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County of Monterey
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY

SHARON MORRIS, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

COMMUNITY HOSPITAL OF THE
MONTEREY PENINSULA, a California
nonprofit corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 21CV001953

(Assigned to the Honorable Thomas W. Wills,
Dept. 15)

**DECLARATION OF MAI TULYATHAN IN
SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: May 13, 2022

Time: 8:30 a.m.

Dept.: 15

Complaint Filed: June 16, 2021

FAC Filed: August 6, 2021

SAC Filed: January 24, 2022

Trial Date: None Set

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I, Mai Tulyathan, declare as follows:

1. I am an attorney at law, duly licensed to practice before all Courts in the State of California, and am with the law firm Diversity Law Group, counsel of record for Named Plaintiff Sharon Morris (“Plaintiff”). I have personal knowledge of the facts set forth below and if called to testify I could and would do so competently.

PROCEDURAL HISTORY

2. On June 4, 2021, Plaintiff submitted her written notice to the LWDA, alleging violations of Labor Code §§ 201-203 and 246, pursuant to the PAGA, Labor Code § 2699. Thereafter, on June 16, 2021, Plaintiff filed her class action complaint against Defendant in the Monterey County Superior Court (the “Action”).

3. Plaintiff filed her First Amended Complaint on August 6, 2021, adding claims for violations under the PAGA, Labor Code § 2698, *et seq.*

4. On November 15, 2021, Plaintiff submitted her supplemental PAGA notice to the LWDA alleging additional violations of Labor Code §§ 226.7 and 512, based on failure to pay meal and rest period premiums at the regular rate of pay.

5. On January 24, 2022, Plaintiff filed the Second Amended Complaint to plead additional claims and allegations based on Defendant's alleged failure to pay meal and rest period premiums at the regular rate of pay. The operative Second Amended Complaint alleges claims for: (1) violation of Labor Code § 246; (2) violation of Labor Code §§ 201-203; (3) violation of Labor Code § 226.7; (4) violation of Labor Code §§ 226.7 and 512; (5) violation of Business & Professions Code § 17200, *et seq.*; and (6) violation of the PAGA, Labor Code § 2698, *et seq.* predicated on the same violations as the class claims.

6. Plaintiff's class and PAGA claims as pled in the Second Amended Complaint are predicated on the following allegations. Plaintiff alleges that Defendant failed to factor in non-discretionary incentives, including shift differential wages (such as "PMDiff" wages) in the regular rate of pay. Whenever shift differential wages and sick pay wages were paid to Plaintiff and other employees in the same pay period, sick pay was solely paid at the base rate of pay, as

1 opposed to the higher, regular rate of pay. Similarly, Plaintiff also alleges that Defendant failed
2 to incorporate non-discretionary incentives into the regular rate of pay when paying meal and
3 rest period premiums. Whenever meal and rest period premiums were paid to Plaintiff and other
4 employees, it was paid based on the lower base rate of pay. As a result of these alleged
5 violations, Plaintiff seeks damages and penalties under the California Labor Code, California
6 Business & Professions Code, and the PAGA, as well as attorneys' fees and costs.

7 7. After Plaintiff initiated the Action, the Parties agreed to participate in private
8 mediation. In connection with mediation, the Parties agreed to exchange informal discovery
9 sufficient to allow Plaintiff to assess the claims and liability, as well as analyze the maximum
10 exposure of damages and penalties. Defendant produced class data, including the number of
11 putative class members and aggrieved employees, number of pay periods at issue, and sample
12 payroll and timekeeping data for the putative class, as well as documents pertaining to
13 Defendant's policies regarding the payment of sick pay/paid time off and meal and rest period
14 premiums. Plaintiff's counsel then conducted an exposure analysis.

15 8. On October 18, 2021, the Parties engaged in a full-day mediation with mediator
16 Mike Masuda, Esq. As a result of the mediation, the Parties reached a tentative settlement,
17 subject to Defendant providing additional confirmatory discovery, which was memorialized in
18 the Memorandum of Understanding. As part of the confirmatory discovery, Defendant
19 informally produced payroll and timekeeping records of the putative class members.

20 9. In resolution of the class and PAGA claims, the Parties subsequently executed the
21 Joint Stipulation of Class Action Settlement ("Stipulation" or "Settlement Agreement").
22 Attached hereto as **Exhibit A** is a true and correct copy of the executed Settlement Agreement.
23 A copy of the proposed Notice of Class Action Settlement ("Notice Packet") to be sent to Class
24 Members is attached as Exhibit A to the Settlement Agreement.

25 10. The Parties recognize the risk, expense, and delay in continuing litigation with the
26 class and PAGA claims, and believe the settlement to be fair, reasonable, and adequate.

27 11. Each side has apprised the other of their respective factual contentions, legal
28 theories and defenses, resulting in negotiations taking place between the Parties.

1 **SUMMARY OF THE MONETARY TERMS OF THE SETTLEMENT**

2 12. The material terms of the settlement are memorialized in the Settlement
3 Agreement. As defined by the Settlement Agreement, the proposed Class consists of: All
4 current and former non-exempt employees employed by Defendant in the State of California
5 from June 16, 2017, through July 22, 2021 (the “Class Action Settlement Group” or “Class
6 Members”). (See Stipulation at ¶ 3.) The Class Period means the period of June 16, 2017,
7 through July 22, 2021. *Id.* ¶ 5. Pursuant to the Stipulation, Defendant has represented that there
8 are 3,017 individuals that comprise the Class. (Stipulation at ¶ 3.)

9 13. With respect to PAGA, the Settlement Agreement provides that employees part of
10 the PAGA Settlement Group shall include: All current and former non-exempt employees
11 employed by Defendant in the State of California from June 4, 2020, through July 22, 2021 (the
12 “PAGA Settlement Group” or “Aggrieved Employees”). (See Stipulation at ¶ 4.) Pursuant to
13 the Stipulation, Defendant has represented that there are 2,419 Aggrieved Employees. (*Id.*)

14 14. The July 22, 2021 end date of the Class and PAGA Period is based on the date
15 that Defendant revised its policies and practices to include non-discretionary incentives into the
16 calculation of the regular rate of pay when paying sick pay and meal and rest period premiums.
17 Defendant has indicated that as of July 23, 2021, it began including non-discretionary incentives
18 into the calculations for sick pay and meal and rest period premiums.

19 15. The Settlement Agreement provides for the Gross Settlement Amount of One
20 Million Four Hundred Fifty Thousand Dollars (\$1,450,000.00), which will be paid by Defendant
21 and distributed to the Class on a non-reversionary basis. (Stipulation at ¶¶ 12, 37.) The Net
22 Settlement Amount is to be calculated by deducting the requested attorneys’ fees (up to
23 \$483,333.33), litigation costs (up to \$20,000.00), the enhancement payment to the Class
24 Representative (up to \$10,000.00), the PAGA Payment (\$50,000.00), and Settlement
25 Administration costs (up to \$23,750.00). (*Id.* ¶¶ 20, 43.) Based on those amounts, the Net
26 Settlement Amount is estimated to be approximately **\$862,916.67**.

27 16. Each Participating Class Member that does not opt-out of the settlement will be
28 awarded a portion of the Net Settlement Amount on a *pro rata* basis, based upon the total

1 number of workweeks each Participating Class Member worked during the Class Period.

2 17. Additionally, as part of the PAGA Payment, 25% of the PAGA Payment, or
3 \$12,500.00, will be distributed to Aggrieved Employees who worked during the PAGA Period
4 (June 4, 2020, through July 22, 2021), on a pro rata basis, based on the number of pay periods
5 worked by each Aggrieved Employee during the PAGA Period as compared to the total number
6 of pay periods during the PAGA Period. (Stipulation at ¶¶ 6, 42.)

7 18. As part of the Settlement Agreement, Defendant does not object to Plaintiff's
8 Counsel's request for attorneys' fees of up to 33.33% of the Gross Settlement Amount, or up to
9 \$483,333.33. (Stipulation at ¶ 39.) Defendant also does not object to Plaintiff's Counsel's
10 request for reimbursement of actual litigation costs of up to \$20,000.00, subject to the Court
11 finally approving this Settlement. (Stipulation at ¶ 39.) Class Counsel have, at their own risk,
12 expended costs, for example, to file this instant action and other pleadings, effect service of
13 process, mediation costs, and pay other litigation related costs.

14 19. Defendant does not object to Plaintiff's request for an enhancement payment to
15 the Class Representative of \$10,000.00, to compensate Plaintiff for prosecuting this action on
16 behalf of other employees and for executing a general release of all claims, including a waiver
17 under Section 1542. (Stipulation at ¶¶ 11, 67.)

18 20. The Settlement Agreement provides for the payment of the fees and expenses
19 incurred by the Settlement Administrator in connection with the administration of this
20 settlement. The Parties have received a quote from Phoenix Settlement Administrator for the
21 amount of \$23,750.00 to administer the settlement. (Stipulation at ¶¶ 34-35, 41, 45.) Phoenix
22 Settlement Administrators is a well-recognized class action settlement administrator. The Parties
23 believe that the administration fee is reasonable and should be approved.

24 21. Finally, the terms of the Settlement provide that uncashed checks (upon the
25 expiration date) shall be distributed to Watsonville Law Center as the *cy pres* beneficiary. (See
26 Stipulation at ¶ 57.) Watsonville Law Center is a non-profit organization that provides free legal
27 services and referral information to low-income individuals, in accordance with California Civil
28 Procedure § 384. Plaintiff's Counsel does not have any relationship with or connection to

Watsonville Law Center.

PAYMENTS TO CLASS MEMBERS

22. Provided that the Court approves the above amounts in full, Class Counsel estimates that the Net Settlement Amount will be approximately **\$862,916.67**.

23. Pursuant to the Stipulation, Defendant has represented that there are 3,017 individuals that comprise the Class. Based on the anticipated Net Settlement Amount, on a pure raw average, each Class Member may potentially recover approximately **\$286.02**. The amount actually paid to each Class Member may increase or decrease depending on the actual number of workweeks worked during the Class Period and the number of opt-outs received. To the extent that there are valid opt-outs, the Settlement Administrator will proportionately increase the individual settlement payments to each Participating Class Member so that the amount actually distributed to Participating Class Members equals 100% of the Net Settlement Amount.

POTENTIAL DAMAGES AND PENALTIES

24. Using the data and sample records provided by Defendant, Plaintiff's counsel performed a damages analysis.

25. Based on the class data provided by Defendant, Plaintiff estimated that Defendant would face potential liability of up to approximately \$9,284,972.80 for Plaintiff's class claims if Plaintiff succeeded at trial on all class claims. This estimate is based on class data and sample records provided by Defendant. The breakdown of Plaintiff's estimation of potential liability on class claims is as follows:

- \$5,903,539.20 in waiting time penalties under Labor Code § 203, resulting from the underpayment of sick pay wages. This amount is calculated based on 432 former employees who were paid sick pay wages and non-discretionary incentives in the same workweek during the applicable statute of limitations period for waiting time penalties, based on an average hourly rate of pay of \$56.94 [formula: 432 formers x (\$56.94 average hourly rate x 8 x 30)].
- \$19,696.00 in underpaid meal and rest premiums. This amount is calculated based on 19,969 instances of meal and/or rest premiums that were paid out to

employees during the Class Period, based on an assumption that Defendant underpaid \$1.00 per hour for each of the instance that the meal and/or rest break premiums were paid.

- \$3,361,737.60 in waiting time penalties under Labor Code § 203, resulting from the underpayment of meal and rest premiums. This amount is calculated based on 246 former employees who were paid non-discretionary incentives and any meal/rest premiums in the same workweek that the non-discretionary incentive was earned, based on an average hourly rate of pay of \$56.94 [formula: 246 formers x (\$56.94 average hourly rate x 8 x 30)].

26. Based on the data provided by Defendant, Plaintiff also calculated potential civil penalties for Plaintiff's PAGA claims. Plaintiff estimated that Defendant could face civil penalties of up to \$384,800.00. The breakdown for the calculation of Plaintiff's PAGA penalties is as follows:

- \$30,100.00 for PAGA penalties with respect to the sick pay regular rate claim, based on 301 pay periods at issue during the PAGA Period, calculated based on the PAGA's initial violation penalty of \$100 per aggrieved employee per pay period [formula: 301 pay periods x \$100 initial penalty].
- \$354,700 for PAGA penalties with respect to the meal and rest period premium regular rate claims, based on 3,547 pay periods at issue during the PAGA Period, calculated based on PAGA's initial violation penalty of \$100 per aggrieved employee per pay period [formula: 3,547 x \$100 initial penalty].

27. However, even assuming Plaintiff ultimately prevails on her PAGA claims, the Court still has discretion to reduce any PAGA penalties. Pursuant to Labor Code § 2699(e)(2), the Court can decline to award PAGA penalties where "if, based on the facts and circumstances of the particular case, to do otherwise, would result in an award that is unjust, arbitrary and oppressive, or confiscatory." Indeed, as shown in the Court of Appeal's decision in *Carrington v. Starbucks Corp.*, 30 Cal.App.5th 504 (2018), while the plaintiff prevailed on his PAGA claim

1 upon trial, the trial court reduced the maximum PAGA penalty amount by 90%, citing the
2 employer's good faith attempt at complying with the law. *Id.* at p. 517. Upon review, the Court
3 of Appeal found such reduction to be proper. *Id.* at p. 539.

4 28. Although Plaintiff believes in the merits of the alleged claims and maintains that
5 there is no reason for reducing PAGA penalties, Plaintiff is aware that Defendant may raise
6 defenses to the claims and further with respect to the reduction of PAGA penalties and that it
7 could be persuasive to the Court. Thus, even if Plaintiff were to successfully prove her claims at
8 trial, there is a possibility that the Court may only award a small percentage of PAGA penalties,
9 as the Court has discretion to do so. The Gross Settlement Amount was premised with this risk
10 in mind, associated with the possibility of the Court significantly reducing Plaintiff's PAGA
11 penalties, along with other attendant risks, even if Plaintiff was to prevail at trial.

12 29. Further, Defendant raised several defenses that presented risk on the regular rate
13 claims. With respect to the sick pay regular rate claim, Defendant has argued that Plaintiff
14 cannot recover unpaid sick pay wages because there is no private right of action under the
15 Healthy Workplace Healthy Family Act. Furthermore, it is Defendant's position that Plaintiff
16 will not be able to prove the "willfulness" requirement to recover waiting time penalties under
17 Labor Code § 203, as Defendant's computer program automatically generated rates of pay for
18 sick leave and paid said sick leave wages. Defendant alleges that it was unaware of any alleged
19 potential miscalculation, which was immediately corrected upon its discovery.

20 30. With respect to the meal and rest period premium regular rate claims, it is
21 Defendant's position that it is not liable because it corrected its practice to include non-
22 discretionary incentives into the meal/rest period premium regular rate immediately after the
23 Court issued the *Ferra v. Loews* (2021) 11 Cal. 5th 858 decision, holding that meal and rest
24 period premiums must be paid at the blended regular rate of pay. Furthermore, Defendant
25 contends that waiting time penalties are not available for any alleged late payment of meal and
26 rest period premiums, as it disputes that meal and rest period premiums constitutes "wages." It is
27 Defendant's position that waiting time penalties are only available in an action or claim to
28 recover nonpayment of wages.

31. Although Plaintiff believes that the class can be certified, Plaintiff also believes in the fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff involved in not prevailing on one or more of the causes of action or theories alleged in the operative Complaint, the possibility of non-certification, and the potential for appeals.

32. Taking these defenses above into account on the class and PAGA claims, Plaintiff believes that the settlement for the amount stated herein is fair, reasonable, and adequate.

33. Thus, the settlement for each Class Member is fair, reasonable, and adequate, given the inherent risks of litigation, including the substantial risks relative to class certification, the costs of pursuing such litigation, and the risks associated with the Court's discretion to reduce PAGA penalties. The settlement is the result of extensive arm's-length negotiations between the Parties and their counsel and was facilitated by an experienced and neutral mediator.

34. Based on the amounts explained above, the total class and PAGA damages/penalties amount to approximately **\$9,669,772.80**, without discounting for potentially losing on any of the causes of action. The Gross Settlement Amount here is **\$1,450,000.00**, and thus amounts to approximately **15%** of the total estimated liability. The Parties believe that the percentage-to-recovery ratio of this settlement is within the range of fairness and reasonableness and should be approved by the Court.

ATTORNEY EXPERIENCE

35. I have spent significant time researching and pursuing the claims that have been alleged in this action. From the inception of the case, Class Counsel have zealously represented the interests of the Class. Class Counsel have engaged in significant meet and confer discussions with opposing counsel to obtain informal data and documents and to discuss the merits of the claims on behalf of the Class. The settlement was obtained for the benefit of the Class, as opposed to the individual Class Representative. Based on my review of all the information, and based on my experience in class action litigation, I believe this settlement to be fair, adequate, and reasonable.

36. My firm was retained based upon a contingency fee arrangement wherein Plaintiff's counsel agreed to advance all costs and receive no fee unless a recovery was

1 accomplished. Specifically, had Plaintiff failed to prevail on these cases, counsel for Plaintiff
2 would have spent a significant amount of time, money and other resources without any benefit or
3 return. In addition, had Plaintiff also failed to prevail in the present cases, Defendants would
4 have been able to seek attorney's fees and costs in connection with their defense of the case.

5 37. I am one of the primary attorneys on this matter. My qualifications are as follows:
6 I received my JD from Loyola Law School in 2017. I received the First Honors Award in Legal
7 Research and Writing, First Honors Award in Appellate Advocacy, and First Honors Award in
8 Civil Litigation Practicum I for achieving the highest grade in those classes. During law school, I
9 was a Staff Editor for Loyola Law Review. I was also an extern at the U.S. District Court,
10 Central District of California, for the Honorable Christina A. Snyder, and a certified law clerk at
11 the San Diego County District Attorney's Office, Collaborative Courts Division, and the Los
12 Angeles County District Attorney's Office, Consumer Protection and Environmental Crimes
13 Division. In 2016, I participated in Loyola Law School's Scott Moot Court Competition, where I
14 placed Top 16 and was awarded the Top Ten Brief Award. In 2017, I participated in the
15 Employment Rights Clinic, an extension of the Division of Labor Standards Enforcement created
16 to investigate retaliation complaints. Upon graduation from law school, I was admitted to the
17 California Bar in December 2017.

18 38. I am currently an associate at the law firm Diversity Law Group, P.C., an
19 employment law firm that has handled numerous wage and hour class and individual actions, on
20 both plaintiff and defense sides. The firm currently has cases in numerous state courts, including
21 the Santa Clara Superior Court, Los Angeles Superior Court, Orange County Superior Court, San
22 Diego County Superior Court, Monterey County Superior Court, as well as the United States
23 District Courts for the Central, Northern, Southern, and Eastern Districts of California.

24 39. I am currently handling and/or have handled numerous wage and hour class action
25 and PAGA lawsuits, including *Magadia v. Wal-Mart Associates, Inc., et al.* (Case Number 5:17-
26 cv-00062-LHK); *Garcia v. Wal-Mart Associates, Inc., et al.* (Case Number 3:18-cv-00500-L-
27 MDD); *Hernandez v. Wells Fargo Bank, N.A.* (Case Number 16CV299319); *Lao v. H & M*
28 *Hennes & Mauritz, L.P.* (Case Number 5:16-cv-333 EJD); *Arroyo v. Int'l Paper Company* (Case

1 Number 5:17-cv-06211-BLF); *Baker v. California Forensic Medical Group, Inc., et al.*, Judicial
2 Council Coordination Proceeding No. 4999 (Lead Case No. 17CV003723); and *Garcia v. Apex*
3 *Systems, LLC, et al.* (Case Number RG19014709).

4 40. In 2018, I argued before the California Court of Appeal, Second Appellate
5 District, in the case of *Lee v. California Commerce Club, Inc.* (California Court of Appeal Case
6 Number B276171, LASC Case Number BC596924), and *Perez v. Standard Drywall, Inc.*
7 (California Court of Appeal Case Number A146819, Alameda Sup. Ct. No. RG15761142). In
8 that same year, I also assisted the firm in successfully obtaining class certification and partial
9 summary judgment by the United States District Court, Central District of California in the case
10 of *Magadia v. Wal-Mart Associates, Inc.* (Case Number 17-CV-00062-LHK). I third chaired the
11 bench trial in that same case in December 2018.

12 41. I have also been approved as class counsel in numerous other wage/hour class
13 actions. Most recently, I was approved as class counsel in the cases *Garcia v. Wal-Mart*
14 *Associates, Inc., et al.* (Case Number 3:18-cv-00500-L-MDD), *Richert v. Samaritan, LLC, et al.*
15 (Case Number 17CV314186), *Song v. THC – Orange County, Inc.* (Case No. 8-17-cv-965-JLS
16 (DFM)), and *Hernandez v. Wells Fargo Bank National Ass’n, et al* (Case No. 16-CV-299319).
17 Moreover, I was granted final approval as class counsel in *California Forensic Medical Group*
18 *Wage and Hour Cases* (Case No. JCCP4999), *Valles v. Community Hospital of the Monterey*
19 *Peninsula* (Case No. 17CV003452), *Chavez v. Hugo Boss Retail, Inc.* (Case No. 18CV322644),
20 *Hernandez v. Wells Fargo Bank National Ass’n, et al* (Case No. 16-CV-299319), *Mendez v.*
21 *Falcon Trading Company* (Case No. 19CV004512), *Khan v. Amy’s Kitchen, Inc.* (Case No.
22 SCV-266127), and *Truong v. DS Services of America, Inc.* (Case No. FCS054399). I acted as
23 lead counsel in these cases listed above.

24 42. My co-counsel and I will adequately represent the Class Members in this action.
25 Plaintiff’s Counsel have and will zealously represent Plaintiff and the Class and pursue this
26 lawsuit to its conclusion. I have no conflicts with the Class and will adequately represent the
27 Class.

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


Mai Tulyathan

EXHIBIT A

Larry W. Lee (State Bar No. 228175)
Kwanporn "Mai" Tulyathan (State Bar No. 316704)
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Attorneys for Plaintiff, the Class, and Aggrieved Employees

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

SHARON MORRIS, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

COMMUNITY HOSPITAL OF THE
MONTEREY PENINSULA, a California
nonprofit corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 21CV001953

**JOINT STIPULATION OF CLASS ACTION
SETTLEMENT**

Complaint Filed: September 18, 2017

1 **JOINT STIPULATION OF CLASS ACTION SETTLEMENT**

2 This Joint Stipulation of Class Action Settlement (“Agreement” or “Settlement”) is made
3 and entered into by and between Plaintiff Sharon Morris (“Morris” or “Plaintiff”) and Defendant
4 Community Hospital of the Monterey Peninsula (“CHOMP” or “Defendant”) (collectively with
5 Morris, the “Parties”).

6 **DEFINITIONS**

7 The following definitions are applicable to this Agreement. Definitions contained
8 elsewhere in this Agreement shall also be effective:

9 1. “Action” means *Sharon Morris, et al. v. Community Hospital of the Monterey*
10 *Peninsula, et al.*, Case No. 21CV001953 (filed on June 16, 2021).

11 2. “Agreement” or “Settlement Agreement” means this Joint Stipulation of Class
12 Action Settlement.

13 3. “Class Action Settlement Group” means all current and former non-exempt
14 employees employed by Defendant in the State of California from June 16, 2017, through July
15 22, 2021 (the “Class Period”). The employees in this Class Action Settlement Group are
16 collectively referred to as “Class Members” and individually referred to as a “Class Member.”
17 It has been determined that there are 3,017 individuals in the Class Action Settlement Group.

18 4. “PAGA Settlement Group” means all current and former non-exempt employees
19 employed by Defendant in the State of California from June 4, 2020, through July 22, 2021
20 (the “PAGA Period”). The employees in the PAGA Settlement Group are collectively referred
21 to as “Aggrieved Employees” and individually referred to as an “Aggrieved Employee.” It has
22 been determined that there are 2,419 individuals in the PAGA Settlement Group.

23 5. “Class Period” means the period from June 16, 2017, through July 22, 2021.

24 6. “PAGA Period” means the period from June 4, 2020, through July 22, 2021.

25 7. “Class Counsel” means Larry W. Lee and Mai Tulyathan of Diversity Law
26 Group, P.C., and William L. Marder of Polaris Law Group.

27 8. “Class Counsel Award” means such award of fees and costs and expenses as the
28

1 Court may authorize to be paid to Class Counsel for the services they have rendered and will
2 render to Plaintiff and the Class in the Action. Defendant agrees not to oppose Class Counsel
3 Award not to exceed 33.33% of the Gross Settlement Amount (\$1,450,000.00), i.e. the sum of
4 Four Hundred Eighty-Three Thousand Three Hundred and Thirty-Three Dollars and Thirty-
5 Three Cents (\$483,333.33), and litigation costs in the amount of up to Twenty Thousand Dollars
6 (\$20,000.00), subject to the Court finally approving this Settlement. Any portion of the Class
7 Counsel Award not awarded to Class Counsel shall be added to the Net Settlement Amount.

8 9. "Class List and Data" means information regarding all Class Members that
9 Defendant will diligently and in good faith compile from its records and provide to the
10 Settlement Administrator after Preliminary Approval of this Settlement. The Class List shall be
11 formatted as a Microsoft Office Excel spreadsheet and shall include: each Class Member's full
12 name; employee number; most recent mailing address; Social Security number; the number of
13 workweeks worked by each Class Member during the Class Period; and the number of pay
14 periods worked by each Aggrieved Employee during the PAGA Period.

15 10. "Class Representative" means Plaintiff Sharon Morris.

16 11. "Class Representative Enhancement Payment" means the amount that the Court
17 authorizes to be paid to Plaintiff, in addition to her Individual Settlement Payment, in recognition
18 of her efforts and risks in assisting with the prosecution of the Action and in consideration for
19 providing a general release of all claims and a waiver under Civil Code § 1542. Subject to the
20 Court granting final approval, the Parties agree that Plaintiff shall be paid up to Ten Thousand
21 Dollars (\$10,000.00) from the Gross Settlement Amount for her Class Representative
22 Enhancement Payment.

23 12. "Gross Settlement Amount" means the all-inclusive maximum settlement amount
24 of One Million Four Hundred Fifty Thousand Dollars (\$1,450,000.00) to be paid by Defendant
25 as a result of this Stipulation. The Gross Settlement Amount includes all Individual Settlement
26 Payments to Participating Class Members, the Class Representative Enhancement Payment to
27 Plaintiff, Settlement Administration Costs to the Settlement Administrator, the PAGA Payment,
28

1 and Class Counsel Award. The Gross Settlement Amount shall also include any interest that
2 accrues in the escrow account created by the Settlement Administrator.

3 13. "Complaint" means the operative Second Amended Class and Representative
4 Action Complaint filed by Plaintiff Sharon Morris in this Action on or about January 24, 2022.

5 14. "Counsel for Defendant" or "Defense Counsel" means Elizabeth R. Leitzinger
6 and Marco A. Lucido of the law firm of Fenton & Keller.

7 15. "Court" means the Superior Court for the State of California, County of
8 Monterey, or any other court taking jurisdiction of the Action.

9 16. "Defendant" means Defendant Community Hospital of the Monterey Peninsula,
10 including its predecessors, if any, as well as each of its respective predecessors, successors, and
11 all former, current, and future related organizations, companies, divisions, subsidiaries, affiliates,
12 insurers, and parents, and collectively, their respective former, current and future directors,
13 officers, employees, agents, representatives, attorneys, fiduciaries, assigns, heirs, executors,
14 administrators, beneficiaries, insurers and trustees.

15 17. "Effective Date" means: (a) the date when the Final Approval Order is signed, if
16 there are no objections, or if an objection is withdrawn prior to the Final Approval hearing, or
17 (b) in the event there are objectors, sixty (60) days after service of notice of entry of the Final
18 Approval Order and Judgment on the Parties and all objectors to the Settlement without any
19 appeals or request for review being taken, or orders affirming said Final Approval Order and
20 Judgment or denying review after exhaustion of all appellate remedies, if appeals or requests
21 for review have been taken.

22 18. "Final Approval" means that the Final Approval Order and Judgment have been
23 entered by the Court.

24 19. "Individual Settlement Payment" means the amount payable from the Net
25 Settlement Amount to each Participating Class Member.

26 20. "Net Settlement Amount" means the balance of the Gross Settlement Amount
27 remaining after deduction of the approved Class Representative Enhancement Payment,
28

1 Settlement Administration Costs, the PAGA Payment, and Class Counsel Award. The entire Net
2 Settlement Amount is the maximum amount that will be available for distribution to
3 Participating Class Members.

4 21. "Notice of Objection" means a Class Member's valid and timely written objection
5 to the Settlement. For the Notice of Objection to be valid, it must include: (a) the objector's full
6 name, address, and telephone number; (b) a written statement of basis for the objection; and (c)
7 the objector's signature. The objector may include any copies of papers, briefs, or documents
8 upon which the objection is based. The Notice of Objection must be returned by mail or fax to
9 the Settlement Administrator at the specified address/facsimile indicated in the Notice Packet,
10 and be postmarked by the Response Deadline.

11 22. "Notice Packet" means the Notice of Proposed Class Action Settlement,
12 substantially in the form attached as Exhibit A.

13 23. "PAGA Payment" means the portion of the Gross Settlement Amount that the
14 Parties have agreed will be allocated to resolve all claims and remedies under the Labor Code
15 Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA"). The amount
16 of the PAGA Payment is subject to Court approval pursuant to California Labor Code § 2699(l).
17 The Parties have agreed that Fifty Thousand Dollars (\$50,000.00) of the Gross Settlement
18 Amount shall be allocated to the resolution of any Class Members' claims arising under PAGA.
19 Pursuant to the PAGA, 75% of the PAGA Payment, i.e. the sum of Thirty-Seven Thousand Five
20 Hundred Dollars (\$37,500.00), shall be paid to the California Labor and Workforce
21 Development Agency ("LWDA"), and 25% of the PAGA Payment, i.e. the sum of Twelve
22 Thousand Five Hundred Dollars (\$12,500.00), shall be distributed to Aggrieved Employees
23 pursuant to Paragraph 42.

24 24. "Parties" means Plaintiff, on behalf of herself and the Settlement Class, and
25 Defendant collectively.

26 25. "Participating Class Members" means all Class Members who do not submit valid
27 and timely Requests for Exclusion.
28

1 26. “Plaintiff” means Sharon Morris.

2 27. “Preliminary Approval” means the Court’s order granting preliminary approval of
3 the Settlement.

4 28. “Released Claims” means any of all claims that were alleged in the operative
5 Complaint and derivative claims related thereto arising from the facts as alleged in the
6 operative Complaint.

7 29. “Released Claims Period” means the period from June 16, 2017, through
8 December 31, 2021.

9 30. “Released Parties” means Defendant, and all of its affiliated entities, parents,
10 subsidiaries, owners, officers, shareholders, executives, managers, and employees.

11 31. “Request for Exclusion” means a timely written letter submitted by a Class
12 Member indicating a request to be excluded from/opt out of the Settlement. The Request for
13 Exclusion must: (a) state that the Class Member does not wish to be included in the Settlement;
14 (b) set forth the name, address, and telephone number of the Class Member requesting exclusion;
15 and (c) be signed by the Class Member. The Request for Exclusion must be returned by mail or
16 fax to the Settlement Administrator at the specified address/facsimile indicated in the Notice
17 Packet, and must be postmarked on or before the Response Deadline.

18 32. “Response Deadline” means forty-five (45) days after the Settlement
19 Administrator initially mails the Notice Packet to Class Members, and the last date on which
20 Class Members may submit Requests for Exclusion or Notices of Objections to the Settlement.
21 Those Class Members who receive a re-mailed Notice Packet shall have their Response Deadline
22 extended fifteen (15) calendar days from the original Response Deadline.

23 33. “Settlement” means the agreement among parties to resolve the Action, as set
24 forth in this Stipulation.

25 34. “Settlement Administration Costs” means the fees and expenses reasonably
26 incurred by the Settlement Administrator as a result of the procedures and processes expressly
27 required by this Agreement, which are not to exceed Twenty-Three Thousand Seven Hundred
28

1 Fifty Dollars (\$23,750.00). Any portion of the Settlement Administration Costs not approved by
2 the Court shall become part of the Net Settlement Amount.

3 35. "Settlement Administrator" means Phoenix Settlement Administrators.

4 36. "Settlement Payment Check" means the payment to Participating Class Members
5 pursuant to this Settlement who do not submit a valid Request for Exclusion from the Settlement.

6 **RECITALS**

7 35. This Settlement is made and entered into by and between Plaintiff Sharon Morris
8 and Defendant, and is subject to the terms and conditions hereof, and to the Court's approval.
9 The Parties expressly acknowledge that this Agreement is entered into solely for the purpose of
10 compromising significantly disputed claims and that nothing herein is an admission of liability or
11 wrongdoing by Defendant.

12 36. Procedural History. On June 16, 2021, Plaintiff initiated this class action in
13 Monterey County Superior Court. Plaintiff filed her First Amended Complaint adding a claim
14 for civil penalties under the PAGA. On January 24, 2022, Plaintiff filed the operative Second
15 Amended Complaint. The operative Second Amended Complaint alleges claims for failure to
16 pay sick pay at the regular rate of pay in violation of Labor Code §§ 201-203 and 246, failure to
17 pay meal and rest period premiums at the regular rate of pay in violation of Labor Code §§ 201-
18 203, 226.7, and 512, and derivative claims related thereto. On October 18, 2021, the Parties
19 participated in private mediation with mediator Mike Masuda, Esq. where the Parties and their
20 counsel have agreed to settle the Action on the terms set forth herein. The Parties recognize the
21 risk, expense, and delay in continuing the Action, and therefore believe the Settlement to be fair,
22 reasonable, and adequate. Accordingly, the Parties desire to settle, compromise, and discharge
23 all disputes and claims arising from or relating to the Action.

24 **TERMS OF AGREEMENT**

25 Plaintiff, on behalf of herself and the Settlement Class, and Defendant agree as follows:

26 37. Settlement Consideration. Defendant shall pay the sum of the Gross Settlement
27 Amount as specified in this Agreement, which shall be used to pay: (1) Individual Settlement
28

1 Payments to Class Members; (2) Class Counsel Award; (3) Class Representative Enhancement
2 Payment; (4) Settlement Administration Costs to the Settlement Administrator; and (5) the PAGA
3 Payment. The Parties agree that this is a non-reversionary Settlement and that no portion of the
4 Gross Settlement Amount shall revert to Defendant. In no event shall Defendant be required to
5 pay more than the Gross Settlement Amount as specified in this Agreement, with the exception of
6 Defendant's share of employer payroll taxes, which shall be paid separate and in addition to the
7 Gross Settlement Amount.

8 38. Funding of the Gross Settlement Amount. Within fifteen (15) calendar days after
9 the Effective Date, Defendant shall make a one-time deposit of the Gross Settlement Amount
10 into a Qualified Settlement Account to be established by the Settlement Administrator.

11 39. Class Counsel Award. Defendant agrees not to oppose or impede any application
12 or motion by Class Counsel for attorneys' fees not to exceed 33.33% of the Gross Settlement
13 Amount (\$1,450,000.00), i.e. the sum of Four Hundred Eighty-Three Thousand Three Hundred
14 and Thirty-Three Dollars and Thirty-Three Cents (\$483,333.33), and costs in the amount of up to
15 Twenty Thousand Dollars (\$20,000.00), which shall be paid from the Gross Settlement Amount.
16 The Settlement Administrator shall issue an IRS Form 1099 to Class Counsel reflecting the
17 awarded attorneys' fees and costs. Any portion of the Class Counsel Award not awarded to
18 Class Counsel shall become part of the Net Settlement Amount and shall be distributed to Class
19 Members as provided in this Agreement.
20

21 40. Class Representative Enhancement Payment. Defendant agrees not to oppose or
22 impede any application or motion by Plaintiff for a Class Representative Enhancement Payment
23 of up to Ten Thousand Dollars (\$10,000.00) to Plaintiff. The Class Representative Enhancement
24 Payment shall be paid from the Gross Settlement Amount, and shall be paid in addition to the
25 Class Representative's Individual Settlement Payment as a Settlement Class Member. The
26 Settlement Administrator shall issue an IRS Form 1099 to Plaintiff reflecting the Class
27 Representative Enhancement Payment. Plaintiff shall be solely and legally responsible to pay
28 any and all applicable taxes on her Class Representative Enhancement Award and shall hold

1 harmless Defendant from any claim or liability for taxes, penalties, or interest arising as a
2 result of the Class Representative Enhancement Award. Any portion of the Class
3 Representative Enhancement Payment not awarded to Plaintiff shall become part of the Net
4 Settlement Amount and shall be distributed to Class Members as provided in this Agreement.

5 41. Settlement Administration Costs. The Settlement Administrator shall be paid for
6 the reasonable costs of administration of the Settlement from the Gross Settlement Amount, not
7 to exceed Twenty-Three Thousand Seven Hundred Fifty Dollars (\$23,750.00). These costs,
8 which shall be paid from the Gross Settlement Amount, shall include, *inter alia*, distributing the
9 class notice, the required tax reporting on the Individual Settlement Payments, the issuing of
10 1099 IRS Forms, establishing a Qualified Settlement Fund, administering and distributing the
11 Gross Settlement Amount and Class Counsel Award, and providing necessary reports and
12 declarations. Any portion of the Settlement Administration Costs not approved by the Court
13 shall become part of the Net Settlement Amount and shall be distributed to Class Members as
14 provided in this Agreement.

15 42. PAGA Payment. Subject to Court approval, the Parties agree that the amount of
16 Fifty Thousand Dollars (\$50,000.00) of the Gross Settlement Amount shall be designated for
17 satisfaction of claims for civil penalties under the Labor Code Private Attorneys General Act of
18 2004 (the "PAGA"). The Settlement Administration shall pay seventy-five percent (75%) of the
19 PAGA payment, i.e. the sum of Thirty Seven Thousand Five Hundred Dollars (\$37,500.00), to
20 the California Labor and Workforce Development Agency ("LWDA"). The remaining twenty-
21 five percent (25%) of the PAGA Payment, i.e. the sum of Twelve Thousand Five Hundred
22 Dollars (\$12,500.00), shall be distributed to Aggrieved Employees on a pro rata basis, based on
23 the number of pay periods each respective Aggrieved Employee worked during the PAGA
24 Period as compared to all aggregate pay periods worked by all Aggrieved Employees during the
25 PAGA Period.

26 43. Net Settlement Amount. The Net Settlement Amount shall be used to satisfy
27 Individual Settlement Payments to Participating Class Members from the Settlement Class in
28

1 accordance with the terms of this Agreement. The Settlement Administrator will allocate the
2 Individual Settlement Payments by first dividing the Net Settlement Amount by the total
3 number of workweeks worked by Class Members during the Class Period. That value will
4 then be multiplied by the number of workweeks each respective Participating Class Member
5 worked during the Class Period to arrive at the Individual Settlement Amount for each
6 respective Participating Class Member. Participating Class Members are entitled to 100% of
7 the Net Settlement Amount. Defendant maintains no reversionary right to any portion of the
8 Net Settlement Amount. If there are any timely submitted Requests for Exclusion, the
9 Settlement Administrator shall proportionately increase the Individual Settlement Payments for
10 each Participating Class Member so that the amount actually distributed to Participating Class
11 Members equals 100% of the Net Settlement Amount.

12 44. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
13 Participating Class Members under this Agreement, as well as any other payments made
14 pursuant to this Agreement, shall not be utilized to calculate any additional benefits under any
15 benefit plans to which any Class Members may be eligible, including, but not limited to: profit-
16 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans,
17 PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement will
18 not affect any rights, contributions, or amounts to which any Class Members may be entitled
19 under any benefit plans.
20

21 45. Settlement Administration Process. The Parties agree to cooperate in the
22 administration of the Settlement and to make all reasonable efforts to control and minimize the
23 costs and expenses incurred in the administration of the Settlement. The Settlement
24 Administrator shall provide the following services:

- 25 a. Establish and maintain a Qualified Settlement Fund account;
26 b. Calculate the amount of the Settlement each Class Member/Aggrieved
27 Employee is eligible to receive;
28 c. Prior to mailing the Class Notices, the Settlement Administrator will

1 verify the last known address for each Class Member through a generally utilized, national
2 address update database;

3 d. Translating, printing and mailing the Class Notice;

4 e. Establishing and maintaining a toll-free informational telephone support
5 line to assist Class Members who have questions regarding the Notice;

6 f. Conducting additional address searches for mailed Notices that are
7 returned as undeliverable, and to the extent new and more current addresses are found, the
8 Settlement Administrator will also reprint and re-mail Notices accordingly;

9 g. Calculating Participating Class Members settlement share, fielding
10 inquiries from Class Members, and administration of any Requests for Exclusion. This service
11 will include settlement proceed calculations, printing and issuance of checks, and preparation of
12 IRS Forms W-2 and 1099. Basic accounting for and payment of employee tax withholdings will
13 also be included as part of this service;

14 h. Providing declarations and/or other information to the Court as requested.

15 46. Delivery of the Class List and Data. Within fifteen (15) calendar days of
16 Preliminary Approval, Defendant shall provide the Class List and Data to the Settlement
17 Administrator.

18 47. Notice by First-Class U.S. Mail. Within seven (7) calendar days after receiving
19 the Class List and Data from Defendant, the Settlement Administrator shall mail a Notice Packet
20 to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing
21 addresses identified in the Class List.

22 48. Confirmation of Contact Information in the Class List. Prior to mailing, the
23 Settlement Administrator shall perform a search based on the National Change of Address
24 Database for information to update and correct for any known or identifiable address changes.

25 49. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice
26 Packet will include without limitation: (1) information regarding the nature of the Action; (2) a
27 summary of the Settlement's principal terms; (3) each Class Member's estimated Individual
28

1 Settlement Payment and the formula for calculating Individual Settlement Payments, if they do
2 not request to be excluded; (4) instructions on how to submit valid opt outs or objections; (5) the
3 deadlines by which the Class Member must submit their exclusions or objections to the
4 Settlement; (6) the date for the final approval hearing; and (7) the claims to be released. The
5 Notice Packet will also inform Class Members that in order to receive the Individual Settlement
6 Payment, they do not need to do anything except keep the Settlement Administrator apprised of
7 their current mailing addresses.

8 50. Re-Mailing of Returned Notices. Any Notice Packets returned to the Settlement
9 Administrator as non-deliverable on or before the Response Deadline shall be re-sent promptly
10 via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement
11 Administrator shall indicate the date of such re-mailing on the Notice Packet. If no forwarding
12 address is provided, the Settlement Administrator shall promptly attempt to determine the correct
13 address using a skip-trace, or other search using the name, address and/or Social Security number
14 of the Class Member involved, and shall then perform a re-mailing. Those Class Members who
15 receive a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15)
16 calendar days from the original Response Deadline.

17 51. Request for Exclusion Procedures. Any Class Member may opt-out from the
18 Settlement by submitting a written Request for Exclusion to the Settlement Administrator
19 postmarked by the Response Deadline. Requests for Exclusion must: (1) contain the name,
20 address, and telephone number of the person requesting exclusion; (2) state that the Class
21 Member does not wish to be included in the Settlement; and (3) be signed by the Class Member.
22 The Request for Exclusion must be returned by mail or fax to the Settlement Administrator at the
23 specified address/facsimile, and be postmarked on or before the Response Deadline. The date of
24 the postmark shall be the exclusive means to determine whether a Request for Exclusion has
25 been timely submitted. By submitting such a Request for Exclusion, a Class Member shall be
26 deemed to have exercised his or her option to opt out of the Action and not be bound by this
27 Agreement. Accordingly, a Class Member that timely submits a valid Request for Exclusion will
28

1 not be entitled to any payments under this Settlement and will not be bound by the terms of the
2 Settlement. Any Class Member who fails to submit a valid and timely Request for Exclusion on
3 or before the Response Deadline shall be deemed a Participating Class Member, and will be
4 bound by all terms of the Settlement, if the Settlement is granted final approval by the Court.

5 52. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class
6 Member who does not affirmatively opt-out of the Settlement by submitting a valid and timely
7 Request for Exclusion shall be bound by all of its terms, including those pertaining to the
8 Released Claims, as well as any Judgment that may be entered by the Court.

9 53. Objection Procedures. Any Class Member who does not opt-out of this
10 Settlement shall be entitled to object to the Settlement. To submit a written objection or Notice
11 of Objection to the Settlement, a Class Member should return by mail or fax a written statement
12 of objection to the Settlement Administrator at the specified address or facsimile by the
13 Response Deadline. The Notice of Objection must include: (a) the objector's full name, address,
14 and telephone number; (b) a written statement of basis for the objection; and (c) the objector's
15 signature. The objector may include any copies of papers, briefs, or documents upon which the
16 objection is based. The Notice of Objection must be returned by mail and/or fax to the
17 Settlement Administrator at the specified address/facsimile indicated in the Notice Packet, and
18 should be postmarked and/or fax stamped on or before the Response Deadline. The date of the
19 postmark/fax stamp on the Notice of Objection shall be deemed the exclusive means for
20 determining that a Notice of Objection is timely. Any Class Member who does not submit a
21 Notice of Objection in compliance with this paragraph may nevertheless appear at the final
22 approval hearing and present an oral objection to the Settlement. An attorney who will represent
23 an individual objecting to this Settlement who has not filed a written objection must file a notice
24 of appearance with the Court and serve Class Counsel and counsel for Defendant with this notice
25 no later than the Response Deadline.

26
27 Any Class Member who does not submit a Notice of Objection in compliance with this
28 section, or who does not appear at the final approval hearing and present an oral objection to the

1 Settlement, shall be deemed to have waived any objection(s), shall be conclusively deemed a
2 Participating Class Member, and shall be precluded from making any objection (including by
3 appeal or otherwise) to the Settlement. At no time shall any of the Parties or their counsel seek
4 to solicit or otherwise encourage Class Members to object to the Settlement or appeal from the
5 Order and Judgment. Class Counsel shall not represent any Class Members with respect to any
6 such objections to this Settlement. Any Class Member who submits a valid Request for
7 Exclusion shall not be allowed to object to this Settlement.

8 54. Defendant's Right To Rescind. If the number of Class Members opting out of the
9 Settlement by submitting valid and timely Requests for Exclusion account for more than ten
10 percent (10%) of the total workweeks worked by Class Members during the Class Period,
11 Defendant has the right in its sole discretion to elect to rescind the Parties' Settlement. The
12 Parties agree that they will not encourage any Class Member to object or to opt out. If
13 Defendant exercises its option to rescind, Defendant shall: (a) provide written notice to Class
14 Counsel at least ten (10) business days prior to the final approval hearing, and (b) pay all
15 Settlement Administration Costs incurred by the Settlement Administrator up to the date of
16 Defendant's notice to rescind. In the event the Settlement is terminated, the Parties shall proceed
17 in all respects as if this Agreement had not been executed.

18 55. Certification Reports Regarding Individual Settlement Payment Calculations. The
19 Settlement Administrator shall provide Defense Counsel and Class Counsel a weekly report
20 which certifies the number of Class Members who have submitted valid Requests for Exclusion.
21 Additionally, the Settlement Administrator will provide to counsel for both Parties any updated
22 reports regarding the administration of the Settlement as needed or requested.

23 56. Distribution Timing of Individual Settlement Payments. Within seven (7)
24 calendar days of Defendant funding the Gross Settlement Amount, the Settlement Administrator
25 shall issue respective payments to (1) Participating Class Members; (2) the Labor and Workforce
26 Development Agency; (3) Plaintiff; and (4) Class Counsel. The Settlement Administrator shall
27 also issue a payment to itself for services performed in connection with the Settlement.
28

1 57. Uncashed Settlement Payment Checks. Any checks issued by the Settlement
2 Administrator to Class Members shall be negotiable for not less than one hundred and eighty
3 (180) days from the date of their issuance. In the event an Individual Settlement Payment check
4 has not been cashed within one hundred and eighty (180) days, all funds represented by such
5 uncashed checks shall be distributed to the following *cy pres* beneficiary: Watsonville Law
6 Center. In such event, those Class Members will nevertheless remain bound by the Settlement.

7 58. Certification of Completion. Upon completion of administration of the
8 Settlement, the Settlement Administrator shall provide a written declaration under oath to certify
9 such completion to the Court and counsel for all Parties.

10 59. Administration Costs if Settlement Fails or is Delayed. If an objection to the
11 Settlement is filed with the Court, regardless of the ultimate outcome of any appeals taken, or if
12 the Settlement is voided or rescinded, any costs incurred by the Settlement Administrator shall
13 be borne equally by Defendant and Plaintiff, unless otherwise specified in this Agreement.

14 60. Treatment of Individual Settlement Payments. All Individual Settlement
15 Payments to Class Members shall be allocated as follows: 10% as payment for wages, of which
16 an IRS Form W-2 shall issue, and 90% as penalties and interest, of which an IRS Form 1099
17 shall issue. 100% of the PAGA Payment distributed to Aggrieved Employees shall be allocated
18 as penalties and reported on IRS Form 1099.

19 61. Administration of Taxes by the Settlement Administrator. The Settlement
20 Administrator shall be responsible for issuing to Plaintiff, Participating Class Members, and
21 Class Counsel, 1099 forms or other tax forms as may be required by law for all amounts paid
22 pursuant to this Agreement.

23 62. Tax Liability. Defendant makes no representation as to the tax treatment or legal
24 effect of the payments called for hereunder, and Plaintiff and Participating Class Members are
25 not relying on any statement, representation, or calculation by Defendant or by the Settlement
26 Administrator in this regard. Plaintiff and Participating Class Members understand and agree
27 that they will be solely responsible for the payment of any employee's payroll withholdings and
28

1 taxes (i.e., Social Security, Medicare, federal and state income taxes, SDI, etc.) assessed on their
2 respective payments described herein and will defend, indemnify, and hold Defendant free and
3 harmless from and against any claims, taxes, penalties, and/or assessments resulting from
4 treatment of such payments as wages or non-taxable damages.

5 63. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
6 PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY
7 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER
8 PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
9 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR
10 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
11 INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE
12 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN
13 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230
14 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
15 RELIED EXCLUSIVELY UPON HER OR ITS OWN, INDEPENDENT LEGAL AND TAX
16 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
17 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
18 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
19 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
20 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
21 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
22 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
23 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
24 OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF
25 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
26 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
27 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
28

1 AGREEMENT.

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

6 65. Release of Claims by Participating Class Members and Aggrieved Employees.
7 Upon the Effective Date, all Participating Class Members and Aggrieved Employees, on behalf
8 of themselves and their heirs, executors, representatives, administrators, trustees, and/or
9 permitted assigns, hereby do and shall be deemed to have fully, finally and forever released,
10 settled, compromised, relinquished and discharged any and all of the Released Parties of and
11 from any and all Released Claims that accrued during the Released Claims Period.

12 67. Release of Claims by Class Representative. Upon the Effective Date, Plaintiff
13 Sharon Morris, on behalf of herself and her heirs, executors, administrators, and representatives,
14 shall and does hereby forever release, discharge and agree to hold harmless the Released Parties
15 from any and all charges, complaints, claims, liabilities, obligations, promises, agreements,
16 controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and
17 expenses (including attorney fees and costs), known or unknown, at law or in equity, which she
18 may now have or may have after the signing of this Stipulation, against the Released Parties
19 including, but not limited to, the Released Claims, claims that were asserted or could have been
20 asserted in the Complaint, and claims of any kind related to any and all transactions, occurrences,
21 or matters between the parties occurring prior to and through the Effective Date. Without
22 limiting the generality of the foregoing, this release shall include, but not be limited to, any and
23 all claims under the (a) Americans With Disabilities Act, as amended; (b) Title VII of the Civil
24 Rights Act of 1964, as amended; (c) the Civil Rights Act of 1991; (d) 42 U.S.C. § 1981, as
25 amended; (e) the Age Discrimination in Employment Act, as amended; (f) the Fair Labor
26 Standards Act, as amended; (g) the Equal Pay Act; (h) the Employee Retirement Income
27 Security Act, as amended; (i) the Consolidated Omnibus Budget Reconciliation Act; (j) the
28

1 Rehabilitation Act of 1973; (k) the Family and Medical Leave Act; (l) the Civil Rights Act of
2 1966; (m) the California Fair Employment and Housing Act; (n) the California Constitution; (o)
3 the California Labor Code; (p) the California Government Code; (q) the California Civil Code;
4 and (r) any and all other federal, state and local statutes, ordinances, regulations, rules and other
5 laws, and any and all claims based on constitutional, statutory, common law or regulatory
6 grounds as well as any other claims based on theories of wrongful or constructive discharge,
7 breach of contract or implied contract, fraud, misrepresentation, promissory estoppel or
8 intentional and/or negligent infliction of emotional distress, or damages under any other federal,
9 state or local statutes, ordinances, regulations, rules or laws. This release is for any and all relief,
10 no matter how denominated, including, but not limited to, back pay, front pay, vacation pay,
11 bonuses, compensatory damages, tortious damages, liquidated damages, punitive damages,
12 damages for pain and suffering, and attorney fees and costs, and Plaintiff hereby forever releases,
13 discharges and agrees to hold harmless Defendant and the Released Parties from any and all
14 claims for attorney fees and costs arising out of the matters released in this Stipulation.

15
16 Plaintiff specifically acknowledges that she is aware of and familiar with the provisions
17 of Section 1542, which provides as follows:

18 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR**
19 **OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR**
20 **HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF**
21 **KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR**
22 **HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

23 Plaintiff, being aware of Section 1542, hereby expressly waives and relinquishes all rights and
24 benefits she may have under Section 1542 as well as any other statutes or common law principles
25 of a similar effect. Plaintiff may hereafter discover facts in addition to or different from those
26 which she now knows or believes to be true with respect to the subject matter of all the claims
27 referenced herein, but stipulates and agrees that, upon the Effective Date, she shall and hereby
28 does fully, finally and forever settle and release any and all claims against the Released Parties,

1 known or unknown, suspected or unsuspected, contingent or non-contingent, that were asserted
2 or could have been asserted upon any theory of law or equity without regard to the subsequent
3 discovery of existence of such different or additional facts.

4 68. Nullification of Settlement. In the event that the Settlement does not become final
5 for any reason, then this Agreement, and any documents generated to bring it into effect, shall be
6 null and void. Any order or judgment entered by the Court in furtherance of this Agreement
7 shall likewise be treated as void from the beginning.

8 69. Disputes Regarding Individual Settlement Payments. In the event that Class
9 Members have a dispute as to the data provided by the Defendant, Class Members will have the
10 opportunity to provide documentation and/or an explanation. If there is a dispute, the Settlement
11 Administrator will consult with the Parties to determine whether an adjustment is warranted.
12 The Settlement Administrator shall determine the eligibility for, and the amounts of, any
13 Individual Settlement Payments under the terms of this Agreement, and that determination shall
14 be binding, subject to final resolution by the Court if the Court decides to rule on the dispute. If
15 the Court does not issue a ruling on the dispute, the Settlement Administrator's determination of
16 the dispute will be binding upon Class Members.

17 70. Disputes Regarding Administration of Settlement. Any disputes not resolved by
18 the Settlement Administrator concerning the administration of the Settlement will be resolved by
19 the Court under the laws of the State of California. Prior to any such involvement of the Court,
20 counsel for Parties will confer in good faith to resolve the disputes without the necessity of
21 involving the Court.

22 71. Preliminary Approval Hearing. Plaintiff shall obtain a hearing before the Court to
23 request the Preliminary Approval of the Settlement, and the entry of a Preliminary Approval
24 Order: (i) approving of the proposed Settlement, and (ii) setting a date for a Final
25 Approval/Settlement Fairness Hearing. The Preliminary Approval Order shall provide for the
26 Notice Packet to be sent to all Class Members as specified herein. In conjunction with the
27 Preliminary Approval hearing, Plaintiff shall submit this Agreement, which sets forth the terms
28

1 of this Settlement, and will include the proposed Notice Packet, attached to this Agreement as
2 Exhibit A.

3 72. Final Settlement Approval Hearing. Upon expiration of the deadlines to submit
4 Requests for Exclusion or Notices of Objections to the Settlement, and with the Court's
5 permission, a Final Approval/Settlement Fairness Hearing shall be conducted to determine the
6 Final Approval of the Settlement along with the amounts properly payable for (i) Individual
7 Settlement Payments; (ii) the Labor and Workforce Development Agency Payment; (ii) the Class
8 Counsel Award; (iii) the Class Representative Enhancement Payment; and (iv) Settlement
9 Administration Costs. Class Counsel will be responsible for drafting all documents necessary to
10 obtain final approval. Class Counsel will also be responsible for drafting the attorneys' fees and
11 costs application to be heard at the final approval hearing.

12 73. Entry of Judgment and Continued Jurisdiction of the Court. Concurrent with the
13 Motion for Final Approval, the Parties shall also joint seek the entry of Judgment consistent with
14 the terms of this Agreement. After entry of the Judgment, the Court shall have continuing
15 jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms
16 of the Settlement, (ii) Settlement administration matters, and (iii) such post-Judgment matters as
17 may be appropriate under court rules or as set forth in this Agreement.

18 74. Mutual Non-Disparagement. Neither Party shall disparage or defame one another
19 to any third parties with or through any written or oral statement or image (including, but not
20 limited to, any statements made via websites, blogs, postings to the internet, or emails).

21 75. Exhibits Incorporated by Reference. The terms of this Agreement include the
22 terms set forth in any attached Exhibits, which are incorporated by this reference as though fully
23 set forth herein. Any Exhibits to this Agreement are an integral part of the Settlement.

24 76. Entire Agreement. This Agreement and any attached Exhibits constitute the
25 entirety of the Parties' Settlement terms. No other prior or contemporaneous written or oral
26 agreements may be deemed binding on the Parties.

27 77. Amendment or Modification. This Agreement may be amended or modified only
28

1 by a written instrument signed by the Parties or their successors-in-interest.

2 78. Authorization to Enter Into Agreement. Counsel for all Parties warrant and
3 represent they are expressly authorized by the Parties whom they represent to negotiate this
4 Agreement and to take all appropriate action required or permitted to be taken by such Parties
5 pursuant to this Agreement to effectuate its terms and to execute any other documents required to
6 effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each
7 other and use their best efforts to effect the implementation of the Settlement. If the Parties are
8 unable to reach agreement on the form or content of any document needed to implement the
9 Settlement, or on any supplemental provisions that may become necessary to effectuate the terms
10 of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

11 79. Binding on Successors and Assigns. This Agreement shall be binding upon, and
12 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

13 80. California Law Governs. All terms of this Agreement and Exhibits hereto shall
14 be governed by and interpreted according to the laws of the State of California.

15 81. Execution and Counterparts. This Agreement is subject only to the execution of
16 all Parties. However, the Agreement may be executed in one or more counterparts, including by
17 electronic scan, pdf, or DocuSign. All executed counterparts and each of them, including
18 facsimile and scanned or electronic copies of the signature page, shall be deemed to be one and
19 the same instrument provided that counsel for the Parties shall exchange among themselves
20 original signed counterparts.

21 82. Acknowledgement that the Settlement is Fair and Reasonable. The Parties
22 believe this Agreement is a fair, adequate and reasonable settlement of the Action and have
23 arrived at this Settlement after arm's-length negotiations and in the context of adversarial
24 litigation, taking into account all relevant factors, present and potential. The Parties further
25 acknowledge that they are each represented by competent counsel and that they have had an
26 opportunity to consult with their counsel regarding the fairness and reasonableness of this
27 Agreement.
28

1 83. Invalidity of Any Provision. Before declaring any provision of this Agreement
2 invalid, the Court shall first attempt to construe the provision as valid to the fullest extent
3 possible consistent with applicable precedents so as to define all provisions of this Agreement
4 valid and enforceable. Any invalid, illegal, or unenforceable provision determined by the Court
5 shall in no way affect any other provision if Defendant and Class Counsel, on behalf of the
6 Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal,
7 or unenforceable provision had never been included in this Agreement.

8 84. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however,
9 that Plaintiffs or Class Counsel may appeal any reduction in the Class Counsel's Award below
10 the amount Class Counsel requests, and either party may appeal any order that materially alters
11 the Agreement's terms.

12 85. Non-Admission of Liability. The Parties enter into this Agreement to resolve the
13 dispute that has arisen between them and to avoid the burden, expense and risk of continued
14 litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, it
15 has violated any federal, state, or local law; violated any regulations or guidelines promulgated
16 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached
17 any contract; violated or breached any duty; engaged in any misrepresentation or deception; or
18 engaged in any other unlawful conduct with respect to its employees. Neither this Agreement,
19 nor any of its terms or provisions, nor any of the negotiations connected with it, shall be
20 construed as an admission or concession by Defendant of any such violations or failures to
21 comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this
22 Agreement, this Agreement and its terms and provisions shall not be offered or received as
23 evidence in any action or proceeding to establish any liability or admission on the part of
24 Defendant or to establish the existence of any condition constituting a violation of, or a non-
25 compliance with, federal, state, local or other applicable law.

26
27 86. Captions. The captions and section numbers in this Agreement are inserted for
28 the reader's convenience, and in no way define, limit, construe or describe the scope or intent of

1 the provisions of this Agreement.

2 87. Waiver. No waiver of any condition or covenant contained in this Agreement or
3 failure to exercise a right or remedy by any of the Parties hereto shall be considered to imply or
4 constitute a further waiver by such party of the same or any other condition, covenant, right or
5 remedy.

6 88. Enforcement Actions. Pursuant to California Code of Civil Procedure § 664.6,
7 the Court shall retain jurisdiction with respect to the interpretation, implementation, and
8 enforcement of the terms of this Agreement and all orders and judgments entered in connection
9 therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for
10 purposes of interpreting, implementing, and enforcing the settlement embodied in this
11 Agreement and all orders and judgments entered in connection therewith. In the event that one
12 or more of the Parties institutes any legal action or other proceeding against any other Party or
13 Parties to enforce the provisions of this Settlement, or to declare rights and/or obligations under
14 this Settlement, the prevailing Party or Parties shall be entitled to recover from the non-
15 prevailing Party or Parties reasonable attorneys' fees and costs, including expert witness fees
16 incurred in connection with any enforcement actions.

17 89. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
18 and conditions of this Agreement. Accordingly, this Agreement shall not be construed more
19 strictly against one party than another merely by virtue of the fact that it may have been prepared
20 by counsel for one of the Parties, it being recognized that, because of the arms-length
21 negotiations between the Parties, all Parties have contributed to the preparation of this
22 Agreement.

23 90. Representation By Counsel. The Parties acknowledge that they have been
24 represented by counsel throughout all negotiations that preceded the execution of this
25 Agreement, and that this Agreement has been executed with the consent and advice of counsel.
26 Further, Plaintiffs and Class Counsel warrant and represent that there are no liens on the
27 Agreement.
28

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

92. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Agreement, and further intend that this Agreement shall be fully enforceable and binding on all Parties, and agree that it shall be admissible and subject to disclosure in any proceeding to enforce its terms.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action Settlement Between Plaintiff and Defendant as of the date(s) set forth below:

SIGNATURES

READ CAREFULLY BEFORE SIGNING

DATED: February 25, 2022

PLAINTIFF

DocuSigned by:

Sharon Morris

Plaintiff Sharon Morris

DATED: February __, 2022

DEFENDANT Community Hospital of the
Monterey Peninsula

Please Print Name of Authorized Signatory

APPROVED AS TO FORM

1 91. Cooperation and Execution of Necessary Documents. All Parties shall cooperate
2 in good faith and execute all documents to the extent reasonably necessary to effectuate the
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6 enforceable and binding on all Parties, and agree that it shall be admissible and subject to
7 disclosure in any proceeding to enforce its terms.

8 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this
9 Joint Stipulation of Class Action Settlement Between Plaintiff and Defendant as of the date(s) set
10 forth below:

11
12 **SIGNATURES**

13
14 **READ CAREFULLY BEFORE SIGNING**

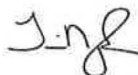
15 DATED: February __, 2022

PLAINTIFF

16
17
18 _____
Plaintiff Sharon Morris

19 DATED: February 28, 2022

**DEFENDANT Community Hospital of the
Monterey Peninsula**

20
21 

22 _____
Tim Nylen

23
24 _____
Please Print Name of Authorized Signatory

25
26 **APPROVED AS TO FORM**

1 DATED: February 25, 2022

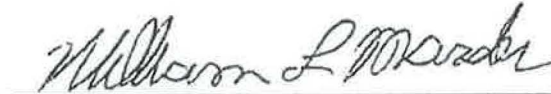
DIVERSITY LAW GROUP, P.C.

2
3 

4 Larry W. Lee
5 Mai Tulyathan
6 Attorneys for Plaintiff and the Class

7 DATED: February 25, 2022

POLARIS LAW GROUP, P.C.

8 

9 William L. Marder
10 Attorneys for Plaintiff and the Class

11
12 DATED: February 28, 2022

FENTON & KELLER

13
14 

15 Elizabeth R. Leitzinger
16 Marco A. Lucido
17 Attorneys for Defendant

EXHIBIT A

[CLASS MEMBER NAME]

Sharon Morris v. Community Hospital of the Monterey Peninsula

Superior Court of the State of California, County of Monterey

Case No.: 21CV001953

If you are a current or former employee of Community Hospital of the Monterey Peninsula (“CHOMP” or “Defendant”), a class action lawsuit may affect your rights and you may be entitled to benefits under the settlement.

You are not being sued. A court authorized this notice. This is not a solicitation from a lawyer.

PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.

YOUR ESTIMATED TOTAL INDIVIDUAL SETTLEMENT PAYMENT AMOUNT

FROM THIS CLASS ACTION SETTLEMENT IS \$ [REDACTED].

According to CHOMP’s records, the total number of workweeks that you worked as an employee in California between June 16, 2017, through and including July 22, 2021, is [REDACTED]. Based on this number, your Individual Settlement Payment Amount as a member of the Class is estimated to be \$[REDACTED].

- This lawsuit involves a class defined as: All current and former non-exempt employees employed by CHOMP in the State of California from June 16, 2017, through July 22, 2021.
- You are receiving this Notice because the records reflect that you may be a class member.
- In this lawsuit, Plaintiff Sharon Morris (“Plaintiff”) alleges that Defendant failed to pay sick pay and meal and rest period premiums at the correct rate of pay. CHOMP denies Plaintiff’s allegation. After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case.
- There has been a settlement that affects your rights. Although the Court has authorized the Parties to provide this notice of the proposed settlement, the Court has expressed no opinion on the merits of Plaintiff’s claims or CHOMP’s defenses.
- You will not be penalized or retaliated against by CHOMP for participating in this settlement. If you are currently employed by CHOMP, this settlement will not affect your employment in any way. Current employees of CHOMP who choose to participate in the settlement will not be required to resign and can continue to work for CHOMP.

- You have several options available to you, which are explained in the chart below:

DO NOTHING	By doing nothing, you <u>will</u> receive a share of the settlement proceeds. In exchange for the settlement proceeds, you will give up any rights to sue CHOMP separately for claims based on the facts pled in the Complaint, which are or could be the basis of claims that CHOMP failed to pay sick pay and meal and rest period premiums at the correct rate of pay (See Section 8 below for an explanation of the claims you are giving up). If you move, you must notify the Settlement Administrator of your new address.
ASK TO BE EXCLUDED (OPT OUT)	You can exclude yourself from this lawsuit. If you ask to be excluded, you <u>will not</u> receive a share of the settlement proceeds, but you keep any rights you may have to bring your own separate suit against CHOMP for the same legal claims in this lawsuit that are released in this settlement. You cannot ask to be excluded <u>and</u> still get a settlement payment for the claims. If you ask to be excluded from the settlement, you cannot object to the settlement.
OBJECT	If you do not agree with the settlement, you can object to the terms of this settlement. The Court may or may not agree with your objection. If you object to the settlement and the Court does not agree with your objection, you will still be bound by the terms of the settlement and will receive a settlement payment. Objecting to the settlement will <u>not</u> exclude you from the settlement.
ATTEND THE FINAL APPROVAL HEARING	You can ask to speak in Court about the fairness of the settlement at the Final Approval Hearing. The Court will hold a Final Approval Hearing to determine whether the settlement is fair, reasonable, and adequate on [DATE], 2022 at [TIME]. More information regarding this hearing is set forth in section 10.

Your options are explained in this notice.
To opt out or object, you must act by XXXXX.

1. Why did I get this notice?

A proposed settlement has been reached in a class action lawsuit that was brought on behalf of CHOMP's non-exempt employees. You have received this notice because CHOMP's records indicate that you are a member of the settlement class.

2. What is this lawsuit about?

This lawsuit was filed on June 16, 2021, on behalf of individuals who are employed or have been employed by CHOMP as non-exempt employees in the State of California, during the Class Period. "Class Period" is defined as the period from June 16, 2017, through July 22, 2021. The operative complaint alleges class and representative Private Attorney General Act ("PAGA") claims against CHOMP for (1) failing to pay sick pay at the correct rate of pay that resulted in the failure to pay all wages owed to current and former employees, in violation of the California Labor Code sections 201-203 and 246, and (2) failing to pay meal and rest period premiums at the correct rate of pay in violation of the California Labor Code sections 201-203, 226.7, and 512.

3. Has the Court decided who is right?

No. The Court has made no decision regarding the merits of Plaintiff's allegations or CHOMP's defenses.

4. Why did this case settle?

The Parties reached a settlement in order to avoid the risk, inconvenience, and expense of further litigation. Plaintiff and her attorneys believe the proposed settlement is fair, adequate and in the best interest of the class members to whom it applies given the outcome of their investigation, and the consumption of time and resources required in connection with further litigation. Although CHOMP disputes Plaintiff's claims and asserts that it has complied with all of its legal obligations toward its employees, Defendant has also concluded that further litigation would be expensive and would divert management and employee time.

5. What are the terms of the settlement and how much will I receive?

The Gross Settlement Amount is \$1,450,000.00. Under the proposed settlement, the following amounts will be deducted before any payments are made to employees, subject to final approval by the Court:

- Attorneys' fees: \$483,333.33
- Litigation Costs: \$20,000.00
- Settlement Administration Costs to the Settlement Administrator: \$23,750.00
- Class Representative Service Award to Class Representative: \$10,000.00
- Payment to the Labor and Workforce Development Agency ("LWDA"): \$37,500.00, representing its share of the settlement payment for the PAGA claims made in this lawsuit, pursuant to the California Labor Code § 2699.

After these deductions, and to the extent that the Court approves these amounts in full,

approximately \$875,416.67 is estimated to be available for payment to the Class Members receiving this notice (“Net Settlement Amount”). These amounts may change and are subject to Court approval.

Each class member’s Individual Settlement Payment shall be determined as follows:

- The Net Settlement Amount will be apportioned among Class Members on a pro rata basis, based on the number of workweeks worked by each respective Class Member during the Class Period.

All Individual Settlement Payments will be treated as follows: 10% as payment for wages (subject to withholding of employment taxes and to be reported on IRS Forms W-2, and 90% as penalties and interest (not subject to withholding of employment taxes and to be reported on IRS Forms 1099).

According to CHOMP’s records, the total number of workweeks you worked during the Class Period is [REDACTED].

If you disagree with the above information regarding your number of workweeks worked and would like someone to look into the matter, please follow the procedure below. Based on the above information, your estimated Individual Settlement Payment from the class settlement is [REDACTED].

[In addition, you are also eligible to receive a payment under the PAGA, California Labor Code § 2699 *et seq.* CHOMP’s records indicate that you worked for CHOMP as a non-exempt employee from June 4, 2020, through July 22, 2021 (the “PAGA Period”). Individual payments under the PAGA will be paid to employees who worked during the PAGA Period on a pro rata basis, based on the number of pay periods each respective employee worked during the PAGA Period. Based on CHOMP’s records, it has been determined that you worked a total of [REDACTED] pay periods during the PAGA Period. Based on that, your individual share of the PAGA Payment is \$ [REDACTED].]

6. What if I disagree with information or the number of workweeks shown above?

If you believe the information in the notice is incorrect regarding the number of workweeks you worked, you can provide documentation or explanation to the Settlement Administrator to show contrary information. You can write a letter setting forth the number of workweeks that you believe you worked as a non-exempt employee in California during the Class Period that you believe are correct. You may attach any relevant documentation in support thereof. You must mail or fax your letter to:

[INSERT SETTLEMENT ADMINISTRATION INFORMATION]

You must submit such information by [REDACTED]. Class Counsel and the Settlement Administrator will work together in good faith and do their best to promptly resolve the dispute based on available records. The Settlement Administrator shall review all information, material and documents and make a decision regarding the dispute, subject to the final resolution by the Court if the Court

decides to rule on the dispute. If the Court does not issue a ruling on the dispute, the Settlement Administrator's determination of the number of workweeks you worked will be binding.

7. What do I have to do to receive a share of the settlement?

If you would like to receive an award under the terms of this settlement, **you do not have to do anything**. However, it is advisable to confirm your current mailing address with the Settlement Administrator in order to ensure you receive your settlement share. If you move, you must notify the Settlement Administrator of your new address. You will be covered by the release summarized in Section 8, below.

8. What rights am I giving up?

The claims you will release by doing nothing and participating in the settlement are as follows:

Any of all claims that were alleged in the operative Complaint and derivative claims related thereto arising from the facts as alleged in the operative Complaint.

9. What if I do not wish to be involved?

Anyone not wishing to participate in the settlement may exclude himself or herself ("opt out") by completing, signing, and mailing/faxing a letter indicating that they do not want to participate in the settlement to the Settlement Administrator, [insert name of administrator], at the following address by XXXX.

[INSERT SETTLEMENT ADMINISTRATION INFORMATION]

Your letter must include (1) your name, address, and telephone number; (2) a statement indicating that you wish to be excluded from the settlement; and (3) your signature. Your letter must be postmarked or fax stamped on or before XXX.

If your Request for Exclusion is postmarked or fax stamped after XXX, it will be rejected as untimely, and you will be a Settlement Class Member and be bound by the settlement terms and release. Anyone who submits a timely and valid Request for Exclusion shall not be deemed a Settlement Class Member and will not receive any payment as part of this settlement. Such individuals will keep any right to sue CHOMP separately about the claims made in this lawsuit, with the exception of the PAGA claim, which will be released upon court approval of the PAGA Settlement.

10. What if I have an objection?

A class member may object to the settlement in writing or in person. Written objections and all supporting briefs or other materials must be submitted to the Settlement Administrator by mail or fax no later than XXXX. The Court will decide on the objections at the Final Approval Hearing. If your objection is overruled at the Final Approval Hearing, you will still be bound by the terms of this settlement and will receive a settlement payment.

For written objections to be valid, it must contain (1) your name, address, and phone number; (2) written basis of your objection, and (3) your signature. You may include copies of any papers, briefs, or documents upon which the objection is based. The written objection must be postmarked or fax stamped on or before XXX. The postmark or fax stamp date shall be the exclusive means for determining that a written objection is timely and valid.

Any Class Member may nevertheless appear and make an objection at the Final Approval Hearing. The Class Member may appear personally or through an attorney, at his or her own expense, at the Final Approval Hearing to present his or her objection directly to the Court. Any attorney who will represent an individual objecting to this Settlement who has not filed a written objection must file a notice of appearance with the Court and serve Class Counsel and Defense Counsel no later than . The Final Approval Hearing will be held in Dept. 15 of the Monterey County Superior Court, Monterey Courthouse, located at 1200 Aguajito Road, Monterey, California on , 2022, at XXX (Pacific Time).

11. Do I need a lawyer? Who are the lawyers in this case?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. However, if you want your own lawyer, you are free to hire one at your own expense.

The below are Class Counsel:

Larry W. Lee (State Bar No. 228175)
Mai Tulyathan (State Bar No. 316704)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

William L. Marder (State Bar No. 170131)
Polaris Law Group LLP
501 San Benito Street, Suite 200
Hollister, CA 95023
(831) 531-4214
(831) 634-0333 facsimile

12. What happens next in the case?

The Settlement has only been preliminarily approved. The Court will hold a hearing in Dept. 15 of the Monterey County Superior Court, Monterey Courthouse, located at 1200 Aguajito Road, Monterey, California at , 2022, at XXX (Pacific Time), to determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs, Plaintiff's service award, and the costs of settlement administration. At the Final Approval Hearing, the Court will hear all objections, as well as arguments for and against the proposed settlement. You have a right to attend this hearing, **but you are not required to do so**. You also have the right to hire an attorney to represent you, at your own expense, or to enter an appearance and represent yourself. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing.

13. How can I receive more information?

This Notice is a summary of the basic terms of the settlement. For further information, you may telephone the [INSERT SETTLEMENT ADMINISTRATION INFORMATION], or Class Counsel (listed above). You may also review the settlement agreement, which is on file with the Clerk of the Monterey Superior Court, 1200 Aguajito Road, Monterey, California.

ALL INQUIRIES REGARDING THIS LITIGATION SHOULD BE MADE TO PLAINTIFF'S ATTORNEYS: Larry W. Lee and Mai Tulyathan of Diversity Law Group, P.C., 515 S. Figueroa Street, Suite 1250, Los Angeles, CA 90071, Phone: (213) 488-6555; and William L. Marder of Polaris Law Group LLP, 501 San Benito Street, Suite 200, Hollister, CA 95023, Phone: (831) 531-4214.

Please do not telephone the Court, the Office of the Clerk, or CHOMP's counsel for information regarding this settlement.