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8 RACHEL VALENZUELA, MELISSA AMEZOLA, and
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14 MEDICAL GROUP, INC., JOHN H. EMERZIAN, TOTAL CARE MANAGEMENT
GROUP, INC., and SAN JOAQUIN TOTALCARE, INC.

15 SUPERIOR COURT OF CALIFORNIA

16 COUNTY OF FRESNO

17 RACHEL VALENZUELA, MELISSA
18 AMEZOLA, VANESSA CABRERA,
individually, and on behalf of other
19 members of the general public similarly
situated,

20 Plaintiffs,

21 vs.

22 EMERZIAN CHIROPRACTIC
PROFESSIONAL CORPORATION, a
23 California corporation; TOTAL CARE
MEDICAL GROUP, INC., a California
24 corporation, JOHN H. EMERZIAN, an
individual, TOTAL CARE
25 MANAGEMENT GROUP, INC. a
California corporation, SAN JOAQUIN
26 TOTALCARE, INC., a California
corporation, and DOES 1 through 100,
27 inclusive,

28 Defendants.

Case No. 21CECG02138
Assigned: Judge D. Tyler Tharpe
Dept: 501

**STIPULATION AND AGREEMENT FOR
CLASS ACTION SETTLEMENT**

Complaint Filed: July 26, 2021
First Am. Complaint Filed: October 3, 2022

Trial Date: None Set

RECITALS

A. This Stipulation and Agreement for Class Action Settlement (the “Settlement Agreement”) is made for the sole purpose of attempting to consummate settlement in this case on a class-wide basis and is made in compromise of disputed claims. Because this is a putative class action, this Settlement Agreement must receive preliminary and final approval by the Court.

B. On July 26, 2021, Rachel Valenzuela (“Valenzuela”), Melissa Amezola (“Amezola”), and Vanesa Cabrera (“Cabrera”), individually and on behalf of others, filed a class action complaint in Fresno County Superior Court, assigned Superior Court Case No. 21CECG02138 (“Action”) against Defendants Emerzian Chiropractic Professional Corporation and Total Care Medical Group, Inc.

C. On July 16, 2021, Amezola and Cabrera filed a PAGA notice with the California Labor Workforce and Development Agency (“LWDA”). Subsequently, Amezola and Cabrera, individually and on behalf of others, filed a PAGA representative action complaint in Fresno County Superior Court, assigned Superior Court Case No. 21CECG02826 (the “PAGA Action”) against Emerzian Chiropractic Professional Corporation, Total Care Medical Group, Inc. and John H. Emerzian. On July 21, 2022, Amezola and Cabrera filed an amendment to their PAGA notice with the LWDA which identified the entities referenced as “affiliates” in the original PAGA notice, including Total Care Management Group, Inc. and San Joaquin TotalCare, Inc.

D. On October 3, 2022, Valenzuela, Amezola, and Cabrera (collectively, “Plaintiffs”) filed a first amended complaint against defendants Emerzian Chiropractic Professional Corporation, Total Care Medical Group, Inc., John H. Emerzian, Total Care Management Group, Inc., and San Joaquin TotalCare, Inc. (collectively, “Defendants”) with the Fresno County Superior Court, Case No. 21CECG02138, which consolidates both the Action and the PAGA Action into a single lawsuit (hereafter, the “Class Action”).

E. The Class Representatives are Valenzuela, Amezola, and Cabrera. The Class Representatives and Defendants are collectively referred to herein as the “Parties” and

1 individually as a “Party.”

2 F. The Parties stipulate and agree to the following terms of this Settlement
3 Agreement with the intent that this Settlement Agreement fully and finally dispose of the
4 Class Action and PAGA Action:

5 **DEFINITION OF SETTLEMENT TERMS**

6 **1. Definitions.**

7 A. “Agreement,” “Settlement Agreement,” and “Settlement” means this
8 Stipulation and Agreement for Class Action Settlement, which the Parties acknowledge sets
9 forth all material terms and conditions of the settlement between them, and which is subject
10 to Court approval.

11 B. “Class Action” means the action pending in Fresno County Superior Court,
12 Case No. 21CECG02138.

13 C. “Class Counsel” means John M. Scheppach and Thorey M. Bauer of
14 Scheppach Bauer PC and Edwin Aiwarzian of Lawyers for Justice, PC.

15 D. “Class List” means the list of names, last known residential addresses,
16 employee ID numbers, and social security numbers or tax ID numbers of the Class Members,
17 and any Payments Made Credit attributed to the Class Members. The Class List will also
18 contain the start and end dates of each Class Member in a Class Position and whether the
19 Class Member is a current or former employee, in order for the Settlement Administrator to
20 calculate the accurate number of workweeks to be credited to each Class Member.

21 E. “Class,” “Class Member(s),” “Settlement Class,” or “Settlement Class
22 Member(s)” means all current and former hourly-paid, non-exempt employees of TotalCare
23 Medical Group who have worked at any TotalCare Medical Group location in California at
24 any time from January 29, 2017 to July 5, 2022.

25 F. “Class Member Payment” means each Participating Class Member’s
26 payment under this Settlement for being a Participating Class Member.

27 G. “Class Notice” means a notice entitled “Notice of Class Action Settlement,”
28 in the form substantially similar to that attached hereto as Exhibit A.

- 1 **H.** “**Class Period**” means January 29, 2017, through and including July 5, 2022.
- 2 **I.** “**Class Position**” means any non-exempt position at any TotalCare Medical
3 Group location in California during the Class Period.
- 4 **J.** “**Complaint**” means the First Amended Class Action Complaint filed in the
5 Class Action on October 3, 2022.
- 6 **K.** “**Court**” means the Fresno County Superior Court.
- 7 **L.** “**Covered Claims**” and “**Released Claims**” means all claims, causes of
8 action, and forms of relief which are asserted in the Complaint or which could have been
9 asserted based on the factual allegations pled in the Complaint, including claims for unpaid
10 wages, unpaid minimum wages, unpaid overtime, failure to provide timely and adequate
11 meal periods, failure to pay meal period premiums, failure to provide timely and adequate
12 rest periods, failure to pay rest period premiums, unreimbursed expenses, failure to
13 accurately record hours worked, failure to provide accurate itemized wage statements,
14 failure to timely pay all wages due upon separation of employment, claims for violation of
15 the California Labor Code (including §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d),
16 1194, 1197, 1197.1, 1198, 2800 and 2802 thereof), claims for violation of all similar provisions
17 or requirements of California law (including the provisions of the California Code of
18 Regulations, the California Industrial Welfare Commission Wage Orders, the General
19 Minimum Wage Order, and Business & Professions Code §§ 17200 et seq.), and claims for
20 violation of all similar provisions or requirements of federal law (including 29 U.S.C. §§
21 206, 207 and 216), which the Class and/or any Class Member has ever had, or hereafter may
22 claim to have, for the Class Period.
- 23 **M.** “**Defendants**” or “**TotalCare Medical Group**” means Emerzian Chiropractic
24 Professional Corporation, a California corporation, Total Care Medical Group, Inc., a
25 California corporation, John H. Emerzian, an individual, Total Care Management Group,
26 Inc., a California corporation, and San Joaquin TotalCare, Inc., a California corporation.
- 27 **N.** “**Effective Settlement Date**” means the later of the following: (a) if no one
28 objects to the Settlement, then the Effective Settlement Date shall be 60 days from the date

1 the Court files the Order Granting Final Approval and Judgment; (b) if someone objects to
2 the Settlement, then all of Defendants' obligations under this Agreement shall be stayed until
3 the time for seeking an appeal from, review of, or writ relating to the Judgment has passed
4 (60 days from the Order Granting Final Approval and Judgment), which date shall then be
5 the Effective Settlement Date if no appeal, review or writ is sought; or (c) if an appeal,
6 review or writ from the Judgment is sought, the Effective Settlement Date shall be the day
7 the Judgment is affirmed or the appeal, review or writ is dismissed or denied, and the
8 Judgment is no longer subject to further appellate challenges or procedures.

9 **O. "Enhancements" or "Service Awards"** means the portion of the Gross
10 Settlement Amount awarded by the Court and paid to the Class Representatives for their
11 service in connection with being the Class Representatives and their general release of
12 claims.

13 **P. "Final Fairness Hearing"** means a hearing set by the Court, pursuant to class
14 action procedures and requirements, for the purpose of determining the fairness, adequacy,
15 and reasonableness of this Settlement.

16 **Q. "Gross Settlement Amount," "Gross Settlement Fund," or "Common**
17 **Fund"** means the amount of Four Hundred Thousand Dollars and Zero Cents (\$400,000.00),
18 which amount is deemed to include the Payments Made Credit totaling \$53,665.00, resulting
19 in a remaining payable Gross Settlement Amount of \$346,335.00. The Gross Settlement
20 Amount is an all-inclusive amount, including Individual Settlement Payments to all
21 Participating Class Members and PAGA Group Members, any Enhancements to the Class
22 Representatives as awarded by the Court, Settlement Administrator Costs as approved by
23 the Court, attorneys' fees and costs to Class Counsel related to the Complaint as approved
24 by the Court, and the PAGA Payment (defined below) as approved by the Court.
25 Defendants' share of employer payroll taxes on such sums paid out as wages under this
26 Settlement Agreement (e.g., FICA, FUTA, SUTA, SDI, ETT, etc.) shall not be paid out of
27 and deducted from the Gross Settlement Amount, but rather shall be separately funded by
28 Defendants. No portion of the Gross Settlement Amount will be retained by, or revert to,

1 Defendants. The Gross Settlement Amount is subject to upward adjustment pursuant to
2 Section 24 of this Agreement.

3 **R. “Individual Settlement Payment(s)”** means the amount payable from the Net
4 Settlement Fund to Settlement Class Members under the terms of this Settlement. A
5 Settlement Class Member who is both a Participating Class Member and a PAGA Group
6 Member is entitled to receive both payment for being a Participating Class Member and a
7 PAGA Penalty Payment. A Settlement Class Member who is only a Participating Class
8 Member but not a PAGA Group Member is only entitled to receive a payment for being a
9 Participating Class Member. Individual Settlement Payments shall not count as earnings or
10 compensation with respect to any benefit plans (*e.g.*, 401(k) plan, retirement plan, etc.)
11 available to Defendants’ employees.

12 **S. “Net Settlement Amount,” “NSA,” or “Net Common Fund”** means the
13 Gross Settlement Amount less any Enhancements to the Class Representative as awarded by
14 the Court, Settlement Administrator Costs as approved by the Court, attorneys’ fees and
15 costs to Class Counsel related to the Class Action as awarded by the Court, and the PAGA
16 Payment.

17 **T. “Notice Packet”** means a mailing from the Settlement Administrator to Class
18 Members which contains the Class Notice, the Notice of Estimated Individual Settlement
19 Payment, and the Exclusion Request Form.

20 **U. “Notice of Class Action” and “Class Notice”** means a notice entitled “Notice
21 of Class Action Settlement,” in the form substantially similar to that attached hereto as
22 Exhibit A.

23 **V. “Notice of Estimated Individual Settlement Payment”** means a notice
24 entitled “Notice of Estimated Individual Settlement Payment,” in the form substantially
25 similar to that attached hereto as Exhibit B.

26 **W. “Objection/Exclusion Deadline” or “Response Deadline”** is sixty (60)
27 calendar days after the date the Notice Packet is first mailed by the Settlement Administrator
28 to the Class Member. In the event that a Notice Packet is re-mailed to a Class Member

1 because the first one was undeliverable, the Class Member shall have an additional fifteen
2 (15) calendar days beyond the Response Deadline to submit a valid Exclusion Request Form,
3 Objection, or dispute concerning their weeks worked or Payments Made Credit.

4 **X. “Objection” or “Objection to Settlement”** means a document sent by a Class
5 Member to the Settlement Administrator which contains the Class Member’s name and the
6 basis for their objection to the Settlement.

7 **Y. “Order Granting Final Approval”** means an order executed and filed by the
8 Court granting final approval to the Settlement and entering judgment thereon. Said Order
9 Granting Final Approval will be in the form substantially similar to that attached hereto as
10 Exhibit E.

11 **Z. “Order Granting Preliminary Approval”** means an order executed and filed
12 by the Court granting preliminary approval to the Settlement. Said Order Granting
13 Preliminary Approval will be in the form substantially similar to that attached hereto as
14 Exhibit D.

15 **AA. “PAGA Claims”** means any civil penalties under the Private Attorneys
16 General Act of 2004 arising from the Covered Claims during the PAGA Period.

17 **BB. “PAGA Group” and “PAGA Group Members”** means all Settlement Class
18 Members who worked as hourly-paid, non-exempt employees at any TotalCare Medical
19 Group location in California at any time during the PAGA Period.

20 **CC. “PAGA Payment”** means the portion of the Gross Settlement Amount,
21 totaling Forty Thousand Dollars (\$40,000), which will be paid pursuant to the provisions of
22 California’s Private Attorneys General Act of 2004 (“PAGA”). Seventy-five percent (75%)
23 of the PAGA Payment, or \$30,000, will be paid to the California Labor & Workforce
24 Development Agency (“LWDA”). Twenty-five percent (25%) of the PAGA Payment, or
25 \$10,000.00 will be distributed to the PAGA Group Members.

26 **DD. “PAGA Penalty Payment”** means each PAGA Group Member’s payment
27 under this Settlement for being a member of the PAGA Group. All PAGA Penalty Payments
28 shall be allocated entirely to penalties.

1 **EE. “PAGA Period”** means the period from January 20, 2020 through and
2 including July 5, 2022.

3 **FF. “Participating Class Member”** means any Class Member who does not
4 timely submit a Request for Exclusion.

5 **GG. “Payments Made Credit”** means the amount, if any, a Class Member
6 received between October 1, 2021 and May 5, 2022, for participating in Defendants’ *Pick*
7 *Up Stix* campaign. The amount of the Payments Made Credit for each Participating Class
8 member shall be credited against that Participating Class Member’s Class Member Payment,
9 but in no event will the Class Member Payment fall below \$100 as a result of applying a
10 Payments Made Credit. The Payments Made Credit shall not be credited against any PAGA
11 Penalty Payment.

12 **HH. “Preliminary Approval Date”** means the date on which the Court signs the
13 Order Granting Preliminary Approval.

14 **II. “Released Parties”** means Defendants, each of their parents, subsidiaries, and
15 affiliates, and all of their heirs, predecessors, successors, assigns, owners, shareholders,
16 members, officers, directors, agents, and attorneys.

17 **JJ. “Request for Exclusion” or “Exclusion Request Form”** means a Class
18 Member’s completed Request for Exclusion form, in the form substantially similar to that
19 attached hereto as “Exhibit C.”

20 **KK. “Settlement Administrator”** means Simpluris, Inc.

21 **LL. “Settlement Administrator Costs”** means the costs of the Settlement
22 Administrator to administer this Settlement, currently estimated at \$7,500.

23 **MM. “Total Settlement Amount” or “Total Common Fund”** means the total sum
24 of (i) \$346,335.00, (ii) any increase in the Gross Settlement Amount pursuant to Section 24
25 of this Agreement, and (iii) the total amount of the Payments Made Credit (\$53,665.00) as
26 provided in Section 4.B. of this Agreement.

SETTLEMENT AMOUNT

2. Settlement Chart.

The following settlement chart is intended solely for the convenience of the Court:

<u>Settlement Fund Allocation</u>	
Gross Settlement Amount	\$400,000 (less Payments Made Credit)
Net Settlement Amount (Class Member Payments) (Estimated)	\$115,501.67 _____
Service Awards To Class Representatives (As Awarded By The Court)	\$30,000
Attorneys' Fees And Costs (As Awarded By The Court)	\$133,333.33 (Attorneys' Fees) \$20,000 (Costs)
Estimated Settlement Administrator Costs (As Awarded by the Court)	\$7,500
PAGA Payment (As Awarded by the Court)	\$40,000 (75% To The LWDA, 25% To PAGA Group Members)

3. Resolution of Class Action.

Subject to the terms and conditions set forth in this Agreement and approval of the Court, this Settlement shall resolve and settle the Class Action. Upon the occurrence of the Effective Settlement Date, and after all conditions precedent have occurred as set forth in this Agreement, the Settlement Administrator will cause to be made all disbursements required by this Settlement Agreement in accordance with its terms.

4. The Gross Settlement Amount.

A. On a non-reversionary-basis, Defendants have agreed to pay Four Hundred Thousand Dollars and Zero Cents (\$400,000.00) as the Gross Settlement Amount, which includes a Payments Made Credit of \$53,665.00 (which has already been paid to Settlement Class Members), resulting in a remaining payable Gross Settlement Amount of \$346,335.00. As long as the workweeks count is determined to be within the parameters stated in Section 24 of this Agreement, the amount paid by Defendants under this Agreement shall not exceed

1 this amount. In no event shall any part of the Gross Settlement Amount revert to Defendants.

2 This Settlement is a cash settlement. This Settlement is not a claims-made Settlement.

3 B. Beginning in the Fall of 2021, Defendants engaged in a *Pick Up Stix* campaign
4 in an effort to settle individual wage claims with Class Members and paid out a total of
5 \$53,665.00 to the 63 Class Members who participated. By executing this Agreement,
6 Defendants acknowledge that Class Counsel was an impetus for making these *Pick Up Stix*
7 payments. By executing this Agreement, Defendants further acknowledge that these *Pick*
8 *Up Stix* payments were made on a non-admission basis, and were intended to compensate
9 Class Members for alleged non-PAGA claims (e.g., rest period claims and associated
10 premiums) that were asserted in the class action filed by Plaintiffs. Consequently, these
11 payments are considered part of the Total Common Fund, and the Parties agree that these
12 payments should be considered in assessing the overall reasonableness of the Settlement.
13 These payments are referred to in this Agreement as the Payments Made Credit.

14 **5. Net Settlement Amount (Amounts Paid To Participating Class Members).**

15 A. The Net Settlement Amount is estimated to be approximately \$115,501.67.

16 B. Class Members Payments will be paid from the Net Settlement Amount to
17 Participating Class Members *pro rata* based on the number of workweeks credited to the
18 Participating Class Member during the Class Period in relation to the number of workweeks
19 credited to all Participating Class Members during the Class Period.

20 C. For those Class Members who participated in the *Pick Up Stix* campaign, the
21 payment they received will be credited against their individual Class Member Payment
22 owing pursuant to this Agreement, and such a credit is referred to in this Agreement as
23 “Payments Made Credit.” In no event, however, will the Class Member Payment fall below
24 \$100 as a result of applying their Payments Made Credit.

25 D. Example: If Participating Class Member A is credited with 100 workweeks,
26 and all Participating Class Members are credited with a combined total of 100,000
27 workweeks, and Participating Class Member A received \$100 in Defendants’ *Pick Up Stix*
28

1 campaign, then Participating Class Member A's Individual Settlement Payment would be
2 calculated as follows:

- 3 i. 100 weeks worked for Participating Class Member A ÷ 100,000 total
4 weeks worked for all Participating Class Members = .001 (or 0.1%).
- 5 ii. Participating Class Member A is entitled to a gross Class Member
6 Payment that is 0.1% of the Net Settlement Amount minus \$100, or
7 \$100, whichever is greater. Here $((0.001 \times \$115,501.67) - \$100) =$
8 \$15.50, which is less than \$100, so Participating Class Member A
9 would be entitled to \$100 as his/her Class Member Payment [gross
10 amount]. This gross amount is subject to deduction for employee taxes
11 on the portion of the Class Member Payment paid out as wages.

12 E. The Class Member Payment for each Participating Class Member reflects
13 negotiated amounts for payments for alleged unpaid wages, meal periods, rest periods, wage
14 statement violations, waiting time, and other statutory penalties and liquidated damages, all
15 other claims that could have been alleged based on the facts of the Complaint, and all other
16 claims as described more fully above as Released Claims.

17 F. For purposes of calculating Class Member Payments, each Participating Class
18 Member will be credited with the total workweeks worked by the individual Class Member
19 in a Class Position during the Class Period. The term "workweek" or "weeks worked" under
20 this Settlement includes any workweek in which the Class Member actually worked one
21 shift in a Class Position. Defendants' records shall be presumptively correct for determining
22 the number of weeks worked for each Class Member in a Class Position during the Class
23 Period.

24 G. Any Participating Class Member whose employment was terminated
25 voluntarily or involuntarily at any time during the Class Period shall be credited with one
26 (1) additional workweek as consideration for the release of alleged California Labor Code
27 section 203 waiting time penalties.

1 H. The Settlement Administrator will issue to each Participating Class Member a
2 Class Member Payment. Each Class Member Payment will be allocated one-third (1/3) to
3 wages (reported by the Settlement Administrator on a Form W-2) and two-thirds (2/3) to
4 interest and penalties (reported by the Settlement Administrator on a Form 1099).

5 I. Class Member Payment checks will be void after 180 days from the date of
6 issuance.

7 J. This Settlement is a non-reversionary cash settlement. Thus, any
8 unclaimed/uncashed Class Member Payment checks will not revert back to Defendants, but
9 instead will be considered unpaid, unclaimed or abandoned cash residue under Code of Civil
10 Procedure section 384, and any monies therefrom shall be distributed to Valley Children's
11 Healthcare Foundation (California Entity No. 1080726), a non-profit organization, as the *cy*
12 *pres* recipient, or any other alternative *cy pres* recipient that the Court deems appropriate.

13 **6. PAGA Payment (Amounts Paid To The LWDA And PAGA Group Members).**

14 A. The PAGA Payment is \$40,000, and 75% of that amount (\$30,000) will
15 be paid to the LWDA. The remaining 25% (\$10,000) will be distributed to the PAGA Group
16 Members as provided for in this Settlement.

17 B. If a Settlement Class Member is a PAGA Group Member, the
18 Settlement Class Member shall be entitled to receive a PAGA Penalty Payment. Each
19 PAGA Group Member's PAGA Penalty Payment shall be calculated by dividing their weeks
20 worked during the PAGA Period by the weeks worked by the entire PAGA Group during
21 the PAGA Period. That amount will then be multiplied by \$10,000. Only weeks worked as
22 a non-exempt employee during the PAGA Period will be counted.

23 C. If a PAGA Group Member opted out of the Settlement and is not a
24 Participating Class Member, the PAGA Group Member shall still receive his/her PAGA
25 Penalty Payment calculated as provided above. If a PAGA Group Member did not opt out
26 the Settlement and is a Participating Class Member, the PAGA Group Member is entitled to
27 both their PAGA Penalty Payment and the Class Member Payment as calculated above.

28 D. Any PAGA Group Member whose employment was terminated

1 voluntarily or involuntarily at any time during the PAGA Period shall be credited with one
2 (1) additional workweek as consideration for the release of PAGA civil penalties arising
3 from the alleged violation of California Labor Code section 203.

4 E. The Payments Made Credit shall not be credited against any PAGA
5 Penalty Payment owed to any PAGA Group Member.

6 F. The Settlement Administrator will issue to each PAGA Group Member
7 a PAGA Penalty Payment. Each PAGA Penalty Payment will be allocated entirely to
8 penalties (reported by the Settlement Administrator on a Form 1099).

9 G. PAGA Penalty Payment checks will be void after 180 days from the
10 date of issuance. Any unclaimed/uncashed PAGA Penalty Payment checks will not revert
11 back to Defendants, but instead will be distributed under Code of Civil Procedure section
12 384 to Valley Children's Healthcare Foundation (California Entity No. 1080726), a non-
13 profit organization, as the *cy pres* recipient, or any other alternative *cy pres* recipient that the
14 Court deems appropriate.

15 H. If the Court requires an increase in the PAGA Payment as a condition
16 precent to Settlement approval, any increase required shall come from the Gross Settlement
17 Amount.

18 **7. Service Awards To The Class Representatives.**

19 A. Through the Motion for Final Approval, Class Counsel will request an award
20 of individual Enhancements, also referred to as Service Awards, to the Class Representatives
21 in the amount of up to \$10,000 each for Valenzuela, Amezola, and Cabrera (totaling
22 \$30,000). The Service Awards are to compensate the Class Representatives for their service
23 and risk in connection with being Class Representatives and for their general release of
24 claims.

25 B. Any Enhancements awarded by the Court will not be treated as wages. The
26 Class Representatives will receive an individual Form 1099 relating to such payments. The
27 Enhancements will not count as earnings or compensation for purposes of any benefit plans
28 (e.g., 401(k) plan, retirement plan, etc.) sponsored by Defendants.

1 C. Defendants and their counsel will not object to a request for approval of such
2 Enhancements, provided the requested Enhancements do not exceed \$10,000 per
3 Plaintiff. Any portion of the Enhancements not approved by the Court will be included in
4 the Net Settlement Amount and distributed to Participating Class Members.

5 D. The Enhancements are in addition to the Individual Settlement Payments
6 allocated to the Class Representatives under this Settlement. The Class Representatives
7 agree that they will not opt out of, or object to, the Settlement.

8 E. By operation of the Order Granting Final Approval, the Class Representatives
9 will be deemed to have generally released all claims against the Released Parties, including
10 any and all obligations, debts, claims, liabilities, demands, and causes of action of every
11 kind, nature and description whatsoever, known or unknown, suspected or claimed, which
12 they ever had, now have, or may hereafter acquire, from the beginning of time until the
13 moment the Court files its Order Granting Final Approval. This general release includes a
14 Civil Code § 1542 waiver.

15 **8. Class Counsels' Attorneys' Fees and Costs.**

16 A. Through the Motion for Final Approval, Class Counsel will request an award
17 of one-third of the Total Settlement Amount (or \$133,333.33) for attorneys' fees, and an
18 amount not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) for costs. If
19 the Gross Settlement Amount is increased pursuant to Section 24 of this Agreement, Class
20 Counsel will request an award of attorneys' fees of one-third of the Total Settlement Amount
21 inclusive of the increase.

22 B. Defendants and their counsel will not object to Class Counsel's application for
23 an award of attorneys' fees and costs. Any attorneys' fees/costs amount not approved by
24 the Court will be included in the Net Settlement Amount and distributed to Participating
25 Class Members.

26 **9. Costs of Settlement Administration.**

27 The Settlement Administrator Costs are estimated at \$7,500 and will be paid from the
28 Gross Settlement Amount. The Net Settlement Amount payable to the Participating Class

1 Members will increase or decrease by any amounts less or more than \$7500 should the actual
2 Settlement Administrator Costs total less or more than \$7,500.

3 **RELEASE BY SETTLEMENT CLASS MEMBERS**

4 **10. Terms of Release.**

5 In exchange for the consideration recited in this Settlement Agreement, and by
6 operation of the Order Granting Final Approval, all Participating Class Members fully,
7 finally, and forever release the Released Parties from the Released Claims for the Class
8 Period.

9 In exchange for the consideration provided by this Agreement, and by operation of
10 the Order Granting Final Approval, all PAGA Group Members fully, finally, and forever
11 release the Released Parties from the PAGA Claims for the PAGA Period.

12 **11. California Labor Code Section 206.5.**

13 With respect to the Released Claims, and in consideration of Defendants' payment of
14 the sums provided herein, each and every Participating Class Member will be deemed to
15 have also acknowledged and agreed that California Labor Code section 206.5 is not
16 applicable to the Parties hereto or any Participating Class Member because there is a good
17 faith dispute as to whether any wages are due to any Participating Class Member. Section
18 206.5 provides, in pertinent part, as follows: "An employer shall not require the execution
19 of a release of a claim or right on account of wages due, or to become due, or made as an
20 advance on wages to be earned, unless payment of those wages has been made."

21 **CONDITIONAL CLASS CERTIFICATION**

22 **12. Certification for Settlement Purposes Only.**

23 A. As part of this Agreement and for purposes of settlement only, the Parties
24 stipulate and agree that the Court may certify the Class for the Class Period.

25 B. Should, for whatever reason, the Settlement not become final, the fact that the
26 Parties stipulate and agree to class certification as part of the Settlement will have no bearing
27 on, and will not be admissible in connection with, the issue of whether a class should be
28 certified in a non-settlement context in this action, and will have no bearing on, and will not

1 be admissible in connection with, the issue of whether a class should be certified in any other
2 lawsuit. Defendants expressly reserve their rights to oppose class certification should this
3 Settlement not become final.

4 **13. Parties' Contentions.**

5 A. In entering into this Agreement, Defendants deny any liability or wrongdoing
6 of any kind associated with the claims alleged in the Class Action, and further deny that the
7 Class Action can be maintained as a class or representative action in a litigation context.
8 Defendants contend, among other things, that they have complied with the California Labor
9 Code, the applicable IWC Wage Orders, and the California Business and Professions Code.

10 B. In entering into this Agreement, Plaintiffs believe that they have brought a
11 meritorious action, that class certification is appropriate, and that the claims can be
12 manageably maintained on a representative basis under PAGA.

13 **14. Settlement is Fair, Reasonable, and Adequate.**

14 Plaintiffs and their counsel are of the opinion that the terms set forth in this
15 Agreement are fair, reasonable, and adequate and this Agreement is in the best interest of
16 the Class in light of all known facts and circumstances, including the risk of significant
17 delay, defenses asserted by Defendants, and numerous potential appellate issues.
18 Defendants and their counsel also agree that this Agreement is fair, reasonable, and
19 adequate, and in the best interests of the Class.

20 **SETTLEMENT APPROVAL AND PAYMENT PROCEDURES**

21 **15. Request for Preliminary and Final Approval.**

22 A. The Parties will cooperate fully in requesting preliminary and final approval
23 of this Settlement Agreement by the Court, including a determination by the Court that this
24 Settlement is fair, reasonable, and adequate. The Parties will also cooperate fully in
25 promptly requesting that, as provided for in this Settlement Agreement, the Court approve
26 the proposed forms of notices, orders, and other documents necessary to implement this
27 Settlement. Should the Court require or suggest edits to any documents in the Notice Packet,
28 the proposed Order Granting Preliminary Approval, or the proposed Order Granting Final

1 Approval, the Parties will work cooperatively to edit the document(s) accordingly and obtain
2 the Court's approval.

3 B. To effectuate the approval of this Settlement Agreement, if requested by Class
4 Counsel, Defendants agree they will provide a declaration that authenticates the policy and
5 practice documentation that was provided to Class Counsel prior to mediation, and which
6 declaration Class Counsel may use in any motion for preliminary or final approval.

7 **16. Class List to Be Provided by Defendants to the Settlement Administrator.**

8 A. Defendants will provide the Class List to the Settlement Administrator within
9 fourteen (14) calendar days after the Court files its signed Order Granting Preliminary
10 Approval.

11 B. The Class List, and any other data provided by Defendants to the Settlement
12 Administrator, shall be treated as confidential and shall not be used by the Settlement
13 Administrator for any purpose other than as permitted by this Agreement. Further, the
14 Settlement Administrator shall use commercially reasonable efforts to secure the data
15 provided by Defendants at all times so as to avoid inadvertent or unauthorized disclosure or
16 use of such data other than as permitted by this Agreement. At no time during the Settlement
17 process will any Class Member's address or full social security number be filed with the
18 Court, except under seal as may be ordered by the Court. The Settlement Administrator
19 shall ensure that the Class Notice and any other communications to Class Members shall not
20 include the Class Members' social security number, except for the last four digits. Class
21 Members may, however, be required to submit a Form W-4 or W-9 as required by the
22 Settlement Administrator for tax reporting purposes.

23 **17. Notice of Class Action Settlement.**

24 A. Within seven (7) calendar days after the Settlement Administrator receives the
25 Class List from Defendants, the Settlement Administrator will first update all addresses
26 using the National Change of Address System (NCOA) and then mail to all Class Members,
27 via first-class United States Mail, the following documents: (a) the Notice of Class Action,
28 Exhibit A; (b) the Notice of Estimated Individual Settlement Payment, Exhibit B; and (c)

1 the Exclusion Request Form, Exhibit C (collectively, the “Notice Packet”). The envelope
2 in which the Notice Packet is mailed will clearly state that it concerns a class action and the
3 recipient could be entitled to a cash payment.

4 B. In the event of returned or non-deliverable Notice Packets, the Settlement
5 Administrator will make reasonable efforts to locate Class Members through skip-tracing
6 services offered by publicly-available databases and will re-send the Notice Packets to the
7 best available address after performing the skip-tracing. It will be conclusively presumed
8 that a Class Member’s Notice Packet was received if the Notice Packet has not been returned
9 within forty-five (45) days of the mailing of the Notice Packet to the Class Member.

10 C. In the event the procedures set forth herein are followed and the intended
11 recipient of a Notice Packet still does not receive the Notice Packet, the intended recipient
12 will be a Participating Class Member and will be bound by all terms of this Settlement and
13 the Order Granting Final Approval entered by the Court. The Individual Settlement Payment
14 will be mailed to that Class Member’s last known address. If returned, then the Settlement
15 Administrator will use reasonable efforts to search for and locate a better address and re-
16 mail, if possible.

17 D. Each Class Member will have sixty (60) days from the date the Notice Packet
18 is originally mailed to submit a dispute, opt-out, and/or object to the Settlement. This date
19 is called the “Objection/Exclusion Deadline” or “Response Deadline.” In the event that a
20 Notice Packet is re-mailed to a Class Member because the first one was undeliverable, the
21 Class Member shall have an additional fifteen (15) calendar days beyond the Response
22 Deadline to submit a valid dispute, opt-out, and/or object to the Settlement. The procedures
23 regarding disputes, opting out, and objecting to the Settlement are set forth below.

24 **18. Dispute Procedures -- Resolution Regarding Weeks of Employment.**

25 A. Each Class Member will receive a Notice of Estimated Individual Settlement
26 Payment, Exhibit B, which will specify the weeks worked for that Class Member for which
27 he or she is being credited for purposes of this Settlement, the amount of any Payments Made
28 Credit attributed to the Class Member (if any), as well as the Class Member’s employment

1 status (current or former employee).

2 B. Class Members will be entitled to dispute their number of weeks worked, their
3 Payments Made Credit, and/or their employment status as reported on their Notice of
4 Estimated Individual Settlement Payment. A space will be provided on the Notice of
5 Estimated Individual Settlement Payment for Class Members to raise such disputes. For a
6 Class Member's dispute to be considered, the Class Member must fully complete the Notice
7 of Estimated Individual Settlement Payment and timely return it to the Settlement
8 Administrator. To fully complete the Notice of Estimated Individual Settlement Payment,
9 the Class Member must: (a) specify their dates of employment, their claimed number of
10 weeks worked, their work location, and their claimed amount of Payments Made Credit (if
11 any) in the space provided; (b) print their name; and (c) date and sign it.

12 C. Class Members will have no more than sixty (60) days after the date when the
13 Notice Packet was originally mailed by the Settlement Administrator to mail to the
14 Settlement Administrator a dispute concerning their weeks worked, Payments Made Credit,
15 and/or employment status during the Class Period, with any supporting evidence the Class
16 Member may have. The date of the postmark on the return mailing envelope shall be the
17 exclusive means used to determine whether a dispute has been timely submitted to the
18 Settlement Administrator.

19 D. Within seven (7) calendar days of receiving a dispute concerning a Class
20 Member's weeks worked, Payments Made Credit, and/or employment status, the Settlement
21 Administrator shall review all information and documents (if any) received from the Class
22 Member in support of the Class Member's dispute, and within seven (7) calendar days of
23 receiving that information the Settlement Administrator shall inform Class Counsel and
24 Defendants' counsel of its decision as to whether it accepts or rejects the dispute. Class
25 Counsel and Defendants' counsel stipulate to timely and effectively cooperate to resolve any
26 disagreements regarding disputed weeks worked or the Settlement Administrator's inquiries.
27 In the event Class Counsel and Defendants' counsel are not able to reach agreement
28 regarding a dispute, either party may request that the Court make a final decision.

1 E. Within seven (7) calendar days of the Settlement Administrator's decision, the
2 Settlement Administrator will provide a written explanation entitled "Notice Regarding
3 Dispute" to the Class Member who disputed his or her weeks worked, Payments Made
4 Credit, and/or employment status. The Notice Regarding Dispute will inform the Class
5 Member of any change to his or her weeks worked or Payments Made Credit. The Class
6 Member shall have fourteen (14) calendar days after the date the Notice Regarding Disputed
7 Weeks Worked is postmarked to complete and mail an Exclusion Request Form to the
8 Settlement Administrator (pursuant to the opt-out steps set forth below). If, within that
9 fourteen (14) day period, the Class Member does not mail a valid Exclusion Request Form
10 to the Settlement Administrator, the Class Member shall be deemed a Participating Class
11 Member and will be paid in accordance with the Class Member's weeks worked as noted on
12 the Notice Regarding Dispute.

13 F. Upon resolution by Defendants' counsel and Class Counsel of all disputes
14 regarding weeks worked and/or Payments Made Credit, the Settlement Administrator will
15 prepare an updated Class List. Any changes to a Class Member's weeks worked will be
16 reflected in the total weeks worked for the entire Class on the updated Class List. For
17 example, if Class Member A successfully disputes his weeks worked and his weeks worked
18 is consequently increased by two weeks, the total weeks worked for the entire Class will
19 also be increased by two weeks for purposes of calculating Individual Settlement Payments.
20 If a Class Member successfully disputes his Payments Made Credit, the amount calculated
21 by the Settlement Administrator for his or her Individual Settlement Payment will be
22 calibrated accordingly.

23 **19. Opt-Out Procedures -- Requests for Exclusion.**

24 A. The Class Notice will notify all Class Members of their right to opt out of the
25 Settlement.

26 B. Any Class Member (other than the Class Representatives) who wishes to be
27 excluded (*i.e.*, to opt out) from the Settlement must submit a completed Exclusion Request
28 Form to the Settlement Administrator on or before the Objection/Exclusion Deadline. To

1 be valid, the Exclusion Request Form must: (a) reference the name and address of the person
2 requesting exclusion; (b) be dated and signed by the person requesting exclusion; and (c) be
3 postmarked no later than the Objection/Exclusion Deadline. The date of the postmark on
4 the return mailing envelope shall be the exclusive means used to determine whether an
5 Exclusion Request Form has been timely submitted.

6 C. Any Class Member who mails a valid and timely Exclusion Request Form
7 will, upon receipt thereof by the Settlement Administrator, no longer be a Participating Class
8 Member, he/she will receive no Class Member Payment, and none of his or her individual
9 claims, causes of action or rights will be released by virtue of this Settlement Agreement.
10 However, if a Class Member who mails a valid and timely Exclusion Request Form is also
11 a PAGA Group Member, the Class Member will still receive his or her PAGA Penalty
12 Payment and still fully release the PAGA Claims by operation of the Court's Order Granting
13 Final Approval.

14 D. Any Class Member Payment that would have been paid to a Class Member
15 but for that Class Member opting out of the Settlement will be included in the Net Settlement
16 Amount and distributed to the Participating Class Members.

17 E. Failure to timely submit a completed Exclusion Request Form will result in a
18 Class Member being conclusively deemed a Participating Class Member fully bound by the
19 terms of the Settlement.

20 F. If a Class Member submits a timely dispute concerning his or her weeks
21 worked and/or employment status as reflected on his or her Notice of Estimated Individual
22 Settlement Payment and submits a timely Exclusion Request Form, the Exclusion Request
23 Form will be invalid (unless postmarked later than the date the Class Member submits his
24 or her dispute on the Notice of Estimated Individual Settlement Payment) and such Class
25 Member will be considered a Participating Class Member.

26 **20. Objection Procedures -- Objections to the Settlement.**

27 A. The Class Notice will provide that Class Members who wish to object to the
28 Settlement must mail to the Settlement Administrator a written Objection.

1 B. To be valid, such Objection must be mailed to the Settlement Administrator
2 no later than the Objection/Exclusion Deadline. To be valid, the Objection must include the
3 Class Member's name, the basis for their objection to the Settlement, and their signature.
4 The date of the postmark on the return mailing envelope shall be the exclusive means used
5 to determine whether an Objection has been timely submitted. The Settlement Administrator
6 will promptly forward by e-mail any such Objection to the Parties' respective counsel. Class
7 Counsel will lodge a copy of the Objections, if any, with the Court. Unless otherwise
8 allowed by the Court in its discretion, no Class Member will be entitled to be heard at the
9 Final Fairness Hearing (whether individually or through separate counsel) or to object to the
10 Settlement, and no written objection or briefs submitted by any Class Member will be
11 received or considered by the Court at the Final Fairness Hearing unless, no later than the
12 Objection/Exclusion Deadline, the Class Member mails to the Settlement Administrator an
13 Objection as set forth above. Unless otherwise ordered by the Court in its discretion, any
14 Class Member who fails to timely mail an Objection to the Settlement Administrator will be
15 deemed to have waived any objection and will be foreclosed from making any objection
16 (whether by appeal or otherwise) to the Settlement.

17 C. If a Class Member submits and timely and valid Objection and a Timely and
18 Valid Exclusion Request Form, the Objection shall be deemed invalid and given no effect,
19 and the Exclusion Request Form shall be deemed valid and enforced, and the Class Member
20 will not be a Participating Class Member.

21 **21. Verification of Dissemination of Notice of Class Action.**

22 The Settlement Administrator will verify, in writing, that the Notice Packets have
23 been disseminated in accordance with the Court's Order Granting Preliminary Approval,
24 and will provide such verification to Class Counsel and Defendants' counsel no later than
25 twenty (20) calendar days prior to the date of the Final Fairness Hearing. The Settlement
26 Administrator will provide that verification in the form of a declaration, which shall also
27 include, as an attachment, any timely Objections received by the Settlement Administrator.

28 **22. Reporting.**

1 The Settlement Administrator will provide written notice to Class Counsel and
2 Defendants' counsel of all disputes concerning weeks worked, Requests for Exclusion, and
3 Objections it receives, within three (3) calendar days of receiving such items.

4 **23. No Encouraging Class Members Not To Participate.**

5 No Party will directly or indirectly, through any person or entity, encourage any Class
6 Member not to participate in this Settlement.

7 **24. Verification Of Weeks Worked and Class Size.**

8 A. Defendants have represented that between January 29, 2017 and April 26,
9 2022, the Class worked approximately 13,660 workweeks. If the actual weeks worked by
10 the Class during this timeframe exceed 13,660 by more than 10%, the Gross Settlement
11 Amount will be increased proportionally by the weeks worked in excess of 10%. For
12 example, if the actual weeks worked by the Class from January 29, 2017 through April 26,
13 2022 exceed 13,660 by 12%, the Gross Settlement Amount will be increased by 2%. After
14 receiving the Class List from Defendants and before the motion for final approval is filed,
15 the Settlement Administrator shall report to the Parties the weeks worked by the Class during
16 the period of January 29, 2017 through April 26, 2022, and the weeks worked by the Class
17 during the entirety of the Class Period.

18 B. Defendants estimate that the size of the Class is 187 Class Members.
19 Defendants estimate that the size of the PAGA Group is 63 PAGA Group Members. Within
20 fourteen (14) calendar days of the execution of this Agreement, Defendants will provide a
21 declaration to Class Counsel verifying the total amount of Class Members and total amount
22 of PAGA Group Members, which Class Counsel may use in any motion for preliminary or
23 final approval.

24 **25. Final Fairness Hearing.**

25 On the date set forth in the Notice of Class Action (or as continued by the Court in
26 its discretion), a Final Fairness Hearing will be held before the Court in order to: (1) review
27 this Settlement Agreement and determine whether the Court should give it final approval;
28 and (2) consider any timely objections to the Settlement and all responses by the Parties to

1 such objections. At the Final Fairness Hearing, the Parties will ask the Court to approve the
2 Settlement Agreement and to enter judgment accordingly.

3 **26. Listing of Individual Settlement Amounts.**

4 Within seven (7) calendar days after the Court files the Order Granting Final
5 Approval, the Settlement Administrator will provide to Class Counsel and Defendants'
6 counsel a proceeds list showing the Individual Settlement Payment for each Participating
7 Class Member/PAGA Group Member, identified by the applicable employee or other
8 identification number, who will receive settlement proceeds ("Proceeds List"). The
9 Proceeds List will include a calculation of all employer payroll taxes and obligations, which
10 shall be separately funded by Defendants.

11 **27. Funding Date.**

12 Within ten (10) calendar days of the Effective Settlement Date (the "Funding Date"),
13 Defendants shall cause to be paid to the Settlement Administrator (i) the Total Settlement
14 Amount less the cumulative Payments Made Credit, and (ii) the employer's tax burdens
15 associated with the portion of the Individual Settlement Payments paid out as wages, which
16 shall be calculated by the Settlement Administrator.

17 **28. Payment Dates.**

18 A. Within seven (7) calendar days of the Funding Date, the Settlement
19 Administrator will cause to be paid (i) the Individual Settlement Payments, (ii) the
20 Enhancements awarded by the Court; (iii) the attorneys' fees and costs awarded by the Court,
21 (iv) the LWDA's portion of the PAGA Payment, and (v) the Settlement Administrator Costs
22 awarded by the Court.

23 **29. Individual Settlement Payment – Check Cashing/Endorsing Deadlines.**

24 A. The checks for all Individual Settlement Payments will indicate on their face
25 that they are void if not negotiated within one hundred and eighty (180) days of their
26 issuance. In the event a settlement check is returned to the Settlement Administrator with a
27 forwarding address, the settlement check will be forwarded to the forwarding address. In
28 the event a settlement check is returned to the Settlement Administrator without a forwarding

1 address or is otherwise undeliverable, the Settlement Administrator will use reasonable
2 efforts to search for a better address and re-mail the returned check, if possible. If the search
3 does not provide a better address, or if the settlement check is ultimately returned without a
4 forwarding address, neither Defendants, Class Counsel nor the Settlement Administrator
5 shall be required to take further action to achieve delivery of the check to the Class Member.
6 If within that 180-day period the Class Member contacts the Settlement Administrator, or if
7 Class Counsel does so on his or her behalf, the settlement check will be reissued and mailed
8 to the address the Class Member (or Class Counsel) provides. Any such reissued settlement
9 checks will indicate on their face that they are void if not negotiated within one hundred and
10 eighty (180) days of their issuance.

11 **30. Deadlines.**

12 If any deadline specified in this Agreement falls on a Saturday, Sunday, or State Court
13 holiday, the deadline will be automatically extended to the next regular business day. Unless
14 otherwise specified herein, all references to “days” shall mean calendar days.

15 **CONTINUING JURISDICTION OF THE COURT**

16 **31. Continuing Jurisdiction.**

17 Pursuant to California Rules of Court, Rules 3.769 and 3.771, this Settlement
18 Agreement will be subject to approval by the Court and will be enforceable by the Court
19 pursuant to California Code of Civil Procedure section 664.6. Even after the Order Granting
20 Final Approval and notwithstanding it, the Court will have and retain continuing jurisdiction
21 over the Class Action and over all Parties, Participating Class Members and PAGA Group
22 Members, to the fullest extent necessary or convenient to enforce and effectuate the terms
23 and intent of this Settlement Agreement and all matters provided for in it, and to interpret it.

24 **MUTUAL COOPERATION**

25 **32. Cooperation Obligations.**

26 The Parties will fully cooperate with each other to accomplish the terms of this
27 Settlement Agreement, including, but not limited to, providing additional evidence,
28 executing additional documents, and/or taking such other action as may be reasonably

1 necessary to obtain the Court's approval of the Settlement or implement it.

2 **NON-ADMISSION SETTLEMENT**

3 **33. No Admissions.**

4 Nothing in this Settlement Agreement will constitute or be considered an admission
5 by or on behalf of Defendants, or any of the Released Parties, of any wrongdoing or liability
6 or of the accuracy of any allegation made in connection with this Class Action.

7 **WITHDRAWAL, NULLIFICATION OR INVALIDATION**

8 **34. Withdrawal.**

9 A. If prior to the Final Fairness Hearing, more than seventeen (17) persons who
10 otherwise would be members of the Class have filed timely Requests for Exclusion as
11 outlined in this Agreement, Defendants shall have thirty (30) days after notice of the number
12 of Requests for Exclusion to withdraw from this Settlement by mailing written notice to
13 Class Counsel, John M. Scheppach and Thorey M. Bauer of Scheppach Bauer PC, 23181
14 Verdugo Drive Suite 105-A, Laguna Hills CA 92653, signed by all Defendants.

15 B. Defendants agree that they will not encourage opt outs or communicate
16 negatively about the Settlement to Class Members.

17 C. In the event Defendants elect to withdraw in accordance with Section 34.A,
18 Defendants will not be responsible for paying any settlement amounts, Enhancements,
19 attorneys' fees or costs. Defendants, however, will be solely responsible for the Settlement
20 Administrator Costs incurred as of the date of withdrawal. In the event Defendants elect to
21 withdraw pursuant to Section 34.A., this Settlement Agreement will be considered null and
22 void and neither this Settlement Agreement nor any of the related negotiations or
23 proceedings will be of any force or effect and shall be inadmissible in any forum or
24 jurisdiction.

25 **35. Nullification.**

26 If after exhausting all efforts: (1) the Court refuses to enter an Order Granting Final
27 Approval or (2) the Court's Order Granting Final Approval is reversed, then: (a) this
28 Settlement Agreement will be considered null and void; (b) neither this Settlement

1 Agreement nor any of the related negotiations or proceedings will be of any force or effect;
2 and (c) Defendants and Class Counsel shall each be responsible for half of any Settlement
3 Administrator Costs.

4 **36. Invalidation.**

5 Invalidation of any material term of this Settlement Agreement will invalidate this
6 Agreement in its entirety unless the Parties subsequently agree in writing that the remaining
7 provisions will remain in full force and effect. Before declaring any provision of this
8 Agreement invalid, however, the Court shall first attempt to construe the provision in a valid
9 manner to the fullest extent possible consistent with applicable precedents.

10 **37. Appeal from Order of Final Judgment and Order of Dismissal.**

11 In the event of a timely appeal from the Order Granting Final Approval, the Order
12 Granting Final Approval will be stayed and the Individual Settlement Payments and any
13 other payments required hereunder by Defendants will not be paid pending the completion
14 and final resolution of the appeal, and any payment thereafter will: (1) occur only if the
15 Order Granting Final Approval is upheld after all appeals; and (2) be in a manner that is
16 provided for in this Settlement Agreement and in the Order Granting Final Approval.

17 **GENERAL PROVISIONS**

18 **38. Entire Agreement.**

19 This Settlement Agreement constitutes the entire integrated agreement between the
20 Parties relating to the resolution of the Class Action, and no oral representations, warranties
21 or inducements have been made to any Party concerning this Settlement Agreement other
22 than the representations, warranties, and covenants contained and memorialized in this
23 Settlement Agreement. This Settlement Agreement supersedes and replaces any prior
24 memorandum of understanding or memorandum of settlement entered into by the Parties.

25 **39. Authorization to Act.**

26 Class Counsel warrant and represent that they are authorized by the Class
27 Representatives, and counsel of record for Defendants warrant that they are authorized by
28 Defendants, to take all appropriate action required or permitted to be taken by such Parties

pursuant to this Settlement Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement Agreement.

40. Modification Only in Writing.

This Settlement Agreement may be amended or modified only by a written instrument signed by all Parties or their successors in interest. However, Class Counsel and Defendants' counsel may agree to, and are hereby authorized to, amend or modify the contents of the Notice Packet, the Proposed Order Granting Preliminary Approval (Exhibit D), and the Proposed Order Granting Final Approval (Exhibit E), to conform to any edits requested or recommended by the Court without further signatures of the Parties.

41. Binding on Successors.

This Settlement Agreement is binding upon and will inure to the benefit of the Parties to this Agreement, as well as their respective attorneys, past, present, and future predecessors, successors, shareholders, officers, directors, employees, agents, trustees, representatives, administrators, fiduciaries, assigns, insurers, executors, partners, parent corporations, subsidiaries, and related or affiliated entities.

42. No Prior Assignments.

The Participating Class Members will be deemed by operation of the Order Granting Final Approval to represent, covenant, and warrant that they have not assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, cause of action or rights herein released and discharged.

43. Governing Law.

All terms of this Settlement Agreement will be governed by and interpreted according to the laws of the State of California, without giving effect to conflicts of laws principles.

44. Counterparts.

This Settlement Agreement may be executed in one or more counterparts. Signatures provided electronically (such as via DocuSign, Adobe Sign, or similar program), by pdf or by facsimile shall have the same force and effect as original "wet" signatures. All executed counterparts and each of them will be deemed to be one and the same instrument. Counsel

1 for the Parties will exchange among themselves signed counterparts.

2 **45. Headings for Convenience Only.**

3 The descriptive headings of any paragraphs or sections of this Settlement Agreement
4 are inserted for convenience of reference only and do not constitute a part of this Settlement
5 Agreement.

6 **46. Construction of this Agreement.**

7 The Parties hereto agree that the terms and conditions of this Settlement Agreement
8 are the result of arms-length negotiations between the Parties and that this Settlement
9 Agreement will not be construed in favor of or against any Party by reason of the extent to
10 which any Party, or his or its counsel, participated in the drafting of this Agreement. Except
11 as expressly provided herein, this Settlement Agreement has not been executed in reliance
12 upon any other oral or written representations or terms and no such extrinsic oral or written
13 representations or terms will modify, vary or contradict the terms of this Settlement
14 Agreement. In entering this Settlement Agreement, the Parties hereto explicitly recognize
15 California Civil Code section 1625 and California Code of Civil Procedure section 1856(a),
16 which provide that a written agreement is to be construed according to its terms and may not
17 be varied or contradicted by extrinsic evidence. The Class Representatives and Defendants
18 participated in the negotiation and drafting of this Settlement Agreement and had available
19 to them the advice and assistance of independent counsel. As such, neither the Class
20 Representatives, nor any Participating Class Members, nor Defendants may claim that any
21 ambiguity in this Settlement Agreement should be construed against the other.

22 **47. Corporate Signatories.**

23 Any person executing this Settlement Agreement or any related document on behalf
24 of a corporate signatory hereby warrants and promises for the benefit of all Parties hereto
25 that such person has been duly authorized by such corporation to execute this Settlement
26 Agreement or any related document.

27 **48. Representation by Counsel.**

28 All of the Parties hereto acknowledge that they have been represented by counsel

1 throughout all negotiations which preceded the execution of this Settlement Agreement and
2 that this Agreement has been executed with the advice of counsel.

3 **49. Attorneys' Fees and Costs.**

4 Except as otherwise provided herein, the Parties hereto will bear responsibility for
5 their own attorneys' fees and costs, taxable or otherwise, incurred by them or arising out of
6 this Class Action and will not seek reimbursement thereof from any Party to this Settlement
7 Agreement. Plaintiffs and their counsel covenant not to pursue claims for attorneys' fees
8 and costs, or any class representative Enhancements, for dollar amounts above those stated
9 or provided for in this Agreement.

10 **50. Miscellaneous.**

11 A. The Parties both acknowledge and agree that nothing in this Agreement, nor
12 in any written communication or disclosure between or among them or their Counsel, is or
13 was intended to be, nor shall any such communication or disclosure constitute or be
14 construed or be relied upon as, tax advice within the meaning of United States Treasury
15 Circular 230 (31 CFR part 10, as amended).

16 B. Defendants agree to refrain from removing, or seeking removal of, the Class
17 Action to federal court.

18 C. Neither the Class Representatives nor Class Counsel may disclose this
19 Settlement or the Parties' Settlement terms to any outside third party (except to a settlement
20 administrator) in any manner until the date of the filing of the Motion for Preliminary
21 Approval. Thereafter and continuing, unless otherwise required by contract or law, the
22 Class Representatives and Class Counsel may not publicize this Settlement or the Parties'
23 Settlement terms on any website, on any blog, twitter account or other social media
24 platform, or to any periodical or legal publication, including the *Los Angeles Daily Journal*.
25 Nothing in this paragraph or this Settlement, however, prevents Class Counsel or the Class
26 Representatives from submitting declarations or briefing to the Court, or prevents the
27 Settlement Administrator from posting the Settlement on its website for notice purposes.

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IT IS SO STIPULATED AND AGREED:

PLAINTIFFS

Dated: _____
RACHEL VALENZUELA

Dated: _____
MELISSA AMEZOLA

Dated: _____
VANESSA CABRERA

DEFENDANTS

Dated: _____
EMERZIAN CHIROPRACTIC PROFESSIONAL CORPORATION

By: _____
Its: _____

Dated: _____
TOTAL CARE MEDICAL GROUP, INC.

By: _____
Its: _____

Dated: _____
TOTAL CARE MANAGEMENT GROUP, INC.

By: _____
Its: _____

Dated: _____
SAN JOAQUIN TOTALCARE, INC.

By: _____
Its: _____

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IT IS SO STIPULATED AND AGREED:

PLAINTIFFS

Dated: Feb 6, 2023 
Rachel Valenzuela (Feb 6, 2023 10:16 PST)
RACHEL VALENZUELA

Dated: _____
MELISSA AMEZOLA

Dated: _____
VANESSA CABRERA

DEFENDANTS

Dated: _____
EMERZIAN CHIROPRACTIC PROFESSIONAL CORPORATION

By: _____
Its: _____

Dated: _____
TOTAL CARE MEDICAL GROUP, INC.
By: _____
Its: _____

Dated: _____
TOTAL CARE MANAGEMENT GROUP, INC.
By: _____
Its: _____

Dated: _____
SAN JOAQUIN TOTALCARE, INC.
By: _____
Its: _____

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IT IS SO STIPULATED AND AGREED:

PLAINTIFFS

Dated: _____

RACHEL VALENZUELA

Dated: Feb 6, 2023



Melissa Amezola (Feb 6, 2023 11:06 PST)
MELISSA AMEZOLA

Dated: _____

VANESSA CABRERA

DEFENDANTS

Dated: _____

EMERZIAN CHIROPRACTIC PROFESSIONAL
CORPORATION

By: _____

Its: _____

Dated: _____

TOTAL CARE MEDICAL GROUP, INC.

By: _____

Its: _____

Dated: _____

TOTAL CARE MANAGEMENT GROUP, INC.

By: _____

Its: _____

Dated: _____

SAN JOAQUIN TOTALCARE, INC.

By: _____

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IT IS SO STIPULATED AND AGREED:

PLAINTIFFS

Dated: _____
RACHEL VALENZUELA

Dated: _____
MELISSA AMEZOLA

Dated: Feb 6, 2023

Vanessa Cabrera (Feb 6, 2023 09:08 PST)
VANESSA CABRERA

DEFENDANTS

Dated: _____
EMERZIAN CHIROPRACTIC PROFESSIONAL
CORPORATION

By: _____

Its: _____

Dated: _____
TOTAL CARE MEDICAL GROUP, INC.

By: _____

Its: _____

Dated: _____
TOTAL CARE MANAGEMENT GROUP, INC.

By: _____

Its: _____

Dated: _____
SAN JOAQUIN TOTALCARE, INC.

By: _____

Its: _____

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JOHN H. EMERZIAN

Dated: _____
JOHN H. EMERZIAN

APPROVED AS TO FORM:

Dated: _____ **SCHEPPACH BAUER PC**

By: _____
JOHN M. SCHEPPACH
Attorneys for Plaintiffs RACHEL VALENZUELA,
MELISSA AMEZOLA, and VANESSA
CABRERA, on behalf of themselves and all others
similarly situated

Dated: _____ **SAGASER, WATKINS & WIELAND, PC**

By: _____
WILLIAM M. WOOMAN
Attorneys for Defendants
EMERZIAN CHIROPRACTIC PROFESSIONAL
CORPORATION, TOTAL CARE MEDICAL
GROUP, INC., JOHN H. EMERZIAN, TOTAL
CARE MANAGEMENT GROUP, INC., and SAN
JOAQUIN TOTALCARE, INC.

1 **IT IS SO STIPULATED AND AGREED:**

2 **PLAINTIFFS**

3
4 Dated: _____

5 _____
6 RACHEL VALENZUELA

7 Dated: _____

8 _____
9 MELISSA AMEZOLA

10 Dated: _____

11 _____
12 VANESSA CABRERA

13 **DEFENDANTS**

14 Dated: 2-16-23

15 EMERZIAN CHIROPRACTIC PROFESSIONAL
16 CORPORATION

17 By: _____

18 Its: _____

19 Dated: 2-16-23

20 TOTAL CARE MEDICAL GROUP, INC.

21 By: _____

22 Its: _____

23 Dated: 2-16-23

24 TOTAL CARE MANAGEMENT GROUP, INC.

25 By: _____

26 Its: _____

27 Dated: 2-16-23

28 SAN JOAQUIN TOTALCARE, INC.

By: _____

Its: _____

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JOHN H. EMERZIAN

Dated: 2-16-23



JOHN H. EMERZIAN

APPROVED AS TO FORM:

Dated: 2/17/2023

SCHEPPACH BAUER PC

By: _____

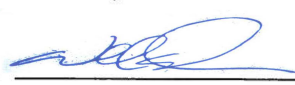

JOHN M. SCHEPPACH

Attorneys for Plaintiffs RACHEL VALENZUELA,
MELISSA AMEZOLA, and VANESSA
CABRERA, on behalf of themselves and all others
similarly situated

Dated: 02/16/2023

SAGASER, WATKINS & WIELAND, PC

By: _____


WILLIAM M. WOOMAN

Attorneys for Defendants
EMERZIAN CHIROPRACTIC PROFESSIONAL
CORPORATION, TOTAL CARE MEDICAL
GROUP, INC., JOHN H. EMERZIAN, TOTAL
CARE MANAGEMENT GROUP, INC., and SAN
JOAQUIN TOTALCARE, INC.

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF FRESNO

RACHEL VALENZUELA, MELISSA AMEZOLA,
VANESSA CABRERA, individually, and on behalf of
other members of the general public similarly situated,

Plaintiffs,

v.

EMERZIAN CHIROPRACTIC PROFESSIONAL
CORPORATION, a California corporation; TOTAL
CARE MEDICAL GROUP, INC., a California
corporation, JOHN H. EMERZIAN, an individual,
TOTAL CARE MANAGEMENT GROUP, INC. a
California corporation, SAN JOAQUIN
TOTALCARE, INC., a California corporation, and
DOES 1 through 100, inclusive,

Defendants.

CASE NO. 21CECG02138

ASSIGNED FOR ALL PURPOSES TO:

D. TYLER THARPE

DEPT 501

NOTICE OF CLASS ACTION SETTLEMENT

**If You Worked At Any TotalCare Medical Group Location In California As A Non-Exempt Employee At
Any Time From January 29, 2017 Through July 5, 2022**

You May Be Entitled To Participate In A Class Action Settlement.

The Fresno County Superior Court approved this notice. This is not an advertisement.

You are not being sued. Your legal rights are affected whether you act or not.

PLEASE READ THIS NOTICE. YOUR LEGAL RIGHTS WILL BE AFFECTED.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT ARE:

Do Nothing	If you want to participate and receive your share of the money from the settlement, you do <u>not</u> need to do anything. If you do nothing, you will be mailed a settlement payment and you will be releasing certain claims. (See #19 below.)
Object	If you want to object to the settlement, you must write to the Settlement Administrator and explain why you think the settlement should not be approved. (See #16 below.)
Exclude Yourself	If you exclude yourself (or “opt-out”) from this lawsuit, you will not receive any Class Member Payment and will not release any individual claims. (See #17 below.)

**YOUR RIGHTS AND OPTIONS AND THE DEADLINES TO EXERCISE
THEM ARE EXPLAINED IN THIS NOTICE**

Notice of Class Action Settlement

Questions? Call [toll free number to Simpluris Administrators]

BASIC INFORMATION

1. Why did I get this notice?

The records of TotalCare Medical Group and its affiliates show that you work, or used to work, at a TotalCare Medical Group location in California as a non-exempt employee. You are receiving this notice because you may be a member of a class on whose behalf a class action lawsuit has been brought. The lawsuit is known as *Rachel Valenzuela, Melissa Amezola, Vanessa Cabrera, individually, and on behalf of other members of the general public similarly situated, Plaintiffs, v. Emerzian Chiropractic Professional Corporation, Total Care Medical Group, Inc., John H. Emerzian, Total Care Management Group, Inc., and San Joaquin TotalCare, Inc., Defendants*, assigned Fresno County Case Number 21CECG02138 (the “Class Action”). This notice explains the nature of the Class Action, the proposed settlement of the Class Action, and your legal rights to participate in, object to, or opt out of the settlement. Please read this notice carefully as your rights will be affected even if you do nothing.

2. What is a class action?

In a class action, one or more individuals called “Class Representatives” (in this case, Rachel Valenzuela, Melissa Amezola, and Vanessa Cabrera) act as Plaintiffs and sue on their own behalf and attempt to sue on behalf of other people who could possibly have similar claims. The court must make a determination whether the Plaintiffs’ case can move forward as a class action depending on various legal criteria. It does not always permit a case to proceed as a class action. If, however, a court determines that Plaintiffs’ case can proceed as a class action, the people together become a “Class,” with each person being a “Class Member.” At that point, one court resolves the issues for everyone in the Class, except for those people who choose to exclude themselves (*i.e.*, opt out) from the Class.

THE CLAIMS IN THE CLASS ACTION

3. Who is in the Class?

The Court has conditionally certified a settlement class comprised of: all current and former hourly-paid, non-exempt employees of TotalCare Medical Group who have worked at any TotalCare Medical Group location in California at any time from January 29, 2017 to July 5, 2022. These individuals are called “Class Members,” and this time period is called the “Class Period.”

4. What is the Class Action about?

The Class Action is alleged against Emerzian Chiropractic Professional Corporation, Total Care Medical Group, Inc. John H. Emerzian, Total Care Management Group, Inc., and San Joaquin TotalCare, Inc. (collectively, “Defendants” or “TotalCare Medical Group”). The Class Action primarily alleges that the Class was not paid all wages owed under California law; was not provided meal and rest periods in accordance with the California Labor Code and Wage Orders; was not reimbursed for their work-related expenses; was not paid all wages due upon separation from employment, as required by California law; and was not provided accurate and complete wage statements including all information specified in the California Labor Code. The lawsuit also alleges that these actions constituted unfair business practices under California law and lead to civil penalties under the Private Attorneys General Act of 2004 (“PAGA”).

5. What is Defendants’ response to the Class Action?

Defendants deny all allegations raised in the Class Action, assert that the case should not proceed as a class action, and assert that they did not violate the law and have no liability for any of the Class Members’ claims.

6. Has the Court decided who is right?

No. The Court has not decided whether Plaintiffs or Defendants are correct. The Court also has not made a determination that the Plaintiffs' case can proceed as a class action. The Court, however, has conditionally certified a settlement Class for the purposes of resolving this lawsuit without further litigation, without any admission of liability or fault, and without any determination of which side is right. By establishing the Class and issuing this notice, the Court is not suggesting that either side will win or lose this case.

SUMMARY OF THE SETTLEMENT

7. Why is there a settlement?

Both sides have conducted detailed investigations and an analysis of the facts and applicable law. Plaintiffs believe that the claims asserted in the lawsuit have merit; Defendants strongly dispute that contention. This case involves many unresolved factual and legal issues, and the outcome is uncertain. Substantial amounts of time, energy, and other resources have been devoted by both parties and, unless there is a settlement, that situation will continue. By agreeing to a settlement, the parties avoid the costs, risks, and uncertainty of trial and/or any appeals, and the Class Members will receive a financial payment.

8. What does the settlement provide?

Defendants have already provided certain Class Members with monetary payments totaling \$53,665 ("Payments Made Credit"). Without admitting any wrongdoing, Defendants have agreed to pay an additional \$_____ (the "Gross Settlement Amount") to resolve the Class Action. All payments under the Settlement will be disbursed from the Gross Settlement Amount, including the following:

- Payments to the Participating Class Members in the total gross estimated amount of \$_____ (the "Net Common Fund"). These are called "Class Member Payments."
- Payments to the PAGA Group Members in the total amount of \$10,000. These are called the "PAGA Penalty Payments."
- Fees of the third party Settlement Administrator to administer the Settlement, estimated at \$_____.
- Service Award payments to the Class Representatives, not to exceed \$30,000 in the aggregate.
- Plaintiffs' Counsels' attorneys' fees of up to one-third of the Total Settlement Amount.
- Plaintiff's' Counsels' costs in connection with the Class Action, up to \$20,000.
- Payment to the California Labor & Workforce Development Agency in the amount of \$30,000.

Any amount not awarded by the Court in Settlement Administrator fees, Service Award payments, or attorneys' fees or costs will be added to the Net Common Fund. Any uncashed Class Member Payments and any uncashed PAGA Penalty Payments will be distributed to a non-profit organization approved by the Court. Please note that, while the Court has preliminarily approved of this Settlement, this Settlement is still subject to final approval by the Court.

9. Who is a Participating Class Member? | Who is a PAGA Group Member

A Class Member who does not request to be excluded from the settlement is a "Participating Class Member" and will receive a portion of the Net Common Fund. This means that if you take no action, you will be a Participating Class Member. All Participating Class Members are entitled to receive their Class Member Payment.

A "PAGA Group Member" is a Class Member who worked as a non-exempt employee at any TotalCare Medical Group location in California at any time from January 20, 2020 to July 5, 2022 (the "PAGA Period"). If you are a PAGA Group Member, even if you request to be excluded from the Settlement, you will still be entitled to receive your PAGA Penalty Payment.

10. How will Participating Class Members Be Paid? | How Will A PAGA Group Member Be Paid?

For Participating Class Members, each Participating Class Member will receive a pro-rata share of the Net Common Fund based on the number of weeks worked credited to that Participating Class Member as a ratio of the total number of weeks worked credited to all Participating Class Members. To account for Payments Made Credit, the amount due to a Participating Class Member who signed a document entitled “Settlement Agreement and Release” with Defendants at any time from October 1, 2021 to May 5, 2022 and which referenced this Class Action, will be reduced by the amount paid under that agreement, but in no event will any Participating Class Member’s payment be less than \$100. If a Class Member opts out of the Settlement, his or her Class Member Payment will be redistributed and paid out to the other Participating Class Members.

For PAGA Group Members, each PAGA Group Member will receive a pro-rata share of \$10,000 based on the number of weeks worked credited to that PAGA Group Member during the PAGA Period as a ratio of the total number of weeks worked credited to all PAGA Group Members during the PAGA Period.

The total amount of settlement money payable to a Class Member under the Settlement is called an “Individual Settlement Payment.” If you are both a Participating Class Member and a PAGA Group Member, your Individual Settlement Payment will include both a Class Member Payment and a PAGA Penalty Payment. Individual Settlement Payments will be issued after the Court grants final approval to the Settlement.

11. How much is my Individual Settlement Payment?

Your anticipated approximate Individual Settlement Payment is listed on the Notice of Estimated Individual Settlement Payment, which you are receiving with this Notice. The exact amount of the Individual Settlement Payment could vary, up or down, depending upon various factors, including among others (1) whether any Class Members dispute the number of weeks credited to them; and (2) whether any additions or deletions are made to the number of Class Members. One-third of your Class Member Payment will be treated as W-2 wages. Two-thirds of your Class Member Payment will be paid on a 1099 basis for interest and penalties. Your PAGA Penalty Payment will be treated as 100% penalties and paid on a 1099 basis.

You are entitled to dispute the number of weeks worked that is reported on the enclosed Notice of Estimated Individual Settlement Payment. To submit a valid dispute, you must: (1) complete Section B on the enclosed Notice of Estimated Individual Settlement Payment; (2) provide your name, the date and your signature on the Notice of Estimated Individual Settlement Payment in the spaces specified; and (3) mail the Notice of Estimated Individual Settlement Payment to the Settlement Administrator so that it is **postmarked no later than** [REDACTED], 20___. Any dispute that is postmarked later than [REDACTED], 20___, will be late and invalid and will result in the Class Member being bound by the work weeks and employment status stated in his or her Notice of Estimated Individual Settlement Payment.

12. How will Class Member weeks worked be calculated?

A Class Member will be given credit only for the period of time that the Class Member was employed at a TotalCare Medical Group location in California as a non-exempt employee during the Class Period. A Class Member’s weeks worked will be rounded up or down to the nearest hundredth decimal place.

13. How much will the Class Representative be paid?

Subject to Court approval, Plaintiffs Rachel Valenzuela, Melissa Amezola, and Vanessa Cabrera will each be paid \$10,000 for their service as the Class Representatives. They will also receive their respective Individual Settlement Payments.

14. How will the attorneys for the Class be paid?

The attorneys for the Class Representatives and the Class Members will be paid from the Total Settlement Amount. The attorneys will ask the Court for up to 1/3 of the Total Settlement Amount (or \$_____) for their fees, and \$20,000 for their costs. The actual amounts will be determined by the Court.

YOUR RIGHTS AND OPTIONS

15. OPTION #1: DO NOTHING AND BE MAILED A PAYMENT.

BY TAKING NO FURTHER ACTION, YOU WILL AUTOMATICALLY BE CONSIDERED A PARTICIPATING CLASS MEMBER AND WILL BE MAILED AN INDIVIDUAL SETTLEMENT PAYMENT BY THE SETTLEMENT ADMINISTRATOR TO YOUR LAST KNOWN HOME ADDRESS. YOU ALSO WILL BE RELEASING THE CLAIMS DESCRIBED IN SECTION 19 BELOW.

To ensure receipt of your Individual Settlement Payment, you must notify the Settlement Administrator of any changes to your mailing address by calling the 1-800 number in the footer and/or at the end of this Notice.

16. OPTION #2: REMAIN A CLASS MEMBER AND OBJECT TO THE SETTLEMENT.

If you wish to remain a Class Member, but you object to the proposed Settlement (or any of its terms) and want the Court to consider your objection at the Final Fairness Hearing, you must mail a written objection to the Settlement Administrator. (No attorneys' fees will be paid by Defendants for your counsel's appearance at the Final Fairness Hearing.) To be valid, your objection must be in writing, contain your name, state the basis for your objection, be signed by you, and be mailed to the Settlement Administrator so that it is **postmarked no later than** _____, 20___. The address of the Settlement Administrator appears in Section 23 of this notice. Unless the Court allows otherwise in its discretion, any Class Member who does not mail his/her objection to the Settlement Administrator within the time provided above will be precluded from making any objections to the Settlement in writing or in person.

17. OPTION #3: EXCLUDE YOURSELF FROM THE CLASS.

If you exclude yourself from the Class -- which is sometimes called "opting out" of the Class -- you will not get any Class Member Payment from the settlement. You will not be permitted to object to the settlement, but you will retain the right to bring your own individual claims against Defendants.

You may request exclusion by submitting the enclosed Exclusion Request Form to the Settlement Administrator. To be valid, your Exclusion Request Form must contain your name and address, be dated and signed by you, and be mailed to the Settlement Administrator so that it is **postmarked no later than** _____, 20___. Any Exclusion Request Form that it is postmarked later than _____, 20__, will be late and invalid, and it will result in the Class Member being bound to the terms of the Settlement.

Please note that if you are a PAGA Group Member and you submit a request for exclusion, you will still release the PAGA Claims discussed below, and you will still be entitled to receive your PAGA Penalty Payment. A PAGA Group Member cannot exclude themselves from the settlement of the PAGA Claims. The PAGA Claims are not individual claims, but rather government claims.

18. Will my decision whether to participate in the Settlement affect my employment with Defendants?

No. Defendants are prohibited by law from retaliating against any employee for participating in this Settlement.

19. What claims will be released by the Settlement?

When the Court grants final approval of this Settlement, all Class Members who did not timely submit a valid Exclusion Request Form will be deemed to have fully, finally, and forever released the “Released Parties” from all claims, causes of action, and forms of relief which are asserted in the Complaint or which could have been asserted based on the factual allegations pled in the Complaint, including claims for unpaid wages, unpaid minimum wages, unpaid overtime, failure to provide timely and adequate meal periods, failure to pay meal period premiums, failure to provide timely and adequate rest periods, failure to pay rest period premiums, unreimbursed expenses, failure to accurately record hours worked, failure to provide accurate itemized wage statements, failure to timely pay all wages due upon separation of employment, claims for violation of the California Labor Code (including §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 thereof), claims for violation of all similar provisions or requirements of California law (including the provisions of the California Code of Regulations, the California Industrial Welfare Commission Wage Orders, the General Minimum Wage Order, and Business & Professions Code §§ 17200 et seq.), and claims for violation of all similar provisions or requirements of federal law (including 29 U.S.C. §§ 206, 207 and 216), which the Class and/or any Class Member has ever had, or hereafter may claim to have, for the Class Period. These claims are referred to as the “Released Claims” or “Covered Claims.”

The “Complaint” means the First Amended Complaint filed in the Class Action on October 3, 2022. The “Released Parties” means Defendants, each of their parents, subsidiaries, and affiliates, and all of their heirs, predecessors, successors, assigns, owners, shareholders, members, officers, directors, employees, agents, and attorneys.

When the Court grants final approval of this Settlement, all PAGA Group Members will be deemed to have fully, finally, and forever released the Released Parties from any civil penalties under the Private Attorneys General Act of 2004 arising from the Covered Claims during the PAGA Period. These claims are referred to as the “PAGA Claims.”

20. What will happen at the Final Fairness Hearing?

A Final Fairness Hearing will be held on _____, at _____ in Department 501 of the Fresno County Superior Court, located at the B.F. Sisk Courthouse, 1130 O Street, Fresno, California 93721. The Court will determine: (i) whether the lawsuit should be finally certified as a class action solely and exclusively for settlement purposes; (ii) whether the settlement should be given the Court’s final approval; (iii) the amount of the attorneys’ fees and costs awarded to Class Counsel; (iv) the amount of administrator fees awarded to the Settlement Administrator; and (v) the amount awarded to Plaintiffs for their class representative services.

At the Final Fairness Hearing, the Court will hear all properly-submitted 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. Please note that the Court may continue the Final Fairness Hearing to a later date without notice to the Class. For updated information, including any changes in the date of the Final Fairness Hearing, please contact the Settlement Administrator.

21. Should I get my own lawyer in this case?

The Court has approved John M. Scheppach and Thorey M. Bauer of Scheppach Bauer PC, and Edwin Aiwarzian of Lawyers for Justice, as Class Counsel.

Class Counsel represents you and all Class Members in the Class Action. You also have the right to hire an attorney (at your own cost) to represent you, or to enter an appearance and represent yourself.

GETTING MORE INFORMATION

22. Who are the attorneys representing the parties?

Attorneys For Plaintiffs And The Class Members Are:

SCHEPPACH BAUER PC

John M. Scheppach, Esq.
Thorey M. Bauer, Esq.
23181 Verdugo Drive, Suite 105-A
Laguna Hills, CA 92653
Tel: (949) 209-8880 | Fax: (949) 358-7884

LAWYERS FOR JUSTICE, P.C.

Edwin Aiwarzian
410 West Arden Avenue, Suite 203
Glendale, CA 91203
Tel: (818) 265-1020 | Fax (818) 265-1021

Attorneys For Defendants Are:

SAGASER, WATKINS & WIELAND, PC

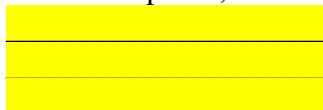
William M. Woolman, Esq.
Charles P. Hamamjian, Esq.
5260 North Palm Avenue, Suite 400
Fresno, CA 93704
Tel: (559) 421-7000 | Fax: (559) 473-1483

*Attorneys for Defendants cannot speak with Class Members regarding the settlement without prior consent from Class Counsel.

23. Who is the Settlement administrator?

The Settlement Administrator is Simpluris, Inc. The Settlement Administrator can be contacted at:

Valenzuela, Amezola, and Cabrera v. Emerzian Chiropractic Professional Corp., et al.
c/o Simpluris, Inc.



24. How can I get more information?

If you would like more information or have questions, you may:

- Contact the attorneys for Plaintiffs and the Class Members (see contact information listed above).
- Contact the Settlement Administrator (see contact information listed above).
- Visit the website of Fresno County Superior Court (www.fresno.courts.ca.gov), and click on the “case Information” box. Once there, click on the “View Now” box and provide the required validation. You will be directed to a new page. Click the “Smart Search” box and then enter the case number for this Class Action (21CECG02138) and click “Submit.”

PLEASE DO NOT CONTACT THE COURT, DEFENDANTS, OR DEFENDANTS’ ATTORNEYS ABOUT THIS NOTICE.

EXHIBIT B

NOTICE OF ESTIMATED INDIVIDUAL SETTLEMENT PAYMENT

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF FRESNO

RACHEL VALENZUELA, MELISSA AMEZOLA,
VANESSA CABRERA, individually, and on behalf of
other members of the general public similarly situated,

Plaintiffs,

v.

EMERZIAN CHIROPRACTIC PROFESSIONAL
CORPORATION, a California corporation; TOTAL
CARE MEDICAL GROUP, INC., a California
corporation, JOHN H. EMERZIAN, an individual,
TOTAL CARE MANAGEMENT GROUP, INC. a
California corporation, SAN JOAQUIN
TOTALCARE, INC., a California corporation, and
DOES 1 through 100, inclusive,

Defendants.

CASE NO. 21CECG02138

ASSIGNED FOR ALL PURPOSES TO:

D. TYLER THARPE

DEPT 501

**NOTICE OF ESTIMATED INDIVIDUAL
SETTLEMENT PAYMENT**

TO CLASS MEMBER <NAME>:

A. YOUR WEEKS WORKED AND ESTIMATED SETTLEMENT AMOUNT.

You have received this Notice because you are a Class Member in this Class Action. You are a Class Member if, at any time from January 27, 2017 through July 5, 2022 (the "Class Period") you worked at a TotalCare Medical Group location in California as a non-exempt employee. All Class Members who do not submit a timely and valid Request For Exclusion from the Settlement will be paid a pro rata share of the Net Common Fund established for this Settlement. In addition, all PAGA Group Members (defined in the Class Notice) are entitled to receive a pro rata share of \$10,000.

Under the terms of the Settlement, you are entitled to receive a settlement payment in the approximate estimated amount of <\$ >, minus all applicable employee tax deductions, after the Court approves the Settlement. Your Individual Settlement Payment reflected on this Notice is only an estimate. The exact amount of your settlement payment could vary, up or down.

Your Individual Settlement Payment is based on the number of weeks you worked at a TotalCare Medical Group location in a Class Position during the Class Period. If your employment was terminated (voluntarily or involuntarily) during the Class Period, the weeks credited amount below includes one (1) additional week as consideration for statutory penalties under Labor Code section 203. Some Class Members signed a certain document entitled "Settlement Agreement and Release" between October 1, 2021, and May 5, 2022. For those Class Members, their Class Member Payment will be reduced by the amount already paid under that agreement -- which is called a Payments Made Credit -- but in no event will any Class Member's Settlement Payment fall below \$100.

If you are a PAGA Group Member and your employment terminated (voluntarily or involuntarily) during the PAGA Period, the weeks worked amount specified below includes one (1) additional week as consideration for civil penalties arising under Labor Code section 203. The "PAGA Period" is January 20, 2020 to July 5, 2022.

The total weeks worked credited to you under the Settlement do not include any period of time that you may have worked in a position other than a Class Position. A "Class Position" is any non-exempt position at any TotalCare Medical Group location in California during the Class Period.

Based on information available to Defendants, you have been credited with <# of WEEKS> weeks worked in a Class Position for purposes of calculating your Individual Settlement Payment, there is <MONETARY AMOUNT OF PAYMENTS MADE CREDIT> in Payments Made Credit that has been applied to your Class Member Payment, and as of <ENTER DATE> you [are/were] a [current/former] employee.

B. IF YOU DISPUTE YOUR WEEKS WORKED OR PAYMENTS MADE CREDIT.

Complete this Section ***ONLY IF*** you dispute the information set forth in Section A above regarding your weeks worked, any Payments Made Credit, and/or employment status as a current/former employee. To dispute your weeks worked, the amount of the Payments Made Credit, or your employment status as a current or former employee, you must provide information supporting your dispute. **To submit a valid dispute**, in the space below, you must provide your specific dates of employment, the number of weeks you believe you worked in a Class Position, your work location, and (if applicable) the amount of any Payments Made Credit that you believe applies to you (if you need more space, you may attach any additional information that you like):

To submit a valid dispute, you must print your name, sign and date this form in the spaces provided below. By signing your name below you are certifying that the information you are providing to support your dispute is true and correct to the best of your knowledge. **To be considered a valid dispute, you must mail this completed document to the Settlement Administrator at the address listed below so that it is postmarked no later than [DATE].** Please include any record you have that supports your dispute.

C. TO RECEIVE MONEY FROM THE SETTLEMENT YOU DO NOT NEED TO TAKE ANY ACTION OR SUBMIT THIS FORM.

If you do not want to dispute the information on this notice, you do not need to take any further action to be eligible for an Individual Settlement Payment. An Individual Settlement Payment will be mailed to you after the Settlement goes into effect.

UNLESS YOU ARE DISPUTING YOUR WEEKS WORKED INFORMATION SPECIFIED ABOVE, ANY PAYMENTS MADE CREDIT APPLIED TO YOU, OR YOUR EMPLOYMENT STATUS AS A CURRENT OR FORMER EMPLOYEE, YOU DO NOT NEED TO TAKE ANY ACTION.

To submit a dispute, return this completed form BY FIRST CLASS, U.S. MAIL, TO:

Valenzuela, Amezola, and Cabrera v. Emerzian Chiropractic Professional Corp., et al.
c/o Simpluris, Inc.

Print Name: _____

Signature: _____

Date: _____

EXHIBIT C

EXCLUSION REQUEST FORM

Valenzuela, Amezola, and Cabrera v. Emerzian Chiropractic Professional Corp., et al.
Superior Court of California, County of Fresno, 21CECG02138

SUBMIT THIS FORM ONLY IF YOU WISH TO BE EXCLUDED FROM PARTICIPATING IN THE CLASS ACTION SETTLEMENT

By signing and returning this form, I represent that it is my desire to exclude myself from participating in the Settlement of the Class Action entitled *Rachel Valenzuela, Melissa Amezola, Vanessa Cabrera, individually, and on behalf of other members of the general public similarly situated, Plaintiffs, v. Emerzian Chiropractic Professional Corporation, Total Care Medical Group, Inc., John H. Emerzian, Total Care Management Group, Inc., and San Joaquin TotalCare, Inc., Defendants*, assigned Fresno County Case Number 21CECG02138 (the “Class Action”).

Please note: Any person who submits this form will not receive a Class Member Payment. However, if you are PAGA Group Member, you will still be entitled to your PAGA Penalty Payment and will release the PAGA Claim even if you submit this form.

Name (Please Print): _____
(First) (Middle) (Last)

Address: _____
(Street)

(City) (State) (Zip)

Dated: _____ Signature: _____

TO BE VALID, THIS FORM MUST BE POST-MARKED NO LATER THAN _____, 20__, AND MAILED TO THE SETTLEMENT ADMINISTRATOR AT:

Valenzuela, Amezola, and Cabrera v. Emerzian Chiropractic Professional Corp., et al.
c/o Simpluris, Inc.

EXHIBIT D

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7 Attorneys for Plaintiffs,
8 RACHEL VALENZUELA, MELISSA AMEZOLA, and
VANESSA CABRERA. on behalf of themselves and all others similarly situated

9 William M. Woolman (SBN 145124)
10 Charles P. Hamamjian (SBN 298685)
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13 Attorneys for Defendants,
EMERZIAN CHIROPRACTIC PROFESSIONAL CORPORATION, TOTAL CARE
14 MEDICAL GROUP, INC., JOHN H. EMERZIAN, TOTAL CARE MANAGEMENT
GROUP, INC., and SAN JOAQUIN TOTALCARE, INC.

15
16 SUPERIOR COURT OF CALIFORNIA

17 COUNTY OF FRESNO

18 RACHEL VALENZUELA, MELISSA
AMEZOLA, VANESSA CABRERA,
19 individually, and on behalf of other
members of the general public similarly
situated,

20 Plaintiffs,

21 vs.

22 EMERZIAN CHIROPRACTIC
PROFESSIONAL CORPORATION, a
23 California corporation; TOTAL CARE
MEDICAL GROUP, INC., a California
24 corporation, JOHN H. EMERZIAN, an
individual, TOTAL CARE
25 MANAGEMENT GROUP, INC. a
California corporation, SAN JOAQUIN
26 TOTALCARE, INC., a California
corporation, and DOES 1 through 100,
27 inclusive,

28 Defendants.

Case No. 21CECG02138
Assigned: Judge D. Tyler Tharpe
Dept: 501

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date:
Time:.
Dept.: 501

Complaint Filed: July 26, 2021
First Am. Complaint Filed: October 3, 2022
Trial Date: None set.

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1 **THE COURT FURTHER FINDS AS FOLLOWS:**

2 1. The Court finds on a preliminary basis that the Settlement Agreement,
3 incorporated by this reference and made a part of this Order Granting Preliminary Approval,
4 is within the range of reasonableness of a settlement that could ultimately be given final
5 approval by this Court. The Court preliminarily finds that the terms of the Settlement are
6 fair, reasonable, and adequate, pursuant to Section 382 of the California Code of Civil
7 Procedure.

8 2. The Court notes that Defendants Emerzian Chiropractic Professional
9 Corporation, Total Care Medical Group, Inc., John H. Emerzian, Total Care Management
10 Group, Inc. and San Joaquin TotalCare, Inc. (collectively, "Defendants") have agreed to a
11 cash settlement and to create a Common Fund from which all disbursements under the
12 Settlement are to be paid.

13 3. The Court finds that the elements of numerosity, commonality, typicality, and
14 adequacy have been established to support conditional certification of the Class for
15 settlement purposes, with Plaintiffs acting as Class Representatives.

16 4. The Court hereby appoints, for settlement purposes, Plaintiffs Rachel
17 Valenzuela, Melissa Amezola, and Vanessa Cabrera as Class Representatives. The Court
18 further finds that and John M. Scheppach and Thorey M. Bauer of Scheppach Bauer PC, and
19 Edwin Aiwazian of Lawyers for Justice, P.C., have established adequacy to be appointed as
20 Class Counsel, and they are hereby appointed as Class Counsel.

21 5. The Class provisionally certified by this Order for settlement purposes
22 includes all current and former hourly-paid, non-exempt employees of TotalCare Medical
23 Group who have worked at any Total Care Medical Group location in California at any time
24 from January 29, 2017 to July 5, 2022.

25 6. The Court finds that the proposed manner of notice is adequate.

26 7. The Court approves Simpluris, Inc. to serve as the Settlement Administrator.

27 8. The Court approves the proposed "Notice Packet," consisting of the Class
28 Notice (Exhibit A to the Settlement), the Notice of Estimated Individual Settlement Payment

1 (Exhibit B to the Settlement), and the Exclusion Request Form (Exhibit C to the Settlement),
2 and orders them to be mailed to Class Members.

3 9. The Court finds that the Class Notice constitutes the best notice practicable
4 under the circumstances and is in full compliance with the laws of the State of California
5 and, to the extent applicable, the United States Constitution and the requirements of due
6 process. The Court further finds that the Class Notice fully and accurately informs Class
7 Members of all material elements of the proposed Class Action Settlement, of each Class
8 Member's right to be excluded from the Class, and each Class Member's right and
9 opportunity to object to the proposed Class Action Settlement. The Class Notice adequately
10 advises the Class about:

- 11 A. the Class Action;
- 12 B. the Settlement terms and the benefits available to each Class Member;
- 13 C. each Class Member's right to object and/or "opt out," and the timing
14 and procedures for doing so;
- 15 D. the conditional certification of the Class for settlement purposes only;
- 16 E. preliminary Court approval of the proposed Settlement;
- 17 F. timing and procedures for distributing the settlement funds; and
- 18 G. the date of the Final Fairness Hearing, as well as the rights of members
19 to submit objections and appear in connection with said hearing.

20 Accordingly, the Court hereby approves the proposed notices to the Class and finds
21 that mailing to the last known address of members of the Class, as specifically described
22 within the Settlement Agreement, constitutes an effective method of notifying Class
23 Members of their rights with respect to the Class Action and proposed Settlement.

24 **THE COURT FURTHER ORDERS AS FOLLOWS:**

25 10. Defendants shall, within fourteen (14) calendar days after this signed Order
26 Granting Preliminary Approval is filed, provide the Settlement Administrator with the Class
27 List as defined in the Settlement.

28 ///

1 11. The Settlement Administrator shall, within seven (7) calendar days after the
2 Settlement Administrator receives the Class List from Defendants, update all addresses
3 using the National Change of Address System (NCOA) and mail to all Class Members, via
4 first-class United States Mail, the Notice Packet. The envelope that the Notice Packet is
5 mailed in will clearly state that it concerns a class action and the recipient could be entitled
6 to a cash payment. In the event of returned or non-deliverable Notice Packets, the Settlement
7 Administrator will make reasonable efforts to locate Class Members and re-send the Notice
8 Packet, if possible. In the event of returned or non-deliverable Notice Packets, the
9 Settlement Administrator will make reasonable efforts to locate Class Members through
10 skip-tracing services offered by publicly-available databases and, if possible, will re-send
11 the Notice Packet to the best available address after performing the skip-tracing. It will be
12 conclusively presumed that a Class Member's Notice Packet was received if the Notice
13 Packet has not been returned within sixty (60) days of the mailing of the Notice Packet to
14 the Class Member.

15 12. Any Exclusion Request Form must be postmarked no later than sixty (60) days
16 after the Notice Packet is first mailed to the Class Member ("Response Deadline") and must
17 be received by the Settlement Administrator to be valid.

18 13. Any dispute submitted by a Class Member regarding the status of employment
19 or number of weeks worked credited to that Class Member under the Settlement must be
20 postmarked no later than sixty (60) days after the date when the Notice Packet is first mailed
21 to the Class Member and must be received by the Settlement Administrator to be considered.
22 The Settlement Administrator must review all disputes with the Parties in accordance with
23 the terms of the Settlement. The Settlement Administrator must send each Class Member
24 written notice of the decision regarding his or her dispute. The Class Member shall have
25 seven (7) calendar days after the date the written notice of the decision is postmarked to opt
26 out of the Settlement by mailing a Request For Exclusion to the Settlement Administrator.
27 If, within that seven (7) calendar day time period, the Class Member does not mail a valid
28 Request for Exclusion to the Settlement Administrator, the Class Member shall be deemed

1 a Participating Class Member and will be paid in accordance with the Class Member's weeks
2 worked as noted in the written notice of the decision.

3 14. Objections, if any, to the Settlement by a Class Member shall be mailed to the
4 Settlement Administrator no later than sixty (60) days after the Notice Packet is first mailed
5 to the Class Member. Such objection must contain the Class Member's name, the basis for
6 their objection to the Settlement, and their signature.

7 15. In the event that a Notice Packet is re-mailed to a Class Member because the
8 first one was undeliverable, the Class Member shall have an additional fifteen (15) calendar
9 days beyond the Response Deadline to submit a valid opt-out, dispute, and/or objection to
10 the Settlement.

11 16. Class Members do not have to submit any Claim Forms since this is not a
12 claims-made settlement.

13 17. The Final Fairness Hearing shall be held at _____ on _____, in
14 Department 501 of the Fresno County Superior Court, located at the B.F. Sisk Courthouse,
15 1130 O Street, Fresno, California 93721, to consider the fairness, adequacy and
16 reasonableness of the Settlement preliminarily approved by this Order Granting Preliminary
17 Approval, and to consider the application of Class Counsel for an award of attorneys' fees
18 and costs, and the Class Representatives' Service Awards. The Court may continue the Final
19 Fairness Hearing to another date at its discretion.

20 18. No later than twenty (20) days before the Final Fairness Hearing, the
21 Settlement Administrator shall provide to counsel for the Parties a Declaration confirming
22 that the Notice Packets have been disseminated in accordance with this Order Granting
23 Preliminary Approval, and attaching a complete list of all individuals who have timely
24 requested exclusion from the Class (opt-outs), and any objections to the Settlement. Class
25 Counsel shall file the Declaration with the Court as part of the Motion for Final Approval.

26 19. Any Party to this case, including any Class Member who has not submitted a
27 valid and timely Request for Exclusion, may be heard in support of, or in opposition to, the
28 Court's determination of the good faith, fairness, reasonableness and adequacy of the

1 Settlement, the requested attorneys' fees and costs, the requested Class Representatives'
2 Service Awards, and any Order Granting Final Approval regarding such Settlement, fees,
3 costs and Service Awards; provided, however, that no person, except Class Counsel and
4 counsel for Defendants shall be heard regarding such matters unless such person has
5 complied with the conditions set forth in the Class Notice or as the Court otherwise allows
6 in its discretion.

7 20. All briefs and materials in support of an Order Granting Final Approval and
8 application for attorneys' fees and costs and the Class Representatives' Service Awards shall
9 be filed with this Court no later than ten (10) court days before the date set for the Final
10 Fairness Hearing. Likewise, response briefs, if any, in opposition to objections shall be filed
11 with this Court no later than ten (10) court days before the Final Fairness Hearing.

12 21. Pending further order of this Court, all proceedings in this matter except those
13 contemplated herein and in the Settlement Agreement are stayed.

14 22. The Court expressly reserves the right to adjourn or continue the Final Fairness
15 Hearing from time to time without further notice to the Class.

16 **IT IS SO ORDERED.**

17
18 Dated: _____

Judge of the Superior Court of California

EXHIBIT E

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Thorey M. Bauer (SBN 234813)
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7 Attorneys for Plaintiffs,
8 RACHEL VALENZUELA, MELISSA AMEZOLA, and
VANESSA CABRERA. on behalf of themselves and all others similarly situated

9 William M. Woolman (SBN 145124)
10 Charles P. Hamamjian (SBN 298685)
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13 Attorneys for Defendants
EMERZIAN CHIROPRACTIC PROFESSIONAL CORPORATION, TOTAL CARE
14 MEDICAL GROUP, INC., JOHN H. EMERZIAN, TOTAL CARE MANAGEMENT
GROUP, INC., and SAN JOAQUIN TOTALCARE, INC.

15
16 SUPERIOR COURT OF CALIFORNIA

17 COUNTY OF FRESNO

18 RACHEL VALENZUELA, MELISSA
AMEZOLA, VANESSA CABRERA,
individually, and on behalf of other
19 members of the general public similarly
situated,

20 Plaintiffs,

21 vs.

22 EMERZIAN CHIROPRACTIC
PROFESSIONAL CORPORATION, a
23 California corporation; TOTAL CARE
MEDICAL GROUP, INC., a California
24 corporation, JOHN H. EMERZIAN, an
individual, TOTAL CARE
25 MANAGEMENT GROUP, INC. a
California corporation, SAN JOAQUIN
26 TOTALCARE, INC., a California
corporation, and DOES 1 through 100,
27 inclusive,

28 Defendants.

Case No. 21CECG02138
Assigned: Judge D. Tyler Tharpe
Dept: 501

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

Date:
Time:
Dept.: 501

Complaint Filed: July 26, 2021
First Am. Complaint Filed: October 3, 2022
Trial Date: None Set

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Having considered the Stipulation and Agreement for Class Action Settlement (the “Settlement Agreement” or “Settlement”); having granted preliminary approval of the same and conditional certification of the Class for settlement purposes only on _____; having entered an Order directing that the Notice Packet be mailed to the Class; having conducted a hearing regarding whether the Settlement should be granted final approval; having considered the submissions filed by the respective Parties; and good cause appearing therefor; the Court

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1 C. **“Covered Claims”** and **“Released Claims”** means all claims, causes
2 of action, and forms of relief which are asserted in the Complaint or which could have been
3 asserted based on the factual allegations pled in the Complaint, including claims for unpaid
4 wages, unpaid minimum wages, unpaid overtime, failure to provide timely and adequate
5 meal periods, failure to pay meal period premiums, failure to provide timely and adequate
6 rest periods, failure to pay rest period premiums, unreimbursed expenses, failure to
7 accurately record hours worked, failure to provide accurate itemized wage statements,
8 failure to timely pay all wages due upon separation of employment, claims for violation of
9 the California Labor Code (including §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d),
10 1194, 1197, 1197.1, 1198, 2800 and 2802 thereof), claims for violation of all similar provisions
11 or requirements of California law (including the provisions of the California Code of
12 Regulations, the California Industrial Welfare Commission Wage Orders, the General
13 Minimum Wage Order, and Business & Professions Code §§ 17200 et seq.), and claims for
14 violation of all similar provisions or requirements of federal law (including 29 U.S.C. §§
15 206, 207 and 216), which the Class and/or any Class Member has ever had, or hereafter may
16 claim to have, for the Class Period.

17 D. **“PAGA Claims”** means any civil penalties under the Private Attorneys
18 General Act of 2004 arising from the Covered Claims during the PAGA Period.

19 E. **“PAGA Group”** and **“PAGA Group Members”** means all Settlement
20 Class Members who worked as hourly-paid, non-exempt employees at any TotalCare
21 Medical Group location in California at any time during the PAGA Period.

22 F. **“PAGA Period”** means the period from January 20, 2020 through and
23 including July 5, 2022.

24 G. **“Participating Class Member”** means any Class Member who did not
25 timely submit a Request for Exclusion, as provided in the Settlement.

26 E. **“Released Parties”** means Defendants, each of their parents,
27 subsidiaries, and affiliates, and all of their heirs, predecessors, successors, assigns, owners,
28 shareholders, members, officers, directors, agents, and attorneys.

1 4. The Court has determined that the Notice Packet fully and accurately informed
2 all Class Members of the material elements of the Settlement, constituted the best notice
3 practicable under the circumstances, and constituted valid, due and sufficient notice to all
4 Class Members.

5 5. The Court hereby grants final approval of the Settlement as fair, reasonable
6 and adequate.

7 6. The Court approves the non-reversionary settlement amount of \$400,000.00,
8 which amount is deemed to include the Payments Made Credit (totaling \$53,665.00),
9 resulting in a remaining Gross Settlement Fund of \$_____ left for Defendants to fully
10 fund the Settlement.

11 7. The Court approves the payment for Settlement Administration Costs incurred
12 by Simpluris, Inc. in the amount of \$_____ to be paid from the Gross Settlement Fund as
13 provided in the Settlement Agreement.

14 8. The Court approves Services Awards to the Class Representatives in the
15 amount of \$10,000 each to Melissa Amezola, Vanessa Cabrera, and Rachel Valenzuela, for
16 a total of \$30,000, to be paid from the Gross Settlement Fund as provided in the Settlement
17 Agreement.

18 9. The Court approves the payment of \$30,000 to the California Labor &
19 Workforce Development Agency (“LWDA”) to be paid from the Gross Settlement Fund.

20 10. The Court approves the payment of attorneys’ fees to Class Counsel from the
21 Gross Settlement Fund in the total amount of \$133,333.33, with \$_____ payable to
22 Scheppach Bauer PC, and \$_____ payable to Lawyers for Justice, P.C.

23 11. The Court approves the payment of costs to Class Counsel from the Gross
24 Settlement Fund in the total amount of \$_____, with \$_____ payable to Scheppach
25 Bauer PC, and \$_____ payable to Lawyers for Justice, P.C.

26 12. The Court hereby directs Defendants to fund the Settlement in accordance with
27 the terms of, and by the deadlines supplied in, the Settlement.

28 13. The Court hereby directs the Settlement Administrator to make all

1 disbursements in accordance with the terms of, and by the deadlines supplied in, the
2 Settlement Agreement.

3 14. As set forth in the Settlement Agreement, the Settlement Administrator will
4 prepare and mail settlement checks for each Participating Class Member and PAGA Group
5 Member in the amount of his or her Individual Settlement Payment. The checks will indicate
6 on their face that they are void if not negotiated within one hundred and eighty (180) days
7 of their issuance. In the event a settlement check is returned to the Settlement Administrator
8 with a forwarding address, the settlement check will be forwarded to the forwarding address.
9 In the event a settlement check is returned to the Settlement Administrator without a
10 forwarding address or is otherwise undeliverable, the Settlement Administrator will use
11 reasonable efforts to search for a better address and re-mail the returned check, if possible.
12 If the search does not provide a better address, or the settlement check is ultimately returned
13 without a forwarding address, neither Defendants, Class Counsel nor the Settlement
14 Administrator shall be required to take further action to achieve delivery of the check to the
15 Class Member. If within the 180-day period the Class Member contacts the Settlement
16 Administrator, or if Class Counsel does so on his or her behalf, the settlement check will be
17 reissued and mailed to the address the Class Member (or Class Counsel) provides. Any such
18 reissued settlement checks will indicate on their face that they are void if not negotiated
19 within one hundred and eighty (180) days of their issuance.

20 15. Any monies not able to be delivered to a Class Member after one address
21 follow-up on returned mail and any settlement checks not cashed within one hundred and
22 eighty (180) days of issuance will be considered unpaid, unclaimed or abandoned cash
23 residue pursuant to Code of Civil Procedure section 384, and any shall be distributed to the
24 Valley Children's Healthcare Foundation (California Entity No. 1080726).

25 16. Any Class Member who submitted a valid and timely Request for Exclusion
26 shall no longer be a Class Member, shall not be bound by the Settlement, shall have no right
27 to object to the Settlement, and shall receive no Class Member Payment. However, if a
28 Class Member who is a PAGA Group Member submitted a valid and timely Request For

1 Exclusion, the PAGA Group Member shall still be bound by the Settlement to the extent it
2 pertains to the PAGA Claims.

3 17. Upon the filing of this Order Granting Final Approval, Class Members who
4 did not timely exclude themselves from the Settlement will be deemed to have released the
5 Released Parties from the Released Claims, as set forth in the Settlement Agreement. Class
6 Members who did not timely object to the Settlement are barred from prosecuting or
7 pursuing any appeal of this Order Granting Final Approval. Upon the filing of this Order
8 Granting Final Approval, PAGA Group Members will be deemed to have released the
9 Released Parties from the PAGA Claims, as set forth in the Settlement Agreement. PAGA
10 Group Members who did not timely object to the Settlement are barred from prosecuting or
11 pursuing any appeal of this Order Granting Final Approval.

12 18. Neither this Order Granting Final Approval nor the Settlement shall constitute
13 an admission by Defendants of any liability or wrongdoing whatsoever, nor is this Order
14 Granting Final Approval a finding of the validity or invalidity of any claims in the action or
15 a finding of wrongdoing by Defendants herein.

16 19. Each Party will bear its own attorneys' fees and costs, except as provided for
17 in the Settlement and this order.

18 20. By signing and filing this Order Granting Final Approval, the Court decrees
19 that the Participating Class Members shall be conclusively deemed to have released and
20 forever discharged the Released Parties from the Released Claims. By signing and filing
21 this Order Granting Final Approval, the Court decrees that the PAGA Group Members shall
22 be conclusively deemed to have released and forever discharged the Released Parties from
23 the PAGA Claims.

24 21. Without affecting the finality of this Order Granting Final Approval in any
25 way, the Court reserves exclusive and continuing jurisdiction over the action for purposes
26 of supervising the implementation, enforcement, construction, administration and
27 effectuation of the Settlement, in accordance with Code of Civil Procedure section 664.6.

28 22. The Court hereby sets a status conference on _____ at _____.

1 in Department 501, at which time the Parties shall apprise the Court of the status of the
2 distribution of the settlement proceeds.

3 **IT IS SO ORDERED, AND JUDGMENT IS HEREBY ENTERED.**

4

5 Dated: _____

Judge of the Superior Court of California

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