alexander Rivkin, MD, Inc.*, Los Angeles County Superior Court Case No. 21STCV05135, which is subject to a separate confidential individual settlement agreement.

5. “Court” means the Superior Court of California for the County of Los Angeles.

6. “LWDA” means the California Labor and Workforce Development Agency.

7. “Effective Date” means the date of entry of an Order by the Court approving the Agreement or any Party serves notice of the Court’s order and judgment approving this Settlement. At no time will the Defendant have any obligation to fund the Settlement, in whole or in part, until after the occurrence of this Effective Date.

8. “Individual PAGA Payment” means the amount to be paid to each Aggrieved Employee based on the formula described herein.

9. “Settlement” means the settlement of the PAGA Action as memorialized in this Agreement.

10. “Maximum Settlement Amount” is the non-reversionary sum of Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00 USD), which represents the total amount payable under this Settlement by Defendant, including, without limitation, payments to all Aggrieved Employees, payment to the LWDA, payment to the Settlement Administrator, and payment of Plaintiff’s attorneys’ fees and costs.

11. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts (if approved by the Court) are subtracted from the Maximum Settlement Amount: (a) Plaintiff’s attorneys’ fees up to 33.3% of the Maximum Settlement Amount, currently estimated at Eight Thousand Three Hundred Twenty-Five Dollars and Zero Cents (\$8,325.00); (b) Plaintiff’s costs up to Ten Thousand Dollars (\$10,000.00); and (c) the cost of a settlement administrator, estimated to be Four Thousand Dollars and Zero Cents (\$4,000.00).

12. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

13. “PAGA Period” means the time period from June 10, 2020, until the date the Court approves this Agreement. Such shall constitute the Settlement Period.

14. “PAGA Released Claims” means any and all claims under PAGA that are pled in the PAGA Action or which could have been pled under the PAGA Action based on the factual allegations in the PAGA Complaint and LWDA Letter that arose during the PAGA Period.

15. “Parties” means Plaintiff Cheyanne Mallas and Defendant Alexander Rivkin, MD, Inc.

16. “Plaintiff” means Cheyanne Mallas.

17. “Plaintiff’s Counsel” means Justin Lo and May T. To of Work Lawyers PC.

18. “Defendant” means Alexander Rivkin, MD, Inc.

19. “Defendant’s counsel” means Danielle G. Eanet, Laine Mervis, and Iris Salem of Eanet, PC.

II. RECITALS

1. On March 9, 2021, Plaintiff provided written notice to the LWDA and Defendant asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of the California Labor Code described in the PAGA Action.

2. On June 10, 2021, Plaintiff and her counsel filed the PAGA Complaint. In her PAGA Complaint, Plaintiff alleges causes of action for: (1) failure to provide meal periods in violation of Labor Code section 512; (2) failure to provide rest breaks in violation of Labor Code section 226.7; (3) failure to provide complete and accurate wage statements in violation of Labor Code section 226; (4) failure to pay overtime wages; (5) failure to pay minimum wages; (6) failure to timely pay wages during employment; (7) failure to pay all wages due to discharged and quitting employees; and (8) failure to reimburse business expenses. Plaintiff further alleges that she is a

former employee of Defendant who worked as a physician assistant in California from about May 2020 to about December 2020. Plaintiff's PAGA claim is predicated on her assertion that she was allegedly misclassified as an independent contractor.

3. Defendant denies and continues to deny all allegations, claims, and contentions alleged by Plaintiff. Defendant has expressly denied and continues to deny all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts, or omissions alleged in the PAGA Action. Defendant contends that it complied with California and federal wage and hour laws and have dealt legally and fairly with Plaintiff and the Aggrieved Employees. Defendant further denies that, for any purpose other than settling this Action, these claims are appropriate for representative treatment.

4. Plaintiff's counsel, Work Lawyers PC, has conducted significant discovery during the prosecution of the PAGA Action. This discovery, investigation, and prosecution has included, among other things, (a) inspection and analysis of relevant documents and other information produced by Defendant; (b) an analysis of work-related data relating to the Aggrieved Employees; (c) an analysis of the legal positions taken by Defendant; (d) an investigation into the viability of class treatment of the claims asserted in the Action; (e) an analysis of potential class-wide damages, including information sufficient to understand Defendants' potential defenses to Plaintiff's claims; (f) research of the applicable law with respect to the claims asserted in the Complaint and the potential defenses thereto; (g) assembling and analyzing of data for calculating damages and potential injunctive relief; and (h) ongoing communications with counsel for Defendant.

The document and data exchange in this matter, as well as communications between counsel, have been adequate to give the Plaintiff and Plaintiff's Counsel a sound understanding of the merits of their positions and to evaluate the value of the claims of the Aggrieved Employees. The discovery conducted in this Action and the information exchanged by the Parties through settlement discussions are sufficient to reliably assess the merits of the Parties' respective positions and to compromise the issues on a fair and equitable basis.

Plaintiff and Plaintiff's Counsel believe that the claims, causes of action, allegations, and contentions asserted in the representative Action, have merit. However, Plaintiff and Plaintiff's Counsel recognize and acknowledge the expense and delay of continued lengthy proceedings necessary to prosecute the Action against Defendant through trial and through appeals. Plaintiff and Plaintiff's Counsel have taken into account the uncertain outcome of the litigation, the risk of continued litigation in complex actions such as this, and the difficulties and delays inherent in such litigation, as well as trying the claims of the Aggrieved Employees on a representative basis. Plaintiff and Plaintiff's Counsel are mindful of the potential problems of proof under, and possible defenses to, the claims alleged in the Action. Plaintiff and Plaintiff's Counsel are, furthermore, percipient that Defendant may implement an arbitration agreement – in compliance with the recent United States Supreme Court ruling in *Viking River Cruises, Inc. v. Moriana* (Docket No. 20-1573, decided June 15, 2022) – that precludes many Aggrieved Employees from participating in a representative action. Moreover, Plaintiff and Plaintiff's Counsel believe that the settlement set forth in this Settlement Agreement confers substantial benefits upon the Aggrieved Employees and that an independent review of this Settlement Agreement by the Court in the approval process will confirm this conclusion. Based on their own independent investigation and evaluation, Plaintiff and Plaintiff's Counsel have determined that the settlement set forth in this Settlement

Agreement is in the best interests of all Aggrieved Employees, including without limitation Plaintiff.

5. Notwithstanding Defendant's denial of all allegations of wrongdoing in connection with the Action, Defendant has concluded that further proceedings in the PAGA Action would be protracted and expensive. Defendant has therefore determined that it is desirable that the PAGA Action be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement Agreement – so as to dispose of burdensome and protracted litigation and thereby permit the operation of Defendant's respective business without such expenses atop the distraction it would impose on management and relevant personnel.

6. On January 5, 2022, the Parties participated in mediation with the Honorable Howard R. Broadman (Ret.). With the assistance of Judge Broadman, the Parties agreed to fully and finally resolve the PAGA Action as to Plaintiff and the Aggrieved Employees.

III. OPERATIVE TERMS OF THE SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission.** Nothing in this Agreement shall be construed to be an admission by Plaintiff that her claims do not have merit or by Defendant of any liability or wrongdoing as to Plaintiff, Aggrieved Employees or any other person, and Defendant specifically disclaims any such liability or wrongdoing. The Parties have entered into this Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses and risks. This Agreement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

2. **Funding of Maximum Settlement Amount.** Defendant shall pay Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), as the non-reversionary Maximum Settlement Amount. Defendant will not pay more than the Maximum Settlement Amount. The Maximum Settlement Amount shall be deposited in an interest-bearing account set up by the Settlement Administrator and funded within thirty (30) days of the Effective Date.

3. **Escalator Clause.** As stated above, Defendant represents that the number of relevant pay periods from June 10, 2020 through January 11, 2023, based on review of records, is estimated to be 1,113. If the actual number of relevant pay periods increases by ten percent (10%) or more, Defendant shall either (1) increase the Maximum Settlement Amount on a proportional basis, or (2) back the PAGA release date up to where the pay periods are 10% or less. In the event the number of pay periods worked increases by more than 10%, or 1,225 pay periods worked, and Defendant elects to increase the Maximum Settlement Amount on a proportional basis, then the Maximum Settlement Amount shall be increased proportionally by the pay periods in excess of 1,113 multiplied by the pay period value. The pay periods value shall be calculated by dividing the Maximum Settlement Amount by 1,113. The Parties agree that the pay period value equals \$22.46 per pay period (\$25,000 / 1,113 pay periods). Thus, for example, should there be 1,500 pay periods in the Period, then the Maximum Settlement Amount shall be increased by \$8,692.02 (1,500 pay periods – 1,113 pay periods x \$22.46/pay period.)

4. **Plaintiff's Attorneys' Fees and Costs.** In full satisfaction of all claims Plaintiff and Aggrieved Employees may have for attorneys' fees arising out of the Action, Defendant will

not oppose Plaintiff's request for attorneys' fees in the amount up to one third of the Maximum Settlement Amount and costs incurred in prosecuting this PAGA Action up to \$10,000.00 in costs. In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for attorneys' fees and costs). Defendant will report these payments on IRS Form 1099 issued to Plaintiff's Counsel.

5. **Allocation of Net Settlement Amount.** The Net Settlement Amount shall be designated as "2699 Civil Penalties" and shall be distributed 75% to the LWDA and 25% to Aggrieved Employees, pursuant to Lab. Code § 2699(i). The 25% portion to be paid to Aggrieved Employees shall be paid to all Aggrieved Employees pro rata based on the number of pay periods worked by each Aggrieved Employee during the PAGA Period.

6. **Representative PAGA Release.** In her capacity as a private attorney general or "aggrieved employee" acting on behalf of herself, the State of California and Aggrieved Employees, Plaintiff hereby releases Defendant, its respective past and present parents, DBA entities, predecessors, and its respective heirs, executors, administrators, successors, assigns, assignees, , subsidiaries and related entities, owners, members, officers, directors, shareholders, employees, agents, trustees, affiliated entities, servants, representatives, independent contractors, attorneys, legal representatives, insurers, re-insurers, fiduciaries, assigns, beneficiaries, partners, and affiliates, and any and all other entities or individuals with whom they have been, are now, or may hereafter be affiliated, and any of their affiliated companies, predecessors, successors and assigns, as well as their past or present officers, directors, agents, representatives, attorneys, insurers, re-insurers, assigns, or employees (collectively "Releasees") from any and all of the PAGA Released Claims that arose during the PAGA Period. The PAGA Released Claims do not include claims that cannot be released as a matter of law.

7. **PAGA Released Claims.** Upon issuance of the Court's approval order and/or judgment, the "Releasing Parties" (defined below) shall each fully release and forever discharge the "Released Parties" (defined below), and each of them, from any and all "Released Claims" (defined below) arising during the Settlement Period. It is the desire of the Parties and the "Releasing Parties" (defined below) to fully, finally, and forever settle, compromise, and discharge the "Released Claims" (defined below). Each of the "Releasing Parties" (defined below), including the Plaintiff and each Aggrieved Employee, will be bound by the release of "Released Claims" (defined below) as a result of the Settlement and to the terms of the final judgment and the satisfaction of such judgment. The Plaintiff and the Aggrieved Employees, and each of them, shall be deemed to have acknowledged and agreed that their claims for penalties in the PAGA Action are disputed, and that their Settlement Payment constitutes payment of all such sums allegedly due to them.

"Releasing Parties" shall mean every Aggrieved Employee, including without limitation Plaintiff, and all persons purporting to act on their behalf or purporting to assert a claim under or through them including, but not limited to, their dependents, heirs, assigns, beneficiaries, devisees, legatees, executors, administrators, agents, trustees, conservators, guardians, personal representatives, and successors-in-interest and regardless of whether acting in an individual, class, representative, legal, equitable, direct, indirect, or other capacity.

“Released Parties” shall mean each Defendant, as well as each and every one of each Defendant’s respective past and present parents, dba entities, subsidiaries, predecessors, successors, assigns, owners, members, officers, directors, employees, agents, trustees, affiliated entities, attorneys, legal representatives, insurers, fiduciaries, beneficiaries, partners, as applicable, as well as all other entities and individuals which could be liable for the acts and/or omissions of the foregoing. Upon issuance of the Court’s approval order and/or judgment, the Releasing Parties will be forever barred from pursuing against the Released Parties, including without limitation Defendant, any and all demands, disputes, claims, controversies, matters, and causes of action for PAGA civil penalties under the Labor Code, Wage Orders, and/or other provisions of law alleged or that could have been alleged to have been violated in the Action with respect to the Plaintiff and the Aggrieved Employees based on the facts alleged or that could have been alleged in the PAGA Action.

“Released Claims” means all debts, obligations, liabilities, losses, deficiencies, demands, disputes, claims, controversies, matters, causes of action, and allegations, known and unknown, (collectively, “Liabilities”) for civil penalties under PAGA, and related attorneys’ fees and litigation costs and expenses, that were asserted or could reasonably have been asserted based on the facts alleged or that could have been alleged in the PAGA Action and/or the PAGA letter submitted by Plaintiff to the LWDA. The Released Claims include without limitation, claims for civil penalties related to alleged or actual violations of Labor Code sections 201, 202, 203, 204, 210, 216, 221, 222, 223, 224, 225, 225.5, 226, 226.3, 226.6, 226.7, 226.8, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2698. et. seq., 2699, et. seq., 2699.3, 2699.5, 2775, 2802, 2084, 2810, 2810.5, and California Industrial Welfare Commission Wage Orders, including 4-2001, Cal. Code. Regs., tit. 8 section 11040, Code of Civil Procedure section 1021.5; however, no claims other than those that were brought or could have been brought based on the facts alleged in Plaintiff’s LWDA letter and Plaintiff’s PAGA Action shall be considered Released Claims or otherwise released.

8. **Covenants and Representations by Plaintiff and Plaintiff’s Counsel.**

a. Plaintiff represents and warrants that she has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Agreement.

b. Plaintiff acknowledges that she has read this Agreement, that she fully understands her rights, privileges and duties under the Agreement, and enters into this Agreement freely and voluntarily. Plaintiff further acknowledges that she had the opportunity to consult with his attorneys to explain the terms of this Agreement and the consequences of signing this Agreement.

9. **Confidentiality.** Except as provided below, and excepting to the extent necessary to effectuate the Agreement or as required by court or legal process, Plaintiff and Plaintiff’s Counsel will keep the terms of this Agreement confidential. Neither Plaintiff nor Plaintiff’s Counsel shall issue a press release, hold a press conference, publish information about the Agreement on any website or through any social media or otherwise publicize the Agreement 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 by name and case number in a declaration establishing adequacy as class or representative counsel.

10. **Submission to LWDA.** To permit judicial review and approval of the PAGA Payment, as required by Labor Code § 2698, *et seq.*, Plaintiff's Counsel will file the Agreement with the Court and submit the Agreement to the LWDA as part of the Parties' request for Court approval of the Agreement, per Lab. Code § 2699(1)(2).

11. **Termination of Agreement.** If the Court does not approve the Agreement as provided for in this Agreement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or if one or more of the terms of the Agreement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) calendar days of written notice thereof to elect to terminate the Agreement, in which case the Agreement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Agreement.

12. **Motion for Approval of PAGA Settlement.** As part of the Motion to approve the Settlement, Plaintiff shall submit a proposed order in accordance with the terms of the Agreement and retains jurisdiction over the PAGA Action for the purpose of enforcing the terms of the Agreement following approval of the Agreement. This Agreement is expressly conditioned upon the Court approving the settlement as set forth herein. The order will not release or bar any claims other than the PAGA Released Claims as to Plaintiff and Aggrieved Employees. Plaintiff and Defendants will jointly prepare the proposed Approval Order and Judgment to be entered by the Court to enforce this Agreement and dismissing this Action with prejudice. The proposed Approval Order and Judgment will be submitted concurrently with the documents asking the Court to approve the Settlement. Plaintiff shall promptly submit this Settlement Agreement to the LWDA at the same time the stipulation or motion for settlement approval is filed.

IV. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Parties agree that Phoenix Settlement Administrators will manage the administration of this Settlement ("Settlement Administrator").

2. **Settlement Administration Costs.** Settlement Administration Costs will be paid to the Settlement Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, calculating estimated amounts per aggrieved employee, tax reporting, distributing the PAGA Penalties Fund and Individual Payments Amount, and providing necessary reports, and other duties and responsibilities as requested by the Parties (the "Settlement Administration Costs.") The Settlement Administration Costs will be paid from the PAGA Settlement Amount, including, if necessary, any such costs in excess of the amount represented by the Settlement Administrator as being the maximum necessary to administer the Settlement, which is anticipated to be no greater than Four Thousand (\$4,000 U.S.D.) To the extent actual settlement administration costs are greater than \$4,000, such excess amount will be deducted from the PAGA Settlement Amount. Within Fifteen (15) days of receipt of the deposit of the PAGA Settlement Payment by the Settlement Administrator from Defendants, the Settlement Administrator shall pay itself the amount described in this paragraph.

3. **Provision of Information for Aggrieved Employees.** Defendant will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, last known telephone number, start date(s) of employment, end date(s) of employment, the periods of time during the PAGA Period during which each was employed in a nonexempt position for Defendant during the Settlement Period and Social Security numbers (to the extent known).

Within fifteen (15) business days of the Effective Date, Defendant will circulate the spreadsheet to the Settlement Administrator for purposes of calculating Individual PAGA Payments and mailing.

4. **Explanatory Letter and Individual PAGA Payments.** The Settlement Administrator will include copies of the explanatory letter, attached hereto as **Exhibit A**, along with Individual PAGA Payments to all Aggrieved Employees via regular First-Class U.S. Mail. The explanatory letter and Individual PAGA Payments will be mailed to Aggrieved Employees by the Settlement Administrator as soon as practicable after the Effective Date and after receipt of a spreadsheet from the Defendant with sufficient information to allow payments to be made.

The amount to be received by each Aggrieved Employee, will be based on the formula set forth in Section III.5., *supra*. Checks will remain negotiable for 90 days. Each Individual PAGA Payment shall be deemed penalties and reported using IRS Form 1099.

5. **Undeliverable Notices.** The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee.

Any checks returned as non-deliverable on or before the check cashing deadline 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 search using the name, address or Social Security number of the Aggrieved Employee involved and will perform a single re-mailing.

Defendant fully discharges its obligations to those Aggrieved Employees to whom it will pay Individual PAGA Payments through the mailing of a check, regardless of whether such checks are actually received and/or negotiated by Aggrieved Employees. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the California Department of Industrial Relations, Unclaimed Wage Fund in the names of the Aggrieved Employees to whom the checks were issued, the terms of the final judgment and the Release of Claims will nevertheless be binding upon that Aggrieved Employee and the State of California with respect to that Aggrieved Employee. Aggrieved Employees are responsible for correctly characterizing this compensation for tax purposes and paying any taxes owing on said amounts.

6. **Payment of Remainder.** Within thirty (30) business days of the Effective Date, the Settlement Administrator will distribute the following additional payments: (1) the 75% share of 2699 Civil Penalties to the LWDA and (2) Court-approved attorneys' fees and costs to Plaintiff's Counsel.

7. **Accounting.** Within five (5) business days after mailing the Individual PAGA Payments and the additional payments to the LWDA and the Settlement Administrator, the Settlement Administrator will provide an accounting under oath to Plaintiff's Counsel and to Defendant's counsel of the amounts paid from the Settlement.

8. **Tax Consequences.** Individual PAGA Payments made under this Agreement will be attributed 100% as penalties and interest and paid via IRS Form 1099 issued to each Aggrieved Employee. Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Agreement.

9. **Tax Liability.** Neither Defendant nor its attorneys nor Plaintiff's counsel make any representations as to the tax treatment or legal effect of the payments called for hereunder, and Aggrieved Employees shall not rely on any statement or representation by Defendant, their attorneys, or Plaintiff's Counsel in this regard. Aggrieved Employees are advised that Aggrieved Employees will be solely responsible for the payment of their portion of any taxes and penalties assessed on the payments described herein and will defend, indemnify, and hold the Released Parties free and harmless from and against any claims resulting from treatment of such payments as non-taxable damages.

V. **MISCELLANEOUS PROVISIONS**

1. **Drafting.** The Parties agree that the terms and conditions of this Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Plaintiff nor Defendant shall be considered the "drafter" of this Agreement for purposes of having terms construed against that Party. Accordingly, this Agreement will not be construed more strictly against one party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it is being recognized that, because of the arms-length negotiations between the Parties, all Parties have contributed to the preparation of this Agreement.

2. **Successors.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors.

3. **No Prior Assignments.** The Parties and their counsel each represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged.

4. **Attorneys' Fees and Costs.** The Parties shall each bear their own costs, attorneys' fees, mediator fees and other fees incurred in connection with this Agreement and the PAGA Action, except as specifically set forth in Sections III.4. and V.18.

5. **Governing Law.** This Agreement shall be construed under and governed by the laws of the State of California. All questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Agreement shall be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Agreement, it shall be brought in the State of California.

6. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation relating to the subject of this Agreement not contained in this Agreement has been made to them and acknowledge and represent that this Agreement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA Released Claims. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties. This Agreement cannot be amended or modified except by a writing signed by the Parties hereto. Plaintiff's counsel represents that neither he nor his firm is evaluating or contemplating any litigation against any of the Released Parties at this time, separate and apart from the Action.

7. **Nullification of Agreement.** In the event that: (i) the Court does not approve the Agreement as provided herein; or (ii) the Agreement does not become final for any other reason, then this Agreement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions. As such, in such an occurrence where the Settlement does not become final for any reason, the Parties expressly reserve their rights with respect to the prosecution and defense of this Action as if this Settlement never existed. Nothing in this Settlement shall be construed as a determination, admission, or concession of any substantive or procedural issue in the Action, and nothing in this Settlement may be offered into evidence in any hearing or trial, or in any subsequent pleading or in any subsequent judicial, arbitral, or administrative proceeding.

8. **Preclusive Effect of Settlement Agreement and Approval.** The terms of this Agreement, the Approval order, and the Judgment are binding on Plaintiff, the State of California, and all Aggrieved Employees, as well as their heirs, executors and administrators, successors and assigns, and any other persons or entities acting on their behalf, and those terms shall have res judicata, collateral estoppel and other preclusive effect in all pending and future claims, lawsuits or other proceedings maintained by or on behalf of any such persons, to the extent those claims, lawsuits or other proceedings constitute Released Claims as set forth in the Agreement. Notwithstanding any other provision in this Agreement, this Agreement, the Approval order, and the Judgment in the Action may be filed in any action against or by one or more of the Released Parties to support a defense of res judicata, collateral estoppel, release, waiver, good-faith settlement, judgment bar or reduction, full faith and credit, or any other theory of claim preclusion, issue preclusion or similar defense or counterclaim.

9. **Captions.** The captions and section numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this Agreement.

10. **Judgment and Continued Jurisdiction.** After approval of this Agreement, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Agreement, (ii) settlement administration matters, and (iii) such post-Court Approval matters as may be appropriate under court rules or as set forth in this Agreement. The Court shall retain jurisdiction over the parties pursuant to Code of Civil Procedure section 664.6 to enforce the settlement until performance in full of the terms of the settlement.

11. **Amendment or Modification.** This Agreement may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for

all Parties.

12. **Authorization to Enter into Agreement.** Counsel for all Parties warrant and represent that 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. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Agreement. 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 the Court to resolve such disagreement.

13. **Execution and Counterparts.** This Agreement is subject to the execution of all Parties. However, the Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts. To facilitate execution and delivery of this Settlement Agreement, the parties may execute and exchange by facsimile or electronic image (*i.e.*, as a “.pdf” file) counterparts of the signature pages and/or sign by electronic means (*i.e.*, with DocuSign).

14. **Acknowledgement that the Agreement is Fair and Reasonable.** The Parties believe this Agreement is a fair, adequate and reasonable settlement of the Action, and have arrived at this Agreement after arm’s-length negotiations by experienced counsel. 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.

15. **Invalidity of Any Provision.** Before declaring any provision of this Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. Any provisions deemed invalid shall be severable from the rest of the Agreement.

16. **Severability.** If any term or provision of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

17. **Waiver.** No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

18. **Enforcement Action.** In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this

Agreement or to declare rights and/or obligations under this Agreement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

19. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Agreement.

20. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and this Agreement has been executed with the consent and advice of counsel and reviewed in full.

21. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Agreement.

22. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Agreement, and further intend that this Agreement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

23. **Denial of Liability.** The Parties expressly recognize that the making of this Agreement does not in any way constitute an admission or concession of wrongdoing on the part of Defendant. Nothing in this Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of this Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any federal, state or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Agreement may be used in any Court proceeding that has as its purpose the interpretation, implementation or enforcement of the Agreement or any orders or judgments of the Court entered into in connection therewith.

24. **No Credit Toward Benefit Plans.** Payments to Aggrieved Employees as referenced herein will not be utilized to calculate any additional benefits under any benefit plans to which any Aggrieved Employee may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Agreement will not affect any rights, contributions, or amounts to which any Aggrieved Employee may be entitled under any benefit plans.

[SIGNATURES ON NEXT PAGE]

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Agreement, accept and agree to the provisions contained in this Agreement and hereby execute it voluntarily and with full understanding of its consequences.

Dated: 2/10/2023, 2023

CHEYANNE MALLAS (Plaintiff)

By: 
 DocuSigned by:
 0508A02D9E02406...
 Cheyanne Mallas

Dated: 2/14/, 2023

ALEXANDER RIVKIN, MD, INC. (Defendant)


 By: Alexander Rivkin
 Its: Chief Executive Officer

Exhibit A

NOTICE OF SETTLEMENT

To: *All current and former non-exempt employees and independent contractors of Alexander Rivkin, MD, Inc. et al.. during the period from June 10, 2020 until Court approval.*

YOU ARE NOT BEING SUED

WHAT IS THIS NOTICE ABOUT?

A settlement (the "Settlement") has been reached between Plaintiff Cheyanne Mallas Plaintiff") and Defendant Alexander Rivkin, MD, Inc ("Defendant"), in an action pending in the Los Angeles County Superior Court brought on behalf of the following individuals (the "Settlement Group"):

All nonexempt hourly employees and independent contractors who worked for Defendant in California at any time from June 10, 2020 until Court approval is issued.

The Court has approved the Settlement. You have received this notice because Alexander Rivkin, MD, Inc. records indicate that you are a member of the Settlement Group.

WHAT IS THIS LAWSUIT ABOUT?

On June 10, 2021, Plaintiff brought an action entitled "*Cheyenne Mallas, on behalf of himself and all others aggrieved employees v. Alexander Rivkin, MD, Inc., a California Corporation; and DOES 1 - 50, inclusive,*" designated as case no. 21STCV21726 in the Superior Court of California for the County of Los Angeles (the "Court"). In the Action, Plaintiff alleged that Defendant: failed to keep accurate and complete time records; failed to pay for all hours worked; failed to pay at least minimum wage for all hours worked; failed to pay overtime at the proper rate; failed to pay double time at the proper rate; failed to maintain a compliant meal period policy and provide meal periods; failed to pay meal period premiums, failed to maintain a compliant rest period policy and make rest periods available; failed to pay premium wages for rest periods not made available; failed to record meal periods; failed to pay all wages earned on at least semimonthly paydays; failed to timely pay wages during employment, improperly deducted from wages; failed to provide accurate wage statements; failed to provide wage notices under Labor Code section 2810.5; failed to pay all wages upon separation (whether by termination or resignation); and failed to reimburse employees for all expenses incurred during the course and scope of employment during the period of June 10, 2020 to date of approval in violation of Labor Code section 2699, *et seq.* claiming violations of specific sections of the Labor Code, including sections 201-204, 210, 216, 221-225.5, 226, 226.3, 226.6, 226.7, 226.8, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2608, 2698, *et. seq.*, 2699, *et. seq.*, 2699.3, 2699.5, 2775, 2802, 2804, and 2810, 2810.5, and California Industrial Welfare Commission Wage Orders, including 4-2001, Cal. Code Regs., tit. 9 section 11040, Code of Civil Procedure section 1021.5. Plaintiff sued for civil penalties under the California Labor Code Private Attorneys General Act ("PAGA"), Cal. Lab. Code § 2698 *et seq.* Under PAGA, any recovery of civil penalties is shared between the LWDA, which gets 75% of the penalties recovered, and the allegedly aggrieved employees, who get 25% of the penalties recovered.

Defendant denied and continues to deny all of Plaintiff's material allegations made against it in the Action. Specifically, Defendant contends that it complied with the requirements of the Labor Code and that civil penalties are not recoverable. After good-faith negotiations in which both sides recognized the substantial risk of an uncertain outcome, Plaintiff and Defendant agreed to settle the Action pursuant to the terms and conditions of the Settlement.

The Court has not ruled on the merits of the lawsuit, but it has approved the settlement reached by the Plaintiff and the Defendant. By law, a portion of the amount from that settlement goes to the State of California, while another portion of the settlement amount goes to the Aggrieved Employees. This Settlement constitutes a compromise of highly disputed claims and should not be construed as an admission of liability on the part of the Defendant.

WHO IS INCLUDED IN THE SETTLEMENT?

You are included in the Settlement if you fall within the following definition:

All nonexempt hourly employees and independent contractors who worked for Defendant in California at any time from June 10, 2020 until Court **approval is issued.**

You are receiving this notice because Defendant's records indicate that you are part of the Settlement Group.

WHAT WILL I RECEIVE FROM THE SETTLEMENT?

Settlement Shares. Pursuant to PAGA, 75% of the Net Settlement Amount will go to the LWDA. The remaining 25% of the Net Settlement Amount will be distributed to Settlement Group Members in proportion to the number of pay periods that they were an employee of Defendant during the period from June 10, 2020 until Court **approval is issued.**

1. **Payment of Settlement Shares.** The Settlement Shares and other amounts awarded by the Court are included with this Notice. Checks for Settlement Shares must be cashed within 90 days after they are issued, or else the funds they represent will go to the State of California.
2. **Settlement Group Member Release.** The Settlement approved by the Court includes a release by the Settlement Group of any and all claims under PAGA of whatever kind or nature, whether known or unknown, arising during the Covered Period based on the facts alleged by Plaintiff in the Action and Plaintiff's notice letter to LWDA, including but not limited to PAGA claims for alleged violations of Labor Code sections 201-204, 210, 216, 221-225.5, 226, 226.3, 226.6, 226.7, 226.8, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2608, 2698, et. seq., 2699, et. seq., 2699.3, 2699.5, 2775, 2802, 2804, and 2810, 2810.5, and California Industrial Welfare Commission Wage Orders, including 4-2001, Cal. Code Regs., tit. 9 section 11040, Code of Civil Procedure section 1021.5., and any resulting claim for attorneys' fees and costs (the "Released Claims").

WHAT ARE MY RIGHTS AS A SETTLEMENT GROUP MEMBER?

1. **Participating in Settlement.** You are a part of the Settlement Group, and therefore, you will be bound by the terms of the Settlement and you will be deemed to have released the PAGA claims against Defendants and the other released parties described above. As a member of the Settlement Group, you will not be responsible for the payment of attorneys' fees or reimbursement of litigation expenses unless you retain your own counsel, in which event you will be responsible for your own attorneys' fees and expenses.

GETTING MORE INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Settlement Agreement, which will be on file with the Clerk of the Court. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined at the Office of the Clerk of the Court, Superior Court of California for the County of Los Angeles.

PLEASE DO NOT TELEPHONE THE COURT OR DEFENDANT'S COUNSEL FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS. YOU MAY, HOWEVER, CALL THE SETTLEMENT ADMINISTRATOR, PHOENIX SETTLEMENT ADMINISTRATOR, AT:

[INSERT PHOENIX SETTLEMENT ADMINISTRATOR INFORMATION]