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Drew Tartala

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

DREW TARTALA, individually, and on behalf of
the State of California and Aggrieved Employees,
as a private attorney general,

Plaintiff,

vs.

ACTION URGENT CARE INC., a California
Corporation; LIFETIME APP, INC., a Delaware
Corporation; and GENEVIEVE HISMATULLIN,
an individual

Defendants.

Case No.: CGC-21-596837

**SUPPLEMENTAL DECLARATION OF
TRAVIS J. BURCH, ESQ. AND EXHIBIT
IN SUPPORT OF PLAINTIFF'S NOTICE
OF MOTION AND MOTION FOR COURT
APPROVAL OF THE PARTIES' PAGA
SETTLEMENT**

DATE: April 11, 2024
TIME: 9:30 A.M.
DEPT: 302

I, Travis J. Burch, Esq., declare as follows:

1. I am an attorney at law duly licensed to practice before all the courts in the State of California and am attorney of record for plaintiffs herein, and if called upon to testify could and would competently do so.

2. I am a partner in the law firm of Shalchi Burch LLP and counsel for the Plaintiff in this matter. I submit this declaration in support of the motion to approve the settlement.

3. In accordance with Labor Code Section 2699(l)(2), I uploaded this Supplemental Declaration and Exhibit into the LWDA PAGA web portal.

4. After Plaintiff filed the original moving papers, the Parties further met and conferred and agreed on a revised [Proposed] PAGA Settlement Notice. It is marked and attached hereto as “Exhibit 1”. Plaintiff’s counsel respectfully requests the Court approve this version of Notice, instead of the version attached to the Proposed Order.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 4th day of March, 2024, at Newport Beach, California.

/S/ Travis J. Burch

Travis J. Burch, Esq.

EXHIBIT 1

Drew Tartala v. Action Urgent Care, et al.

California Superior Court, County of San Francisco

Case No. CGC-21-596837

NOTICE OF SETTLEMENT

To: All current and former California employees of Action Urgent Care, Inc. and Lifetime App, Inc., from September 26, through [DATE OF SETTLEMENT CONFIRMATION].

First Name, Last Name

Address 1

Address 2

Re: NOTICE OF COURT APPROVED SETTLEMENT

Dear [name of allegedly Aggrieved Employee]:

Enclosed is your settlement payment from the settlement of the lawsuit titled *Drew Tartala v. Action Urgent Care Inc., et al.*, filed in the Superior Court of the State of California, County of San Francisco, Case No. CGC-21-596837.

The lawsuit was filed by Drew Tartala (“Plaintiff”) against Action Urgent Care Inc., Lifetime App, Inc., and Genevieve Hismatullin (“Defendants”) and included a claim pursuant to the Labor Code Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 et seq, (commonly called “PAGA”) and was brought on behalf of the State of California and all persons who worked for and/or with Action Urgent Care Inc. and Lifetime App, Inc. in California as exempt employees, and/or non-exempt employees from September 26, 2020 through the Date of Settlement [INSERT UPON SETTLEMENT CONFIRMATION] (“PAGA Members”).

In this lawsuit, Plaintiff sought penalties under PAGA, and Plaintiff alleged that Defendant (1) failed to post dates and locations of pay; (2) failed to pay final pay checks at the proper location; (3) failed to pay minimum, regular, and overtime wages, (4) utilized an illegal alternative workweek schedule; (7) failed to provide compliant meal and rest periods or pay meal period premiums; (8) committed wage statement violations; (9) failed to keep accurate records; (10) made untimely payment of wages during employment, (11) made untimely payment of wages at separation; (12) committed derivative violations under Sections 558 and 558.1; (13) failed to post notice workers’ compensation information; (14) failed to reimburse business expenses; (15) failed to pay unused vacation; (16) failed to post notice of and make payment of paid sick leave.

The Parties have jointly agreed that to avoid additional cost and to avoid further risks associated with the uncertainty of litigation, a settlement has been reached in the Lawsuit. Although the Court has approved the settlement in this case, the Court has made no determination on the merits of the claims in the lawsuit. Defendants deny any liability and wrongdoing of any kind associated with the alleged claims. Defendants contend that they have complied at all times with California and Federal law and that their employees have been paid all wages owed. By approving the settlement

and issuing this Notice, the Court is not suggesting which side would win or lose this case on the merits. Rather, the Court has determined only that the settlement is fair, adequate, and reasonable.

You have been identified as a person who worked for Defendants from September 26, 2020, through the Date of Settlement [INSERT UPON SETTLEMENT CONFIRMATION] (“the PAGA Period”). Pursuant to PAGA, after deduction of certain amounts for attorneys’ fees, litigation expenses, settlement administration costs, 75% of the remaining settlement funds must be paid to the State of California. The other 25% of the funds are being distributed among all “Aggrieved Employees”—a group that includes you.

Based on the number of pay periods you worked from September 26, 2020 through the Date of Settlement, your individual share of the settlement is \$____. This amount is calculated based on the number of pay periods you worked for Defendants from September 26, 2020 through the Date of Settlement [INSERT UPON SETTLEMENT CONFIRMATION], relative to the total number of pay periods other individuals worked for Defendants from September 26, 2020 through the Date of Settlement [INSERT UPON SETTLEMENT CONFIRMATION].

You are receiving an IRS form 1099 for your individual share. Because this payment is for civil penalties and not wages for work you have performed, the payment will be reported on an IRS Form 1099 and no income tax has been withheld by Defendants. **You are responsible for any and all taxes that may be due as a result of the payment.**

The settlement check included with this letter is valid for 180 days. Checks not cashed within that time will be canceled and the funds will be sent to the California State Controller’s Office’s Unclaimed Property Division to be held as unclaimed funds.

As of <DATE OF COURT APPROVAL>, the date of the Court’s order approving the settlement, you are barred from ever suing Defendants and the Released Parties with respect to the Settled PAGA Claims during the PAGA Period whether or not you cash your individual share settlement check.

The Released Parties are (i) all the Defendants; and their (ii) their officers, directors, members, partners, owners, shareholders, employees, former employees, agents, servants, attorneys, assigns, affiliates, independent contractors, volunteers, predecessors, successors, parent companies, and organizations, insurers, and any and all other persons, firms, and corporations in which Defendants may have an interest.

The Settled PAGA Claims are all claims, charges, complaints, liens, demands, causes of action, obligations, and liabilities, whether known or unknown, for PAGA civil penalties predicated on any of the alleged violations of the California Labor Code, Industrial Welfare Commission Wage Orders, regulations, and/or any other provisions of law that were alleged or asserted in the Action or any initial and amended PAGA notice filed by Plaintiff, or that reasonably could have been asserted in the Action or based on any initial or amended PAGA notices filed by Plaintiff based on any facts or allegations therein, including claims alleged within other PAGA notices filed subsequent to Plaintiff’s August 31, 2021 PAGA Notice, with respect to Aggrieved Employees during the Settlement Period, to the greatest extent permitted by the Court.

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the Court's order and/or settlement, you should consult the "Order Granting Approval of PAGA Settlement and Judgment" which can be accessed at the following website << Administrator URL>>.

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF THE CLAIMS OR DEFENSES BY EITHER SIDE IN THIS PROCEEDING. PLEASE DO NOT CONTACT THE COURT OR THE OFFICE OF THE CLERK REGARDING THIS CASE TO ASK QUESTIONS ABOUT THE SETTLEMENT.

If you have any questions, you may call or write to the claims administrator at:

[insert settlement administrator]

[administrator address]

[administrator contact phone number]

**PROOF OF SERVICE
(CCP § 1013A(3))**

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 23 Corporate Plaza Drive, Suite 150, Newport Beach, California 92660.

On **March 4, 2024**, I served the foregoing document(s) described as **SUPPLEMENTAL DECLARATION OF TRAVIS J. BURCH, ESQ. AND EXHIBITS IN SUPPORT OF PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR COURT APPROVAL OF THE PARTIES' PAGA SETTLEMENT** on the interested parties in this action by emailing the persons as set forth below:

Eric C. Bellafronto, Esq.
Michael W.M. Manoukian, Esq.
Hopkins & Carley
70 S. First St.
San Jose, CA 95113-2406

Attorney for Defendants Action Urgent
Care, Inc. and Genevieve Hismatullin

Telephone: (408) 286-9800
Facsimile: (408) 998-4790
Email: ebellwfronto@hopkinscarley.com
Email: mmanoukian@hopkinscarley.com

☐ **VIA U.S. MAIL:** I deposited the envelope(s) with the US Postal Service fully prepaid, at Newport Beach, California. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ **VIA E-MAIL/ELECTRONIC TRANSMISSION:** I caused the documents to be sent to the person(s) at the e-mail address(es) listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ **(BY FACSIMILE)** I caused such document to be transmitted by facsimile to the offices of the addressee where the facsimile . Upon completion of the said facsimile transmission, the transmitting machine issued a transmission report showing the transmission was complete and without error.

Executed on **March 4, 2024**, at Newport Beach, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

BY: /s/ Travis J. Burch
TRAVIS J. BURCH