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1 **SHALCHI BURCH LLP**
TRAVIS J. BURCH (SBN 216175)
2 TB@SHALCHIBURCHLLP.COM
ALI SHALCHI (SBN 239164)
3 AS@SHALCHIBURCHLLP.COM
23 Corporate Plaza Drive, Suite 150
4 Newport Beach, California 92660
Telephone: (949) 359-0334
5 Facsimile: (949) 326-0083

6 Attorneys for Plaintiff
7 Drew Tartala

8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF SAN FRANCISCO**

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

12 Plaintiff,

13 vs.

14 ACTION URGENT CARE INC., a California
Corporation; LIFETIME APP, INC., a Delaware
15 Corporation; and GENEVIEVE HISMATULLIN,
an individual
16

17 Defendants.
18

FILED
San Francisco County Superior Court

MAY 14 2024

CLERK OF THE COURT

BY: [Signature]
Deputy Clerk

Case No.: CGC-21-596837

**[PROPOSED] ORDER GRANTING
APPROVAL OF PAGA SETTLEMENT**

DATE: May 14, 2024

TIME: 9:30 A.M.

DEPT: 302

19 Plaintiff's Unopposed Motion for Court approval of the parties' PAGA settlement is
20 granted. The Court having reviewed the Motion for Approval of PAGA Settlement, the PAGA
21 Settlement Agreement ("Agreement") attached as Exhibit "1"), the papers, the arguments of
22 counsel, and all other evidence and matters presented, and good cause appearing:

23 **IT IS HEREBY ORDERED:**

24 1. All terms used herein shall have the same meaning as defined in the Agreement
25 attached to this Order as Exhibit 1.

26 2. The Court hereby approves the settlement in the amount of \$50,000.00 (Gross
27 PAGA Settlement Amount) pursuant to the terms set forth in the Agreement for settlement of
28 PAGA claims and finds in this respect that the Agreement is, in all respects, fair, adequate, and

1 reasonable and directs the Parties to effectuate the PAGA settlement according to the terms set
2 forth in the Agreement. The Court finds that the Parties were able to reasonably evaluate their
3 respective positions. The Court also finds that settlement now will avoid potentially substantial
4 litigation costs, as well as delay and risks if the Parties were to continue to litigate the PAGA
5 claims.

6 3. The Settlement Agreement is not an admission by Defendants or by any other
7 Released Party, nor is this Order a finding of the validity of any allegations or of any wrongdoing
8 by Defendants or any of other Released Parties. Neither this Order, the Agreement, nor any
9 document referred to herein, nor any action taken to carry out the Agreement, may be construed
10 as, or may be used as, an admission of any fault, wrongdoing, omission, concession, or liability
11 whatsoever by or against Defendants or any of the Released Parties.

12 4. The Court hereby approves Simpluris Inc. as the Administrator for the settlement
13 and approves Settlement Administration Costs in the amount of \$4,000.00 to be paid from the
14 Gross PAGA Settlement Amount. The Court orders the Administrator to administer the
15 settlement and mail to the Aggrieved Employees pursuant to the Agreement, their pro rate share of
16 the PAGA Penalties Fund, which in aggregate is \$9,000.

17 5. The Court finds that PAGA Counsel's request for attorneys' fees in the amount of
18 \$10,000.00, which is twenty percent of the Gross PAGA Settlement Amount, is reasonable under
19 the common fund and lodestar methods. The Court awards PAGA Counsel \$10,000.00 in
20 attorneys' fees to be paid from the Gross PAGA Settlement Amount.

21 6. The Court approves the Notice of PAGA Settlement in substantially the form
22 attached as Exhibit A to the PAGA Settlement Agreement.

23 7. The Court approves the LWDA Payment in the amount of \$27,000.00, which
24 is 75% of the PAGA Penalties Fund.

25 8. The Court approves the disbursement of funds per the terms of the Agreement
26 as approved and/or modified by this order. All settlement checks will remain valid for 180
27 days after which the checks shall become null and void, the Administrator will send any
28 uncashed amounts to the California State Controller's Office's Unclaimed Property Division

1 to be held as unclaimed funds in the name(s) of the Aggrieved Employees(s) who did not cash
2 their checks.

3 9. The Court orders, adjudges and decrees that Plaintiff, all Aggrieved
4 Employees, and the State of California fully, finally, and forever release, relinquish, and
5 discharge the Released Parties from the Settled PAGA Claims for the Settlement Period
6 pursuant to the terms of the Agreement.

7 10. This Court shall retain jurisdiction pursuant Code of Civil Procedure section
8 664.6 to enforce the settlement until performance in full of the terms of the Agreement.

9 **IT IS SO ORDERED.**

10 DATED: 4/15/24

lee
JUDGE OF THE SUPERIOR COURT

RICHARD ULMER

EXHIBIT 1

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SUPERIOR COURT OF THE STATE 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,

v.

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

Defendants.

CASE NO. CGC-21-596837

PAGA SETTLEMENT AGREEMENT

RECITALS

WHEREAS, Plaintiff Drew Tartala ("Plaintiff") commenced this Action on November 30, 2021, and thereafter filed the First Amended Complaint (the "Complaint") against Defendants Action Urgent Care Inc., and Lifetime App, Inc., ("Defendants") and Genevieve Hismatullin (collectively with Plaintiff, the "Parties") in the case entitled *Drew Tartala v. Action Urgent Care Inc., et al.*, Case No. CGC-21-596837 in the Superior Court of California, County of San Francisco (the "Action").

WHEREAS, the Complaint alleged the following causes of action: 1) racial discrimination under the Fair Employment and Housing Act ("FEHA"); 2) harassment directed at Plaintiff under the FEHA; 3) harassment directed at other; 4) retaliation (FEHA); 5) retaliation in violation of Labor Code 1102.5; 6) retaliation in violation of Labor Code section 98.6; 7) retaliation in violation of Labor Code section 232.5; 8) wrongful termination in violation of public policy; 9) failure to reimburse business expenses; and (10) civil penalties under Private Attorneys General Act ("PAGA").

WHEREAS, the PAGA Action is only alleged against Defendants Action Urgent Care, Inc. and Lifetime App, Inc.,

WHEREAS, on August 31, 2021, Plaintiff provided the Labor and Workforce Development Agency of Plaintiff's intent to pursue civil penalties against Defendant Action Urgent Care Inc. under PAGA. Thereafter, on February 28, 2023, Plaintiff provided the Labor and Workforce Development Agency with and amended notice of Plaintiff's intent to pursue additional civil penalties against Defendant Action Urgent Care Inc. under PAGA. Thereafter, on September 28, 2023, Plaintiff provided the Labor and Workforce Development Agency with a second amended notice of Plaintiff's intent to pursue additional civil penalties against Defendants Action Urgent Care Inc. and Lifetime App, Inc. under PAGA for alleged violations of the California Labor Code and all applicable Industrial Welfare Commission Wage Orders, including, inter alia, California Labor Code §§ 200, 201, 202, 203, 204, 207, 208, 210, 226(a)-(c), 226.3, 226.7, 227.3, 246, 248, 248.5, 510, 511, 512(a), 558, 558.1, 1174(d), 1174.5, 1194, 1197, 1198, 1198.5 1199, 2800/2802, 3550 and 3551. (Plaintiff's three notices to the LWDA are collectively referred to herein as "Plaintiff's PAGA Notices".)

WHEREAS, Plaintiff, on behalf of himself, the LWDA, and other alleged aggrieved employees, and Defendants attended mediation on September 18, 2023, using the Honorable Jamie Jacobs-May

1 (Ret.) of JAMS, a highly-regarded mediator who is experienced in mediating complexing employment
2 law cases, including PAGA claims.

3 WHEREAS, Plaintiff is the former Vice President of Human Resource Operations of Defendant
4 Action Urgent Care Inc., and has extensive and intimate knowledge of Defendants Action Urgent Care
5 Inc.'s and Lifetime App, Inc.'s policies and practices relating to wage and hour compliance in California;

6 WHEREAS, prior to mediation, and over the course of approximately two years of extensive
7 litigation, the Parties exchanged significant information pertaining to Plaintiff's claims, including his
8 PAGA allegations, Defendants' defenses thereto and the alleged aggrieved employees;

9 WHEREAS, at mediation, the Parties worked towards a separately negotiated, arm's-length
10 resolution of Plaintiff's PAGA claims alleged within the Action and Plaintiff's PAGA Notices.
11 Through further settlement discussions, and following a mediator's proposal after mediation, the Parties
12 reached the Agreement herein as to the resolution of a claim pursuant to PAGA. The Parties agree that
13 the terms and conditions of this Agreement are the result of lengthy, intensive arms-length negotiations
14 between the Parties supervised by an experienced employment law mediator. The Parties agree that the
15 Agreement is entered into in good faith as to each Aggrieved Employee, and that the Settlement is fair,
16 reasonable and adequate as to each Aggrieved Employee; and

17 WHEREAS, the Parties separately negotiated a settlement of Plaintiff's individual claims.

18 NOW THEREFORE, in consideration of the promises and warranties set forth below, and
19 intending to be legally bound and acknowledging the sufficiency of the consideration and undertakings
20 set forth here, the Plaintiff, individually and on behalf of himself and the Aggrieved Employees and the
21 LWDA, on the one hand, and Defendants, on the other hand, agree that a claim for civil penalties
22 pursuant to PAGA shall be, and is finally and fully compromised and settled on the following terms and
23 conditions.

24 DEFINITIONS

25 The following definitions are applicable to this Settlement Agreement. Definitions contained
26 elsewhere in this Settlement Agreement will also be effective:

27 1. "Action" means *Drew Tartala v. Action Urgent Care Inc., et al.*, Case No. CGC-21-
28 596837 in the Superior Court of California, County of San Francisco.

2. "Aggrieved Employees" means all persons who were employed by Defendants in the State of California at any time from September 26, 2020, through the date of Settlement Approval, except for Igor Hismatullin, Genevieve Hismatullin, Vadym Ustymenko, Nic Peterson, and Vlad Ustymenko.

3. "Court" means the Superior Court for the State of California, County of San Francisco.

4. "Gross PAGA Settlement Amount" means the settlement amount of Fifty Thousand Dollars (\$50,000) to be paid by Defendant Action Urgent Care Inc. in full satisfaction of all Settled PAGA Claims.

5. "LWDA" means the California Labor and Workforce Development Agency.

6. "PAGA Penalties Fund" means the Gross PAGA Settlement Amount less the Attorneys' Fees and Costs, and Settlement Administrator Costs.

7. "Pay Period" shall mean any bi-weekly pay period under Defendants Action Urgent Care Inc.'s and Lifetime App, Inc.'s usual payroll practices in which an Aggrieved Employee performed work for Defendants Action Urgent Care Inc.'s and Lifetime App, Inc. on at least one day. The Parties agree that, for purposes of determining Pay Periods of Aggrieved Employees under this Agreement, Defendants may also calculate Pay Periods by calculating the number of days between an Aggrieved Employee's hire date(s) (or September 26, 2020, whichever is later) and termination date(s) or the date of Settlement Approval, in the absence of a subsequent termination date based on a 360-day year (using Microsoft Excel's DATS360 function which returns the number of days between two dates based on a 360-day year (i.e., twelve 30-day months)) and dividing the result by 14 and then rounding that number up to the nearest whole number.

8. "Plaintiff's Counsel" means Travis Burch of Shalchi Burch LLP.

9. "Released Parties" means Defendants and each of 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.

10. "Settlement Approval" means when the Court has approved this Agreement with respect

1 to the Settled PAGA Claims.

2 11. "Settled PAGA Claims" means all claims, charges, complaints, liens, demands, causes
3 of action, obligations, and liabilities, whether known or unknown, for PAGA civil penalties predicated
4 on any of the alleged violations of the California Labor Code, Industrial Welfare Commission Wage
5 Orders, regulations, and/or other provisions of law that were alleged or asserted in the Action or any
6 initial and amended PAGA notice filed by Plaintiff, or that reasonably could have been asserted in the
7 Action or based any initial or amended PAGA notice filed by Plaintiff based on any facts or allegations
8 therein, including claims alleged within other PAGA notices filed subsequent to Plaintiff's August 31,
9 2021 PAGA Notice, with respect to Aggrieved Employees during the Settlement Period, to the greatest
10 extent permitted by the Court.

11 12. "Settlement Period" means September 26, 2020, through the date of Settlement
12 Approval.

13 TERMS

14 13. Amended PAGA Notice and Amended Complaint. Plaintiff shall promptly file an
15 amended PAGA Notice with the LWDA (satisfying all procedural requirements such as certified
16 mailing to Defendants and payment of any necessary filing fee(s)), alleging (with supporting facts and
17 theories) additional violations of the California Labor Code and California Industrial Welfare
18 Commission Wage Orders that were the subject of the Parties arm's-length and adversarial negotiations
19 during and after mediation, including, but not limited to, all applicable Industrial Welfare Commission
20 Wage Orders, including, inter alia, California Labor Code §§ 200, 201, 202, 203, 204, 207, 208, 210,
21 226(a)-(c), 226.3, 226.7, 227.3, 246, 248, 248.5, 510, 511, 512(a), 558, 558.1, 1174(d), 1174.5, 1194,
22 1197, 1198, 1198.5 1199, 2800/2802, 3550 and 3551. The Parties shall further stipulate to permit the
23 filing of, and Plaintiff will thereafter file, an amended complaint that amends Plaintiff's PAGA cause of
24 action to include any and all California Labor Code and California Industrial Welfare Commission Wage
25 Orders alleged within Plaintiff's amended PAGA notice.

26 14. Statute of Limitations. For purposes of this Settlement only, Defendants shall not assert,
27 whether in response to court approval of the Settled PAGA Claims or the enforcement of this
28 Agreement, an affirmative defense to any amended PAGA notice filed by Plaintiff pursuant to this

1 Agreement; however, Defendants reserve the right to raise any and all defenses to any amended PAGA
2 notice filed by Plaintiff in the event that court approval of the Settled PAGA Claims is not obtained.

3 15. Gross PAGA Settlement Amount. In consideration for Plaintiff's promises and
4 representations described in this Settlement Agreement, and subject to all of the conditions of the
5 Settlement being met, Defendant Action Urgent Care Inc. will pay Fifty Thousand Dollars (\$50,000)
6 ("Gross PAGA Settlement Amount") to settle the Settled PAGA Claims. The Gross PAGA Settlement
7 Amount includes Plaintiff's attorneys' fees, litigation costs and expenses, Settlement Administration
8 Costs, and payments to Aggrieved Employees and the LWDA for their share of the PAGA Penalties
9 Fund. No portion of the Gross PAGA Settlement Amount will be retained by, or revert to, Defendants.

10 16. PAGA Penalties Fund. The PAGA Penalties Fund will be paid to Aggrieved Employees
11 and the LWDA in full satisfaction of the Settled PAGA Claims. Pursuant to PAGA, after deduction of
12 attorneys fees, costs, and administrative expenses, Seventy-Five Percent (75%) of the PAGA Penalties
13 Fund will be paid to the LWDA, and the remaining Twenty-Five Percent (25%) will be paid to all
14 Aggrieved Employees according to the following formula:

15 16(a) Defendants will calculate: (i) the total number of Pay Periods worked by
16 each Aggrieved Employee during the Settlement Period, and (ii) the total
17 number of Pay Periods worked by all Aggrieved Employees during the
18 Settlement Period.

19 16(b) To determine each Aggrieved Employee's payment from the PAGA
20 Penalties Fund, Defendants will use the following formula: Settlement
21 Payment = 25% of PAGA Penalties Fund × [Pay Periods Worked by
22 Individual Aggrieved Employee During the Settlement Period ÷ Total Pay
23 Periods Worked by All Aggrieved Employees during the Settlement
24 Period].

25 17. Attorneys' Fees and Costs. Defendants agree not to oppose or impede any application or
26 motion by Plaintiff's Counsel for attorneys' fees and costs not to exceed sixteen-thousand six-hundred
27 sixty-six Dollars and sixty-six cents (\$16,666.66), plus the reimbursement of all out-of-pocket costs and
28 expenses associated with Plaintiff's Counsel's litigation and settlement of the PAGA claims in the

1 Action (including expert/consultant fees, investigations costs, etc.), not to exceed six-thousand eight-
2 hundred and thirty seven dollars and seventy eight cents (\$6,837.78), both of which will be paid from the
3 Gross PAGA Settlement Amount. Any portion of the attorneys' fees and costs not awarded to Plaintiff's
4 Counsel will be added to the PAGA Penalties Fund.

5 18. Settlement Administration Costs. The Parties will retain a third-party settlement
6 administrator ("Settlement Administrator"). The Settlement Administrator will be responsible for
7 establishing a qualified settlement fund ("QSF") and issuing payments and appropriate tax forms to
8 Aggrieved Employees, the LWDA, Plaintiff, and Plaintiff's Counsel. The Settlement Administration
9 Costs will be paid from the Gross PAGA Settlement Amount. Settlement Administration Costs are
10 capped at Five Thousand Dollars (\$5,000).

11 19. Court Approval of the Settlement and Distribution of Settlement Payments. The Parties
12 will present this Settlement Agreement to the Court and the LWDA. The Parties will request that the
13 Court issue an order and judgment of Settlement Approval, approving and incorporating by reference the
14 terms and conditions of the Settlement Agreement (the "Order and Judgment") to the extent necessary to
15 effectuate this Settlement Agreement. The Parties agree to work cooperatively, in good faith, and
16 providing their best efforts to ensure this Settlement Agreement receives all necessary Court approval,
17 including, but not limited to, filing or defending against any motions, appeals, or orders that would seek
18 to invalidate this Settlement Agreement or any portion thereof.

19 20. List of Aggrieved Employees. Within fourteen (14) calendar days after entry of the
20 Order and Judgment, Defendants will provide the Settlement Administrator a complete list of all
21 Aggrieved Employees ("Aggrieved Employee List"). The Aggrieved Employee List will be formatted in
22 Microsoft Office Excel or other format acceptable to the Settlement Administrator and will include each
23 Aggrieved Employees' full name; most recent mailing address and telephone number known to
24 Defendants; Social Security number; the respective number of Pay Periods for each Aggrieved
25 Employee worked during the Settlement Period; and any other relevant information needed to calculate
26 settlement payment distributions.

27 21. Funding of the Settlement. Within fourteen (14) calendar days after Defendants receive
28 notice of entry of the Order and Judgment, Defendant will deposit the Gross PAGA Settlement Amount

1 into the QSF to be established by the Settlement Administrator. Within fourteen (14) calendar days of the
2 funding of the Settlement, the Settlement Administrator will issue payments to: (a) Aggrieved
3 Employees; (b) the Labor and Workforce Development Agency; (c) Plaintiff, (d) Plaintiff's Counsel;
4 and (e) itself. The Settlement Administrator, and not Defendants, will issue the appropriate tax forms for
5 all payments issued under this Settlement.

6 22. Settlement Payments to Aggrieved Employees. The Settlement Administrator will issue
7 each Aggrieved Employee one check for his or her share of the PAGA Penalties Fund along with an
8 explanatory letter in a form substantially similar to that attached as Exhibit A. Prior to mailing, the
9 Settlement Administrator will perform a search based on the National Change of Address Database for
10 information to update and correct for any known or identifiable address changes. Any checks returned as
11 non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class
12 U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement
13 Administrator will promptly attempt to determine the correct address using a skip-trace, or other search
14 using the name, address or Social Security number of the Aggrieved Employee involved, and will then
15 perform a single re-mailing. Checks will remain negotiable for 180 days. Any un-cashed checks which
16 remain outstanding 180 days after the mailing of the Settlement checks by the Settlement Administrator
17 will be tendered to the State Controller's Unclaimed Property Fund. All settlement payments to
18 Aggrieved Employees will be treated as miscellaneous income for which a 1099 will be issued.

19 23. Settled PAGA Claims. Upon entry of the Order and Judgment, Plaintiff, individually
20 and as a representative for the State of California, and all Aggrieved Employees will be forever barred
21 from pursuing against Released Parties any and all Settled PAGA Claims during the Settlement Period.
22 Aggrieved Employees, except for Plaintiff as provided for herein, will not be deemed to have released
23 any non-PAGA individual wage and hour claims by virtue of this Settlement.

24 24. No Right to Exclusion or Objections by Representative Action Members. Because this
25 settlement resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a
26 Private Attorney General of, and for, the State of California and the LWDA, the Parties agree that no
27 Aggrieved Employee has the right to exclude himself or herself from the Settlement. Aggrieved
28 Employees will be bound by the terms of the Settlement Agreement, upon its approval by the Court,

1 regardless of whether he or she cashes any payment received as a result of this Settlement.

2 25. No Credit Toward Benefit Plans. Payments to Aggrieved Employees as referenced
3 herein will not be utilized to calculate any additional benefits under any benefit plans to which any
4 Aggrieved Employee may be eligible, including, but not limited to profit-sharing plans, bonus plans,
5 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit
6 plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights,
7 contributions, or amounts to which any Aggrieved Employee may be entitled under any benefit plans.

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

12 27. Nullification of Settlement Agreement. In the event that: (i) the Court does not approve
13 the Settlement as provided herein, except as provided below; or (ii) the Settlement does not become final
14 for any other reason, then this Settlement Agreement, and any documents generated to bring it into
15 effect, will be null and void and the Parties will be returned to their original respective positions. A
16 request by the Court for additional brief, or a preliminary denial pending additional briefing, shall not be
17 deemed to trigger (i), above.

18 28. Judgment and Continued Jurisdiction. After entry of the Order and Judgment, the Court
19 will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement
20 of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters
21 as may be appropriate under court rules or as set forth in this Settlement.

22 29. Entire Agreement. This Settlement Agreement constitutes the entirety of the Parties'
23 settlement terms as to a claim for civil penalties under PAGA. No other prior or contemporaneous
24 written or oral agreements may be deemed binding on the Parties.

25 30. Amendment or Modification. This Settlement Agreement may be amended or modified
26 only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all
27 Parties.

28 31. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and

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

9 32. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,
10 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

11 33. California Law Governs. All terms of this Settlement Agreement will be governed by
12 and interpreted according to the laws of the State of California.

13 34. Execution and Counterparts. This Settlement Agreement is subject only to the execution
14 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All
15 executed counterparts and each of them, including electronic signatures (e.g., DocuSign), facsimiles, and
16 scanned copies of the signature pages, will be deemed to be one and the same instrument.

17 35. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
18 Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
19 Settlement after arm's-length and adversarial negotiations by experienced counsel and with the
20 assistance of a skilled and experienced mediator. The Parties further acknowledge that they are each
21 represented by competent counsel and that they have had an opportunity to consult with their counsel
22 regarding the fairness and reasonableness of this Settlement.

23 36. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however, that
24 Plaintiff may appeal any reduction to the attorneys' fees and costs below the amount they request from
25 the Court, and either party may appeal any court order that materially alters the Settlement's terms.

26 37. Invalidity of Any Provision. Before declaring any provision of this Settlement
27 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
28 possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement

1 valid and enforceable.

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

5 39. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement
6 or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or
7 constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

8 40. Enforcement Action. In the event that one or more of the Parties institutes any legal
9 action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement
10 or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
11 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including
12 expert witness fees incurred in connection with any enforcement actions.

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

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

22 43. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
23 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
24 Settlement Agreement.

25 44. Binding Agreement. The Parties warrant that they understand and have full authority to
26 enter into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and
27 binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to
28 enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply

1 under federal or state law.

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

13 **READ CAREFULLY BEFORE SIGNING**

14 **PLAINTIFF**

15
16 Dated: 2023-10-16

Drew Tartala
Drew Tartala

17
18 **DEFENDANT**

19
20 Dated: 10/17/2023

Genevieve Hismatullin
Genevieve Hismatullin, on behalf of
Action Urgent Care Inc. and Lifetime App, Inc.

EXHIBIT

A

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]