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Attorneys for Plaintiff

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

AMANDA CUNNINGHAM, individually, and
on behalf of aggrieved employees pursuant to
the Private Attorneys General Act ("PAGA");

Plaintiff,

v.

COTTONWOOD H.C., INC. d/b/a
COTTONWOOD POST-ACUTE REHAB, a
Nevada corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: CV2021-1375

Assigned for All Purposes to:
Honorable Daniel M. Wolk
Department 9

**JOINT STIPULATION AND ~~[PROPOSED]~~
APPROVAL ORDER GRANTING
PRIVATE ATTORNEYS GENERAL ACT
(LABOR CODE § 2698, ET SEQ.)
SETTLEMENT AND RELEASE
AGREEMENT**

Complaint Filed: July 29, 2021
Trial Date: None Set

FILED
YOLO SUPERIOR COURT

JUN 06 2022
BY *D. Wolk*
DEPUTY

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11 *Attorneys for Defendant*

1 Plaintiff Amanda Cunningham ("Plaintiff"), on behalf of herself and other current and former
2 aggrieved employees, and Defendant Cottonwood H.C., Inc. d/b/a Cottonwood Post-Acute Rehab.
3 ("Defendant"), by and through their respective counsel of record, hereby stipulate as follows for
4 purposes of settling this action:

5 1. Pursuant to Labor Code section 2698, *et seq.* (Private Attorneys General Act of 2004,
6 or "PAGA"), on May 14, 2021, Plaintiff provided written notice to the California Labor and Workforce
7 Development Agency ("LWDA") and Cottonwood H.C., Inc. d/b/a Cottonwood Post-Acute Rehab of
8 the specific Labor Code provisions she contends Cottonwood H.C., Inc. d/b/a Cottonwood Post-Acute
9 Rehab violated, and theories supporting her contentions.

10 2. On July 29, 2021, after the LWDA's sixty-five (65) day notice period expired, Plaintiff
11 filed a representative PAGA action against Defendant in the Yolo County Superior Court, entitled
12 *Cunningham v. Cottonwood H.C., Inc. d/b/a Cottonwood Post-Acute Rehab et al.*, Case No. CV2021-
13 1375, alleging a group of aggrieved employees consisting of Defendant's current and former hourly-
14 paid or non-exempt employees within the State of California during the relevant time period.

15 3. Plaintiff and Defendant (collectively, the "Parties") have engaged in both formal and
16 informal discovery, pursuant to which Plaintiff propounded an initial set of written discovery requests
17 on Defendant and Defendant produced a volume of documents and data relevant to Plaintiff's claims,
18 including but not limited to, Defendant's relevant policies, procedures, and practices; a sampling of
19 timekeeping and payroll records and wage statements relating to Plaintiff and the other aggrieved
20 employees; and summaries of data pertaining to the number of employees purportedly affected by
21 Defendant's alleged violations.

22 4. On January 24, 2022, the Parties participated in a private mediation with Jeffrey A.
23 Ross, a well-regarded mediator experienced in mediating complex employment matters, pursuant to
24 which the Parties reached an agreement on the settlement of Plaintiff's claims.

25 5. Attached hereto as "**EXHIBIT A**" is the fully executed Settlement Agreement and
26 Release ("Settlement," "Settlement Agreement," or "Agreement") setting forth the terms of the
27 settlement. Attached hereto as "**EXHIBIT B**" is the Transmittal of Individual Settlement Award letter,
28 which will be sent to all Settlement Group Members to provide them with notice of the Settlement and

1 information regarding their respective Individual Settlement Awards.

2 6. The Total Settlement Payment agreed to in the Settlement Agreement is \$265,000.00,
3 subject to Court approval. Plaintiff's Counsel shall receive thirty-eight percent (38%), or \$100,700.00,
4 of the Total Settlement Payment as the Plaintiff's Counsel Payment, subject to Court approval.

5 7. On or about March 10, 2022, Plaintiff provided notice of the Settlement Agreement to
6 the LWDA by electronically submitting a copy of the Settlement Agreement.

7 8. WHEREAS, attached hereto as "EXHIBIT C" is the email confirmation from the
8 LWDA regarding the submission of the Settlement Agreement.

9 WHEREFORE, IT IS HEREBY STIPULATED AND AGREED BY THE PARTIES
10 HERETO, THROUGH THEIR RESPECTIVE COUNSEL, AS FOLLOWS: The Settlement is fair,
11 adequate, and reasonable, as it represents a reasoned compromise reached through arm's-length
12 negotiations and considers the risks, complexity, and expense of further litigation.

13
14 Dated: March 24, 2022

JUSTICE LAW CORPORATION

15
16
17 By: 

DOUGLAS HAN
SHUNT TATAVOS-GHARAJEH
JOSH B. TRAN
Attorneys for Plaintiff

18
19
20 Dated: March 24, 2022

SEYFARTH SHAW

21
22
23 By: 

DANIEL WHANG
KATHLEEN McCONNELL
ROBIN E. DEVAUX
Attorneys for Defendant

1 **[PROPOSED] ORDER AND JUDGMENT**

2 Having duly considered the above stipulation, and good cause appearing,

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

4 1. All defined terms contained herein shall have the same meaning as set forth in the
5 Settlement Agreement and Release (“Settlement,” “Settlement Agreement,” or “Agreement”).

6 2. Plaintiff Amanda Cunningham’s (“Plaintiff”) Complaint for Civil Penalties for
7 Violation of Labor Code § 2698, *et seq.*, filed on July 29, 2021, asserts a single cause of action pursuant
8 to the Private Attorneys General Act of 2004 (“PAGA”) (Labor Code section 2698, *et seq.*) (the
9 “Action”).

10 3. The Court finds that Plaintiff has satisfied the prerequisites under California Labor
11 Code section 2699.3(a), including and not limited to providing notice to the California Labor and
12 Workforce Development Agency (“LWDA”) and Defendant of the specific provisions of the Labor
13 Code Plaintiff alleged Defendant violated as well as the facts and theories supporting the alleged
14 violations. Furthermore, the Court finds that the LWDA was provided notice of the wage-and-hour and
15 payroll practices and facts alleged in the Complaint, including inter alia, by way of written
16 correspondence on May 14, 2021.

17 4. The “Settlement Group” covered under the Settlement Agreement consists of the
18 following individuals: all current and former hourly-paid employees of Defendant Cottonwood H.C.,
19 Inc. d/b/a Cottonwood Post-Acute Rehab. at any time during the Settlement Period. The Settlement
20 Period means the period from May 25, 2020, through the date of entry of an order by the Court in this
21 Action approving this Settlement.

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

24 6. The Court has considered the Settlement, and the monetary allocations provided
25 thereby, and finds that they are fair, just, reasonable, and adequate.

26 7. The Court approves the payments of \$100,700.00 to Plaintiff’s Counsel for attorneys’
27 fees and for litigation costs not to exceed \$13,000.00 (“Plaintiff’s Counsel Payment” and “Litigation
28 Costs Award”). Defendants shall pay these amounts in accordance with this Order and the Settlement

1 Agreement.

2 8. The Court approves the payment of \$10,000.00 to Plaintiff for her time and effort and
3 for the risk she undertook in bringing and prosecuting the Action and for a general release of claims as
4 set forth in the Settlement Agreement ("General Release Payment"). Defendants shall pay this amount
5 in accordance with this Order and the Settlement Agreement.

6 9. The Court approves the payment of up to \$3,995.00 to Phoenix Class Action
7 Administration Solutions ("Phoenix" or "Settlement Administrator") for the costs of administering the
8 Settlement ("Settlement Administration Costs").

9 10. Pursuant to California Labor Code section 2699(l), the Court has reviewed the sum
10 allocated for payment of penalties under PAGA ("PAGA Penalties Fund"), determined that the PAGA
11 Penalties Fund is fair, just, reasonable, and adequate, and hereby approves the PAGA Penalties Fund.
12 The PAGA Penalties Fund shall be the portion of the Total Settlement Payment (\$265,000.00)
13 remaining after the above-approved Plaintiff's Counsel Payment, Litigation Costs Award, Settlement
14 Administration Costs, and General Release Payment are paid. Seventy-five percent (75%), or
15 \$102,978.75, of the PAGA Penalties Fund will be paid to the LWDA, and twenty-five percent (25%),
16 or \$34,326.25, of the PAGA Penalties Fund will be paid to the Settlement Group on a pro-rata basis,
17 based on the number of pay periods the Settlement Group Member worked as an hourly-paid employee
18 of Defendant during the Settlement Period. Defendants shall pay this amount in accordance with this
19 Order and the Settlement Agreement.

20 11. The Parties to this Action are directed to perform in accordance with the terms set forth
21 in the Settlement Agreement.

22 12. The Court hereby directs the Settlement Administrator to administer the Settlement and
23 to make the payments as provided for in the Settlement Agreement and by this Order.

24 13. The Court further finds that PAGA does not require that notice of the Settlement be
25 provided to the Settlement Group, however, the Settlement Administrator is ordered to distribute
26 payments to the Settlement Group Members with a cover letter. The Court has reviewed and approved
27 the Transmittal of Individual Settlement Award letter, which will be distributed to the Settlement Group
28 Members along with their Individual Settlement Awards.

1 14. Defendant shall provide the Settlement Administrator with a list of the names, last
2 known addresses, dates of active employment with Defendant during the Settlement Period, and Social
3 Security numbers for the Settlement Group Members within thirty (30) days after the Court issues an
4 Order approving the Settlement.

5 15. Within fourteen (14) calendar days after the Effective Date, Defendant shall deposit
6 with the Settlement Administrator the entire \$265,000.00 of the Gross Settlement Amount for
7 distribution in accordance with the Settlement Agreement.

8 16. Within twenty-one (21) calendar days of the funding of the Settlement, the Settlement
9 Administrator shall pay the Plaintiff's Counsel Payment, the Litigation Costs Award, the Settlement
10 Administration Costs, the LWDA payment, the Individual Settlement Awards to the Settlement Group
11 Members, and Plaintiff's General Release Payment.

12 17. Thereafter, all funds associated with checks issued to Settlement Group Members that
13 have not been cashed, deposited, or negotiated 180 days after the date of their issuance will be
14 transmitted to the State of California State Controller's Office for deposit in the name of the employees.

15 18. Plaintiff, the LWDA, and the Settlement Group Members are hereby bound by the
16 Settlement and its associated release of Released Claims.

17 19. Upon the Effective Date, Plaintiff, the LWDA, and any other representative, proxy, or
18 agent thereof, including, but not limited to, any and all allegedly aggrieved employees, are forever
19 barred from pursuing any action against Defendant and the Released Parties (as defined in the
20 Settlement Agreement) for claims under the California Labor Code Private Attorneys General Act of
21 2004 ("PAGA"), Labor Code section 2698, *et seq.*, based on or arising out of alleged violations of
22 Labor Code sections alleged in Plaintiff's Complaint through the end of the Settlement Period
23 ("Released Claims").

24 20. Settlement Group Members shall not have the right to opt out of or object to the
25 Settlement.

26 21. Pursuant to the Settlement, the Action is hereby dismissed with prejudice.

27 22. The Court shall retain jurisdiction as to the implementation and enforcement of the
28 terms of the Settlement.

1 23. Notice of this Order and Judgment shall be given to the LWDA by submission through
2 the online system established for the filing of notices and documents, within ten (10) calendar days
3 after its entry, in conformity with Labor Code section 2699(l).

4
5 Date:

6 6/6/2022

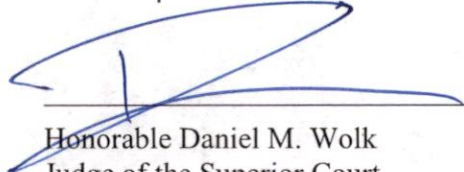
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Honorable Daniel M. Wolk
Judge of the Superior Court

EXHIBIT A

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Attorneys for Plaintiff

[Counsel for Defendant on Subsequent Page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF YOLO

AMANDA CUNNINGHAM, individually,
and on behalf of all aggrieved employees
pursuant to the Private Attorneys General Act
("PAGA"),

Plaintiff,

v.

COTTONWOOD H.C., INC. d/b/a
COTTONWOOD POST-ACUTE REHAB, a
Nevada corporation; and DOES 1 through
100, inclusive;

Defendants.

Case No.: CV2021-1375

Assigned for All Purposes to:
Honorable Daniel M. Wolk
Department 9

**SETTLEMENT AGREEMENT AND
RELEASE OF PAGA CLAIMS**

File Date: July 29, 2021
Trial Date: None Set

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16 *Attorneys for Defendant*

1 Plaintiff Amanda Cunningham, on the one hand, and Defendant Cottonwood H.C., Inc.
2 d/b/a Cottonwood Post-Acute Rehab, on the other hand, stipulate as follows:

3 **SETTLEMENT AGREEMENT AND RELEASE OF PAGA CLAIMS**

4 Plaintiff Amanda Cunningham, individually and in her capacity as a representative of the
5 State of California on behalf of other aggrieved employees, and Defendant Cottonwood H.C., Inc.
6 d/b/a Cottonwood Post-Acute Rehab, hereby enter into this Settlement Agreement and Release of
7 Private Attorneys General Act of 2004 Claims ("Settlement") as follows:

8 **I. DEFINITIONS**

9 As used in this Settlement, the following terms shall have the following meanings:

10 1. "Action" shall mean the civil action entitled *Amanda Cunningham v. Cottonwood*
11 *H.C., Inc. d/b/a Cottonwood Post-Acute Rehab*, filed in the Superior Court for the County of Yolo
12 on or about July 29, 2021, designated as Case No. CV2021-1375.

13 2. "Defendant" shall mean Cottonwood H.C., Inc. d/b/a Cottonwood Post-Acute
14 Rehab.

15 3. "Defense Counsel" refers to Seyfarth Shaw LLP.

16 4. "Effective Date" refers to the date upon which both of the following occurred: (i)
17 approval of the Settlement is granted by the Superior Court of California for the County of Yolo,
18 or other court assuming jurisdiction of this matter; and (ii) the Court's Judgment approving the
19 Settlement becomes Final. 'Final' shall mean the latest of: (i) if there is an appeal of the Court's
20 Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the
21 expiration of the time to file a petition for writ of certiorari; (ii) if a petition for writ of certiorari
22 is filed, the date of denial of the petition for writ of certiorari, or the date the Judgment is affirmed
23 pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or
24 noticing any appeal of the Judgment.

25 5. "LWDA" refers to the California Labor & Workforce Development Agency.

26 6. "PAGA" refers to the Labor Code Private Attorneys General Act of 2004,
27 California Labor Code Sections 2698 *et seq.*

7. **“PAGA Period”** shall mean the time between May 25, 2020 through the date of entry of an order by the Court in this Action approving this Settlement.

8. **“PAGA Settlement Members”** shall mean all non-exempt employees employed by Defendant during the PAGA Period.

9. **“Plaintiff”** refers to Amanda Cunningham individually and in her capacity as a representative of the State of California on behalf of other aggrieved employees.

10. **“Plaintiff’s Counsel”** refers to Justice Law Corporation.

11. **“Parties”** collectively refers to Plaintiff and Defendant.

12. **“Released Claims”** shall mean any and all claims, whether known or unknown, to recover civil penalties pursuant to PAGA for any alleged violations of California Labor Code sections, including 201-204, 210, 218.5, 221, 226, 226.3, 226.7, 246, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 2800, 2802, and the applicable IWC Wage Order for the PAGA Period.

13. **“Released Parties”** shall mean Defendant, and all of its past, present, and future parent and subsidiary companies, predecessors, affiliates, holding companies, successors, assigns, employees, officers, directors, insurers, officials, attorneys, personal. Representatives, executors, shareholders and agents, 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.

14. **“Settlement Administrator”** refers to Phoenix Class Action Administration Solutions, a qualified, third-party settlement administrator mutually selected by the Parties to administer the terms of the Settlement.

II. RECITALS

1. On May 14, 2021, Plaintiff's Counsel sent a letter to the LWDA on behalf of Plaintiff, in compliance with California Labor Code section 2699.3. Plaintiff seeks to represent herself and all PAGA Settlement Members. More than 65 days passed after the letter was sent to the LWDA, and the LWDA did not indicate that it intended to investigate the alleged violations referenced in the letter.

1 2. On July 29, 2021, Plaintiff filed a complaint in Yolo County Superior Court, Case
2 No. CV2021-1375, asserting a claim under PAGA against Cottonwood H.C., Inc. d/b/a
3 Cottonwood Post-Acute Rehab, and DOES 1 through 100, inclusive.

4 3. Counsel for all Parties have thoroughly investigated the facts relating to the claims
5 alleged in this Action and have made a thorough study of the legal principles applicable to the
6 claims asserted against Defendant. Based on their investigation and evaluation of this case,
7 Plaintiff's Counsel have concluded that the settlement is fair, reasonable, and adequate in light of
8 all known facts and circumstances, including the defenses asserted by Defendant, potential adverse
9 findings regarding liability, and numerous potential appellate issues.

10 4. Defendant denies, and continues to deny, each and every claim and contention
11 alleged in the Action, and has always maintained that it never engaged in any unlawful acts
12 regarding any of the matters alleged in the Action.

13 **NOW, THEREFORE**, in consideration of the mutual covenants, promises, and conditions
14 set forth, the Parties agree as follows:

15 **III. NON-ADMISSION OF LIABILITY**

16 A. Based on the factual and legal issues involved, the expense and time necessary to
17 prosecute the Action through trial, the risks, uncertainty and costs of further prosecution, the
18 difficulty of proof necessary for purposes of liability, and the relative benefits to the PAGA
19 Settlement Members of an expeditious resolution to the Action, the Parties have concluded that
20 the terms set forth in this Settlement are fair, reasonable, adequate and in the best interests of the
21 PAGA Settlement Members.

22 B. By entering into this Settlement, Defendant denies any liability for any of the claims
23 in the Action, as well as any other potential or unknown claims based on wage and hour violations
24 under state or federal law. Neither this Settlement, nor any document referred to or contemplated
25 herein, nor any action taken to carry out this Settlement, is, may be construed as, or may be used
26 as, an admission, concession, or indication by or against Defendant of any unlawful conduct, fault,
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wrongdoing or liability whatsoever. Defendant specifically denies that it has engaged in any unlawful or wrongful conduct against Plaintiff or the PAGA Settlement Members.

IV. TERMS OF THE SETTLEMENT PAYMENT

A. The Total Settlement Payment

Defendant shall pay a settlement payment in a total amount of Two Hundred and Sixty Five Thousand Dollars (\$265,000) (the "**Total Settlement Payment**"). The Total Settlement Payment shall include Plaintiff's Counsel Payment, the General Release Payment, Settlement Administration Costs, and the PAGA Fund as these terms are defined below.

B. Plaintiff's Counsel Payment of Attorneys' Fees and Costs

1. Plaintiff's Counsel will apply to the Court for an award of attorneys' fees not to exceed thirty-eight percent (38%) of the Total Settlement Payment, or \$100,700, and reasonable litigation costs upon proof of receipt ("**Plaintiff's Counsel Payment**"). Plaintiff's Counsel will be responsible for submitting all documents to support their request for attorneys' fees and costs.

2. Defendant will not oppose or object to Plaintiff's Counsel's application for attorneys' fees, not to exceed 38% of the Total Settlement Payment plus all documented and reasonable litigation costs and expenses.

3. In the event that the Court does not approve an award of attorneys' fees equal to the requested amount, or the Court alters the payment methodology described herein, it will not be considered a material change of the settlement and will not operate to terminate or cancel the agreement, and this Settlement will be enforceable.

4. The Plaintiff's Counsel Payment shall be paid from the Total Settlement Payment. Any reductions by the Court of Plaintiff's Counsel's request for attorneys' fees or costs shall revert to the PAGA Fund.

C. General Release Payment to Plaintiff

1. Subject to Court approval, Defendant agrees to pay Plaintiff a General Release Payment of up to Ten Thousand Dollars (\$10,000.00), to be paid from the Total Settlement

1 Payment, as an enhancement for her service as the PAGA representative and in exchange for a
2 general release, as set forth below, in addition to any payment she may otherwise receive as a
3 PAGA Settlement Member ("**General Release Payment**").

4 2. Defendant will not oppose Plaintiff's request for the General Release
5 Payment. Plaintiff will be responsible for correctly characterizing this compensation for tax
6 purposes and for paying any taxes owing on said amount. The Parties agree that a reduction by the
7 Court of the requested General Release Payment is not a basis for rendering the entire Settlement
8 voidable or unenforceable. Any reductions by the Court of the General Release Payment shall
9 revert to the PAGA Fund.

10 3. Plaintiff shall not receive any additional payments or enhancements other
11 than those expressly provided under this Settlement.

12 **D. Settlement Administration Costs**

13 1. The cost of the Settlement Administrator to implement and complete the
14 settlement process according to the terms of this Settlement, including the costs to calculate
15 payments to individual PAGA Settlement Members and to prepare any necessary tax documents
16 for PAGA Settlement Members are referred to as the "**Settlement Administration Costs**," and
17 are estimated not to exceed \$3,995.00.

18 **E. PAGA Fund**

19 1. After deducting Plaintiff's Counsel Payment, the Settlement Administration
20 Costs, and any court-approved General Release Payment, the remainder of the Total Settlement
21 Payment shall be allocated toward payment to the Labor & Workforce Development Agency and
22 PAGA Settlement Members ("**PAGA Fund**").

23 2. Seventy-five percent (75%) of the PAGA Fund will be sent to the LWDA
24 and twenty-five percent (25%) of the PAGA Fund will be allocated among the PAGA Settlement
25 Members based on his or her proportionate share of the pay periods worked during the PAGA
26 Period.

27 ///

1 **V. COMPUTATION AND DISTRIBUTION OF TOTAL SETTLEMENT FUND**

2 **A. Deposit of Total Settlement Payment**

3 1. The Settlement Administrator shall establish a Qualified Settlement Fund pursuant
4 to Section 468B(g) of the Internal Revenue Code for purposes of administering the Settlement.
5 The Settlement Administrator shall furnish the Qualified Settlement Fund with its own Employer
6 ID Number and calculate all settlement checks and payroll deductions and withholdings required
7 under law based on information that will be confidentially furnished by Defendant.

8 2. Within 14 days after the Effective Date, Defendant shall deposit the Total
9 Settlement Payment with the Settlement Administrator.

10 **B. Formula for Calculating Share of PAGA Fund**

11 The portion of the PAGA Fund that is paid to each PAGA Settlement Member shall be
12 determined by the following formula:

13 1. The payment to PAGA Settlement Members will be based on the number of pay
14 periods worked by each PAGA Settlement Member during the PAGA Period. Partial weeks will
15 be counted as full pay periods.

16 2. The amount to be paid per pay period worked by a PAGA Settlement Member will
17 be calculated by dividing the value of the portion of the PAGA Fund that will be paid to PAGA
18 Settlement Members by the total number of pay periods worked by all PAGA Settlement Members
19 during the PAGA Period.

20 3. Defendant's records shall be determinative for purposes of calculating the number
21 of pay periods worked and any payments to PAGA Settlement Members.

22 **C. Distribution of PAGA Fund**

23 1. Defendant shall provide the Settlement Administrator with a list of the names, last
24 known addresses, dates of active employment with Defendant during the PAGA Period, and Social
25 Security Numbers for the PAGA Settlement Members, to be furnished within thirty (30) days after
26 the Court issues an Order approving the Settlement. This information is being provided
27 confidentially to the Settlement Administrator only, and the Settlement Administrator shall treat

1 the information as private and confidential and take all necessary precautions to maintain the
2 confidentiality of the information. This information is to be used only to carry out the Settlement
3 Administrator's duties as specified in this Settlement.

4 2. Within twenty-one (21) days after the Effective Date, the Settlement Administrator
5 shall pay to the LWDA an amount equivalent to seventy-five percent (75%) of the PAGA Fund,
6 or as otherwise directed by the Court.

7 3. Within twenty-one (21) days after the Effective Date, the Settlement Administrator
8 shall distribute to PAGA Settlement Members their individual portion of the PAGA Fund (the
9 "**Individual Payment**"), or as otherwise directed by the Court.

10 4. To provide the best notice practicable, any Individual Payment returned to the
11 Settlement Administrator as non-delivered shall be sent by post-marked First Class U.S. Mail to
12 the forwarding address affixed thereto, if any. If no forwarding address is provided for an
13 Individual Payment that is returned as non-deliverable, the Settlement Administrator shall use the
14 best available technology accessible (e.g. skip tracing, address verification, etc.) to the Settlement
15 Administrator or other mutually agreeable method to locate PAGA Settlement Members and will
16 then mail the Individual Payment to the address identified by the best available technology
17 accessible to the Settlement Administrator or other mutually agreeable method. If no current
18 address is located, the Individual Payment for that individual will be deemed undeliverable. If any
19 PAGA Settlement Members cannot be located within two attempts at mailings by the Settlement
20 Administrator, the Individual Payment for that individual will be deemed undeliverable. The
21 amount of any undeliverable checks will be void and sent to the State of California State
22 Controller's Office in the PAGA Settlement Member's name. However, the PAGA Settlement
23 Members whose checks were undeliverable will still have released the Released Claims. The
24 Parties agree that this results in no unpaid residue under California Civil Procedure Code section
25 384, as the entire PAGA will be paid out to the LWDA and PAGA Settlement Members. Therefore,
26 Defendant will not be required to pay any interest on said amount.

1 5. The Settlement Administrator shall maintain a list of the postmark date for the
2 original mailing of the Individual Payment to the PAGA Settlement Members, the postmark date
3 of any subsequent mailing to any PAGA Settlement Members, and a list of PAGA Settlement
4 Members who did not receive the Individual Payment due to the inability to locate a valid address
5 using the procedures described herein or who otherwise could not be located within two attempts
6 at mailing.

7 6. All settlement checks will remain valid and negotiable for 180 days from the date
8 of their mailing by the Settlement Administrator. After 180 days from the date of their mailing by
9 the Settlement Administrator, the dollar value of all checks that remain uncashed for more than
10 180 days will be void and sent to the State of California State Controller's Office in the PAGA
11 Settlement Member's name. However, the PAGA Settlement Members who have not cashed their
12 checks within 180 days from the date of their mailing will still have released the Released Claims.
13 The failure by a PAGA Settlement Member to cash their settlement checks will have no effect on
14 their release of the Released Claims. The Parties agree that this results in no unpaid residue under
15 California Civil Procedure Code section 384, as the entire PAGA will be paid out to the LWDA
16 and PAGA Settlement Members, whether or not the PAGA Settlement Members cash their
17 settlement checks. Therefore, Defendant will not be required to pay any interest on said amount.

18 7. The Settlement Administrator will prepare and issue IRS Form 1099 to PAGA
19 Settlement Members who received a payment.

20 **D. Settlement Administration Cost Payment**

21 Within twenty-one (21) days after the Effective Date, Settlement Administrator shall pay
22 the Settlement Administration Costs directly to the Settlement Administrator.

23 **E. Plaintiff's Counsel Payment**

24 Within twenty-one (21) days after the Effective Date, Settlement Administrator shall pay
25 the Plaintiff's Counsel Payment directly to Plaintiff's Counsel.

26 **F. Plaintiff's General Release Payments**

27 Within twenty-one (21) days after the Effective Date, Settlement Administrator shall
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1 provide the General Release Payments directly to Plaintiff's Counsel for delivery to Plaintiff.

2 **VI. CLAIMS RELEASED BY PAGA SETTLEMENT MEMBERS**

3 **A. Claims Released by The LWDA and All PAGA Settlement Members**

4 Upon the date of entry of an order by the Court in this Action approving this Settlement,
5 the LWDA and PAGA Settlement Members, including Plaintiff, fully release and forever
6 discharge the Released Parties from any and all Released Claims. As a result of this release, the
7 PAGA Settlement Members will be unable to bring a claim for civil penalties under the California
8 Private Attorneys General Act, California Labor Code §§ 2698 et seq., for any violations of the
9 Released Claims that took place during the PAGA Period.

10 **B. Tax Treatment and Tax Indemnification**

11 PAGA Settlement Members will assume any tax obligations or consequences which may
12 arise from this Settlement. PAGA Settlement Members release any and all claims that they have
13 or may have against Defendant for any claims, demands, deficiencies, levies, assessments,
14 executions, judgments, penalties, taxes, indemnification, and any other recoveries related to any
15 payments made under this Settlement or any compensation provided at any time by Defendant or
16 any of the Released Parties. If any state or federal taxing authority contacts, investigates, or pursues
17 any action against any PAGA Settlement Members for their individual share of taxes related to
18 any payments made under this Settlement or any compensation provided at any time by Defendant
19 or any of the Released Parties, each PAGA Settlement Member shall be responsible for his or her
20 own defense of and payment for any claim of unpaid taxes, interest, or penalties brought by any
21 state or federal taxing authority for the PAGA Settlement Member's share of any state or federal
22 tax obligation. If a PAGA Settlement Member has questions about any liability to any state or
23 federal taxing authority, they should contact the Settlement Administrator. The PAGA Settlement
24 Members should not contact Defendant, any of the Released Parties, or Defense Counsel.

25 **C. Claims Released by Plaintiff**

26 In addition to the Released Claims, upon the date of entry of an order by the Court in this
27 Action approving this Settlement, Plaintiff will generally release any and all claims against the
28

Released Parties. This general release of all claims includes any and all claims arising from the employment relationship with the Released Parties, or the separation thereof, including, without limitation, any claims for breach of any implied or express contract or covenant; claims for promissory estoppel; claims of entitlement to any pay; claims of wrongful denial of insurance and employee benefits (except workers' compensation benefits); claims for failure to hire, public policy violations, defamation, invasion of privacy, fraud, misrepresentation, emotional distress, assault/battery, or other common law or tort matters; claims of harassment, retaliation or discrimination based on age, race, color, religion, sex, national origin, ancestry, physical or mental disability, protected activity, medical condition, marital status, sexual preference, union activity, or veteran status; claims under Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991; the Americans With Disabilities Act; Section 1981 of the Civil Rights Act of 1866; age discrimination under the Age Discrimination in Employment Act, as amended by the Older Workers Benefit Protection Act; the Family and Medical Leave Act; claims for unfair competition; claims based on legal restrictions on Defendant's right to terminate, not to hire or promote employees, or to change an employee's compensation; and claims based on any federal, state or other governmental statute, regulation or ordinance, all statutory, constitutional, contractual or common law claims for wages, damages, unpaid costs or expenses, penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief, or any other claims arising under the Fair Labor Standards Act, California Labor Code, or Industrial Welfare Commission Wage Orders, or arising out of or based upon the following categories of allegations regardless of the forum in which they may be brought, to the fullest extent such claims are releasable by law, including (i) all claims for unpaid overtime; (ii) all claims for unpaid wages; (iii) all claims for meal break violations; (iv) all claims for rest period violations; (v) all claims for paid sick leave violations; (vi) all claims for the failure to timely pay wages upon termination; (vii) all claims for the failure to timely pay wages during employment; (viii) all claims for wage statement violations; and (ix) all other penalties recoverable for such claims under PAGA, and the Employee Retirement Income Security Act.

1 For the purpose of implementing a full and complete release and discharge of the Released
2 Parties, Plaintiff expressly acknowledges that the release in this Paragraph is intended to include
3 in its effect, without limitation, all claims she did not know or suspect at the time of execution
4 hereof, regardless of whether the knowledge of such claims, or the facts upon which they might
5 be based, would materially have affected the settlement of this matter, and that the consideration
6 given under this Settlement is also for the release of those claims and contemplates the
7 extinguishment of any such claims. In furtherance of this Settlement, Plaintiff expressly waives all
8 rights provided by California Civil Code section 1542, or other similar statutes that Plaintiff may
9 have against any of the Released Parties. Section 1542 states:

10 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
11 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
12 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
13 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
14 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
15 DEBTOR OR RELEASED PARTY.

16 This general release and waiver of rights under California Civil Code Section 1542 shall
17 include any and all claims based on conduct or omissions that occurred at any time prior to the
18 date of entry of an order by the Court in this Action approving this Settlement.

19 **VII. MISCELLANEOUS PROVISIONS**

20 **A. Voiding the Settlement**

21 A failure of the Court to approve any material condition of this Settlement shall render the
22 entire Settlement voidable and unenforceable as to Plaintiff and Defendant, at the option of
23 Plaintiff or Defendant. Each party may exercise its option to void this Settlement as provided above
24 by giving notice, in writing, to the other, and to the Court within fifteen (15) days after the Order
25 failing to approve a material condition of the Settlement has been received by the party seeking to
26 void the Settlement.

27 **B. Mutual Full Cooperation**

28 Plaintiff, Defendant, Plaintiff's Counsel, and Defense Counsel agree to fully cooperate
with each other to accomplish the terms of this Settlement, including, but not limited to, execution

1 of such documents and to take such other action as may reasonably be necessary to implement the
2 terms herein. The Parties agree to use their best efforts and any other efforts that may become
3 necessary by Order of the Court, or otherwise, to effectuate this Settlement.

4 **C. Parties' Authority**

5 The signatories hereto represent that they are fully authorized to enter into this Settlement.

6 **D. Binding Nature of the Settlement**

7 1. This Settlement shall be binding upon, and inure to the benefit of, the successors or
8 assigns of the Released Parties. Plaintiff represents, covenants, and warrants that she has not
9 directly or indirectly, assigned, transferred, encumbered, any claim, demand, action, cause of
10 action or rights released in the Released Claims in this Settlement. This Settlement also shall be
11 binding upon Plaintiff and the PAGA Settlement Members.

12 2. This Settlement may be amended or modified only by a written instrument signed
13 by Plaintiff Counsel and Plaintiff, as well as Defense Counsel and Defendant. No rights under
14 this Settlement may be waived except in writing.

15 3. This Settlement and any attached exhibits constitute the entire agreement between
16 Plaintiff and Defendant relating to the terms contained herein. All prior or contemporaneous
17 agreements, understandings and statements, whether oral or written, whether express or implied,
18 and whether by a party or its counsel, concerning this Settlement are merged herein. No oral or
19 written representations, warranties or inducements have been made to any party concerning this
20 Settlement or its exhibits other than the representations, warranties and covenants contained and
21 memorialized in such documents.

22 4. Paragraph titles or captions contained herein are inserted as a matter of convenience
23 and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or
24 any of its provisions. Each term of this Settlement is intended to be contractual and not merely a
25 recital.

26 **E. Joint Drafting of Settlement Documents**

27 1. Plaintiff's Counsel and Defense Counsel have arrived at this Settlement as a result

of a series arm's-length negotiations, taking into account all relevant factors, present and potential.

2. This Settlement has been drafted jointly by Plaintiff's Counsel and Defense Counsel and, therefore, in any construction or interpretation of this Settlement, the same shall not be construed against any of the Parties.

3. Plaintiff and Plaintiff's Counsel agree that none of the documents provided to them by Defendant shall be used for any purpose other than the settlement of this Action. Specifically, none of the documents provided shall be used to pursue any subsequent claims or litigation against Defendant or the Released Parties.

F. Execution of the Settlement

This Settlement may be executed in one or more counterparts and by facsimile. All executed copies of this Settlement and photocopies thereof shall have the same force and effect and shall be as legally binding and enforceable as the original.

G. No Press Release or Publicity Regarding the Terms of the Settlement

Plaintiff and Plaintiff's Counsel, as well as Defendant and Defense Counsel, agree that they will not issue any media or press release, initiate any contact with the media or the press, respond to any media or press inquiry or have any communications with the media or the press about the fact, amount or terms of this Settlement. Plaintiff and Plaintiff's Counsel shall not publicize or refer to the fact or amount of the Settlement, on their websites, social media, any other marketing materials, professional organization such as CELA, or legal publication. Plaintiff and Plaintiff's Counsel will not state on their websites, social media, any other marketing materials, or legal publications, that Defendant engaged in any act contrary to California law, or denied payment owed to individuals classified as independent contractors or employees, or otherwise disparage Defendant, or otherwise identify Defendant. Defendant shall be allowed to report the Settlement or results of this lawsuit if required to do so by public disclosure regulatory requirements or with respect to any financial or other disclosures which in their judgment are necessary.

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1 **H. Continuing Jurisdiction of the Court**

2 Pursuant to California Code of Civil Procedure section 664.6, the Parties agree that the
3 Court shall retain jurisdiction over the Parties, and over this Settlement, in order to: (i) monitor
4 and enforce compliance of Settlement, and/or (ii) resolve any disputes over this Settlement or the
5 administration of the benefits of this Settlement.

6 **I. Representations by Plaintiff**

7 Plaintiff acknowledges the following:

8 1. Plaintiff has carefully read and fully understands all of the provisions of this
9 Settlement;

10 2. Plaintiff has had sufficient time, and at least 21 days, to consider this
11 Settlement before signing it;

12 3. Plaintiff may revoke the release of any wage claims under the OWBPA after
13 she signs the Settlement by delivering written notice to Daniel Whang, Seyfarth Shaw LLP, 2029
14 Century Park East, Ste. 3500, Los Angeles, California 90067 before the close of business seven
15 days after she signs this Settlement.

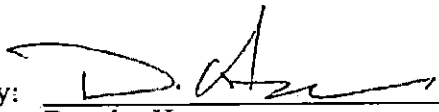
16 4. Plaintiff knowingly and voluntarily agrees to all of the terms set forth in this
17 Settlement and acknowledge that she has not been coerced, threatened, or intimidated into
18 executing this Settlement;

19 5. Plaintiff was advised, and hereby is advised in writing, to consider the terms
20 of this Settlement and consult with her attorneys before signing this Settlement.

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Dated: March 3, 2022

JUSTICE LAW CORPORATION

By: 
Douglas Han
Shunt Tatavos-Gharajeh
Josh B. Tran
Attorneys for Plaintiff

1 Dated: March 3, 2022

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By: *Amanda A. Cunningham*
Amanda Cunningham
Plaintiff

SEYFARTH SHAW LLP

By: _____
Daniel Whang
Kathleen McConnell
Robin E. Devaux
Attorneys for Defendant

By: _____
Cottonwood H.C., Inc.
Defendant

1 Dated: March 3, 2022

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By: _____
Amanda Cunningham
Plaintiff

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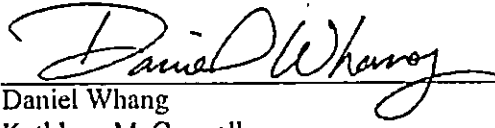
6 Dated: March 3, 2022

SEYFARTH SHAW LLP

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By:  _____
Daniel Whang
Kathleen McConnell
Robin E. Devaux
Attorneys for Defendant

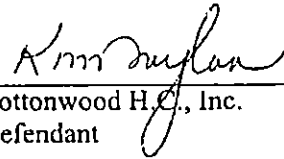
By:  _____
Cottonwood H.C., Inc.
Defendant

EXHIBIT B

SETTLEMENT ADMINISTRATOR LETTERHEAD

Mailing Date

NOTICE OF SETTLEMENT

Name

Address

Amanda Cunningham v. Cottonwood H.C., Inc. d/b/a Cottonwood Post-Acute Rehab et al.
Yolo County Superior Court, Case No. CV2021-1375

Dear NAME:

You are receiving the enclosed check in settlement of a lawsuit entitled *Amanda Cunningham v. Cottonwood H.C., Inc. d/b/a Cottonwood Post-Acute Rehab et al.*, Yolo County Superior Court Case No. CV2021-1375. In that lawsuit, Ms. Cunningham pursued various claims against Cottonwood H.C., Inc. d/b/a Cottonwood Post-Acute Rehab ("Defendant") under Labor Code § 2699 *et seq.*, the California Private Attorney General Act ("PAGA"), on behalf of non-exempt employees of Defendant between May 25, 2020 through Approval Date ("Settlement Group"). Defendant denied and continue to deny all of the allegations and liability for any claims in this case.

The enclosed check for \$ _____, is your share of the settlement. Your settlement amount represents penalties and will be reported on an IRS Form 1099. Your check is valid for 180 days from the date of mailing. Funds attributable to any uncashed check will escheat to the California State Controller's Office in the name of the Settlement Group member's name.

As a result of this settlement and your designation as a member of the Settlement Group, you have fully released and forever discharged Defendant and the Released Parties including Defendant and all its past, present and future parent subsidiary companies, predecessors, affiliates, holding companies, successors, assigns, employees, officers, directors, insurers, officials, attorneys, personal representatives, executors, shareholders and agents, 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 from all claims, whether known or unknown, to recover civil penalties pursuant to PAGA for any alleged violations of California Labor Code sections, including 201-204, 210, 218.5, 221, 226, 226.3, 226.7, 246, 510, 512, 558, 1174, 1194, 1197, 1197.3, 1198, 2800, 2802, and the applicable IWC Wage Order that took place between May 25, 2020 and Approval Date.

EXHIBIT C



Justice Law Corporation <info@justicelawcorp.com>

Thank you for your Proposed Settlement Submission

1 message

DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
To: info@justicelawcorp.com

Thu, Mar 10, 2022 at 1:49 PM

03/10/2022 01:48:51 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

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**PROOF OF SERVICE
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is manderson@justicelawcorp.com

On June 13, 2022, I served the foregoing document described as

**JOINT STIPULATION AND APPROVAL ORDER GRANTING PRIVATE
ATTORNEYS GENERAL ACT (LABOR CODE § 2698, ET SEQ.) SETTLEMENT
AND RELEASE AGREEMENT**

for the following case: **Cunningham v. Cottonwood H.C., Inc. d/b/a Cottonwood
Post-Acute Rehab**
LWDA/Court Case No.: **LWDA Case No.: CM- 832327-21
Court Case No.: CV2021-1375
Yolo County Superior Court**

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

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

Executed on June 13, 2022, at Pasadena, California.



Mariah Anderson