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Attorneys for Plaintiff Mary Beth Hughes, individually
and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

MARY BETH HUGHES, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

JEFFREY LEE GALITZ, MD, A
PROFESSIONAL MEDICAL
CORPORATION, a California corporation,
DBA WOUNDTECH OF CALIFORNIA;
PODICARE SERVICES, INC., a Delaware
Corporation; WOUND TECHNOLOGY
NETWORK, INC., a Florida Corporation, and
DOES 1 through 25,

Defendants.

Case No.: 21STCV30732

*Assigned for all purposes to Hon. Yvette
M. Palazuelos, SSC-9*

**DECLARATION OF AARON
GUNDZIK IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT**

Date: September 13, 2023

Time: 10:00 a.m.

Dept.: 9

Complaint Filed: August 19, 2021

1 I, Aaron C. Gundzik, declare as follows:

2 1. I am a partner at Gundzik Gundzik Heeger LLP, co-counsel for Plaintiff
3 Mary Beth Hughes. This Declaration is submitted in support of Plaintiff's Motion for Final
4 Approval of Class Action Settlement.

5 2. I am admitted to practice law in the state of California. I have personal
6 knowledge of the matters set forth herein, and, if called as a witness, could competently
7 testify thereto.

8 3. I am familiar with California law governing wages owed to employees,
9 including but not limited to California Labor Code Sections 201, 202, 204, 226, 226.2,
10 226.7, 510, 512, 1194-1198, 2802, 2698 *et seq.*, California Business and Profession Codes
11 17200 *et seq.*, and the Wage Orders of the Industrial Welfare Commission.

12 4. There are no conflicts that would prevent me from serving as Class Counsel
13 in this matter.

14 **Procedural Information**

15 5. Plaintiff Mary Beth Hughes filed her initial complaint against Defendant
16 Jeffrey Lee Galitz, MD, a Professional Medical Corporation, on August 19, 2021. Plaintiff
17 filed a First Amended Complaint on November 1, 2021 and pursuant to a stipulation of the
18 parties filed a Second Amended Complaint on June 13, 2022. The Second Amended
19 Complaint added as Defendants Podicare Services, Inc. and Wound Technology Network,
20 Inc. (referred to collectively with Defendant Jeffrey Lee Galitz, MD, a Professional Medical
21 Corporation as "Woundtech" or "Defendants") and asserted causes of action for: (1) failure
22 to pay overtime, (2) violation of Labor Code section 226.2, (3) failure to pay wages for all
23 work performed, (4) failure to provide compliant meal and rest breaks, (5) inaccurate wage
24 statements, (6) failure to reimburse necessary expenses, (7) unfair business practices; (8)
25 failure to pay unpaid wages at separation, and (9) recovery of civil penalties pursuant to the
26 Private Attorneys General Act, Cal. Lab. Code §§2698-2699.5.

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1 consult with her prior and subsequent to the mediation regarding the forgoing issues. Ms.
2 Hughes provided us with numerous details about her experience working for Defendants.
3 And she attended the mediation and was available the entire day to respond to questions
4 posed by the mediator.

5 10. Based upon our investigation, we made the following contentions:
6 Defendants provide telehealth and in-home wound care to patients in California and
7 elsewhere. Plaintiff Mary Hughes worked as a Woundtech clinician in the Los Angeles area
8 from April 2019 until October of 2021.

9 11. While working, Plaintiff and the Class Members were based at home and
10 travelled using their own vehicles to see multiple patients at different locations and provide
11 wound care. In addition, they participated in meetings and prepared required paperwork for
12 which they were not separately compensated.

13 12. Plaintiff and Class Members made approximately 30-50 patient visits per
14 week, some of which were as far as 50 miles from a class member's home. Because of this,
15 Plaintiff and the Class Members often left home early in the morning for the first
16 appointment and did not return home to finish their days until late in the evening.

17 13. Plaintiff contended that during the time that they worked for Defendants, Ms.
18 Hughes and the Class Members were incorrectly classified as exempt employees and as a
19 result, were never paid overtime. Instead, they were paid per patient visit as piece-rate
20 employees.

21 14. Plaintiff also contended that because Class Members were only paid a fixed
22 amount for each visit, they were not paid hourly for the many additional duties that they
23 were required to perform, including driving to appointments, meetings, on-line harassment
24 training, telephone calls, ordering, unpacking and stocking supplies, preparing bi-weekly
25 pay sheets, and other nonproductive activities.

26 15. Plaintiff further contended that she and the Class Members also did not
27 receive paid rest breaks and that any rest or meal breaks that they were able to take were
28

1 necessarily non-compliant because they were not off duty, as Class Members were required
2 to carry their company-provided telephones at all times, even on nights and weekends.

3 **Summary of Settlement Negotiations**

4 16. On May 19, 2022, I, Ms. Hughes, and our co-counsel, Daniel Holzman, as
5 well as Defendants and Defendants' counsel, attended a mediation session with Gig
6 Kyriacou. Mr. Kyriacou has substantial experience mediating wage and hour class actions
7 like this one. The case settled after a full day of negotiation pursuant to a mediator's
8 proposal.

9 17. The settlement was negotiated at arms' length and was in no sense collusive.

10 18. I, Ms. Gundzik, our co-counsel and our client concluded, after taking into
11 account the sharply disputed factual and legal issues involved in the lawsuit, the risks
12 attending further prosecution, and the substantial benefits to be received pursuant to the
13 compromise and settlement of the action, that the settlement is in the best interests of the
14 Class and is fair and reasonable. We also considered the possibility that the Class would not
15 be certified and factored in the additional delay in recovery for Class members if the
16 settlement were rejected and the case went to trial.

17 19. The terms of the Settlement were memorialized in the Class Action and
18 PAGA Settlement Agreement and Class Notice which was attached as Exhibit 1 to my
19 declaration in support of Plaintiff's Motion for Preliminary Approval, which was filed with
20 the Court on August 8, 2022.

21 20. On September 21, 2022, the Court issued a Checklist and Minute Order
22 requesting further briefing regarding the items listed on the Checklist.

23 21. On February 14, 2023, I filed a supplemental declaration which attached as
24 Exhibit B the parties' First Amended Class Action and PAGA Settlement Agreement and
25 Class Notice (hereafter referred to as the "Settlement Agreement"), which is attached hereto
26 as **Exhibit 1**. The revised class notice is included at the end of the Settlement Agreement.

27 22. Pursuant to the terms of the proposed settlement, Defendant will pay a Gross
28 Settlement Amount (GSA) of \$1,675,000. After proposed deductions, as approved by the

1 Court, the Net Settlement Amount will be approximately \$1,035,958.64, all of which will be
2 available to distribute to settlement Class members. The parties propose making the
3 following payments from the GSA:

4 (a) Settlement Administration costs of \$6,750;

5 (b) a Service and Release Award to Representative Mary Beth Hughes in the
6 amount of \$10,000;

7 (c) Class Counsel's Attorneys' Fees not to exceed one-third of the GSA, in
8 the amount of \$558,333;

9 (d) Class Counsel's actual litigation costs and expenses in the amount of
10 \$13,958.36: and

11 (e) An allocation of \$50,000 to Plaintiff's PAGA claims (the "PAGA
12 Amount"), seventy-five percent (75%) of which will be paid to the
13 California Labor and Workforce Development Agency (the "LWDA
14 Payment"), and the remaining twenty-five percent (25%) of which will be
15 distributed to the Aggrieved Employees. See Ex. 1, ¶ I(E).

16 The remaining Net Settlement Amount of \$1,035,958.64 will be distributed to the settlement
17 Class Members according to the formula in the Settlement Agreement, not including the
18 amounts owed to them as Aggrieved Employees. See Ex. 1, ¶ IV(L)1.

19 23. As compensation for her efforts, the Settlement Agreement provides that a
20 Class Representative Service and Release Award in the amount of \$10,000 will be requested
21 for the representative Plaintiff, Mary Beth Hughes. This award is in recognition of the
22 significant time Ms. Hughes expended pursuing this action and assisting our efforts with the
23 case, and in recognition of the expanded general release that she is required to provide, as
24 part of the Settlement. Ms. Hughes spent a great deal of time consulting with us in order to
25 investigate the facts before we filed the Complaint and amended pleadings and consulted
26 with us extensively prior to, during and subsequent to the mediation. She provided us with
27 numerous details about her experience and the experience of others working for Defendant
28 and missed a full day of work to attend the mediation. Ms. Hughes contributed a substantial

1 amount of time meeting with us, reviewing documents, producing documents, attending the
2 mediation, monitoring the progress of the litigation with counsel, and reviewing and signing
3 the Memorandum of Understanding and the two Settlement Agreements. Plaintiff's presence
4 at the mediation was invaluable, as she was able to provide us a great deal of additional
5 information that was extremely helpful for our negotiations. As an additional requirement to
6 receiving the proposed Class Representative Service and Release Award, Plaintiff is
7 required to sign a broad general release which includes a waiver of Section 1542 of the
8 California Civil Code.

9 **Analysis of Value of Claims**

10 24. In order to determine whether the sample provided by Defendants was
11 statistically relevant, I used an on-line calculator at www.raosoft.com/samplesize. The
12 sample consisted of 688 pay periods out of a total of 3,980. Given the size of the population
13 (3,980), a sample of 351 pay periods provides a confidence level of 95% with a margin of
14 error of 5%. Additionally, the information regarding damages obtained from the sample
15 corresponds with the information we obtained from Plaintiff and other putative class
16 members.

17 25. The following paragraphs in this section of my Declaration provide the
18 calculations for our analysis of the value of Plaintiff's claims. These calculations are based
19 upon the following data points, as provided by Defendants prior to mediation.

- 20 a. Class members – 89
- 21 b. Average regular rate - \$85
- 22 c. Shifts greater than 5 hours – 18,042
- 23 d. Shifts greater than 3.5 hours – 20,299
- 24 e. Workweeks – 7,960
- 25 f. Two-week pay periods – 3,980
- 26 g. PAGA period wage statements issued – 1,274
- 27 h. PAGA period employees - 61
- 28

1 26. The First Cause of Action is for failure to pay overtime. This claim was based
2 on Defendants' policy of classifying Plaintiff and the Class Members as exempt employees.
3 Plaintiff contended that she and the Class did not qualify for any exemption to California's
4 overtime requirements because they were paid by the piece and did not earn a salary.
5 Although Plaintiff and the Class Members worked in excess of eight hours on many days,
6 their wage statements show that they were not paid for their overtime work at overtime rates
7 of pay. Based on the pay data and driving records produced by Defendants, I determined that
8 class members worked about .7 hours of 1.5x overtime each shift and about .04 hours of 2x
9 overtime per shift. Class members were paid on a piece-rate basis. Pursuant to the DLSE
10 Manual, § 49.2.1.2, the piece-rate pay received by class members is presumed to cover all
11 hours worked in a day—straight and overtime. As a result, such employees are entitled to be
12 paid an additional half of the presumed hourly straight time rate of \$85 for each hour of 1.5x
13 overtime and an additional hour at the presumed \$85 per hour straight time rate for each
14 hour of 2.0x overtime. Using these amounts, we calculated the unpaid overtime as follows:
15 $(18,042 \text{ shifts} \times .7 \text{ hrs} \times \$85 \times .5) + (18,042 \text{ shifts} \times .04 \text{ hours} \times \$85) = \$724,930$. However,
16 because Defendants could successfully contend that there are manageability issues and
17 individualized issues as to whether and to what extent Class Members worked overtime
18 hours and whether that work was included in their piece-rate, I determined that the minimum
19 value of this claim is \$0.

20 27. The Second Cause of Action is for violation of Labor Code section 226.2.
21 This claim was based on Defendants' failure to separately pay Plaintiff and the other Class
22 Members, all of whom were paid by the piece, for their non-productive time and rest breaks.
23 Plaintiff contended that she and the Class Members were required to perform a great deal of
24 work that did not directly involve being with a patient and attending to their injuries. This
25 non-productive time is to be compensated at no less than the minimum wage, which
26 averaged \$12.54 during the class period. Based on driving time records and information
27 provided by class members, we determined that nonproductive tasks and time consisted of
28 the following:

- a. Driving time, estimated at 2.5 hours per day;
- b. Preparation for the day's appointments, estimated at 1 hour per day with 50% as 1.5x overtime;
- c. Phone calls to patients and others, estimated at 2 hours per week with 50% as 1.5x overtime;
- d. Managing supplies, estimated at 2 hours per week with 50% as 1.5x overtime;
- e. Make up visits to patients, estimated at 2 hours per week at straight time rates;
- f. Weekly administrative calls with employer, estimated at 1 hour per week with 50% at 1.5x overtime;
- g. Initial orientation, including travel to Florida and "homework," estimated at 25 hours per class member;
- h. Watching training videos, estimated at 5 hours per class member; and
- i. Preparing pay sheets (to get paid), estimated at .5 hours per week, 50% at overtime rates.

28. Applying the forgoing estimates, we calculated the unpaid non-productive time as follows¹:

Non-productive Task	Calculation	Total
Driving	2.5 x 21,868 days x \$12.54/hr.	\$685,736.61
Prepare for day's appointments	((.5 hrs. x \$12.54/hr.) + (.5 hrs. x \$12.54/hr. x 1.5)) x 21,868 work days	\$342,868.30
phone calls	((.5 hrs. x \$12.54/hr.) + (.5 hrs. x \$12.54/hr x 1.5)) x 7,960 weeks	\$249,598.60
Supplies	((.5 hrs. x \$12.54/hr.) + (.5 x \$12.54/hr x 1.5)) x 7,960 weeks	\$249,598.60
unpaid visits	2 hrs. x \$12.54/hr. x 7,960 weeks	\$199,678.88
weekly admin calls	((.5 hrs. x \$12.54/hr.) + (.5 hrs. x \$12.54 x 1.5)) x 7,960 weeks	\$24,959.86
orientation travel/homework	25 hrs. x 89 class members x \$12.54/hr.	\$27,908.41

¹ These estimates were based on a Class size of 89, which was the number provided to us in connection with the mediation. After the mediation, upon the receipt of the Class Data by Phoenix, we learned that the Class size is 86.

1	training videos	5 hrs. x 89 class members x \$12.54/hr.	\$5,581.68
2	prepare pay sheet	((.25 hrs. x \$12.54/hr.) + (.25 hrs. x \$12.54/hr. x 1.5)) x 7,960 weeks	\$24,959.86
3			\$1,810,890.80

29. The Second Cause of Action was also based on Defendants' failure to pay Plaintiff and the Class Members for rest breaks that were taken, pursuant to Labor Code section 226.2(a)(3). This time is to be paid at the higher of the employee's regular rate during the pay period or minimum wage. However, given Defendants' requirement that Class Members take on-call rest breaks, the amount owed for rest break premiums is set forth in Paragraph 31. Because I concluded that all rest breaks were noncompliant, I did not allocate any additional monetary value to this portion of the Second Cause of Action.

30. The Third Cause of Action is for failure to pay for all hours worked. This claim was based on Defendants' failure to pay Class Members for their non-productive time, rest breaks taken, and overtime work. Because these damages are duplicative of other causes of action analyzed above, I did not allocate any additional monetary value to this claim.

31. The Fourth Cause of Action is for failure to provide compliant meal and rest periods. This claim was based on Plaintiff's contention that because Defendants incorrectly classified the Class Members as exempt, they did not make any attempt to provide Class Members with rest or meal breaks. This claim was also based on Defendants' written policies, that required Class Members to take on-call rest breaks, which are prohibited pursuant to *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 261 (2016). Because Defendants did not keep track of meal or rest breaks, did not schedule any meal break time for class members, and required Class Members to take on-call rest breaks, I estimated that Class Members never received compliant rest or meal breaks. I therefore determined that the maximum value of the meal break claim is \$1.5 million and that the maximum value of the rest break claim is about \$1.75 million, for a total of \$3.25 million. These amounts were calculated as follows: For rest breaks, 20,299 shifts greater than 3.5 hours x \$85 per hour = \$1,725,450. For meal periods, 18,042 shifts greater than 5 hours x \$85 per hour = \$1,533,588. \$1,533,588 + \$1,725,450 = \$3,259,038. Thus, I determined that Defendants'

1 total maximum exposure on this claim is \$4,984,488. However, because of the lack of
2 documentary evidence regarding rest and meal break violations and the possibility that
3 Defendants could successfully contend that these were individualized incidents which did
4 not support a class award, I determined that the minimum value of this claim is \$0.

5 32. The Fifth Cause of Action is for failure to provide compliant wage
6 statements. The statute of limitations on such a claim is one year. This claim is based on the
7 fact that the wage statements issued to Plaintiff and the Class are incorrect in that they do
8 not accurately record (1) the number of hours class members worked, at the applicable
9 straight time and overtime rates, or the weekly regular rate and overtime rate thereon, and
10 gross wages earned at each applicable rate of pay; (2) the total hours of compensable rest
11 and recovery periods, (3) the rate of compensation and the gross wages paid for rest periods
12 during the pay period, (4) the total hours of other non-productive time worked, (5) the rate
13 of compensation paid for non-productive work, or (6) the gross wages paid for non-
14 productive work. However, at the time of the mediation, the ability to state a derivative
15 claim for wage statement penalties was uncertain, as the Second District ruled in *Naranjo v*
16 *Spectrum Services, Inc.*, 40 Cal.App.5th 444 (2019) that actions to recover unpaid meal
17 period premiums under Labor Code section 226.7 do not entitle employees to derivative
18 wage statement penalties. While the court of appeal's decision in *Naranjo* was overturned
19 by the California Supreme Court, *see Naranjo v. Spectrum Security Services, Inc.*, 13 Cal.
20 5th 93 (May 23, 2022), the Supreme Court's decision was entered a few days after the
21 mediation and after the parties had signed a settlement Memorandum of Understanding. The
22 penalties for inaccurate wage statements are \$50 per employee for the first violation and
23 \$100 per employee per violation for all subsequent violations. Penalties per employee are
24 limited to \$4,000. Based upon the number of wage statements issued to each employee and
25 applying the \$50/\$100 penalty rates and \$4,000 cap, I estimated that the maximum value of
26 this claim is approximately \$124,000. This amount was calculated as follows: (1,274 wage
27 statements x \$100) – (61 employees x \$50) = **\$124,379.20**. At the same time, I estimate that
28 this claim has a minimum value of \$0.

1 33. The Sixth Cause of Action is for failure to reimburse employees for all
2 necessary expenditures. This claim was based upon Plaintiff's contention that Class
3 Members were not reimbursed for 25 miles of driving per workday. At \$.585 per mile and
4 approximately 21,868 workdays, I estimated that the amount of unreimbursed expenses
5 owed to Class Members is approximately \$320,000 (25 miles per day x \$.585 per mile x
6 21,868 workdays = **\$319,821.90**.) However, Defendants contended that unpaid 25 miles per
7 day represented "commuting" miles for which Class Members were not entitled to
8 reimbursement. In light of this argument, I determined that the minimum recovery on this
9 claim is nothing.

10 34. The Seventh Cause of Action is for violation of Business & Professions Code
11 section 17200, *et. seq.* The forgoing analysis assumes the longer four-year statute of
12 limitations that is available under the UCL for the meal period violations. This cause of
13 action is derivative of the other claims that have already been analyzed. Accordingly, the
14 damages available under this cause of action have already been analyzed or are duplicative
15 of the damages discussed.

16 35. The Eighth Cause of Action is for failure to pay separated employees all
17 wages due at the time of separation. This claim is based on Defendants' alleged failure to
18 pay Class Members all wages due when they separated, as their final pay did not include
19 amounts due for meal or rest period premiums, non-productive time or for all of their
20 overtime work. Because there are 45 putative Class Members who separated during the
21 relevant statutory period, and the average daily rate is \$670, I estimated that that the
22 maximum value of this claim is approximately \$905,000 (\$670 per day x 30 days x 45
23 employees = **\$904,500**.) However, in light of the concerns identified above, and others, the
24 minimum value of this claim is also \$0.

25 36. The Ninth Cause of Action is for violations of the Private Attorneys General
26 Act (PAGA). The PAGA claim is limited in time to one year. The strength of the PAGA
27 claim would be impacted by the factors discussed above for the non-PAGA claims. Based
28 on recent PAGA decisions, I concluded that even if Plaintiff was successful on this claim

through trial, the Court may well have exercised its discretion under PAGA and significantly reduced the penalties. Cal. Labor Code §2699(e)(2). In addition, the settlement was primarily directed at recovering wages and unpaid premiums owed to Class Members and the bulk of the settlement funds were intended to compensate for these wages. Based on these factors, I believe that the maximum reasonable value of the PAGA claim is approximately \$1.2 million. This amount was calculated as follows:

Labor Code Violation	Penalty calculation	Maximum Penalties
Wage statements	\$250 per pay period x 1274 pay periods	\$318,573
Non-productive Time Pay	(\$200 per pay period x 1274 pay periods) – (\$100 per pay period x 61 employees)	\$248,758.40
Missed rest breaks	(\$200 per pay period x 1274 pay periods) – (\$100 per pay period x 61 employees)	\$248,758.40
Missed meal periods	(\$100 per pay period x 1274 pay periods) – (\$50 per pay period x 61 employees)	\$124,379.20
Time Records	(\$200 per pay period x 1274 pay periods) – (\$100 per pay period x 61 employees)	\$248,758.40
Total		\$1,189,227.40

37. Based upon the forgoing, I determined that the class claims in this case had a minimum value of \$0 and a maximum estimated value of about \$8.869 million, not including the PAGA penalties. Based on a Class size of approximately 89, prior to the mediation we determined that the reasonable estimate of the average amount that Class Members could have obtained if Plaintiff prevailed at trial on behalf of the entire Class, if the Class was certified, would be a minimum of \$0 and a maximum of about \$99,651. However, the maximum amount is almost never recovered at trial and never in a settlement. Settlements, by their nature, must account for the weaknesses in a plaintiff's case, which are discussed above. Indeed, because Defendants raised a colorable legal or factual defense to each of the claims Plaintiff alleged, it is possible that, after trial, the Class would recover nothing.

1 38. The PAGA settlement satisfies the criteria in *Moniz v. Adecco USA, Inc.* 72
2 Cal. App. 5th 56, 77 (2021), because “it is fair, reasonable, and adequate in view of
3 PAGA’s purposes to remediate present labor law violations, deter future ones, and to
4 maximize enforcement of state labor laws.” In our settlement, \$50,000 is allocated to
5 Plaintiff’s PAGA claim, which is approximately 3% of the Gross Settlement Amount. In
6 conjunction with the class settlement, pursuant to which Class Members will each receive,
7 on average, \$11,743.22, not including the PAGA payment, this settlement will serve to
8 remediate Defendants’ labor law violations. Given that Defendants will be paying
9 \$1,675,000 as a result of the alleged violations, the Class and PAGA settlement is a large
10 disincentive for Defendants to engage in similar Labor Code violations in the future. In
11 fact, Defendants changed their compensation practices as a result of this lawsuit. And,
12 because all Class Members will receive a notice of settlement with our contact information,
13 those employees will know to contact us in the future if Defendants attempt to engage in
14 similar practices. These factors—the payment of a large sum and employee notice of
15 violations and potential violations—serve to maximize enforcement of state labor laws.
16 Also, unlike in *Moniz*, here there is no unsubstantiated and disproportionate allocation of
17 civil penalties between different groups of employees. All aggrieved employees will
18 receive an allocation of PAGA civil penalties based on the number of qualifying pay
19 periods that they worked for Defendants.

20 39. If the settlement is not approved, Plaintiff would need to move forward with
21 discovery and then move for class certification. Defendants will oppose certification on the
22 grounds that numerous individualized fact issues allegedly exist. Defendants will argue and
23 could succeed in claiming that these individualized issues overwhelm common issues,
24 and/or that the action is not manageable on a class wide basis. The result could be that the
25 case would not be certifiable as a class action.

26 40. Even if we proceeded and the Class is certified, significant risks would
27 remain. At trial Defendants could interpose a successful defense which could either cause
28 the Court to decertify the Class or cause the jury to reject Plaintiff’s claims or award the

1 Class only a small amount of the unpaid wages and other damages sought. And, even if the
2 Class ultimately prevailed, most of the Class Members would have to wait years before they
3 received any payment from the lawsuit.

4 41. After analyzing and weighing the evidence discussed above as well as the
5 legal issues, at the mediation we concluded that the settlement of \$1,675,000, \$50,000 of
6 which will be allocated to Plaintiff's PAGA claim, represents a fair and reasonable discount
7 from the realistic recovery. We firmly believe that amount is the most that Defendants were
8 willing to pay at this stage of the case and that if we had rejected that amount, we would
9 have been forced to seek class certification, and subject the Class to the risk of losing at any
10 stage of the process. The settlement will allow the parties to avoid the expense and time
11 commitments of continued litigation and provides a significant benefit for the Class, the
12 LWDA and the PAGA Aggrieved Employees which would not otherwise have been
13 available unless a settlement was reached. Based on my experience, I am of the opinion that
14 a gross settlement of \$1,675,000 is within the "ballpark" of a fair, reasonable and adequate
15 settlement.

16 Preliminary Approval of Settlement

17 42. On August 8, 2022, Plaintiff filed her Motion for Preliminary Approval of
18 Class Action Settlement with supporting declarations.

19 43. On September 21, 2022, the Court issued a Checklist and Minute Order
20 requesting further briefing regarding the items listed on the Checklist. On February 14,
21 2023, in response to the Court's comments, Plaintiff filed the Supplemental Declaration of
22 Aaron Gundzik in Support of Motion for Preliminary Approval. The Supplemental
23 Declaration included the parties' First Amended Stipulation of Class Action and PAGA
24 Settlement Agreement and revised Notice of Settlement, Copies of which are attached hereto
25 as **Exhibit 1**.

26 44. On March 21, 2023, the Court granted preliminary approval of the settlement
27 and approved the revised notice of settlement prepared by the parties. A copy of the Court's
28 preliminary approval order is attached hereto as **Exhibit 2**.

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46. The notification process was fairly administered. As set forth in the Declaration of Jarrod Salinas, Phoenix Case Manager, on January May 4, 2023, Phoenix sent the Notice of Settlement to the 86 Class Members' last-known address as specified in the Court's Order granting preliminary approval of class action settlement. Of those, 5 were returned, all 5 of those were traced, 6 notices were re-mailed, and 1 was determined to be undeliverable.

Request for Attorneys' Fees and Costs

48. The preliminarily approved settlement provides for the payment of up to one third of the gross settlement amount (\$558,333) to Class Counsel for attorneys' fees and up to \$40,000 for Class Counsel's reasonable costs and expenses, \$13,958.36 of which Class Counsel had expended or will expend in connection with this lawsuit. This request is fair, reasonable and adequate to compensate Class Counsel for the substantial work we have put into this case and the risk we assumed by taking it. The attorneys' fees award is intended to reimburse Class Counsel for all the uncompensated work that we have already done and for all the work we will continue to do in carrying out and overseeing the administration of the settlement. We are requesting that the Court compensate Class Counsel on a contingency

1 basis in light of the benefit provided to the Class and because a lodestar analysis confirms
2 the reasonableness of the contingency fee.

3 **A. Summary of Class Counsel's Experience**

4 49. I graduated from the University of Southern California Law School in 1987
5 and have been a member of the California bar since 1987. For my first 14 years of practice, I
6 worked in the Los Angeles office of a large international law firm, then known as LeBoeuf,
7 Lamb, Greene & MacRae, first as an associate and then as an equity partner. I left that firm
8 in 2001 and formed Cotton & Gundzik LLP. In 2012, I joined Gartenberg Gelfand Hayton
9 LLP, and in January of 2020, I formed Gundzik Gundzik Heeger LLP ("GGH"). Throughout
10 my career, I have been involved in the litigation of complex cases, including securities,
11 consumer and wage and hour class actions. Presently, I and my partner, Rebecca Gundzik,
12 are Plaintiff's counsel in approximately ten class actions in various stages of litigation. I
13 have served as class counsel in numerous wage and hour class actions that have already
14 settled and successfully represented a class of service technicians at trial and through appeal
15 in *Gonzalez v. Downtown LA Motors, LP*, 215 Cal. App. 4th 36 (2013). The *Gonzalez* case
16 helped develop the law regarding an employee's right to be separately paid for their
17 nonproductive time and is one of the bases for Labor Code section 226.2.

18 50. Rebecca Gundzik, who is also a partner at my law firm, has worked with me
19 extensively on this case. Ms. Gundzik graduated from the University of Southern California
20 Law School in 1988 and has been a member of the California bar since 1988. In her 34-year
21 legal career, Ms. Gundzik worked at Loeb & Loeb and worked at Allen Matkins Leck
22 Gamble Mallory & Natsis LLP for fifteen years. Ms. Gundzik has also had significant
23 experience with complex cases, including real estate, business, and consumer and wage and
24 hour class actions. Ms. Gundzik works with me on all of my class action matters and was
25 my co-counsel at the trial of *Gonzalez v. Downtown LA Motors, LP*, 215 Cal. App. 4th 36
26 (2013).

27 51. I and and/or Rebecca Gundzik and I have been appointed as class counsel in
28 the following wage and hour class actions:

- a. *Gonzalez v. Downtown LA Motors*, 215 Cal. App. 4th 35 (2013)
- b. *Aboyte v. Sunrise Ford, Inc.*, Los Angeles County Superior Court Case No. BC521274
- c. *Alshamri v. Ford of Santa Monica, Inc.*, Los Angeles County Superior Court Case No. BC529007
- d. *Altschuler v. Sedgwick Claims Management Services, Inc.*, Los Angeles Superior Court Case No. 21STCV06933
- e. *Bromberg v. Fidelity National Information Services*, C.D. Cal. No. 2:15-CV-7930
- f. *Burciaga v. Superior Thread Rolling Company*, Los Angeles County Superior Court Case No. BC585143
- g. *Centino v. Arrowhead Products Corporation*, Orange County Superior Court Case No. 30-2018-00988493
- h. *Caesar-Roden v Yoga Works, Inc.*, Los Angeles County Superior Court Case No. BC711991
- i. *Claim Jumper Restaurants Wage and Hour Cases*, JCCP No. 4916
- j. *ClubCorp Wage and Hour Cases*, Orange County Superior Court Case No. 30-2-2—01137085 (JCCP No. 5138)
- k. *Cypress Security Wage and Hour Cases*, Los Angeles County Superior Court Case No. BC672405 (JCCP No. 4963)
- l. *Dittmar v. Costco*, S.D. Cal. No. 3-14-CV-1156
- m. *Franco v. Gentry Brothers, Inc.*, Los Angeles County Superior Court Case No. BC586571
- n. *Gallegos v. EC Holdings Inc.*, Los Angeles County Superior Court Case No. BC616867
- o. *Gonzales v. Manrika, Inc.*, Los Angeles County Superior Court Case No. BC570534

- 1 p. *Grieg v. Food on Time, Inc.*, at al., Los Angeles County Superior Court Case
2 No. BC684566
- 3 q. *Guillen v. Grasshopper House, LLC*, Los Angeles County Superior Court
4 Case No. BC685116
- 5 r. *Hall v. Culpepper & Associates Security Services, Inc.*, Los Angeles County
6 Superior Court Case No. 20STCV15317
- 7 s. *Haskins v. Walmart, et al.*, San Diego County Superior Court Case No. 37-
8 2019-00020149-CU-OE-NC
- 9 t. *Hamilton v. BlueMercury, Inc.*, Los Angeles County Superior Court Case No.
10 BC625829
- 11 u. *Henriquez v. NGU Transport LLC*, Los Angeles County Superior Court No.
12 BC714165
- 13 v. *Hernandez v. The Bicycle Casino LP*, Los Angeles County Superior Court
14 Case No. BC628414
- 15 w. *Honeine v. PMB Motorcars, LLC*, Los Angeles County Superior Court Case
16 No. BC530827
- 17 x. *Jimenez v. El Proyecto Del Barrio, Inc.*, Los Angeles County Superior Court
18 No. 19STCV18696
- 19 y. *Jimenez v. PPG Industries, Inc.*, Los Angeles County Superior Court Case
20 No. BC613324
- 21 z. *Kaelberer v. Long Beach Eurocars LLC*, Los Angeles County Superior Court
22 Case No. BC521275
- 23 aa. *Kuenstle v. Childrens Hospital Los Angeles Medical Group, Inc.*, Los
24 Angeles County Superior Court Case No. BC653858
- 25 bb. *Maravilla v. Motion Picture Television Fund*, Los Angeles County Superior
26 Court Case No. BC690494
- 27 cc. *Medina v. Kaweah Pump, Inc.*, Tulare County Superior Court No. 265579
28

1 dd. *Mendoza v. Quanta Computer, USA, Inc.*, Alameda County Superior Court
2 No. RG11589781
3 ee. *Mitchiner v. Cox Target Media, Inc.*, Los Angeles County Superior Court
4 Case No. 19STCV00319
5 ff. *Munoz v. Dependable Highway Express, Inc.*, Los Angeles County Superior
6 Court Case No. BC535931
7 gg. *Nava v. Pacific Coast Sightseeing Tours and Charters, Inc.*, Los Angeles
8 County Superior Court Case No. BC685681
9 hh. *Ortiz v. Roberts Tool Co., Inc.*, Los Angeles County Superior Court Case No.
10 BC626244
11 ii. *Otis v. Ray Stone Incorporated*, Sacramento County Superior Court Case No.
12 34-2019-00269952
13 jj. *Perez v. The Parsons Group, Inc.*, Santa Barbara County Superior Court Case
14 No. 19CV01203
15 kk. *Poland v. Glen Ivy Hot Springs, Inc.*, Riverside County Superior Court No.
16 RIC1312130
17 ll. *Saavedra v. Cliff View Terrace, Inc.*, Santa Barbara County Superior Court
18 Case No. 17CV02531
19 mm. *Santiago v. Univar Solutions Inc., et. al*, Los Angeles County Superior Court
20 Case No. 21STCV25600
21 nn. *Schneider v. Inner City Education Foundation*, Los Angeles County Superior
22 Court Case No. BC617827
23 oo. *Stadnik v. Leon's Transmission Service, Inc.*, Los Angeles County Superior
24 Court Case No. 19STCV44253
25 pp. *Surveillance Security Wage and Hour Cases*, JCCP 4969
26 qq. *T.J. Maxx Wage & Hour Cases*, JCCP No. 5097
27 rr. *Vatrалева v. Sears, Roebuck and Co.*, Los Angeles County Superior Court
28 Case No. BC515650

1 ss. *Villalobos v. Pedego, Inc.*, Orange County Superior Court Case No. 30-
2 2019-01102461
3 tt. *Watson v. Aegis Security & Investigations Inc.*, Los Angeles County
4 Superior Court Case No. BC695411
5 uu. *Wysocki v. Color Spot Nurseries, Inc.*, San Luis Obispo County Superior
6 Court No. 14CVPO138
7 vv. *Yoo v NGL Transportation LLC*, Los Angeles County Superior Court Case
8 No. BC682160
9 ww. *Yoo v. South Coast Transportation & Distribution, Inc.*, Los Angeles County
10 Superior Court Case No. BC682120
11 52. Many of the cases listed in Paragraph 51 and the cases still active involve
12 wage and hour issues similar to the legal and procedural issues involved in this case.
13 **B. Summary of Work Performed**
14 53. Ms. Gundzik and I have performed significant legal work in this case on
15 behalf of Plaintiff, as summarized in Paragraphs 54-62 below.
16 54. The legal work performed by my firm on the case consumed a great deal of
17 our time and resources. Both GGH and Caskey & Holzman are small firms with few
18 attorneys. We devoted many hours to researching and analyzing the case, negotiating and
19 drafting reports for the Court, drafting pleadings, stipulations and notices, reviewing
20 documents and policies, negotiating regarding the parameters of the mediation, preparing for
21 and attending the mediation, drafting and negotiating an extensive settlement stipulation,
22 drafting the motion for preliminary approval, drafting the amended settlement agreement
23 and amended class notice, and conferring with class members regarding the settlement.
24 55. We were retained by Ms. Hughes in August of 2021. Thereafter, we
25 investigated and researched Ms. Hughes' claims, we investigated Defendants' businesses
26 and how it operated in California. We drafted the Complaint and filed it on August 19, 2021.
27 We concurrently submitted a PAGA letter to the California Labor and Workforce
28 Development Agency ("LWDA"), a copy of which is attached hereto as **Exhibit 3**.

1 56. Our client provided us with voluminous pay records and records regarding
2 her work-related mileage (in the form of Mileage IQ reports). We reviewed and analyzed
3 these documents to determine the extent of her damages and whether, on a class-wide basis,
4 they would provide evidence in support of a motion for class certification.

5 57. In November of 2021, Defendants agreed to mediate the case. In connection
6 with the mediation, Defendants produced anonymized driving records and pay records for
7 approximately 20% of the proposed class members, including Plaintiff, in addition to
8 personnel records, handbooks and policies. Because Defendants did not maintain time
9 records for Class Members, we were required to spend a great deal of time creating a
10 damages analysis that reflected the time that Class Members spent working. We had to
11 carefully review and analyze all of the personnel records, handbooks and policies to
12 determine the tasks that Class Members were required to perform, as well as the amount of
13 time taken to perform each task. We also spent numerous hours reviewing the driving
14 records—produced in the form of Mileage IQ Reports—for the sample members to
15 determine the number of miles they drove in connection with their jobs.

16 58. We used all of the above-referenced information, together with information
17 obtained from our client, to develop a detailed damages assessment.

18 59. In addition to the above-referenced information, in connection with the
19 mediation we obtained additional records and numerous relevant data points. And we
20 prepared a mediation brief and prepared for the mediation.

21 60. When the case settled after the mediation, my office agreed to prepare all of
22 the settlement documents and motions. To that end, we first prepared a memorandum of
23 understanding and then the initial settlement agreement and First Amended Stipulation of
24 Class Action and PAGA Settlement and Class Notice, all of which we negotiated
25 extensively with defense counsel. We also prepared the Motion for Preliminary Approval
26 and the supplemental papers required by the Court. We then oversaw the process of mailing
27 settlement notices.
28

61. Our work on the case will not end with the filing of this motion. We will need to address any belated objections, appear for the hearing and then, if the motion is granted, oversee the receipt and disbursement of settlement funds. As part of that process, we will likely receive and respond to communications from Class Members about the settlement.

62. The actual time Rebecca Gundzik and I expended litigating this matter is itemized in detail in our billing records through July 24, 2023, a true and correct copy of which are attached hereto in **Exhibit 4**. As shown on **Exhibit 4**, my firm has incurred attorneys' fees through July 24, 2023 on this case in the amount of \$309,292.50. These time entries include the following amounts of time spent on the following activities:

<u>ATTORNEY ACTIVITY</u>	<u>TIME EXPENDED:</u>
Communications with client and other class members: initial client meetings and review of claims, ongoing communications and meetings with client, pre-filing investigation	15.0 hours
Strategy, research and analysis regarding claims and issues	19.3 hours
Communications with defense counsel	9.1 hours
Settlement matters: negotiation with opposing counsel and mediator after mediation, communications with co-counsel, preparing and reviewing the Memorandum of Understanding, settlement agreement and the class notice, drafting amended settlement agreement and class notice; communications with the settlement administrator	59.6 hours
prepare for/attend Court hearings	6.8 hours
performing review and analysis of class members' and plaintiff's records, sample payroll records, policy handbooks, driving records, other policies and other documents, determine key facts and	56.6 hours

<u>ATTORNEY ACTIVITY</u>	<u>TIME EXPENDED:</u>
create written analyses and damages model	
prepare for and attend mediation (includes working to prepare mediation strategy, drafting mediation brief and summary for Defendants, post-mediation analysis)	84.7 hours
Drafting and reviewing pleadings and Court documents and related communications (includes complaints, stipulations regarding litigation, motion for preliminary approval and supporting declarations, and motion for final approval and supporting declarations)	123.8 hours
<u>Total Hours:</u>	374.9 hours

63. This chart and our billing records do not include approximately 25 additional hours to finalize this Motion, prepare for and attend the hearing on this Motion, and time that I or Ms. Gundzik will spend working with Phoenix and Defendants to implement the settlement and communicate with Class Members regarding the disbursement of the settlement funds. At our hourly rate of \$825, this additional time adds \$20,625 to our lodestar. Additionally, as set forth in his declaration, our co-counsel Daniel Holzman spent 78.6 hours working on the case at his hourly rate of \$750, and he accordingly incurred total fees in the amount of \$58,950. Including the fees we have already billed, the additional \$20,625 we anticipate incurring in the future, and the \$58,950 amount incurred by Mr. Holzman, our total lodestar is 478.5 **hours** for a total lodestar in the amount of **\$388,867.50**.

64. My firm also incurred costs in this case that we have paid which include but are not limited to fees and expenses for filing, copies, service of process, the mediator's fees, consultant fees and postage and delivery. My firm incurred costs and expenses of \$8,156.93 and will incur additional filing fees in connection with this Motion in the approximate amount of \$49 and future CaseAnywhere fees of approximately \$240 (\$120 per quarter for at least two more quarters) for total expenses in the amount of \$8396.93. As set forth in Mr.

1 Holzman's declaration, his firm incurred costs and expenses in the amount of \$5,321.43 and
2 will include additional CaseAnywhere fees of approximately \$240. Therefore, in total we
3 are requesting **\$13,958.36** for reimbursement of Plaintiff's costs and expenses.

4 65. Despite the risks presented by Defendant's various arguments and defenses,
5 we invested our time and litigation costs and expenses, with no guarantee of compensation
6 or reimbursement. In addition, we were precluded from spending time on other matters so
7 that we could devote our attention to this case. My firm took this case on a contingent-fee
8 basis against a corporation represented by a reputable defense firm. We are a small firm with
9 only two litigation attorneys and one paralegal. As such, when we take contingent-fee cases,
10 we must pay careful attention to the economics involved, because there are some cases we
11 expend a great deal of time on, but which produce little or no fees.

12 66. Contingent-fee cases present the very real risk of working hundreds if not
13 thousands of hours that may never be entirely compensated. Moreover, while the case is
14 being litigated, counsel must pay overhead (salaries, rent, etc.), pay their expenses and pay
15 out-of-pocket expenses on the plaintiff's behalf. The prospect of a court-awarded fee does
16 not greatly reduce the risk posed by these cases. One must prevail to receive a court-
17 awarded fee, and even the best cases can be lost at trial. There are also often unseen
18 obstacles that arise during a case, such as a change in the law, documents which do not
19 comport with a client's recollection of the facts, or a client's acceptance of a settlement offer
20 that does not compensate us for our reasonable fees.

21 67. Defendants do not oppose the fees and costs being requested in this case.
22 Moreover, the Notice of Settlement mailed to Class Members stated the amount of fees
23 being requested by Class counsel. Not a single Class Member has objected to our requested
24 fee award.

25 68. I am familiar with the hourly rates charged by attorneys with similar
26 experience and expertise. My and Ms. Gundzik's hourly rate of \$825 is well within the
27 range of rates charged by attorneys with similar expertise and experience. These rates are
28 comparable to those judicially-approved for other plaintiffs' firms in California. *See, e.g., In*

1 *re Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prods. Liab. Litig.*, MDL No.
2 2672, 2017 WL 1047834, at *5 (N.D. Cal. Mar. 17, 2017) (finding a lodestar cross-check
3 supports the reasonableness of Class Counsel’s requested fees and approving partner billing
4 rates ranging from \$275 to \$1,600); *Dickey v. Advanced Micro Devices, Inc.*, No. 15-cv-
5 04922-HSG, 2020 WL 870928, at *8 (N.D. Cal. Feb. 21, 2020) (finding rates
6 between \$275 and \$1,000 for attorneys reasonable); *In re Yahoo! Inc. Customer Data Sec.*
7 *Breach Litig.*, No. 16-MD-02752-LHK, 2020 WL 4212811, at *26 (N.D. Cal. July 22, 2020)
8 (approving rates of \$450 to \$900 for partners, \$160 to \$850 for non-partner attorneys, and
9 \$50 to \$380 for staff members); *Luquetta v. Regents of Cal.*, CGC-05-443007 (San
10 Francisco Super. Ct.) (approving partner rates between \$550 and \$850 per hour); and
11 *Holloway v. Best Buy Co.*, C-05-5056-PJH (MEJ) (N.D. Cal.) (approving 2011 partner rates
12 of \$700 to \$825 an hour).

13 69. The 2020 Class Action Hourly Rate Survey, conducted by the National
14 Association of Legal Fee Analysis (NALFA), asked class action litigators from the nation’s
15 16 largest legal markets if their current regular hourly rate falls within a given range. The
16 NALFA survey shows that the average hourly rate for partners like me and Ms. Gundzik,
17 who have more than 20 years of experience, ranges between \$801-\$900. See **Exhibit 5**.

18 70. Defense-side hourly rates are also relevant. In a survey of more than 250 U.S.
19 law firms conducted by the international accounting and consulting firm
20 PricewaterhouseCoopers ("PwC"), the median average 2020 billing rate for litigation equity
21 partners at AmLaw 25 firms was \$1,327/hour and for AmLaw 50 firms was \$1,206/hour.

22 71. Likewise, the following is a table of hourly rates which was prepared by a
23 Federal Court in *Xu v. Yamanaka*, No. 13-CV-3240 YGR, 2014 WL 3840105, at *4 (N.D.
24 Cal. Aug. 1, 2014):

Firm	Partner Range	Partner Average	Associate Range	Associate Avg.
Weil Gotshall		\$927	\$450–790	\$581
Latham & Watkins	\$895–1110	\$990	\$465–725	\$605
Paul Weiss	\$760–1120	\$1040	\$250–760	\$600
Skadden Arps	\$845–1150	\$1035	\$340–845	\$620
Willkie Farr	\$790–1090	\$950	\$350–790	\$580

1 These rates for partners include many who have less years of legal experience than Class
2 Counsel, as partnership positions usually begin after eight or nine years of work. I became a
3 partner at the national firm formerly known as LeBoeuf Lamb Greene & MacRae in 1995
4 but have been working in the legal field for twenty-seven years since that time and have
5 been working as an attorney for thirty-five years. It is therefore reasonable to assume that
6 these average rates certainly apply to partners at these firms with thirty plus years of
7 experience, like Rebecca Gundzik and me. Most of my former partners charge hourly rates
8 in excess of the hourly rate I am seeking.

9 72. The fees we are requesting comport with the attorneys' fee agreements in the
10 lawsuit. Pursuant to the Settlement Agreement, the parties agreed that Class Counsel could
11 seek their attorneys' fees in an amount of up to one-third of the Gross Settlement Amount.
12 The engagement agreement that GGH and Plaintiff Hughes entered into provides for a fee
13 award in this amount. It was agreed that attorney's fees would be the greater of (1) one-third
14 of all amounts obtained or received in the lawsuit, or (2) the hours worked multiplied by the
15 hourly rates of the attorneys working on the case, plus any additional multiplier awarded by
16 the Court.

17 73. The factors set forth in *Serrano v. Priest*, 20 Cal.3d 25, 48 (1975), strongly
18 favor the requested multiplier of 1.4. This case raised a number of complex and contested
19 issues such as an employer's liability for nonproductive time, whether an employer can alter
20 the law for payment of nonproductive time by expanding the definition of an employee's
21 services to include nonproductive pay, how mileage is to be calculated when an employee is
22 commuting from their home to see patients, and to what extent an employee may require
23 employees to perform clerical and paperwork on days when they are not seeing patients
24 without paying those employees an additional amount for that work. We had to research and
25 analyze these and other issues presented in this case. Because of our experience trying and
26 pursuing wage and hour class action lawsuits, we were able to recognize these types of
27 violations and look for and analogize recent cases and other authorities to support our
28 contention that Defendants' practices did not comply with the legal requirements.

1 74. The case was also factually complex. We had to review and analyze hundreds
2 of pages of policies, analyze complex driving records and devise and implement a
3 complicated formula to determine the amount of unpaid nonproductive time and reimbursed
4 mileage expenses incurred by the Class Members.

5 75. Our past experience gave us knowledge as to how medical personnel perform
6 their jobs, as well as the ancillary time that these employees need to spend on other tasks
7 necessary to perform their work. Our past experience also gave us knowledge as to how to
8 find additional sources of evidence. And we knew how to seek and calculate the amount of
9 unreimbursed mileage expenses and unproductive time at issue. We were able to do so
10 because of our creative approach in the seeking, sampling and review of records, as well as
11 our proactive approach to handling the case.

12 76. We also had to be creative in our approach to settlement. We were well-
13 aware of the value of the case, and we relied upon the damages assessment we created based
14 on our investigation. And we certainly risked the possibility of not arriving at a settlement
15 and having to continue to litigate the lawsuit for years, as the settlement was reached only
16 after a lengthy full-day mediation.

17 77. In sum, we had to come up with creative approaches to litigating the case
18 and, ultimately, negotiating and crafting the Settlement Agreement and First Amended
19 Settlement Agreement. To this end, we have devoted a tremendous amount of time and
20 energy. As set forth in the attached invoices, we have spent a substantial number of hours
21 working on this case. This time commitment was necessary in order to research and
22 construct viable legal claims in the face of stiff opposition. But it has come at a cost, as the
23 time we devoted to this case has precluded us from taking on other cases, including hourly
24 work for which compensation for work done would have been more certain.

25 78. Fortunately, by means of our approach and hard work, we were able to obtain
26 a successful outcome for the Class. As a result of the settlement, the Class Members will
27 receive payments in an average amount of approximately \$11,743.
28

1 79. Although our hard work and dedication led to a successful outcome in this
2 case, this is not always true. We have invested time into other cases that have not been
3 successful, leaving us without any compensation for our efforts. Although we were able to
4 achieve a good outcome for the Class in this case, this was by no means a forgone
5 conclusion when we agreed to take the case.

6 80. The requested multiplier of approximately 1.4 is warranted. This multiplier is
7 within even the most modest multipliers that are approved by courts in California, as
8 multipliers typically range from three to five. *See, e.g., Vizcaino v. Microsoft Corp.*, 290
9 F.3d 1043, 1050 (9th Cir. 2002) (multiplier of 3.65); *Craft v. Cnty. of San Bernardino*, 624
10 F. Supp. 2d 1113, 1125 (C.D. Cal. 2008) (multiplier of 5.2); *See also Galeener v. Source*
11 *Refrigeration & HVAC, Inc.*, 2015 U.S. Dist. LEXIS 193096 (N.D. Cal. Aug. 21, 2015)
12 (multiplier of 2.67 approved in granting award of \$3,000,000 in attorneys' fees from a \$10
13 million common fund); *See also Lazarin v. Pro Unlimited, Inc.*, 2013 U.S. Dist. LEXIS
14 97213 (N.D. Cal. July 11, 2013, *28-29) (multiplier of 3.36 approved in granting attorneys'
15 fee award of \$312,500 where lodestar was \$92,824). And, this multiplier is well-deserved,
16 given the novelty and difficulty of the issues involved in the case, the results achieved, the
17 positive reaction of the Class, the skill we were required to utilize in order to achieve a large
18 settlement with a substantial benefit for the Class, the fact that our work on the case
19 consumed a great deal of attorney time over the course of nearly two years, and the
20 significant risk we took in being a small firm performing this work without any certainty
21 that we would be paid for it against a very reputable defense firm.

22 81. The results obtained support the requested multiplier. The settlement is very
23 good for the Class. The average recovery is approximately \$11,743 to 86 Class Members.
24 Because of this, settlement Class Members are able to recover this money without any
25 effort. Although the recoveries are material, it is not likely that many Class Members would
26 have expended the time or effort to take the necessary steps to attempt to recover their
27 unpaid wages. Indeed, in our communications with Class Members we have been thanked
28 for and complimented about our work on this case on behalf of the Class.

1 **The Proposed Service and Release Award to the Class Representative**

2 82. As compensation for her efforts, the Settlement Agreement provides that
3 Representative Plaintiff Mary Hughes will receive a service and release award in the amount
4 of \$10,000 as payment for her time and efforts in pursuing this action, for the risks she took
5 in agreeing to serve as a class representative and as additional compensation for the
6 expanded release that she is providing. In addition to the time that she spent on this matter
7 and the risks she undertook, as an additional requirement to receiving her service and release
8 payment, Plaintiff is being required to sign a broad general release which includes a waiver
9 of Section 1542 of the California Civil Code.

10 83. It is important that the named Plaintiff be paid a fair amount for her services.
11 By agreeing to become a named representative she subjected herself to substantial risks. Ms.
12 Hughes also spent a significant amount of time on the lawsuit, meeting with us many times
13 by Zoom and by telephone and missing a full day of work to attend the mediation. See
14 *Golba v. Dick's Sporting Goods, Inc.* (2015) 238 Cal. App. 4th 1251, 1272. She provided us
15 with many documents and connected us with other class members who we interviewed. By
16 agreeing to serve as a class representative, Ms. Hughes has taken significant actions to
17 protect the interests of the Class, and the Class has significantly benefitted from those
18 actions. *Clark v. American Residential Services LLC* (2009) 175 Cal. App. 4th 785, 804.

19 84. If it wasn't for the named Plaintiff, the settlement, pursuant to which
20 approximately \$1,035,958 will be paid to Class Members, with the average Class Member
21 receiving approximately \$11,743.22, would not have been obtained for the Class. It is not
22 likely that many Class Members would have expended the time or effort to take the
23 necessary steps to attempt to recover their unpaid reimbursements. Although we contend
24 Defendants had not been compensating employees for the amounts at issue in this case for
25 many years, only the named Plaintiff was willing to come forward and seek compensation
26 for all of Defendants' employees.

1 85. If Plaintiff had gone to the Department of Labor, she may have received
2 some compensation, but the Class, LWDA and Aggrieved Employees would have received
3 nothing.

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

6 Dated: August 10, 2023



Aaron C. Gundzik

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Exhibit 1

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and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

MARY BETH HUGHES, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

JEFFREY LEE GALITZ, MD, A
PROFESSIONAL MEDICAL
CORPORATION, a California corporation;
DOES 1 through 25,

Defendants.

Case No.: 21STCV30732
*Assigned for all purposes to Hon. Yvette
M. Palazuelos, SSC-9*

**FIRST AMENDED STIPULATION
OF CLASS ACTION AND PAGA
SETTLEMENT**

I. INTRODUCTION AND SUMMARY OF SETTLEMENT TERMS

This First Amended Stipulation of Class Action and PAGA Settlement completely replaces and nullifies the Stipulation of Class Action and PAGA Settlement signed by the parties as of July 2022. This stipulation sets forth the terms of the settlement of a class and representative action filed on behalf of current and former non-exempt employees who worked for Defendant Jeffrey Lee Galitz, M.D., A Professional Medical Corporation dba Woundtech of California (“Galitz”); Podicare Services, Inc (“Podicare”); and Wound Technology Network, Inc. (“WTN”) (Galitz, Podicare, and WTN collectively “Defendants”)

1 in California during the Class Period, as defined below. The Second Amended Complaint
2 alleges causes of action against Defendants for (1) failure to pay overtime; (2) failure to pay
3 for non-productive time; (3) failure to pay wages for all work performed; (4) failure to
4 provide compliant meal breaks and paid rest breaks; (5) inaccurate wage statements; (6)
5 failure to reimburse necessary expenditures; (7) violation of the Unfair Practices Act; (8)
6 failure to pay all wages owed at termination; and (9) recovery of civil penalties under
7 PAGA.

8 Under the terms of the parties' Settlement and after final approval and entry of
9 judgment pursuant to California Rule of Court 3.769, Defendants will pay a gross settlement
10 amount of one million six hundred seventy-five thousand dollars (\$1,675,000) (the "Gross
11 Settlement Amount"), plus the employer's share of payroll taxes. The Settlement will be
12 administered by a third-party settlement administrator with experience administering class
13 action settlements of this type. Until distribution, the Gross Settlement Amount will be held
14 in a Qualified Settlement Fund established by the Settlement Administrator. This is an opt-
15 out settlement, and Class Members (as defined in Section II) will receive a settlement
16 payment unless they timely submit a Request for Exclusion. Settlement Class Members shall
17 not be required to submit a claim form.

18 The Parties agree and propose that the following disbursements will be made from
19 the Gross Settlement Amount, subject to Court approval at the Final Fairness and Approval
20 Hearing:

21 A. Settlement Administration Costs, estimated to be \$6,750;

22 B. Class Counsel's Attorneys' Fees, to be approved by the Court, in an amount
23 not to exceed five hundred fifty-eight thousand three hundred and thirty-three dollars
24 (\$558,333), which is one-third of the Gross Settlement Amount;

25 C. Class Counsel's Costs, as approved by the Court, in an amount not to exceed
26 \$40,000;

1 D. A Service and Release Award to Plaintiff Mary Beth Hughes in the amount
2 of \$10,000 as payment for her time and efforts in pursuing this Action, and for the broader
3 release and other covenants that she will be providing to Defendant;

4 E. An allocation of \$50,000 to Plaintiff's PAGA claims (the "PAGA Amount"),
5 to be distributed as follows: Payment of \$37,500 to the California Labor and Workforce
6 Development Agency (the "LWDA Payment"), which represents the Labor and Workforce
7 Development Agency's ("LWDA") 75% share of \$50,000. The other 25% of the PAGA
8 Amount (\$12,500) will be distributed to those Class members who worked for Defendants at
9 any time during the PAGA Period (defined below).

10 F. The remainder of the Gross Settlement Amount (the "Net Settlement
11 Amount") will be distributed to Settlement Class Members based on the methodology
12 discussed in section IV.L.1, below. It is estimated that the Net Settlement Amount will be
13 approximately \$1,022,417 after deductions for Class Counsel's Attorneys' Fees, Class
14 Counsel's Costs, Settlement Administration Costs, the Service and Release Awards, and the
15 PAGA Amount.

16 Defendants represent that the Class consisted of approximately 89 members as of
17 May 19, 2022.

18 **II. DEFINITIONS**

19 As used in this Stipulation, the following terms shall have the meanings set forth
20 below:

21 A. "Action" means this putative class and representative action pending in Los
22 Angeles County Superior Court titled *Mary Beth Hughes v. Jeffrey Lee Galitz, MD, A*
23 *Professional Medical Corporation, a California corporation*, Case No. 21STCV30732.

24 B. "Agreement" or "Stipulation" means this Stipulation of Class Action and
25 PAGA Settlement.

26 C. "Class" means all individuals who were employed by Galitz and allegedly
27 employed by Podicare and WTN in California as non-exempt employees during the Class
28 Period (as defined below).

1 D. "Class Counsel" means Aaron C. Gundzik and Rebecca G. Gundzik of
2 Gundzik Gundzik Heeger LLP, 14011 Ventura Blvd., Suite 206E, Sherman Oaks, CA
3 91423, (818) 290-7461, and Dan Holzman of Caskey & Holzman, 24025 Park Sorrento, Ste.
4 400, Calabasas, CA 91302, (818) 657-1070.

5 E. "Class Counsel's Attorneys' Fees" means the amount to be awarded to Class
6 Counsel from the Gross Settlement Amount for their attorneys' fees for their work in this
7 Action, subject to Court approval at the Final Fairness and Approval Hearing. Class
8 Counsel's Attorneys' Fees will not exceed \$558,333.00, which is one-third of the Gross
9 Settlement Amount.

10 F. "Class Counsel's Costs" means the amount to be awarded to Class Counsel
11 from the Gross Settlement Amount to reimburse Class Counsel for their reasonable costs
12 and expenses incurred in the Action, subject to Court approval at the Final Fairness and
13 Approval Hearing. Class Counsel's Costs will not exceed \$40,000.

14 G. "Class Data" means (a) the full name and last known address of each Class
15 Member and PAGA Employee; (b) the number of days that each Class Member actually
16 worked for Defendants during the Class Period in a Class position; (c) the number of wage
17 statements issued to each PAGA Employee during the PAGA Period; and (d) the Class
18 Member's social security number.

19 H. "Class Member" is a person who is a member of the Class.

20 I. "Class Period" means the period from August 19, 2017 through the earlier of
21 July 19, 2022 and the date of preliminary approval.

22 J. "Complaint" means the Second Amended Complaint on file in the Action.

23 K. "Court" means the Superior Court of the State of California, in and for the
24 County of Los Angeles, where the Action is pending.

25 L. "Defendants" means Jeffrey Lee Galitz, M.D., A Professional Medical
26 Corporation, dba Woundtech of California; Podicare Services, Inc.; and Wound Technology
27 Network, Inc.

1 M. “Defendants’ Counsel” means Lonnie D. Giamela, Fisher & Phillips LLP, 444
2 South Flower Street, Suite 1500, Los Angeles, CA 90071, (213) 330-4454.

3 N. “Effective Date” means the date of entry of the “Final Approval Order” if no
4 objection is filed. If a timely objection to the settlement is filed, the “Effective Date” will be
5 the later of (1) 7 days after the period for filing an appeal of the Final Approval Order has
6 elapsed without any appeal having been filed or (2) 7 days after any appellate proceedings
7 opposing the Final Approval Order have finally and conclusively been dismissed with no
8 right to pursue further remedies or relief.

9 O. “Employer’s Withholding Share” means Defendants’ share of all federal,
10 state, and local taxes and required withholdings, including without limitation, FICA,
11 Medicare tax, FUTA, and state unemployment taxes. Defendants will pay the Employer’s
12 Withholding Share in addition to the Gross Settlement Amount.

13 P. “Final Approval Order” means the Order Granting Final Approval of Class
14 Action Settlement and Judgment entered by the Court.

15 Q. “Final Fairness and Approval Hearing” means the hearing on Plaintiff’s
16 Motion for Final Approval of Class Action Settlement at which the Court will be asked to
17 give final approval to the settlement terms set forth herein and to enter judgment.

18 R. “Gross Settlement Amount” means the one million six hundred seventy-five
19 thousand dollars (\$1,675,000) which Defendants will pay under this Settlement.

20 S. “LWDA Payment” means \$37,500, which is 75% of the PAGA Amount. The
21 LWDA Payment will be paid to the LWDA.

22 T. “Net Settlement Amount” means the amount remaining from the Gross
23 Settlement Amount after payments of Court-approved Class Counsel’s Attorney’s Fees and
24 Class Counsel’s Costs, the Service and Release Award to the Representative Plaintiff and
25 Settlement Administration Costs, and the PAGA Amount. It is estimated that the Net
26 Settlement Amount will be at least \$1,022,417.

27
28

1 U. "Notice of Settlement" means the "Notice of Proposed Class Action
2 Settlement and Hearing Date for Approval," the form of which is attached hereto as Exhibit
3 1, or any subsequent version of Exhibit 1, as approved by the Court.

4 V. "Notice of Objection" means a written objection to this Settlement sent by a
5 Settlement Class Member to the Settlement Administrator that complies with the criteria
6 specified herein and in the Notice of Settlement.

7 W. "PAGA Amount" means \$50,000, which is the portion of the Gross
8 Settlement Amount that the Parties allocated to settlement of Plaintiff's PAGA claims.

9 X. "PAGA Employee" means all individuals who were employed by Galitz and
10 allegedly Podicare and WTN and worked at least one day for Defendants in California at
11 any time during the PAGA Period.

12 Y. "PAGA Employee Portion" means \$12,500, which is 25% of the PAGA
13 Amount. The PAGA Employee Portion will be paid only to PAGA Employees.

14 Z. "PAGA Pay Period" means a two-week pay period within the PAGA Period
15 during which a PAGA employee performed work for at least one day for Defendants in
16 California. A pay period during which a PAGA Employee was entirely absent from work,
17 such as a week during which a PAGA Employee was on leave or vacation, is not a PAGA
18 Pay Period.

19 AA. "PAGA Period" means the time period from August 19, 2020 through the
20 earlier of (1) July 19, 2022 and (2) the date of preliminary approval.

21 BB. "PAGA Released Claims" means any and all claims for California Labor
22 Code violations under PAGA that are alleged in Plaintiff's August 19, 2021 letter to the
23 Labor Workforce Development Agency ("LWDA") LWDA and/or in the Complaint,
24 specifically for: (1) failure to pay overtime in violation of Labor Code section 510; (2)
25 failure to pay for nonproductive time and rest breaks in violation of Labor Code section
26 226.2; (3) failure to pay wages for all work performed in violation of Labor Code sections
27 204 and 1197; (4) failure to provide meal and rest breaks and failure to pay wage premiums
28 for such violations in violation of Labor Code section 226.7 and 512; (5) non-compliant

1 wage statements in violation of Labor Code section 226(a); (6) unreimbursed business
2 expenses in violation of Labor Code section 2802; (7) failure to maintain time records in
3 violation of Labor Code section 1174(d); (8) final wages not timely paid in violation of
4 Labor Code sections 201 and 202; and (9) failure to provide sick leave and notice thereof, in
5 violation of Labor Code sections 246, 247.5 and 2810.5. The time period of this release
6 shall be the PAGA Period.

7 CC. "Parties" means the Representative Plaintiff, on behalf of himself and all
8 Settlement Class Members, and Defendants.

9 DD. "Preliminary Approval Date" is the date that the Court grants preliminary
10 approval of this Settlement pursuant to California Rule of Court 3.769(c).

11 EE. "Qualified Settlement Fund" or "QSF" means a federally insured bank
12 account to be established by the Settlement Administrator into which all payments from
13 Defendants related to this Settlement will be deposited and from which all payments
14 authorized by the Court will be made. The QSF will be established prior to Defendants'
15 deposit of the Gross Settlement Amount.

16 FF. "Qualifying Workday" means a day within the Class Period during which a
17 Class Member actually worked for Defendants in a Class position during the Class Period. A
18 day during which a Class Member was entirely absent from work, such as a day during
19 which a Class Member was on leave or vacation, is not a Qualifying Workday.

20 GG. "Released Claims," means all wage-and-hour claims asserted in the Action or
21 that arise from the facts alleged in the Complaint, including claims for: (1) violation of
22 Labor Code section 510; (2) failure to pay for nonproductive time and rest breaks in
23 violation of Labor Code section 226.2; (3) failure to pay wages for all work performed in
24 violation of Labor Code sections 204 and 1197; (4) unpaid meal and rest period premiums in
25 violation of Labor Code section 226.7(c); (5) non-compliant wage statements in violation of
26 Labor Code section 226(a); (6) unreimbursed business expenses in violation of Labor Code
27 section 2802; (7) final wages not timely paid in violation of Labor Code sections 201 and
28 202; and (8) violation of California Business & Profession Code Sections 17200, *et seq.*, in

1 relation to the forgoing Labor Code violations and violations of Labor Code sections 246,
2 247.5 and 2810.5. This release shall also include releases for claims under California Labor
3 Code sections: 201-204, 226, 226.7, 510, 512, 1174, 1174.5, 1182.12, 1194, 1197, 1198,
4 2802, and 2810.5 arising from the facts alleged in the Complaint. The time period of this
5 release is from August 19, 2017, through the earlier of July 19, 2022 and the Preliminary
6 Approval Date.

7 HH. “Released Parties” Defendants Jeffrey Lee Galitz, M.D., a Professional
8 Medical Corporation dba Woundtech of California; Podicare Services, Inc.; and Wound
9 Technology Network, Inc., as well as Defendants’ current and former agents, officers,
10 employees, directors, owners, subsidiaries, affiliates, parent companies, insurers, attorneys,
11 shareholders, investors, related management companies and any other related parties but
12 only as to the Released Claims and PAGA Released Claims.

13 II. “Representative Plaintiff” means Plaintiff Mary Beth Hughes.

14 JJ. “Request for Exclusion” means a signed request by a Class Member to be
15 excluded from the Settlement Class that is submitted in accordance with the procedure set
16 forth herein, also known as an “opt-out request.”

17 KK. “Response Deadline” means the date that is forty-five (45) calendar days
18 after the mailing of the Notices of Settlement. Provided, for Notices of Settlement that are
19 re-mailed to a different address, the Response Deadline will be the earlier of: (1) forty-five
20 (45) calendar days after re-mailing, and (2) ten (10) days before the initial date set by the
21 Court for the Final Fairness and Approval Hearing.

22 LL. “Service and Release Award” means the payment to be made to the
23 Representative Plaintiff for her service to the Class and for the broader general release that
24 she is providing to Defendants, which is in addition to whatever payment she otherwise
25 would be entitled to receive as a Settlement Class Member. The Service and Release Award
26 will not exceed \$10,000.

27 MM. “Settlement” means the disposition of the Action and all related claims
28 effectuated by this Agreement.

1 NN. “Settlement Administration Costs” means the fees and costs incurred or
2 charged by the Settlement Administrator in connection with the execution of its duties under
3 this Agreement including, but not limited to fees and costs associated with: (1) establishing
4 and maintaining the QSF; (2) preparing, issuing and/or monitoring reports, filings, and
5 notices (including the cost of printing and mailing all notices and other documents to the
6 Class Members) required to be prepared in the course of administering the Settlement; (3)
7 computing the amount of the settlement payments, taxes, and any other payments to be
8 made under this Agreement; (4) calculating and handling inquiries about the calculation of
9 individual settlement payments; (5) establishing and operating a settlement payment center
10 website, address, and phone number to receive Class Members’ inquiries about the
11 Settlement; (6) providing a due diligence declaration for submission to the Court prior to the
12 final approval hearing; (7) printing and providing Settlement Class Members and Plaintiff
13 with W-2 and 1099 forms as required under this Agreement and applicable law; (8)
14 preparing, issuing, and filing any tax returns and information returns and any other filings
15 required by any governmental taxing authority or other governmental agency; and (9) for
16 such other tasks as the Parties mutually agree or the Court orders the Settlement
17 Administrator to perform. Settlement Administration Costs will not exceed \$6,750 and will
18 be paid out of the Gross Settlement Amount.

19 OO. “Settlement Administrator” refers to Phoenix Settlement Administrators.

20 PP. “Settlement Class” means all Class Members who have not submitted a
21 timely and complete Request for Exclusion.

22 QQ. “Settlement Class Member” is a person who is a member of the Settlement
23 Class.

24 **III. BACKGROUND**

25 During the Class Period, Defendants operated a company which provided telehealth
26 and in-home wound care to patients in California. Plaintiff contends that during the Class
27 Period, she and other alleged non-exempt employees of Defendants were not paid overtime,
28 were not paid for non-productive time, were not paid for all work they performed, were not

1 provided compliant meal breaks and paid rest breaks, were not provided with accurate wage
2 statements, were not reimbursed for all of their necessary expenditures, and were not paid all
3 wages owed at separation.

4 The Parties have undertaken significant investigation and informal discovery during
5 the prosecution of this Action. Such discovery and investigation included extensively
6 interviewing the Representative Plaintiff, Defendants' production and Plaintiff's counsel's
7 review of personnel records, policies, as well as time and pay records for about 20% of
8 Class Members and other detailed information relevant to the Class Members' claims.
9 Counsel for the Parties have investigated the law as applied to the facts discovered regarding
10 the alleged claims of the Class and potential defenses thereto, and the potential damages
11 claimed by the Class.

12 The Parties' attorneys have engaged in extensive discussions about the strengths and
13 weaknesses of the claims and defenses in the Action. On May 19, 2022, the Parties attended
14 a mediation before an experienced and well-regarded mediator, Gig Kyriacou, at the end of
15 which the Parties reached an agreement regarding the resolution of this Action which is
16 embodied in the terms of this Agreement.

17 Plaintiff and Class Counsel have concluded, after considering the sharply disputed
18 factual and legal issues involved in this Action, the risks attending further prosecution, and
19 the substantial benefits to be received pursuant to the compromise and settlement of the
20 Action as set forth in this Agreement, that this Settlement is in the best interests of the
21 Representative Plaintiff and the Settlement Class and is fair and reasonable.

22 This Settlement contemplates: (i) entry of an order preliminarily approving the
23 Settlement and approving certification of a provisional Class for settlement purposes only; (ii)
24 dissemination of a notice to Class Members about the settlement; (iii) entry of a Final
25 Approval Order granting final approval of the Settlement; and (iv) entry of a final judgment.

26 **IV. SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURE**

27 **A. Preliminary Approval of Settlement**

28 Following the execution of this Stipulation by all Parties or at such other time

1 specified by the Court, Class Counsel will submit this Stipulation to the Court as part of
2 Plaintiff's motion for preliminary approval of the settlement. Plaintiff's motion will include
3 such briefing and evidence as may be required for the Court to determine that this
4 Agreement is fair and reasonable, as required by California Code of Civil Procedure section
5 382 and California Rule of Court 3.769. Class Counsel will provide Defendants' counsel
6 with the opportunity to review and comment on all drafts of all papers to be filed in
7 connection with the motion for preliminary approval (notice of motion, memorandum of
8 points and authorities and declarations) at least three court days before filing such motion
9 with the Court. Plaintiff's motion for preliminary approval will also include a proposed
10 order that is mutually agreed-upon by the Parties. Defendants shall not oppose Plaintiff's
11 motion for preliminary approval of the settlement to the extent it is consistent with the terms
12 and conditions of this Agreement. Defendants may, however, provide a written response to
13 any characterization of the law or facts contained in the motion for preliminary approval.

14 The Parties have agreed to the certification of the Class for the sole purposes of
15 effectuating this Settlement. Should the Settlement be terminated for any reason, or should
16 the Settlement not be approved by the Court, the fact that the Parties were willing to
17 stipulate to class certification as part of the Settlement will have no bearing on, and will not
18 be admissible in connection with, the issue of whether a class should be certified in a non-
19 settlement context in this Action, and in any of those events, Defendants expressly reserve
20 the right to oppose class certification. Additionally, if the Settlement does not become final,
21 this Agreement and all negotiations, court orders, and proceedings related thereto shall be
22 without prejudice to the rights of all Parties hereto, and evidence relating to the Agreement
23 and all negotiations shall not be admissible in the Action or otherwise. The Parties further
24 agree that if, for any reason, the Settlement is not approved, the certification for purposes of
25 this Settlement will have no force or effect and will be immediately revoked.

26 **B. Cooperation**

27 The Parties agree to fully cooperate with each other to accomplish the terms of this
28 Agreement, including but not limited to, execution of such documents and to take such other

1 reasonably necessary actions to implement the terms of this Agreement. No party, nor any
2 of its attorneys or agents, shall solicit or encourage any Class Member to opt out of or object
3 to the Settlement.

4 **C. Notice of Settlement**

5 Within 21 calendar days following the Court's order granting preliminary approval
6 of the Settlement, Defendants will provide the Settlement Administrator with the Class Data
7 in an electronic format acceptable to the Settlement Administrator. At the same time,
8 Defendants will provide the Class Data, without Class Member names (and instead using a
9 unique identifier), addresses or social security numbers, to Class Counsel. This information
10 will remain confidential and will not be disclosed to anyone, except as required to applicable
11 taxing authorities, pursuant to Defendants' express written authorization, by order of the
12 Court, or as otherwise provided for in this Agreement. To the extent that the Settlement
13 Administrator requests to contact a Class Member by telephone or email, Defendants will
14 provide the Settlement Administrator with such Class Member's last known telephone
15 number and/or email address, if available to Defendants.

16 Using the Class Data, the Settlement Administrator will: (1) confirm the number of
17 Class Members and Qualifying Workdays, (2) finalize and print the Notice of Settlement;
18 (3) check all addresses against the National Change of Address database; and (4) within ten
19 (10) calendar days of receiving the Class Data, send to each Class Member via First-Class
20 United States mail an English version of the Notice of Settlement to the most recent address
21 known for each Class Member. Based upon the job requirements for Class Members,
22 Defendants represent that all Class Members are proficient in English and that it is not
23 necessary to translate of the Notice of Settlement into any other language.

24 **D. Re-Sending Class Notices**

25 In the event that Defendants' Counsel or Class Counsel becomes aware of new
26 addresses for any Class Member, prior to the filing of the motion for final approval, such
27 information must immediately be communicated to the Settlement Administrator. The
28

1 Settlement Administrator will then re-send a Notice of Settlement to the Class Member(s) at
2 the new address.

3 For any Notice of Settlement that is returned as undeliverable, the Settlement
4 Administrator will perform a utility database search or other skip trace. The returned Notices
5 of Settlement will be re-mailed to the new addresses obtained for such Class Members. Such
6 searching and re-mailing will be completed within ten (10) calendar days of the date that
7 Notices of Settlement were originally returned as undeliverable.

8 **E. Requests for Exclusion (Opt-Outs)**

9 Any Class Member who wishes to be excluded from the Settlement must notify the
10 Settlement Administrator in writing of his or her desire to be excluded by mailing his or her
11 own Request for Exclusion to the Settlement Administrator that clearly expresses such
12 desire and is signed by such Class Member. Any such Request for Exclusion shall include
13 the Class Member's name, current address, telephone number, and last four numbers of the
14 Class Member's social security number. To be valid, the Request for Exclusion must be
15 postmarked by no later than the Response Deadline.

16 Any Class Member who submits a valid and timely Request for Exclusion shall be
17 barred from participating in this Settlement, shall be barred from objecting to this
18 Settlement, and shall receive no benefit from the Class Settlement. Provided, however,
19 notwithstanding a valid Request for Exclusion, all PAGA Employees shall receive their
20 share of the PAGA Employee Portion and will be deemed to have released the PAGA
21 Released Claims.

22 Any Class Member who fails to submit a timely, complete, and valid Request for
23 Exclusion shall be barred from opting out of the Settlement. It shall be conclusively
24 presumed that, if a Request for Exclusion is not postmarked on or before the Response
25 Deadline, the Class Member did not make the request in a timely manner. Under no
26 circumstances shall the Settlement Administrator have the authority to extend the deadline
27 for Class Members to submit a Request for Exclusion.

28 Unless a Class Member submits a timely, complete, and valid Request for Exclusion,

1 he or she shall be deemed a Settlement Class Member and shall be bound by the terms and
2 conditions of this Agreement. The releases provided for in this Agreement shall conclusively
3 preclude any Settlement Class Member from asserting any of the Released Claims against
4 any of the Released Parties in any judicial, administrative, or arbitral forum.

5 The Settlement Administrator shall promptly provide Class Counsel and Defendants'
6 Counsel with copies of all Requests for Exclusion that it receives.

7 **F. Declaration of Compliance**

8 At the time determined by Class Counsel, the Settlement Administrator shall provide
9 Class Counsel and Defendants' Counsel with a declaration attesting to completion of the
10 notice process set forth in this Section IV, including the number of notices sent and returned,
11 an explanation of efforts to resend undeliverable notices, and copies of all Requests for
12 Exclusion, which declaration shall be filed with the Court by Class Counsel along with their
13 papers requesting final approval of the Settlement.

14 **G. Sufficient Notice**

15 Compliance with the procedures described in this Section IV shall constitute due and
16 sufficient notice to Class Members of this Settlement and of the Final Fairness and Approval
17 Hearing, shall satisfy the requirements of due process, and nothing else shall be required of
18 the Representative Plaintiff, Class Counsel, Defendants, Defendants' Counsel, or the
19 Settlement Administrator to provide notice of the Settlement and the Final Fairness and
20 Approval Hearing.

21 **H. Objections to Settlement**

22 **1. Procedure and Deadline for Objections**

23 A Class Member may object to the Settlement by submitting a written Notice of
24 Objection to the Settlement Administrator, postmarked no later than the Response Deadline,
25 signed by the objecting Class Member or his or her attorney, along with supporting papers
26 (if any). The date the signed Notice of Objection was postmarked shall be conclusively
27 determined according to the records of the Settlement Administrator. The Settlement
28 Administrator shall send any Notices of Objections it receives to Defendants' counsel and

1 Class Counsel within three (3) business days of receipt. A Class Member may also object to
2 the settlement by appearing at the Final Approval Hearing. The Court retains final authority
3 with respect to the consideration and admissibility of any Notice of Objection.

4 If a Class Member submits both a Notice of Objection and a Request for Exclusion,
5 the Settlement Administrator shall make reasonable attempts to clarify the intentions of the
6 Class Member. If the Class Member fails to clarify their position, the Request for Exclusion
7 shall be deemed controlling and the Notice of Objection shall be disregarded.

8 **2. Responses to Notices of Objection**

9 Class Counsel and Defendants' counsel shall file any Notices of Objection from
10 Class Members submitted to the Settlement Administrator, and Class Counsel's and
11 Defendants' Counsel's responses to such objections, at least five (5) court days before the
12 Final Fairness and Approval Hearing.

13 **I. Defendants' Right to Rescind**

14 If four or more Class Members submit timely and valid Requests for Exclusion,
15 Defendants may, at their option, rescind the Settlement. In that event, all actions taken in
16 furtherance of the Settlement will be null and void. Defendants must exercise this right of
17 rescission, in a writing to Class Counsel, within five (5) calendar days following
18 Defendants' Counsel's receipt of information from the Settlement Administrator indicating
19 that the number of valid Requests for Exclusion exceed this limit, which will concurrently
20 be delivered by the Settlement Administrator to Class Counsel. If Defendants exercise their
21 right to rescind, Defendants shall pay all fees of the Settlement Administrator incurred as of
22 such date.

23 **J. Pro-Rata Increase in Settlement Fund**

24 If, as reflected in the Class Data delivered to the Settlement Administrator, the total
25 number of Class Member Qualifying Workdays exceeds 21,868 by more than twelve percent
26 (12%) as of July 19, 2022, the Gross Settlement Amount shall increase by the same
27 percentage that the number of Qualifying Workdays exceeds 21,868 by more than twelve
28 percent (12%).

1 **K. Final Fairness and Approval Hearing**

2 On or before the date set by the Court, Class Counsel will file a motion for final
3 approval of this Settlement pursuant to California Rule of Court 3.769. Class Counsel will
4 provide Defendants' counsel with the opportunity to review and comment on drafts of all
5 papers to be filed in connection with the motion for final approval (notice of motion,
6 memorandum of points and authorities and declarations) at least three court days before
7 filing such motion with the Court. Plaintiff's motion for final approval will also include a
8 proposed order that is mutually agreed-upon by the Parties. Defendants shall not oppose
9 Class Counsel's motion for final approval of the settlement to the extent it is consistent with
10 the terms and conditions of this Agreement. Defendants may, however, provide a written
11 response to any characterization of the law or facts contained in the motion for final
12 approval.

13 On the date set by the Court, the Final Fairness and Approval Hearing shall be held
14 before the Court in order to: (1) determine whether the Court should give this Settlement
15 final approval; (2) determine whether Class Counsel's application for attorneys' fees and
16 costs, and request for the Service and Release Award to the Representative Plaintiff, should
17 be granted; (3) determine whether the Court should approve the payment of fees to the
18 Settlement Administrator and the PAGA Settlement Amount and (4) consider any timely
19 Objections to Settlement, including Class Counsel's and Defendants' counsel's responses
20 thereto. Upon final approval, the Court shall enter a Final Approval Order (in a form
21 submitted by Class Counsel and approved by Defendants' counsel) which has the effect of
22 adjudicating all claims set forth in the Complaint and implementing the release of Released
23 Claims and PAGA Released Claims, as set forth in this Agreement. The Final Approval
24 Order will be posted on the Settlement Administrator's website. The posting of the Final
25 Approval Order on the Settlement Administrator's website will constitute notice of entry of
26 the judgment, as required by California Rule of Court 3.771(b).

1 **3. Inclusion of Qualifying Workdays and Estimated Settlement**
2 **Payment Information in Notice of Settlement**

3 The Notice of Settlement sent to each Class Member shall state the amount of the
4 Class Member's Qualifying Workdays and PAGA Pay Periods, as reflected in the Class
5 Data. The Notice of Settlement shall provide an estimate of each Class Member's share of
6 the Class settlement and each PAGA Employee's share of the PAGA Employee Portion, as
7 calculated by the Settlement Administrator. The estimated settlement payment included in
8 the Notice of Settlement will be calculated by assuming that no Class Members will be
9 excluded from the Settlement.

10 **4. Eligibility**

11 Settlement Class Members (but not Class Members who exclude themselves from
12 the Settlement), will receive a settlement payment from the Net Settlement Fund, distributed
13 through the Settlement Administrator. All PAGA Employees will still receive a check for
14 their share of the PAGA Employee Portion, regardless of whether they submit a valid
15 Request for Exclusion.

16 If the Parties become aware after settlement checks are mailed that a Class Member
17 was not sent a Notice of Settlement because of an error in the Class Data as provided by
18 Defendants, Defendants may arrange to separately pay the Class Member the amount that
19 the Class Member would have received had they participated in the settlement, as long as
20 the Class Member agrees in writing to be bound by the Judgment and Class releases.

21 **5. Disputes about Qualifying Workdays**

22 If a Class Member disagrees with the number of Qualifying Workdays or PAGA Pay
23 Periods, as stated in their Notice of Settlement, they may dispute that figure by informing
24 the Settlement Administrator of the number of Qualifying Workdays and/or PAGA Pay
25 Periods that they claim to have worked during the Class Period or PAGA Period and provide
26 any supporting documentation (such as, without limitation, payroll or time keeping records,
27 and paycheck stubs) on or before the Response Deadline. If there is a dispute, the Settlement
28 Administrator will consult with Class Counsel and Defendants' counsel to determine

whether an adjustment is warranted. The Settlement Administrator shall determine any such disputes, subject to Court approval. The Settlement Administrator shall be obligated to resolve any such disputes within ten (10) calendar days, but by no later than the date of the Final Approval Hearing.

6. Allocation of Settlement Payments

Payment to each Settlement Class Member shall be allocated as follows: twenty percent (20%) shall be attributed to wages, to be reported on a W-2 form and eighty percent (80%) shall be reported as interest, reimbursement of expenses and penalties. The amount of penalties, interest and reimbursement of expenses will be reported on an IRS Form 1099. All payments of the PAGA Employee Portion will be considered penalties and reported on an IRS Form 1099.

7. Payment of Payroll Taxes

The amount paid to each Settlement Class Member attributable to wages shall be subject to all applicable taxes and other withholdings and shall be net of the Settlement Class Member's share of all federal, state, and local taxes and required withholdings, including without limitation, FICA, Medicare tax, FUTA, and state unemployment taxes. The Employer's Withholding Share shall be paid by Defendants separately and in addition to Defendants' payment of the Gross Settlement Amount.

For each Settlement Class Member, the Settlement Administrator shall determine the Employer's Withholding Share. Information related to the Employer's Withholding Share for each Settlement Class Member shall be provided to Defendants by the Settlement Administrator. If Defendants disagree with the Settlement Administrator's determination of the Employer's Withholding Share, it will communicate with and share information reasonably necessary to reach a good faith determination of the correct Employer's Withholding Share.

8. Payments to Settlement Class Members

Within ten (10) calendar days of Defendants' deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will make the

1 settlement payments to Settlement Class Members and PAGA Employees based on the
2 payment formulae set forth herein.

3 **M. The Settlement Administrator**

4 The Settlement Administrator will perform the duties specified in this Agreement
5 and any other duties incidental to such obligations. The Settlement Administrator's duties
6 shall include, without limitation: establishing the QSF, preparing and distributing the Notice
7 of Settlement; calculating and directing the disbursement of payments to Settlement Class
8 Members, Class Counsel, the Class Representative and the LWDA; calculating and timely
9 paying any and all payroll taxes from the wages portion of the Net Settlement Amount to the
10 appropriate tax authorities, as required under this Agreement and applicable law; handling
11 inquiries about the calculation of individual settlement payments; preparing and filing any
12 tax returns and information returns and any other filings required by any governmental
13 taxing authority or other governmental agency; providing weekly status reports to the
14 Parties' counsel; advising Defendants' counsel and Class Counsel of any Class Members
15 who submit Notices of Objections and/or Requests for Exclusion; providing a due diligence
16 declaration for submission to the Court prior to the final approval hearing; printing and
17 providing Settlement Class Members and Representative Plaintiff with W-2 and 1099 forms
18 as required under this Agreement and applicable law; arranging for and remitting funds from
19 any uncashed settlement payment to the designated recipient, as determined by the Court;
20 and for such other tasks as the Parties mutually agree or the Court orders the Settlement
21 Administrator to perform.

22 The Settlement Administrator shall establish a settlement payment center address,
23 telephone number and email address to receive Class Members' inquiries about the Notice
24 of Settlement, requests to be excluded from the Settlement and settlement payments.

25 In addition, the Settlement Administrator shall establish a static website and, on the
26 website, post this stipulation, any preliminary approval order and the Final Approval Order
27 and Judgment. Posting of the Final Approval Order and Judgment on such website shall
28 constitute notice of judgment to the Settlement Class, as required by California Rule of

1 Court 3.771(b).

2 The Parties confirm, and Class Counsel and Defendants' Counsel confirm that they
3 do not have any financial interest in the Settlement Administrator or otherwise have a
4 relationship with the Settlement Administrator that could create a conflict of interest.

5 **N. Time for Payment by Defendants**

6 Within ten (10) calendar days after the Effective Date, Defendants shall deliver the
7 Gross Settlement Amount and Employer's Withholding Share to the QSF.

8 **O. Payments to Class Counsel, the Representative Plaintiff, the LWDA and**
9 **the Settlement Administrator**

10 Subject to Court approval, within ten (10) calendar days of Defendants' deposit of
11 the Gross Settlement Amount with the Settlement Administrator, the Settlement
12 Administrator shall make payment from the QSF to: (1) Class Counsel, for Class Counsel's
13 Attorneys' Fees and Class Counsel's Costs, as approved by the Court; (2) the Representative
14 Plaintiff for the Service and Release Award, as approved by the Court; (3) to the LWDA for
15 the LWDA Amount, as approved by the Court; and (4) to the Settlement Administrator for
16 the Settlement Administration Costs, as approved by the Court. These payments will be
17 reported on an IRS Form 1099.

18 **P. Un-cashed/Un-deposited Settlement Payment Checks**

19 If any Settlement Class Member's settlement payment check has not been cashed or
20 deposited within sixty (60) calendar days after disbursement, the Settlement Administrator
21 shall attempt to contact each individual to advise them to cash their checks, and to offer to
22 replace any checks reported as either lost or stolen. In attempting to contact such persons,
23 the Settlement Administrator will send notices (1) by mail to the individuals' last known
24 addresses (as provided by Defendants) after first checking those addresses against the
25 NCOA database and skip tracing and (2) by telephoning or emailing such persons, in the
26 event that Defendants provide telephone numbers and/or email addresses for such persons.

27 If a Class Member's check is not cashed within 180 calendar days, the check will be
28 void and a stop payment order may be placed on the check. In such event, the Settlement

1 nevertheless will be binding upon the Settlement Class Member. The funds represented by
2 all uncashed settlement checks will be transmitted by the Settlement Administrator to the
3 California State Controller as unclaimed property in the name of the individual Settlement
4 Class Member.

5 **Q. Class Counsel Attorneys' Fees and Costs**

6 Defendants will not oppose Class Counsel's application for an award of attorneys'
7 fees of up to five hundred fifty-eight thousand three hundred and thirty-three dollars
8 (\$558,333), which is one-third of the Gross Settlement Amount.

9 Defendants will not oppose Class Counsel's application for an award of their
10 reasonable litigation expenses and costs in an amount not to exceed \$40,000.

11 Class Counsel's Attorney's Fees and Class Counsel's Costs, as awarded by the
12 Court, shall be paid from the Gross Settlement Amount.

13 To the extent the Court does not approve any or the entire amount of Class Counsel's
14 Attorney's Fees or Class Counsel's Costs, it shall not affect the terms of the Parties'
15 settlement and any such unapproved amounts shall remain part of the Net Settlement
16 Amount and shall be distributed in accordance with the provisions of this Stipulation.
17 Approval of the Settlement by the Court shall not be contingent on approval of the amounts
18 of Class Counsel's Attorney's Fees or Class Counsel's Costs requested by Class Counsel.

19 Upon the payment of the Court-approved amount of Class Counsel's Attorneys' Fees
20 and Class Counsel's Costs, and except as otherwise provided by this Stipulation, Class
21 Counsel waives any claim to costs and attorneys' fees and expenses against Defendants
22 arising from or related to the Action, including but not limited to claims based on the
23 California Labor Code, the California Code of Civil Procedure, or any other statute or law.
24 Provided, however, nothing in this Agreement shall prevent Class Counsel from seeking
25 additional fees for enforcing the terms of this Stipulation.

1 **R. Service and Release Award to Representative Plaintiff**

2 The Representative Plaintiff's Service and Release Award as approved by the Court,
3 shall be paid from the Gross Settlement Amount.

4 The Representative Plaintiff shall be responsible for all portions of federal, state, and
5 local tax liabilities that may result from the payment of the Service and Release Award and
6 agrees that Defendants shall bear no responsibility for any such tax liabilities.

7 To the extent the Court does not approve any or all of the amount of the Service and
8 Release Award sought by the Representative Plaintiff, any amounts not awarded by the
9 Court will remain part of the Net Settlement Amount and will be distributed in accordance
10 with the terms of this Stipulation and the Parties agree that the Settlement shall remain
11 binding with such modification(s) and its terms will otherwise be unchanged.

12 **S. Taxes**

13 **1. Withholding and Reporting Requirements**

14 The Settlement Administrator shall be responsible for ensuring that all taxes required
15 to be withheld from the wage portions of each Settlement Class Member's individual
16 settlement payment, along with the Employer's Withholding Share, are timely paid to the
17 appropriate tax authorities. The Settlement Administrator's responsibilities in this regard
18 will also include the following: (a) filing all Federal, state, and local employment tax
19 returns, tax withholding returns, and any other tax returns associated with the taxes, (b)
20 timely and proper filing of all required Federal, state, and local information returns (e.g.,
21 1099s, W-2s, etc.) with the appropriate taxing authorities, and (c) completion of any other
22 steps necessary for compliance with any tax obligations of the settlement fund under
23 Federal, state and/or local law. To verify the Settlement Administrator's compliance with
24 the foregoing withholding and reporting requirements, as soon as administratively
25 practicable, the Settlement Administrator shall furnish Class Counsel and Defendants'
26 Counsel with copies of all filed tax returns and information returns (including all 1099 and
27 W-2 information returns), and a final accounting adequate to demonstrate full compliance
28 with all tax withholding, payment and reporting obligations.

1 **2. Circular 230 Disclaimer**

2 Each party to this Agreement (for purposes of this section, the “Acknowledging
3 Party”; and each party to this Agreement other than the Acknowledging Party, and “Other
4 Party”) acknowledges and agrees that: (1) no provision of this Agreement, and no written
5 communication or disclosure between or among the Parties or their attorneys and other
6 advisers, is or was intended to be, nor shall any such communication or disclosure constitute
7 or be construed or be relied upon as, tax advice within the meaning of United States
8 Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the Acknowledging
9 Party (a) has relied exclusively upon his, her, or its own, independent legal and tax advisers
10 for advice (including tax advice) in connection with this Agreement, (b) has not entered into
11 this Agreement based upon the recommendation of any other party or any attorney or
12 advisor to any other party, and (c) is not entitled to rely upon any communication or
13 disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be
14 imposed on the Acknowledging Party; and (3) no attorney or adviser to any other party has
15 imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s
16 tax strategies (regardless of whether such limitation is legally binding) upon disclosure by
17 the Acknowledging Party of the tax treatment or tax structure of any transaction, including
18 any transaction contemplated by this Agreement.

19 **V. LIMITATIONS ON USE OF THIS SETTLEMENT**

20 **A. No Admission of Liability**

21 Neither the acceptance nor the performance by Defendants of the terms of this
22 Stipulation nor any of the related negotiations or proceedings is or shall be claimed to be,
23 construed as, or deemed a precedent or an admission by Defendants of the truth or merit of
24 any allegations in the original Complaint, First Amended Complaint or Second Amended
25 Complaint, or that it has any liability to the Representative Plaintiff or the Class Members
26 on their claims. Defendants deny that they have engaged in any unlawful activity, have
27 failed to comply with the law in any respect, or have any liability to anyone under the claims
28 asserted in the Action. Defendants enter this Agreement solely for the purpose of

1 compromising highly disputed claims, that further litigation of the Action would be
2 protracted and expensive, and that a resolution as set forth herein would limit further
3 expense, inconvenience, and distraction including to its business operations and personnel.

4 **B. Nullification**

5 In the event that the Court does not approve the Settlement in accordance with this
6 Stipulation, the Parties agree to negotiate in good faith to resolve any issues raised by the
7 Court and amend this Stipulation to obtain Court approval of the Settlement. However, if,
8 after a good faith effort to resolve any issues, the Court for any reason does not approve this
9 Settlement, this Stipulation shall be null and void and all Parties to this Settlement shall
10 stand in the same position, without prejudice, as if the Settlement had been neither entered
11 into nor filed with the Court.

12 **VI. RELEASE**

13 **A. Settlement Class Member Release**

14 It is the desire of the Representative Plaintiff, Class Members (except those who
15 exclude themselves from the Settlement), and Defendants to fully, finally, and forever settle,
16 compromise, and discharge the Released Claims. Upon entry of the Final Approval Order
17 and Judgment and Defendants' payment of the Gross Settlement Amount and Employer's
18 Withholding Share, and except as to such rights or claims as may be created by this
19 Settlement Agreement, the Settlement Class Members, on behalf of themselves, and each of
20 their heirs, representatives, successors, assigns, and attorneys, shall be deemed to have, and
21 by operation of the final judgment shall have, fully released and discharged the Released
22 Parties from any and all Released Claims.

23 **B. PAGA Employee Release**

24 Regardless of whether they submitted a valid Request for Exclusion, all PAGA
25 Employees shall fully, finally, and forever settle, compromise, and discharge the PAGA
26 Released Claims. Upon entry of the Final Approval Order and Judgment and Defendants'
27 payment of the Gross Settlement Amount, and except as to such rights or claims as may be
28 created by this Settlement Agreement, all PAGA Employees, on behalf of themselves, and

1 each of their heirs, representatives, successors, assigns, and attorneys, shall be deemed to
2 have, and by operation of the final judgment shall have, fully released and discharged the
3 Released Parties from any and all PAGA Released Claims arising during the PAGA Period.

4 **VII. RELEASE BY THE REPRESENTATIVE PLAINTIFF**

5 Upon entry of the Final Approval Order and Judgment and Defendants' payment of
6 the Gross Settlement Amount and Employer's Withholding Share, and except as to such
7 rights or claims as may be created by this Settlement Agreement, the Representative
8 Plaintiff fully releases and forever discharges Defendants and the Released Parties from any
9 and all claims, causes of action, damages, wages, benefits, expenses, penalties, debts,
10 liabilities, demands, obligations, attorney's fees, costs, and any other form of relief or
11 remedy in law, equity, or whatever kind or nature, whether known or unknown, suspected or
12 unsuspected that arise from or are related to Plaintiff's employment by Defendants or the
13 Action, including but not limited to (1) all Released Claims, (2) the Action and any claims
14 arising out of or related to the Action, (3) any claims under federal, state or local law for or
15 relating to wages, benefits, compensation, vacation or other paid time off, and claims for
16 liquidated damages, penalties, or costs and fees associated therewith, including under the
17 California Labor Code including PAGA or applicable wage order(s), (4) wrongful
18 termination, discrimination, harassment, and/or retaliation, including under the California
19 Fair Employment and Housing Act, Title VII of the Civil Rights Act of 1964, the Family
20 Medical Leave Act, the California Family Rights Act, the Americans with Disabilities Act,
21 the Equal Pay Act, the California Labor Code, the California Government Code, (5) any act,
22 omission, or occurrence or claim arising out of or related to the Action or Plaintiff's
23 employment or termination thereof with Defendants taking place on or before the date of
24 this Agreement, and (6) and any other form of relief or remedy of any kind, nature, or
25 description whatsoever, whether premised on statute, contract, tort, or other theory of
26 liability under state, federal, or local law. Provided, however, this release shall not include
27 any claims for workers' compensation benefits or other claims that cannot be released as a
28 matter of law.

1 The Representative Plaintiff hereby agrees that, notwithstanding section 1542 of the
2 California Civil Code (“Section 1542”), all claims that the Representative Plaintiff may
3 have, known or unknown, suspected or unsuspected, are hereby released as of the date of
4 this Agreement. Section 1542 provides:

5 **“A general release does not extend to claims that the creditor or**
6 **releasing party does not know or suspect to exist in his or her favor at**
7 **the time of executing the release and that, if known by him or her, would**
8 **have materially affected his or her settlement with the debtor or released**
9 **party.”**

10 The Representative Plaintiff expressly waives the provisions of Section 1542 with full
11 knowledge and with the specific intent to release all known or unknown, suspected or
12 unsuspected, claims arising on or before the date of this Agreement, and therefore
13 specifically waives the provisions of any statute, rule, decision, or other source of law of the
14 United States or of any state of the United States or any subdivision of a state which
15 prevents release of unknown claims.

16 **VIII. MISCELLANEOUS PROVISIONS**

17 **A. Amendments**

18 This Settlement Agreement may only be modified or changed by a writing signed by
19 the Parties hereto or by their counsel. All such modifications or changes must also be
20 approved by the Court.

21 **B. Integrated Agreement**

22 After this Stipulation is signed and delivered by all Parties to the Action and their
23 counsel, this Stipulation and its exhibits will constitute the entire agreement between the
24 Parties to the Action relating to the Settlement, and it will then be deemed that no oral
25 representations, warranties, covenants, or inducements have been made to any Party
26 concerning this Stipulation or its exhibits other than the representations, warranties,
27 covenants, and inducements expressly stated in this Stipulation and its exhibits.

28 **C. No Inducements**

The Parties acknowledge that they are entering into this Agreement as a free and
voluntary act without duress or undue pressure or influence of any kind or nature

1 whatsoever and that neither Plaintiff nor Defendants have relied on any promises,
2 representations, or warranties regarding the subject matter hereof other than as set forth in
3 this Stipulation.

4 **D. No Prior Assignment**

5 The Parties hereto represent, covenant, and warrant that they have not directly or
6 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber
7 to any person or entity any portion of any liability, claim, demand, action, cause of action, or
8 rights herein released and discharged except as set forth herein.

9 **E. No Retaliation or Advice**

10 Defendants agree not to retaliate against any Class Member, and Defendants will not
11 induce or offer any advice to any current or former employee to opt out of, or object to, the
12 Settlement.

13 **F. Attorney's Fees**

14 To the extent that any Party institutes any legal action, arbitration, or other
15 proceeding to enforce the terms of the Settlement, the prevailing Party will be entitled to
16 recover their reasonable attorneys' fees and costs from the other Party or Parties.

17 **G. Applicable Law**

18 All terms and conditions of this Stipulation and its exhibits will be governed by and
19 interpreted according to the laws of the State of California, without giving effect to any
20 conflict of law principles or choice of law principles.

21 **H. Entry of Judgment Pursuant to Terms of Settlement**

22 The Parties agree that upon the Settlement of this case, the Court may enter judgment
23 pursuant to the terms of this Settlement and specifying the Gross Settlement Amount. The
24 Court will retain jurisdiction over the Parties to enforce the Settlement until performance in
25 full of the terms of the Settlement.

26 **I. Notices**

27 All notices, requests, demands and other communications required or permitted to be
28 given pursuant to this Agreement shall be in writing, and shall be delivered personally or by

1 first class mail or email to Class Counsel or Defendants' Counsel at their respective
2 addresses as set forth at the beginning of this Agreement or at any new address as to which
3 counsel have advised the Court and the other Parties.

4 **J. Binding on Successors**

5 This Agreement shall be binding and shall inure to the benefit of the Parties to the
6 Action and their respective successors, assigns, executors, administrators, heirs, and legal
7 representatives.

8 **K. Counterparts**

9 This Stipulation, and any amendments hereto, may be executed in any number of
10 counterparts, each of which when executed and delivered shall be deemed to be an original
11 and all of which taken together shall constitute the same instrument.

12 **L. Warranties and Representations**

13 With respect to themselves, each of the Parties to this Action and or their agent or
14 counsel represents, covenants, and warrants that they have full power and authority to enter
15 into and consummate all transactions contemplated by this Stipulation and have duly
16 authorized the execution, delivery, and performance of this Stipulation.

17 **M. Representation by Counsel**

18 The Parties to this Action acknowledge that they have been represented by counsel
19 throughout all negotiations that preceded the execution of this Stipulation, and that this
20 Stipulation has been executed with the consent and advice of counsel.

21 **N. Signatories**

22 It is agreed that because the Class Members are so numerous, it is impossible or
23 impractical to have each Class Member execute this Stipulation. The Notice of Settlement
24 will advise all Class Members of the binding nature of the release, and the release shall have
25 the same force and effect as if this Stipulation was executed by each member of the
26 Settlement Class.

27 **O. Interim Stay of Proceedings**

28 The Parties agree to stay all proceedings in the Action, subject to necessary

1 compliance with the Court's orders, except such proceedings necessary to implement and
2 complete the Settlement, in abeyance pending the Final Approval Hearing to be conducted
3 by the Court.

4 **P. Invalidity of Any Provision**

5 Before declaring any term or provision of this Stipulation invalid, the Parties request
6 that the Court first attempt to construe the terms or provisions valid to the fullest extent
7 possible consistent with applicable precedents so as to define all provisions of this
8 Stipulation as valid and enforceable.

9 BY SIGNING BELOW, THE PARTIES AGREE TO THIS STIPULATION AND ITS
10 TERMS:

11 Dated: _____

Plaintiff Mary Beth Hughes

13 Dated: February 6, 2023

14 

Defendant Jeffrey Lee Galitz, MD, A
Professional Medical Corporation

16 By: Michael A. Sciortino, Esq. _____

17 Its: Chief General Counsel and Corporate Secretary

18 Dated: February 6, 2023

19 

Defendant Podicare Services, Inc.

20 By: Michael A. Sciortino, Esq. _____

21 Its: Chief General Counsel and Corporate Secretary

22 Dated: February 6, 2023

23 

Defendant Wound Technology Network, Inc.

24 By: Michael A. Sciortino, Esq. _____

25 Its: Chief General Counsel and Corporate Secretary

1 compliance with the Court's orders, except such proceedings necessary to implement and
2 complete the Settlement, in abeyance pending the Final Approval Hearing to be conducted
3 by the Court.

4 **P. Invalidity of Any Provision**

5 Before declaring any term or provision of this Stipulation invalid, the Parties request
6 that the Court first attempt to construe the terms or provisions valid to the fullest extent
7 possible consistent with applicable precedents so as to define all provisions of this
8 Stipulation as valid and enforceable.

9 BY SIGNING BELOW, THE PARTIES AGREE TO THIS STIPULATION AND ITS
10 TERMS:

11 Dated: Feb 7, 2023 _____


Mary Beth Hughes (Feb 7, 2023 10:07 PST)

Plaintiff Mary Beth Hughes

13 Dated: _____

Defendant Jeffrey Lee Galitz, MD, A
Professional Medical Corporation

16 By: _____

17 Its: _____

18 Dated: _____

Defendant Podicare Services, Inc.

20 By: _____

21 Its: _____

22 Dated: _____

Defendant Wound Technology Network, Inc.

24 By: _____

25 Its: _____

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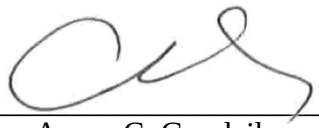
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Approved as to form:

DATED: February 7, 2023

GUNDZIK GUNDZIK HEEGER LLP

By: 
Aaron C. Gundzik
Attorneys for Plaintiff Mary Beth Hughes,
individually and on behalf of all others
similarly situated

DATED: 02/07/2023

CASKEY & HOLZMAN


Daniel M. Holzman
Attorneys for Plaintiff Mary Beth Hughes,
individually and on behalf of all others
similarly situated

DATED: _____, 2023

FISHER & PHILLIPS LLP

Lonnie D. Giamela
Attorneys for Defendants

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Approved as to form:

DATED: _____, 2023

GUNDZIK GUNDZIK HEEGER LLP

By: _____
Aaron C. Gundzik
Attorneys for Plaintiff Mary Beth Hughes,
individually and on behalf of all others
similarly situated

DATED: _____, 2023

CASKEY & HOLZMAN

Daniel M. Holzman
Attorneys for Plaintiff Mary Beth Hughes,
individually and on behalf of all others
similarly situated

DATED: Feb 8, 2023

FISHER & PHILLIPS LLP



Lonnie D. Giamela
Attorneys for Defendants

Exhibit 1

If you have been employed by Jeffrey Lee Galitz, M.D., A Professional Medical Corporation, dba Woundtech of California; Podicare Services, Inc.; and/or Wound Technology Network, Inc., you may be entitled to receive money from a class action settlement.

*The Los Angeles County Superior Court authorized this notice.
This is not a solicitation from a lawyer.*

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

You are receiving this Notice because the Court has preliminarily approved a proposed settlement in a class action filed on behalf of all non-exempt employees of Defendants Jeffrey Lee Galitz, M.D., A Professional Medical Corporation dba Woundtech of California; Podicare Services, Inc.; and/or Wound Technology Network, Inc. (“Defendants”) who worked for Defendant in California from August 19, 2017 through July 19, 2022 (“Class Period”). A hearing to determine whether the settlement should receive the Court’s final approval will be held on _____ at _____.m. in Department 9 of the Los Angeles County Superior Court, which is located at 312 N. Spring Street, Los Angeles, CA 90012.

This Notice explains the proposed settlement and provides an estimate of how much money you will receive as a settlement payment if you do not exclude yourself from the settlement. If you do not want to be part of the settlement class, then you must submit a Request for Exclusion (described in section 9, below) no later than [45 days from mailing] otherwise you will be bound by the terms of the settlement, including the release of certain claims that you may have against Defendant, as described in section 8 of this Notice.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT ARE:	
Option #1: Do Nothing and Receive Your Payment	If you do nothing and the Court grants final approval of the Settlement, you will automatically receive your share of the money from the Settlement and give up your right to sue Defendants for claims released by the Settlement, as further explained in section 8 below. Your estimated payment is in section 6 below.
Option #2: Opt Out or Exclude Yourself	If you do not want to participate in the Settlement, you may opt out. To opt out from the Settlement, you must submit a written request for exclusion to the Settlement Administrator, by [Response Deadline] . See section 9(b) below for instructions on how to submit a valid request. If you opt out from the Settlement, you will not be able to object, appeal, or comment on the Settlement. Even if you opt out or exclude yourself from the Settlement, you will still receive a payment for your PAGA Employee Portion.
Option #3: Object	If you do not think the Settlement is fair and do not opt out, you may object to the Settlement. To do so, you should mail a written statement of objection to the Settlement Administrator, by [Response Deadline] . See section 9(c) below for instructions on how to submit an objection. You cannot object if you have excluded yourself from the Settlement. If the court overrules your objection and grants final approval of the Settlement, you will be bound by the Settlement and its releases as stated in section 8 below. Regardless of whether you submit a written objection, however, the Court will hear your objection if you attend the final approval hearing and ask to speak regarding your objection. The final approval hearing is scheduled for _____, 2023, at _____.m. in Department 9 of the Spring Street Courthouse for Los Angeles Superior Court located at 312 N. Spring Street, Los Angeles, CA 90012. More information about attending this hearing is set forth in section 10 below.

FOR MORE INFORMATION CALL 1-800-_____.

1. PURPOSE OF THIS NOTICE

The Court has ordered that this Notice be sent to you because you have been identified as a member of the class by Defendants' records. The purpose of this notice is to provide you with information about the lawsuit and the proposed settlement and to advise you of your options.

2. PERSON ELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT

The people eligible to receive a settlement payment are all individuals who were employed by Defendant Jeffrey Lee Galitz, MD, a Professional Corporation dba Woundtech of California and allegedly employed by Defendants Podicare Services, Inc. ("Podicare") and Wound Technology Network, Inc. ("WTN") in California as non-exempt employees at any time from August 19, 2017, through July 19, 2022. You are receiving this notice because, according to Defendants' records, you are eligible to participate in the settlement.

3. DESCRIPTION OF THE ACTION

A former employee of Defendant filed a class action against Defendants in the Los Angeles Superior Court. The case is called *Mary Beth Hughes v. Jeffrey Lee Galitz, MD, A Professional Medical Corporation, a California corporation*, Case No. 21STCV30732 (the "Action"). The Action alleges that Plaintiff and other non-exempt employees of Defendants were incorrectly classified as exempt employees and as a result, were not paid overtime, were not paid for non-productive time, were not paid for all work they performed, were not provided compliant meal breaks and paid rest breaks, were not provided with accurate wage statements, were not reimbursed for all of their necessary expenditures, and were not paid all wages owed at separation. Based on these facts and others, Plaintiff's Second Amended Complaint alleges causes of action for: (1) failure to pay overtime; (2) failure to pay for non-productive time; (3) failure to pay wages for all work performed; (4) failure to provide compliant meal breaks and paid rest breaks; (5) inaccurate wage statements; (6) failure to reimburse necessary expenditures; (7) violation of the Unfair Practices Act; (8) failure to pay all wages owed at termination; and (9) recovery of civil penalties under PAGA.

Defendants deny all of Plaintiff's allegations and deny any wrongdoing. Among other things, Defendants contend that all employees have been properly compensated and that Defendants complied with all applicable California labor laws.

The Court has made no ruling on the merits of the alleged claims or the defenses asserted by Defendants. The Court has preliminarily approved the proposed settlement. The Court will decide whether to give final approval to the settlement at a hearing scheduled for _____, 2022 at _____.m. (the "Final Approval Hearing").

4. WHO ARE THE ATTORNEYS REPRESENTING THE PARTIES?

Attorneys representing Plaintiff and the class ("Class Counsel") are:

Aaron C. Gundzik Rebecca Gundzik Gundzik Gundzik Heeger LLP 14011 Ventura Blvd., Suite 206E Sherman Oaks, CA 91423 Telephone: (818) 290-7461 Facsimile: (818) 918-2316	Daniel M. Holzman Caskey & Holzman 24025 Park Sorrento, Ste. 400 Calabasas, CA 91302 Telephone: (818) 657-1070 Facsimile: (818) 297-1775
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Attorneys representing Defendants are:

Lonnie D. Giamela Fisher & Phillips LLP 444 South Flower Street, Suite 1500 Los Angeles, CA 90071 Telephone: (213) 330-4454 Facsimile: (213) 330-4501	
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FOR MORE INFORMATION CALL 1-800-_____.

5. THE TERMS OF THE PROPOSED SETTLEMENT

The following is a summary of the settlement. The specific and complete terms of the proposed Settlement are stated in the Stipulation of Class and Representative Action Settlement (“Settlement Agreement”), a copy of which is filed with the Court. You can obtain a copy of the Settlement Agreement from Class Counsel (see contact information in Section 4 above) or review it on the following website: www._____.

Defendant has agreed to pay \$1,675,000 to settle any and all obligations for the claims alleged in the lawsuit. This amount is called the Gross Settlement Amount. As discussed below, the Gross Settlement Amount will be used to cover all payments to the settlement class, settlement administration costs, attorneys’ fees and costs, service and release award to the Plaintiff, and funds owed to the state of California in settlement of penalties. All of these payments will be deducted from the Gross Settlement Amount. The remaining amount (called the Net Settlement Amount) will be distributed to class members who do not timely submit Requests for Exclusion, as discussed below.

(a) Attorneys’ Fees and Costs: Class Counsel has worked on this matter without compensation and have advanced funds to pay for expenses necessary to prosecute the Action. Accordingly, under the settlement, Class Counsel may request an amount not to exceed \$558,333, which is one-third of the Gross Settlement Amount, to compensate them for their work on the case, plus their reasonable costs and expenses incurred in the litigation not to exceed \$40,000. Subject to court approval, the attorneys’ fees and costs will be deducted from the Gross Settlement Amount.

(b) Service and Release Award: The Plaintiff is requesting a service and release award of \$10,000 in addition to the amount she will receive as members of the class, to compensate her for undergoing the burden and expense of prosecuting the action and for the broader release of claims she is required to provide to Defendants. Subject to court approval, the service and release award will be deducted from the Gross Settlement Amount.

(c) Settlement Administration Costs: The Settlement Administrator, Phoenix Settlement Administrators, has advised the parties that the settlement administration costs will not exceed \$6,750. Subject to court approval, the settlement administration costs will be deducted from the Gross Settlement Amount.

(d) Payment of Penalties: A total of \$50,000 of the Gross Settlement Amount will be allocated to settle allegations that Defendant owes penalties to the state for alleged violations of the California Labor Code. Of this amount, \$37,500 (75%) will be paid to the California Labor & Workforce Development Agency (“LWDA”). Subject to court approval, the \$37,500 payment to the LWDA will also be deducted from the Gross Settlement Amount. The other 25%, which is \$12,500, will be distributed to class members who worked for Defendants in California at any time between August 19, 2020, and **[the earlier of July 19, 2022, and the preliminary approval date]** based upon the number of pay periods such class members worked during the forgoing time period.

(e) Payments to Settlement Class Members: The remainder of the Gross Settlement Amount (called the Net Settlement Amount) will be distributed to class members who do not exclude themselves from the settlement (called Settlement Class Members). The amount of each Settlement Class Member’s share of the Net Settlement Amount will be calculated by dividing the total number of qualifying workdays worked by the Class Member during the Class Period by the total number of qualifying workdays worked by all Settlement Class Members during the Class Period and multiplying that fraction by the Net Settlement Amount. A qualifying workday is a full or partial day that a class member worked for Defendant during the Class Period.

6. WHAT YOU WILL RECEIVE UNDER THE SETTLEMENT

According to Defendant’s records, you worked a total of ___ qualifying workdays during the Class Period. Under the settlement, you will receive approximately \$_____. This amount may increase or decrease based on various factors, including the number of class members who submit Requests for Exclusion, the amounts approved by the Court for attorneys’ fees and costs, settlement administration costs, the service and release award to Plaintiff, and disputes by other class members regarding their qualifying workdays during the Class Period. You also worked ___ qualifying workweeks during the PAGA Period, and based thereon, you will receive an additional amount of approximately \$____, which is your

FOR MORE INFORMATION CALL 1-800-_____.

share of the PAGA Settlement. **To receive your settlement payment, you do not need to do anything. You will receive a settlement payment unless you exclude yourself from the settlement.**

You can contest the number of qualifying workdays attributed to you in Section 6 above. To do so, you must provide the Settlement Administrator with a written explanation of your position. The statement must also include your full name, current address and telephone number, and must identify this case (*Mary Beth Hughes v. Jeffrey Lee Galitz, MD, A Professional Medical Corporation, a California corporation*, Case No. 21STCV30732). You must provide written documentation supporting the number of workdays you believe that you worked; otherwise, the number listed above will be presumed correct. You must postmark your written statement no later than **[45 days from mailing]**. The Settlement Administrator will consider the documentation you submit and will communicate with you and the parties as necessary regarding the dispute to determine whether an adjustment is warranted before making a final determination regarding your settlement payment. The Settlement Administrator will mail you its final determination.

7. PAYMENT SCHEDULE

The Settlement Administrator will send out settlement checks to class members after the settlement is finally approved by the Court. You will have 180 days after the Settlement Administrator mails your settlement check to cash it; otherwise, the check will be voided and the amount of your settlement payment will be sent to the California State Controller as unclaimed property in your name and you will need to contact that agency to obtain your funds. For tax purposes, twenty percent (20%) of your settlement payment shall be attributed to wages and reported on a W-2 form; eighty percent (80%) will be attributed to interest, penalties and reimbursement of expenses. The amount of interest, penalties and reimbursements will be reported on an IRS Form 1099. Nothing in this Notice should be construed as providing you with tax advice. You should consult with your tax advisor concerning the tax consequences of the payment you receive.

8. RELEASE OF CLAIMS

A. Release by Class Members who do not exclude themselves from the Settlement.

Unless you submit a valid Request for Exclusion (described below in Section 9), you will release Defendants Jeffrey Lee Galitz, M.D., a Professional Medical Corporation dba Woundtech of California; Podicare Services, Inc.; and Wound Technology Network, Inc., as well as Defendants' current and former agents, officers, employees, directors, owners, subsidiaries, affiliates, parent companies, insurers, attorneys, shareholders, investors, related management companies and any other related parties from all wage-and-hour claims asserted in the Action or that arise from the facts alleged in the Complaint, including claims for: (1) violation of Labor Code section 510; (2) failure to pay for nonproductive time and rest breaks in violation of Labor Code section 226.2; (3) failure to pay wages for all work performed in violation of Labor Code sections 204 and 1197; (4) unpaid meal and rest period premiums in violation of Labor Code section 226.7(c); (5) non-compliant wage statements in violation of Labor Code section 226(a); (6) unreimbursed business expenses in violation of Labor Code section 2802; (7) final wages not timely paid in violation of Labor Code sections 201 and 202; and (8) violation of California Business & Profession Code Sections 17200, *et seq.*, in relation to the forgoing Labor Code violations and violations of Labor Code sections 246, 247.5 and 2810.5. This release shall also include releases for claims under California Labor Code sections: 201-204, 226, 226.7, 510, 512, 1174, 1174.5, 1182.12, 1194, 1197, 1198, 2802, and 2810.5 arising from the facts alleged in the Complaint. The time period of this release is from August 19, 2017, through July 19, 2022.

B. Release by Class Members who worked for Defendant During the PAGA Period.

all claims for California Labor Code violations under PAGA that are alleged in Plaintiff's August 19, 2021 letter to the Labor Workforce Development Agency ("LWDA") LWDA and/or in the Complaint, specifically for: (1) failure to pay overtime in violation of Labor Code section 510; (2) failure to pay for nonproductive time and rest breaks in violation of Labor Code section 226.2; (3) failure to pay wages for all work performed in violation of Labor Code sections 204 and 1197; (4) failure to provide meal and rest breaks and failure to pay wage premiums for such violations in violation of Labor Code section 226.7 and 512; (5) non-compliant wage statements in violation of Labor Code section 226(a); (6) unreimbursed business expenses in violation of Labor Code section

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2802; (7) failure to maintain time records in violation of Labor Code section 1174(d); (8) final wages not timely paid in violation of Labor Code sections 201 and 202; and (9) failure to provide sick leave and notice thereof, in violation of Labor Code sections 246, 247.5 and 2810.5. The time period of this release shall be from August 19, 2017, through July 19, 2022. You cannot exclude yourself from this release.

9. YOUR OPTIONS

As a member of the settlement class you have three options. Each option will affect your rights, which you should understand before making your decision. Your rights regarding each option, and the procedure you must follow to select each option, are explained below:

(a) You Can Do Nothing.

If you do nothing, you will remain a member of the settlement class and will receive a settlement payment. You will also be bound by the release of claims set forth in Section 8 above. The payment will remain valid and negotiable for one hundred eighty (180) days from the date of the issuance. This deadline to cash the payment check shall not be extended for you absent Court Order.

(b) You Can Exclude Yourself from the Settlement Class.

If you do not want to remain a member of the settlement class, you can request exclusion (i.e., opt out) by sending the Settlement Administrator a written Request for Exclusion at the address specified in Section 11 below. The deadline to postmark a Request for Exclusion is **[45 days from mailing]**. A Request for Exclusion is a written statement that unambiguously requests exclusion from the settlement class. The Request for Exclusion must include the case name and number (*Mary Beth Hughes v. Jeffrey Lee Galitz, MD, A Professional Medical Corporation, a California corporation*, Case No. 21STCV30732), your name, current address and telephone number, and the last four digits of your social security number (for verification purposes). You must also sign the Request for Exclusion. You should keep a copy of your Request for Exclusion. Moreover, to demonstrate receipt by the Settlement Administrator, you may elect to send your Request for Exclusion via certified mail. Requests for Exclusion that do not include all required information, or that are not postmarked on or before **[45 days from mailing]**, will not be valid.

If you submit a valid and timely Request for Exclusion, you will not be bound by the settlement or the release of claims in Section 8(a) above; however, you will not receive any money under the settlement. You will also be barred from objecting to this settlement. By opting out of the settlement class, you will retain whatever rights or claims you may have against Defendant.

If you do not submit a timely and valid Request for Exclusion from the settlement class by the deadline specified above, then you will be bound by all terms and conditions of the settlement, including the Release of Claims, if it is approved by the Court and by the judgment, and you will receive a settlement payment.

Please note, you may not exclude yourself from the PAGA Settlement.

(c) You Can Object to the Settlement.

If you do not submit a Request for Exclusion from the settlement, you may object to the settlement by sending your written objections to the Settlement Administrator at the address specified in Section 11 below. The deadline to postmark your objections is **[45 days from mailing]**. Only class members who have not requested exclusion may object to the settlement.

Your objection must state the basis of your objection and include any papers and briefs in support of your position. Your objection must be signed and must contain your current address and telephone number (or that of your attorney) and refer to this case (*Mary Beth Hughes v. Jeffrey Lee Galitz, MD, A Professional Medical Corporation, a California corporation*, Case No. 21STCV30732).

FOR MORE INFORMATION CALL 1-800-_____.

If you object to the settlement and if the Court approves the settlement notwithstanding your objections, you will be bound by the terms of the settlement and be deemed to have released all of the Released Claims as set forth in Section 8(a) above, and you will not be permitted to file a Request for Exclusion.

10. FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT

The Final Approval Hearing on the fairness and adequacy of the proposed settlement, the plan of distribution, the service and release awards to the Plaintiff, and Class Counsel's request for attorneys' fees and costs, and other issues will be held on _____, 20__ at __ __.m., in Department 9 of the Los Angeles County Superior Court, 312 N. Spring Street, Los Angeles, CA 90012. The Final Approval Hearing may be continued to another date without further notice. If you plan to attend the Final Approval Hearing, it is recommended that you contact the Settlement Administrator to confirm the date and time.

11. NON-RETALIATION

Defendant will not retaliate or take any adverse action against a class member for participating in the settlement.

12. ADDITIONAL INFORMATION AND COURTHOUSE SOCIAL DISTANCING INFORMATION.

This Notice only summarizes the lawsuit and settlement. For more information, you may inspect the Court file at the Los Angeles County Superior Court, 312 N. Spring Street, Los Angeles, CA 90012, subject to the social distancing procedures in place at the Courthouse. You may also review the settlement agreement and other documents on-line at www.____ or you may contact the Settlement Administrator as follows:

[_____]
Telephone: _____
Facsimile: _____
Email: _____
Website: _____

You may also contact Class Counsel at the address and telephone number provided in Section 4 above. If your address changes or is different from the address on the envelope enclosing this Notice, please promptly notify the settlement administrator.

If you are planning to come to the Final Approval Hearing, effective Monday, April 4, 2022, face masks are strongly recommended inside all Los Angeles County courthouses in alignment with Los Angeles County Department of Public Health guidance.

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE

FOR MORE INFORMATION CALL 1-800-_____.

Exhibit 2

03/21/2023

David W. Slavton, Executive Officer / Clerk of Court

FINAL RULINGS/ORDERS RE: MOTION FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT

By: Deputy

Hughes v. Jeffrey Lee Galitz, MD APC, Case No. 21STCV30732

The Parties' Motion for Preliminary Approval of Class Action Settlement is **GRANTED** as the settlement is fair, adequate, and reasonable.

The essential terms are:

A. The Gross Settlement Amount ("GSA") is \$1,675,000.
B. The Net Settlement Amount is the GSA minus the following:

Up to \$558,333 (1/3) for attorney fees (Fee Split: GH and C&H have agreed to divide any attorney's fees awarded in this case 60/40);

Up to \$40,000 for litigation costs (¶I.B);

Up to \$10,000 for a service award (¶I.D);

Up to \$6,750 for claims administration (¶I.A);

\$37,500 (75% of \$50,000 PAGA penalty) to the LWDA (¶I.E).

C. Defendants will pay the Employer's Withholding Share of taxes in addition to the GSA.

D. Plaintiffs release of Defendants from claims described herein.

The Parties' Motion for Final Approval of Class Action Settlement must be filed by **October 4, 2023**. The parties are ordered to contact the Clerk in Department 9 to obtain a hearing date for their motion.

The Parties' Motion for Final Approval of Class Action Settlement must include a concurrently lodged [Proposed] Judgment containing among other things, the class definition, full release language, and names of the any class members who opted out; and the parties must email the [Proposed] Judgment in Word format to Dept. 9 staff at sscdept9@lacourt.org.

Non-Appearance Case Review is set for October 11, 2023, 8:30 a.m., Dept. 9.

I.
BACKGROUND

This is a wage and hour class action. On August 19, 2021, Plaintiff filed a Class Action Complaint alleging causes of action for (1) failure to pay overtime, (2) violation of Labor Code § 226.2; (3) failure to pay wages for all work performed, (4) failure to provide meal and rest breaks, (5) inaccurate wage statements, (6) failure to reimburse expenses, and (7) violation of Business & Professions Code § 17200 et seq.

On November 1, 2021, Plaintiff filed a First Amended Class Action Complaint, adding causes of action for failure to pay final wages and recovery of civil penalties.

On June 13, 2022, Plaintiff filed the operative Second Amended Class Action Complaint, adding Podicare Services, Inc. and Wound Technology Network, Inc. as named defendants.

Counsel represents that they engaged in informal discovery and reviewed and analyzed numerous pay documents, including records and information produced by Defendants, and worked to develop information on potential damages. In connection with the mediation, Defendants produced anonymized driving records and pay records for approximately 20% of the proposed class members, including Plaintiff, in addition to personnel records, handbooks and policies. Defendants did not maintain time records for Class Members. Counsel have investigated and compiled publicly available information about Defendants and their businesses and engaged in informal discovery in connection with the mediation.

On May 19, 2022, the Parties attended a mediation session with Gig Kyriacou. The case settled after a full day of negotiation pursuant to a mediator's proposal. A fully executed copy of the Stipulation of Class Action and PAGA Settlement ("Settlement Agreement") is attached to the Declaration of Aaron C. Gundzik ("Gundzik Decl.") as Exhibit 1.

On September 21, 2023, the Court issued a checklist of items and continued preliminary approval. In response, on February 14, 2023, counsel filed a fully executed Amended Settlement Agreement attached to the Supplemental Declaration of Aaron C. Gundzik ("Gundzik Supp. Decl.") as Exhibit B.

Now before the Court is Plaintiff's motion for preliminary approval of the settlement agreement.

II.
SETTLEMENT AGREEMENT

A. Definitions

"Class": all individuals who were employed by Galitz and allegedly employed by Podicare and WTN in California as non-exempt employees during the Class Period. (Settlement Agreement, ¶III.C.)

"Class Period": August 19, 2017 through the earlier of July 19, 2022 and the date of preliminary approval. (¶II.L)

"PAGA Employee": all individuals who were employed by Galitz and allegedly Podicare and WTN and worked at least one day for Defendants in California at any time during the PAGA Period. (¶II.X)

"PAGA Period": August 19, 2020 through the earlier of (1) July 19, 2022 and (2) the date of preliminary approval. (¶II.AA)

If, as reflected in the Class Data delivered to the Settlement Administrator, the total number of Class Member Qualifying Workdays exceeds 21,868 by more than twelve percent (12%) as of July 19, 2022, the GSA shall increase by the same percentage that the number of Qualifying Workdays exceeds 21,868 by more than twelve percent (12%). (¶IV. J)

The Parties stipulate to class certification for settlement purposes only. (¶IV.A)

B. Terms of Settlement Agreement

The essential terms are:

- The Gross Settlement Amount ("GSA") is \$1,675,000, non-reversionary. (¶I)
- The Net Settlement Amount (\$1,022,417) is the GSA minus the following:
 - Up to \$558,333 (1/3) for attorney fees (¶I.B);
- Fee Split: GH and C&H have agreed to divide any attorney's fees awarded in this case 60/40 respectively. Plaintiff has consented to the division of fees. (Gundzik Decl. ¶41, Exh. 2.)
 - Up to \$40,000 for litigation costs (¶I.B);
 - Up to \$10,000 for a service award (¶I.D);
 - Up to \$6,750 for claims administration (¶I.A);

- o \$37,500 (75% of \$50,000 PAGA penalty) to the LWDA (§I.E).
- Defendants will pay the Employer's IO Withholding Share in addition to the Gross Settlement Amount. (§II.O)
- Funding of the Settlement: Within ten (10) calendar days after the Effective Date, Defendants shall deliver the Gross Settlement Amount and Employer's Withholding Share to the QSF. (§IV.N)
- There is no claims process. (§I)
- Individual Settlement Payments: The Net Settlement Amount shall be divided among and distributed to individual Settlement Class Members using the following formula: (Individual Settlement Class Member's Qualifying Workdays ÷ All Settlement Class Members' Qualifying Workdays) x Net Settlement Amount. (§IV.L.1)
- o Taxes: 20% as wages and 80% as penalties and interest. (§IV.L.6)
- PAGA Payments: The PAGA Employee Portion will be divided among and distributed to all PAGA Employees based upon the number of PAGA Pay Periods they worked pursuant to the following formula: (Individual PAGA Employee's PAGA Pay Periods ÷ All PAGA Employees' PAGA Pay Periods) x \$12,500. (§IV.L.2)
- o Taxes: 100% as penalties (§IV.L.6)
- "Response Deadline" means the date that is forty-five (45) calendar days after the mailing of the Notices of Settlement. Provided, for Notices of Settlement that are re-mailed to a different address, the Response Deadline will be the earlier of: (1) forty-five (45) calendar days after re-mailing, and (2) ten (10) days before the initial date set by the Court for the Final Fairness and Approval Hearing. (§II.KK)
- o If four or more Class Members submit timely and valid Requests for Exclusion, Defendants may, at their option, rescind the Settlement. (§IV.I)
- Uncashed Checks: If any Settlement Class Member's settlement payment check has not been cashed or deposited within sixty (60) calendar days after disbursement, the Settlement Administrator shall attempt to contact each individual to advise them to cash their checks, and to offer to replace any checks reported as either lost or stolen. In attempting to contact such persons, the Settlement Administrator will send notices (1) by mail to the individuals' last known addresses (as provided by Defendants) after first checking those addresses against the NCOA database and skip tracing and (2) by telephoning or emailing such persons, in the event that Defendants provide telephone numbers and/or email addresses for such persons. If a Class Member's check is not cashed within 180 calendar days, the check will be void and a stop payment order may be placed on the

check. In such event, the Settlement nevertheless will be binding upon the Settlement Class Member. The funds represented by all uncashed settlement checks will be transmitted by the Settlement Administrator to the California State Controller as unclaimed property in the name of the individual Settlement Class Member. (§IV.P)

- The claims administrator will be Phoenix Settlement Administrators. (§II.OO)
- The Settlement was submitted to the LWDA on July 28, 2022. (Gundzik Decl., Exh. 3.)
- Participating class members and the named Plaintiff will release certain claims against Defendants. (See further discussion below)

III. DISCUSSION

A. Does a Presumption of Fairness Exist?

1. Was the settlement reached through arm's-length bargaining? Yes. On May 19, 2022, the Parties attended a mediation session with Gig Kyriacou. The case settled after a full day of negotiation pursuant to a mediator's proposal. (Gundzik Decl. §10.)

2. Were investigation and discovery sufficient to allow counsel and the court to act intelligently? Yes. Counsel represents that they engaged in informal discovery and reviewed and analyzed numerous pay documents, including records and information produced by Defendants, and worked to develop information on potential damages. In connection with the mediation, Defendants produced anonymized driving records and pay records for approximately 20% of the proposed class members, including Plaintiff, in addition to personnel records, handbooks and policies. Defendants did not maintain time records for Class Members. Counsel have investigated and compiled publicly available information about Defendants and their businesses and engaged in informal discovery in connection with the mediation. (Id. at §6.) Plaintiff's counsel represented they used an on-line calculator www.raosoft.com/samplesize to determine whether the sample size is statistically relevant. (Gundzik Supp. Decl., §6.)

3. Is counsel experienced in similar litigation? Yes. Class Counsel is experienced in class action litigation. (Id. at §§11-14; Declaration of Daniel Holzman §§1-3.)

4. What percentage of the class has objected? This cannot be determined until the fairness hearing. (See Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2014) ¶ 14:139.18, ["Should the court receive objections to the proposed settlement, it will consider and either sustain or overrule them at the fairness hearing."].)

The Court concludes that the settlement is entitled to a presumption of fairness.

B. Is the Settlement Fair, Adequate, and Reasonable?

1. Strength of Plaintiff's case. "The most important factor is the strength of the case for plaintiff on the merits, balanced against the amount offered in settlement." (Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116, 130.)

Counsel provided the following estimated recovery, after discounting for risks related to certification and prevailing at trial, both on liability and damages:

CLAIM	MAX RECOVERY
Unpaid Overtime	\$725,000
Labor Code § 226.2	\$1,800,000
Unpaid Wages	\$0
Meal and Rest Breaks	\$3,250,000
Wage Statement Penalties	\$124,000
Unreimbursed Expenses	\$320,000
Waiting Time Penalties	\$905,000
PAGA Penalties	\$1,500,000
TOTAL	\$8,624,000

(Gundzik Decl., ¶¶25-36; Gundzik Supp. Decl., ¶¶8-19.)

2. Risk, expense, complexity and likely duration of further litigation. Given the nature of the class claims, the case is likely to be expensive and lengthy to try. Procedural hurdles (e.g., motion practice and appeals) are also likely to prolong the litigation as well as any recovery by the class members.

3. Risk of maintaining class action status through trial. Even if a class is certified, there is always a risk of decertification. (See Weinstat v. Dentsply Intern., Inc. (2010)

180 Cal.App.4th 1213, 1226 ("Our Supreme Court has recognized that trial courts should retain some flexibility in conducting class actions, which means, under suitable circumstances, entertaining successive motions on certification if the court subsequently discovers that the propriety of a class action is not appropriate.").)

4. Amount offered in settlement. Plaintiff's counsel obtained a \$1,675,000 non-reversionary settlement. This is approximately 19.4% of Plaintiff's estimated recovery, which is within the "ballpark" of reasonableness. The \$1,675,000 settlement amount, after reduced by the requested deductions, leaves approximately \$1,022,417 to be divided among approximately 89 class members. Assuming full participation, the resulting payments will average approximately \$11,487.83 per class member. [$\$1,022,417 / 89 = \$11,487.83$].

5. Extent of discovery completed and stage of the proceedings. As indicated above, at the time of the settlement, Class Counsel had conducted sufficient discovery.

6. Experience and views of counsel. The settlement was negotiated and endorsed by Class Counsel who, as indicated above, is experienced in class action litigation, including wage and hour class actions.

7. Presence of a governmental participant. This factor is not applicable here.

8. Reaction of the class members to the proposed settlement. The class members' reactions will not be known until they receive notice and are afforded an opportunity to object, opt-out and/or submit claim forms. This factor becomes relevant during the fairness hearing.

The Court concludes that the settlement can be preliminarily deemed fair, adequate, and reasonable.

C. Scope of the Release

Upon entry of the Final Approval Order and Judgment and Defendants' payment of the Gross Settlement Amount and Employer's Withholding Share, and except as to such rights or claims as may be created by this Settlement Agreement, the Settlement Class Members, on behalf of themselves, and each of their heirs, representatives, successors, assigns, and attorneys, shall be deemed to have, and by operation of the

final judgment shall have, fully released and discharged the Released Parties from any and all Released Claims. (§VI.A) Upon entry of the Final Approval Order and Judgment and Defendants' payment of the Gross Settlement Amount, and except as to such rights or claims as may be created by this Settlement Agreement, all PAGA Employees, on behalf of themselves, and each of their heirs, representatives, successors, assigns, and attorneys, shall be deemed to have, and by operation of the final judgment shall have, fully released and discharged the Released Parties from any and all PAGA Released Claims arising during the PAGA Period. (§VI.B)

"Released Claims," means all wage-and-hour claims asserted in the Action or that arise from the facts alleged in the Complaint, including claims for: (1) violation of Labor Code section 510; (2) failure to pay for nonproductive time and rest breaks in violation of Labor Code section 226.2; (3) failure to pay wages for all work performed in violation of Labor Code sections 204 and 1197; (4) unpaid meal and rest period premiums in violation of Labor Code section 226.7(c); (5) non-compliant wage statements in violation of Labor Code section 226(a); (6) unreimbursed business expenses in violation of Labor Code section 2802; (7) final wages not timely paid in violation of Labor Code sections 201 and 202; and (8) violation of California Business & Profession Code Sections 17200, et seq., in relation to the forgoing Labor Code violations and violations of Labor Code sections 246, 247.5 and 2810.5. This release shall also include releases for claims under California Labor Code sections: 201-204, 226, 226.7, 510, 512, 1174, 1174.5, 1182.12, 1194, 1197, 1198, 2802, and 2810.5 arising from the facts alleged in the Complaint. The time period of this release is from August 19, 2017, through the earlier of July 19, 2022 and the Preliminary Approval Date. (§II.GG)

PAGA Released Claims" means any and all claims for California Labor Code violations under PAGA that are alleged in Plaintiff's August 19, 2021 letter to the Labor Workforce Development Agency ("LWDA") LWDA and/or in the Complaint, specifically for: (1) failure to pay overtime in violation of Labor Code section 510; (2) failure to pay for nonproductive time and rest breaks in violation of Labor Code section 226.2; (3) failure to pay wages for all work performed in violation of Labor Code sections 204 and 1197; (4) failure to provide meal and rest breaks and failure to pay wage premiums for such violations in violation of Labor Code section 226.7 and 512; (5) non-compliant wage statements in violation of Labor Code section 226(a); (6) unreimbursed business expenses in violation of Labor

Code section 2802; (7) failure to maintain time records in violation of Labor Code section 1174(d); (8) final wages not timely paid in violation of Labor Code sections 201 and 202; and (9) failure to provide sick leave and notice thereof, in violation of Labor Code sections 246, 247.5 and 2810.5. The time period of this release shall be the PAGA Period. (§III.B)

"Released Parties" Defendants Jeffrey Lee Galitz, M.D., a Professional Medical Corporation dba Woundtech of California; Podicare Services, Inc.; and Wound Technology Network, Inc., as well as Defendants' current and former agents, officers, employees, directors, owners, subsidiaries, affiliates, parent companies, insurers, attorneys, shareholders, investors, related management companies and any other related parties but only as to the Released Claims and PAGA Released Claims. (§III.HH)

Named Plaintiff will provide a general release and 1542 waiver. (§VII)

D. May Conditional Class Certification Be Granted?

A detailed analysis of the elements required for class certification is not required, but it is advisable to review each element when a class is being conditionally certified (Amchem Products, Inc. v. Winsor (1997) 521 U.S. 620, 622-627.) The trial court can appropriately utilize a different standard to determine the propriety of a settlement class as opposed to a litigation class certification. Specifically, a lesser standard of scrutiny is used for settlement cases. (Dunk at 1807, fn 19.) Finally, the Court is under no "ironclad requirement" to conduct an evidentiary hearing to consider whether the prerequisites for class certification have been satisfied. (Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 240, disapproved on another ground in Hernandez v. Restoration Hardware, Inc. (2018) 4 Cal.5th 260.)

1. Numerosity. There are 89 putative class members. (Gundzik Decl. §37.) This element is met.

2. Ascertainability. The proposed class is defined above. The class definition is "precise, objective and presently ascertainable." (Sevidal v. Target Corp. (2010) 189 Cal.App.4th 905, 919.) All Class Members are identifiable through a review of Defendant's records. (Gundzik Decl. §38.)

3. Community of interest. "The community of interest requirement involves three factors: '(1) predominant common

questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.'" (Linder v. Thrifty Oil Co. (2000) 23 Cal.4th 429, 435.)

Class counsel contends that community of interest exists, as in the pleading, Plaintiff is claiming the same injuries based upon the same alleged wage and hour policies as are the Settlement Class Members. (Gundzik Decl. ¶39.) Common issues regarding Defendants' classification of their non-exempt employees as exempt, their treatment of the Class Members as to meal and rest breaks, unpaid time, unpaid overtime and reimbursement of expenses, the sufficiency of wage statements issued to Class Members and the amounts paid to separated employees at time of separation. (MPA, 29:3-8.)

Further, counsel contends that Plaintiffs' claims are typical. Plaintiff is seeking relief for the same wage and hour violations as are the rest of the Class Members. She seeks to impose liability on Defendants based on the same claims and theories, as well as the same alleged injuries, which apply to the Class as a whole. Thus, the claims of the Representative Plaintiff are typical of the claims of the Class. (Id. at 30:10-13.)

Finally, counsel contends that Plaintiff is an adequate class member because they do not have a conflict of interest with any of the Class Members, and they have been actively involved in this action. (Gundzik Decl. ¶76; Declaration of Mary Beth Hughes ¶¶10-13.)

4. Adequacy of class counsel. As indicated above, Class Counsel has shown experience in class action litigation, including wage and hour class actions.

5. Superiority. Given the relatively small size of the individual claims, a class action appears to be superior to separate actions by the class members.

The Court finds that the class may be conditionally certified because the prerequisites of class certification have been satisfied.

E. Is the Notice Proper?

1. Content of class notice. The proposed notice is attached as Exhibit 1 to the Amended Settlement Agreement. Its

content appears to be acceptable. It includes information such as: a summary of the litigation; the nature of the settlement; the terms of the settlement agreement; the proposed deductions from the gross settlement amount (attorney fees and costs, enhancement awards, and claims administration costs); the procedures and deadlines for participating in, opting out of, or objecting to, the settlement; the consequences of participating in, opting out of, or objecting to, the settlement; and the date, time, and place of the final approval hearing.

2. Method of class notice. Within 21 calendar days following the Court's order granting preliminary approval of the Settlement, Defendants will provide the Settlement Administrator with the Class Data in an electronic format acceptable to the Settlement Administrator. At the same time, Defendants will provide the Class Data, without Class Member names (and instead using a unique identifier), addresses or social security numbers, to Class Counsel. This information will remain confidential and will not be disclosed to anyone, except as required to applicable taxing authorities, pursuant to Defendants' express written authorization, by order of the Court, or as otherwise provided for in this Agreement. To the extent that the Settlement Administrator requests to contact a Class Member by telephone or email, Defendants will provide the Settlement Administrator with such Class Member's last known telephone number and/or email address, if available to Defendants. (§IV.C)

Using the Class Data, the Settlement Administrator will:

- (1) confirm the number of Class Members and Qualifying Workdays,
- (2) finalize and print the Notice of Settlement; (3) check all addresses against the National Change of Address database; and
- (4) within ten (10) calendar days of receiving the Class Data, send to each Class Member via First-Class United States mail an English version of the Notice of Settlement to the most recent address known for each Class Member. Based upon the job requirements for Class Members, Defendants represent that all Class Members are proficient in English and that it is not necessary to translate of the Notice of Settlement into any other language. (§IV.C)

In the event that Defendants' Counsel or Class Counsel becomes aware of new addresses for any Class Member, prior to the filing of the motion for final approval, such information must immediately be communicated to the Settlement Administrator. The Settlement Administrator will then re-send a Notice of Settlement to the Class Member(s) at the new address.

For any Notice of Settlement that is returned as undeliverable, the Settlement Administrator will perform a utility database search or other skip trace. The returned Notices of Settlement will be re-mailed to the new addresses obtained for such Class Members. Such searching and re-mailing will be completed within ten (10) calendar days of the date that Notices of Settlement were originally returned as undeliverable. (§IV.D) The Final Approval Order will be posted on the Settlement Administrator's website. (§IV.K)

3. Cost of class notice. As indicated above, claims administration costs are estimated not to exceed \$6,750. Prior to the time of the final fairness hearing, the claims administrator must submit a declaration attesting to the total costs incurred and anticipated to be incurred to finalize the settlement for approval by the Court.

F. Attorney Fees and Costs

CRC rule 3.769(b) states: "Any agreement, express or implied, that has been entered into with respect to the payment of attorney fees or the submission of an application for the approval of attorney fees must be set forth in full in any application for approval of the dismissal or settlement of an action that has been certified as a class action."

Ultimately, the award of attorney fees is made by the court at the fairness hearing, using the lodestar method with a multiplier, if appropriate. (PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084, 1095-1096; Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615, 625-626; Ketchum III v. Moses (2000) 24 Cal.4th 1122, 1132-1136.) Despite any agreement by the parties to the contrary, "the court ha[s] an independent right and responsibility to review the attorney fee provision of the settlement agreement and award only so much as it determined reasonable." (Garabedian v. Los Angeles Cellular Telephone Company (2004) 118 Cal.App.4th 123, 128.)

The question of whether Class Counsel is entitled to \$558,333 in attorney fees will be addressed at the fairness hearing when class counsel brings a noticed motion for attorney fees. Class counsel must provide the court with billing information so that it can properly apply the lodestar method and must indicate what multiplier (if applicable) is being sought as to each counsel.

There is a fee split. Gundzik Gundzik Heeger LLP ("GGH") and Caskey and Holzman ("C&H") have entered into a written retention agreement with the representative Plaintiff. GGH and C&H have agreed to divide any attorney's fees awarded in this case 60/40 respectively. Plaintiff has consented to the division of fees. (Gundzik Decl. ¶41, Exh. 2.)

Class Counsel should also be prepared to justify the costs sought (capped at \$40,000) by detailing how they were incurred.

G. Incentive Award to Class Representative

The Settlement Agreement provides for an enhancement award to the class representative, Mr. Hughes, of up to \$10,000.

In connection with the final fairness hearing, the named Plaintiff must submit a declaration attesting to why he should be entitled to an enhancement award in the proposed amount. The named Plaintiff must explain why he "should be compensated for the expense or risk she has incurred in conferring a benefit on other members of the class." (Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785, 806.) Trial courts should not sanction enhancement awards of thousands of dollars with "nothing more than pro forma claims as to 'countless' hours expended, 'potential stigma' and 'potential risk.'" Significantly more specificity, in the form of quantification of time and effort expended on the litigation, and in the form of reasoned explanation of financial or other risks incurred by the named plaintiffs, is required in order for the trial court to conclude that an enhancement was 'necessary to induce [the named plaintiff] to participate in the suit'" (Id. at 806-807, italics and ellipsis in original.)

The Court will decide the issue of the enhancement award at the time of final approval.

IV.
CONCLUSION

Based upon the foregoing, the Court orders that:

1) The Parties' Motion for Preliminary Approval of class action settlement is GRANTED as the settlement is fair, adequate, and reasonable.

2) The essential terms are:

A. The Gross Settlement Amount ("GSA") is \$1,675,000.
B. The Net Settlement Amount is the GSA minus the following:

Up to \$558,333 (1/3) for attorney fees (Fee Split: GH and C&H have agreed to divide any attorney's fees awarded in this case 60/40);

Up to \$40,000 for litigation costs (§I.B);

Up to \$10,000 for a service award (§I.D);

Up to \$6,750 for claims administration (§I.A);

\$37,500 (75% of \$50,000 PAGA penalty) to the LWDA (§I.E).

C. Defendants will pay the Employer's Withholding Share of taxes in addition to the GSA.

D. Plaintiffs release of Defendants from claims described herein.

3) The Parties' Motion for Final Approval of Class Action Settlement must be filed by October 4, 2023. The parties are ordered to contact the Clerk in Department 9 to obtain a hearing date for their motion.

4) The Parties' Motion for Final Approval of Class Action Settlement must include a concurrently lodged [Proposed] Judgment containing among other things, the class definition, full release language, and names of the any class members who opted out; and the parties must email the [Proposed] Judgment in Word format to Dept. 9 staff at sscdept9@lacourt.org.

5) Non-Appearance Case Review is set for October 11, 2023, 8:30 a.m., Dept. 9.

CLERK TO GIVE NOTICE TO MOVING PARTY. THE MOVING PARTY TO GIVE NOTICE TO ALL OTHER PARTIES.

IT IS SO ORDERED.

DATED: March 21, 2023




YVETTE M. PALAZUELOS
JUDGE OF THE SUPERIOR COURT
Yvette M. Palazuelos / Judge

Exhibit 3



Gundzik | Gundzik | Heeger LLP
Attorneys at Law

August 19, 2021

Please reply to:
Direct Tel: 213-542-2135
Aaron.gundzik@gghllp.com

Via Electronic Submission
PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Via Certified Mail
Jeffrey Lee Galitz, a Professional Medical
Corporation
200 S. Park Road, Ste. 200
Hollywood, FL 33021

Re: PAGA Notice Pursuant to California Labor Code § 2699

Dear Sir or Madam:

This letter is written on behalf of Mary Beth Hughes, who works for Jeffrey Lee Galitz (“Employer”) as a field clinician. Ms. Hughes asserts that Employer has violated several California Labor Code provisions and is therefore liable for civil penalties under the Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code §§ 2698, *et seq.* Ms. Hughes seeks to recover civil penalties owed to the state of California for the violations described below committed against all of Employer’s non-exempt employees who worked as field clinicians and in similar positions.

Unlawful Failure to Pay Overtime Wages

Employer maintains a policy that does not provide for payment of premium wages for overtime work. Ms. Hughes and other aggrieved employees have regularly worked more than 8 hours in a day and/or more than 40 hours in a week. Employer did not pay Ms. Hughes and others the premium wages required under Labor Code section 510(a). As a result of these violations, Employer is liable for civil penalties pursuant to California Labor Code sections 558 and 2699(f).

Unlawful Failure to Compensate Employees for All Hours Worked

Labor Code section 204 provides that all wages earned by an employee are to be paid at least twice per month. Labor Code section 1197 requires that employers compensate their employees at no less than the minimum wage for all hours worked. Employer has violated sections 204 and 1197 because Employer requires aggrieved employees to perform various tasks without any compensation. Such tasks include, without limitation, participating in meetings, ordering, unpacking and stocking supplies, traveling to and from appointments and reviewing and responding to emails and



PAGA Administrator
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messages from patients. Due to these violations, Employer is liable for civil penalties pursuant to California Labor Code sections 210, 558, 1197.1 and 2699(f).

Unlawful Failure to Compensate Piece-Rate Employees for Nonproductive Time and Rest Breaks

Employer maintains a practice and policy that does not provide payment to Ms. Hughes and other piece-rate employees for their nonproductive work as required by California Labor Code section 226.2. During the relevant period, aggrieved employees were not compensated for each and every hour they were under their employer's control, in violation of California law. As a result of these violations, Employer is liable for civil penalties pursuant to California Labor Code sections 558 and 2699(f).

Labor Code section 226.2 also requires employers to pay employees who are compensated on a piece-rate basis for taken rest breaks at one of the rates specified in section 226.2(a)(3)(A). Employer maintains a practice and policy that violates section 226.2. Employer does not compensate aggrieved employees who are paid on a piece rate basis for rest periods taken at one of the specified rates. As a result of these violations, Employer is liable for civil penalties pursuant to California Labor Code sections 558 and 2699(f).

Unlawful Failure to Provide Uninterrupted Off-Duty Meal Periods

Employer has failed to maintain a policy that provides its employees with off-duty meal periods as required by California law. Ms. Hughes and the other aggrieved employees regularly worked more than five (5) hours in a day without being provided, by the end of the fifth hour, a 30-minute meal period in which they were relieved of all duties, as required by Labor Code sections 226.7, 512, and the applicable Wage Order. In addition, Ms. Hughes and others worked more than 10 hours in a shift without receiving a second 30-minute meal period. Employer also failed to pay Ms. Hughes and the other aggrieved employees the premium compensation mandated by Labor Code section 226.7(c) for these missed or otherwise non-compliant meal periods. As a result of these violations, Employer is liable for civil penalties and premium wages pursuant to California Labor Code sections 558 and 2699(f).

Unlawful Failure to Provide Uninterrupted Off-Duty Rest Periods

Employer has failed to maintain a policy that provides aggrieved employees with paid, off-duty rest periods. Ms. Hughes and the other aggrieved employees regularly worked shifts in excess of 3.5 hours without being provided at least a ten (10) minute paid rest period in which they were relieved of all duties, for each four hours worked, or major fraction thereof, as required by Labor Code section 226.7 and the applicable Wage Order. Employer also failed to pay Ms. Hughes and aggrieved employees the premium



PAGA Administrator

August 19, 2021

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compensation mandated by Labor Code section 226.7(c) for these missed or otherwise non-compliant rest periods. As a result of these violations, Employer is liable for civil penalties pursuant to California Labor Code sections 558 and 2699(f) *et seq.*

Unlawful Failure to Furnish Accurate Wage Statements

Employer has violated California Labor Code § 226(a) and 226.2(a)(2) by failing to furnish Ms. Hughes and the aggrieved employees with accurate, itemized wage statements showing the name and address of the legal entity that is the employer, gross wages, net wages, actual hours worked, the actual hourly rates, the actual overtime rates, the number of piece-rate units earned and any applicable piece rate. Employer has also violated Labor Code section 226.2(a), which requires each wage statement to also state the “total hours of compensable rest and recovery periods, the rate of compensation and the gross wages paid for those periods during the pay period” and “the total hours of other nonproductive time . . . , the rate of compensation, and the gross wages paid for that time during the pay period.” Employer has not complied with this provision of section 226.2 for Mr. Hughes and other aggrieved employees. As a result of these violations, Employer is liable for civil penalties pursuant to California Labor Code sections 226.3 and 2699(f) *et seq.*

Unlawful Failure to: Advise of Right to Paid Sick Days, Maintain Records of Paid Sick Days, Advise of Amount of Accrued and Used Sick Days and Provide Paid Sick Days

California Labor Code section 246(a) requires that an employer provide paid sick days to employees. Section 246(i) requires an employer to provide an employee with written notice of the amount of sick leave available, either on the employee’s regular wage statement or in a separate writing provided on each pay day. Section 247.5 requires an employer to maintain records of the paid sick days accrued and used by an employee. Section 2810.5 requires an employer, at the time of hiring an employee, to provide written notice of certain information, including that an employee may accrue and use sick leave, has a right to request and use accrued paid sick leave, may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave, and has the right to file a complaint against an employer who retaliates. Employer has not complied with these provisions for Ms. Hughes and other employees. Employer has not advised them of the paid sick days accrued or used, has not maintained records of sick leave accrued and used, and did not advise them, on hiring, of their rights regarding sick leave. As a result of these violations, Employer is liable for civil penalties pursuant to California Labor Code sections 248.5 and 2699(f).

Unlawful Failure to Pay Necessary Expenses

Labor Code Section 2802 requires employers to reimburse employees for all necessary expenditures incurred in order to discharge their duties. Employer has violated



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California Labor Code § 2802 by willfully failing to pay for all necessary expenditures that aggrieved employees were required to make to perform their jobs. Among other things, Ms. Hughes and the aggrieved employees were required to use their personal vehicles to perform their jobs for Employer but were not reimbursed for these expenditures. As a result of these violations, Employer is liable for civil penalties pursuant to California Labor Code section 2699(f).

Unlawful Failure to Pay Wages Due Upon Termination

Employer has violated California Labor Code §§ 201 and 202 by willfully failing to pay all compensation due and owing to aggrieved employees at the time their employment was terminated, as required under California Labor Code sections 201 and 202. The unpaid compensation includes all wages that were unpaid due to the violations alleged in this letter. As a result of Employer's violations of sections 201 and 202, Employer is liable for civil penalties pursuant to California Labor Code section 2699(f).

Unlawful Failure to Maintain Time Records

Labor Code section 1174(d) requires, among other things, that an employer maintain records of the hours worked daily by each employee. Employer has failed to track or maintain records of the hours worked daily by Ms. Hughes and by other aggrieved employees. Accordingly, Employer is liable for civil penalties pursuant to California Labor Code sections 1174.5 and 2699(f).

Please feel free to contact me should you have any questions about the forgoing.

Very truly yours,

A handwritten signature in black ink, appearing to read "A. Gundzik", written over a horizontal line.

Aaron Gundzik

7009 2820 0001 7054 0757

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Sent To	Jeffrey Lee Galitz
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City, State, ZIP+4	Hollywood, FL 33021

PS Form 3800, August 2006

See Reverse for Instructions

Exhibit 4



Gundzik | Gundzik | Heeger
Attorneys at Law LLP

14011 Ventura Blvd., Ste. 206E
Sherman Oaks, CA 91423
818.290.7461

July 24, 2023

Mary Beth Hughes

Invoice Number: 1453

Invoice Period: 08-11-2021 - 07-31-2023

Payment Terms: Upon Receipt

RE: 6211- Hughes v. Jeffery Lee Galitz, MD d/b/a Woundtech

Time Details

Date	Professional	Description	Hours	Rate	Amount
08-11-2021	ACG	Initial review with client; confer with co-counsel regarding facts; draft summary of review	4.20	825.00	3,465.00
08-11-2021	RGG	Confer with co-counsel regarding facts and classification issues; research regarding same	5.60	825.00	4,620.00
08-16-2021	ACG	Legal research regarding exempt status; draft Complaint; draft PAGA letter; emails with client	8.60	825.00	7,095.00
08-16-2021	RGG	Review Complaint and PAGA letter; review emails with client	1.20	825.00	990.00
08-17-2021	ACG	Revise draft Complaint and PAGA letter; related legal research; emails with M. Hughes regarding available records	4.80	825.00	3,960.00
08-17-2021	RGG	Review emails regarding work records	0.40	825.00	330.00
08-18-2021	ACG	Emails with M. Hughes regarding Complaint and PAGA letter and asserted claims	0.80	825.00	660.00
08-18-2021	RGG	Review emails regarding Complaint and PAGA letter	0.40	825.00	330.00
08-19-2021	ACG	Review and finalize Complaint and cover sheets for filing	0.40	825.00	330.00
08-20-2021	ACG	Emails with M. Hughes regarding termination	0.40	825.00	330.00

We appreciate your business

Page 1 of 11

Date	Professional	Description	Hours	Rate	Amount
08-20-2021	RGG	Review emails regarding termination	0.20	825.00	165.00
08-30-2021	ACG	Emails with M. Hughes regarding status; review issues regarding service of Summons; revise proof of service by certified mail	1.20	825.00	990.00
08-30-2021	RGG	Review emails with client regarding status	0.40	825.00	330.00
09-17-2021	ACG	Review letter from defense counsel; emails with defense counsel regarding Initial Status Conference; confer with defense counsel regarding Initial Status Conference	1.50	825.00	1,237.50
09-17-2021	RGG	Review emails with opposing counsel regarding Initial Status Conference; confer with co-counsel regarding meet and confer with opposing counsel	0.80	825.00	660.00
09-21-2021	ACG	Draft Initial Status Conference Report; prepare for and participate in call with defense counsel regarding Initial Status Conference Report	2.30	825.00	1,897.50
09-22-2021	ACG	Review and revise Initial Status Conference Report; email with defense counsel regarding same	0.70	825.00	577.50
09-23-2021	ACG	Review and revise Initial Status Conference Report; emails with defense counsel regarding same	0.90	825.00	742.50
09-23-2021	RGG	Review Initial Status Conference Report	0.40	825.00	330.00
09-30-2021	ACG	Review Tentative Ruling	0.50	825.00	412.50
10-29-2021	ACG	Email defense counsel regarding status	0.40	825.00	330.00
11-01-2021	ACG	Prepare for and confer with defense counsel regarding status; email team regarding potential mediation; work on First Amended Complaint	2.50	825.00	2,062.50
11-01-2021	RGG	Confer with co-counsel regarding mediation and mediation data needed	0.80	825.00	660.00
11-02-2021	ACG	Emails with R. Gundzik and D. Holzman regarding mediation proposal from Defendant	0.50	825.00	412.50
11-02-2021	RGG	Review emails from A. Gundzik regarding mediation proposal; confer with A. Gundzik regarding same	0.40	825.00	330.00
11-03-2021	ACG	Email defense counsel regarding mediation; draft mediation stipulation; email M. Hughes regarding mediation	2.70	825.00	2,227.50
11-04-2021	RGG	Review correspondence regarding mediation and stipulation to stay discovery	0.40	825.00	330.00
11-10-2021	ACG	Emails with defense counsel regarding mediation	0.40	825.00	330.00

Date	Professional	Description	Hours	Rate	Amount
11-10-2021	RGG	Review emails regarding mediation	0.20	825.00	165.00
11-15-2021	ACG	Emails regarding mediation date	0.30	825.00	247.50
11-15-2021	RGG	Review emails regarding mediation date	0.20	825.00	165.00
11-17-2021	ACG	Revise and finalize mediation stipulation; emails with defense counsel regarding same	0.80	825.00	660.00
11-18-2021	RGG	Review stipulation to stay discovery and emails regarding same	0.40	825.00	330.00
11-30-2021	RGG	Draft Status Conference Report; email with opposing counsel regarding same	2.30	825.00	1,897.50
11-30-2021	ACG	Review Status Conference Report; review emails regarding same	0.50	825.00	412.50
12-08-2021	ACG	Prepare list of mediation data for Defendant to provide; confer with co-counsel regarding same	1.30	825.00	1,072.50
12-08-2021	RGG	Review and analyze list of mediation data; confer with co-counsel regarding same	0.60	825.00	495.00
12-09-2021	ACG	Finalize and send list of mediation data to defense counsel	0.50	825.00	412.50
12-09-2021	RGG	Review file regarding mediation data requests	0.40	825.00	330.00
03-21-2022	RGG	Confer with co-counsel regarding mediation documents; review emails regarding same with opposing counsel	0.40	825.00	330.00
04-12-2022	RGG	Email with opposing counsel regarding mediation data	0.30	825.00	247.50
04-14-2022	ACG	Review documents produced by Defendant; email defense counsel regarding production; email M. Hughes regarding mediation	2.20	825.00	1,815.00
04-20-2022	ACG	Review additional documents produced by Defendant for mediation	0.50	825.00	412.50
04-21-2022	RGG	Begin review of file for mediation preparation	2.60	825.00	2,145.00
04-25-2022	ACG	Emails with defense counsel regarding mediation data; initial review of sample data	1.80	825.00	1,485.00
04-26-2022	RGG	Begin review of mediation documents produced by Defendant and start summary of key facts	7.20	825.00	5,940.00
04-27-2022	RGG	Review mediation documents and work on summary of facts and policies; email with opposing counsel regarding timecard reports for sample	6.80	825.00	5,610.00

Date	Professional	Description	Hours	Rate	Amount
04-27-2022	ACG	Email with defense counsel regarding mediation data	0.40	825.00	330.00
04-27-2022	RGG	Review emails with opposing counsel regarding mediation data	0.20	825.00	165.00
04-28-2022	ACG	Review and analyze time and pay records	4.20	825.00	3,465.00
04-28-2022	RGG	Research regarding scope of overtime exemption and its application to plaintiff's job; analysis regarding documents and claims	7.80	825.00	6,435.00
04-29-2022	RGG	Begin mediation brief; emails regarding legal issues	8.40	825.00	6,930.00
04-29-2022	ACG	Preliminary review of sample MileIQ reports; emails with R. Gundzik regarding legal issues	2.80	825.00	2,310.00
05-02-2022	ACG	Work on analysis of sample data	7.20	825.00	5,940.00
05-02-2022	RGG	Draft mediation brief	6.80	825.00	5,610.00
05-03-2022	RGG	Draft mediation brief; meet with client regarding mediation; prepare meeting summary	6.20	825.00	5,115.00
05-03-2022	ACG	Work on analysis of sample data; prepare for and meet with M. Hughes regarding mediation; emails with defense counsel regarding mediation data	7.30	825.00	6,022.50
05-04-2022	ACG	Emails with defense counsel regarding data; work on mediation brief; confer with defense counsel regarding mediation information; email defense counsel regarding same; review pay records and policy documents; time analysis	8.80	825.00	7,260.00
05-04-2022	RGG	Work on mediation brief	1.60	825.00	1,320.00
05-05-2022	ACG	Continue data review and analysis	6.20	825.00	5,115.00
05-06-2022	ACG	Continue data review and analysis for mediation; emails with M. Hughes regarding issues for mediation	6.70	825.00	5,527.50
05-06-2022	RGG	Review emails with client regarding mediation issues	0.30	825.00	247.50
05-09-2022	ACG	Continue analysis of mediation data	3.20	825.00	2,640.00
05-10-2022	ACG	Work on damages analysis and review of additional mediation data	4.20	825.00	3,465.00
05-10-2022	RGG	Work on damages model	8.40	825.00	6,930.00
05-11-2022	RGG	Work on damages model and mediation brief	8.20	825.00	6,765.00
05-11-2022	ACG	Review and revise mediation brief	4.60	825.00	3,795.00

Date	Professional	Description	Hours	Rate	Amount
05-19-2022	RGG	Prepare for and attend mediation; review and analyze Memorandum of Understanding	10.60	825.00	8,745.00
05-19-2022	ACG	Prepare for and attend mediation, draft, revise and finalize Memorandum of Understanding	11.50	825.00	9,487.50
05-20-2022	ACG	Confer with M. Hughes regarding Memorandum of Understanding and settlement terms	0.80	825.00	660.00
05-23-2022	ACG	Emails with defense counsel regarding Memorandum of Understanding; confer with court regarding settlement; draft Notice of Settlement; emails with defense counsel regarding same	1.40	825.00	1,155.00
05-23-2022	RGG	Review emails regarding Memorandum of Understanding and settlement	0.40	825.00	330.00
05-24-2022	RGG	Draft Second Amended Complaint; redlined Second Amended Complaint; Stipulation to File Second Amended Complaint; begin long-form settlement stipulation	8.80	825.00	7,260.00
05-27-2022	ACG	Work on settlement stipulation	3.30	825.00	2,722.50
05-30-2022	RGG	Draft long-form settlement agreement; draft class notice; email with opposing counsel regarding Stipulation to file Second Amended Complaint	9.30	825.00	7,672.50
05-31-2022	ACG	Revise and finalize Stipulation regarding Second Amended Complaint; review and revise Second Amended Complaint; emails with defense counsel regarding same; review and revise long-form settlement agreement and class notice	6.70	825.00	5,527.50
06-02-2022	ACG	Draft Joint Status Conference Report; emails with defense counsel regarding Second Amended Complaint; revise Second Amended Complaint; emails with TPAs for bids; email defense counsel regarding TPA bids	2.70	825.00	2,227.50
06-02-2022	RGG	Review emails regarding Joint Status Conference Report and Notice of Settlement; review Joint Status Conference Report	0.50	825.00	412.50
06-06-2022	ACG	Emails with defense counsel regarding Second Amended Complaint; review TPA bids	0.50	825.00	412.50
06-06-2022	RGG	Review emails regarding Second Amended Complaint; confer with co-counsel regarding TPA bids	0.30	825.00	247.50
06-09-2022	RGG	Emails with opposing counsel regarding settlement stipulation and class notice	0.30	825.00	247.50
06-10-2022	ACG	Review comments on settlement agreement and notice; email defense counsel regarding same	1.70	825.00	1,402.50
06-15-2022	RGG	Review emails from opposing counsel regarding	0.50	825.00	412.50

Date	Professional	Description	Hours	Rate	Amount
		settlement stipulation and class notice; confer with co-counsel regarding same			
06-16-2022	RGG	Revise settlement stipulation and class notice; review additional TPA bid; email to opposing counsel	6.80	825.00	5,610.00
06-20-2022	RGG	Review opposing counsel further revisions to notice and correspondence regarding same	0.50	825.00	412.50
06-21-2022	RGG	Revise Notice of Settlement; email with opposing counsel regarding same; review status update to client	1.60	825.00	1,320.00
06-21-2022	ACG	Review Defendant's additional revisions to the class notice and final version; emails with M. Hughes regarding status of settlement	1.40	825.00	1,155.00
06-24-2022	ACG	Revise notice; emails with defense counsel regarding same; revise and finalize settlement agreement	2.10	825.00	1,732.50
06-27-2022	RGG	Review correspondence regarding settlement stipulation and class notice; review correspondence to client	0.60	825.00	495.00
07-07-2022	RGG	Email with opposing counsel regarding settlement stipulation; review minute order	0.50	825.00	412.50
07-08-2022	ACG	Emails with defense counsel regarding settlement agreement	0.30	825.00	247.50
07-11-2022	ACG	Emails with defense counsel regarding settlement agreement	0.30	825.00	247.50
07-11-2022	RGG	Emails with opposing counsel regarding settlement agreement; review executed agreement	0.50	825.00	412.50
07-25-2022	RGG	Confer with co-counsel regarding Motion for Preliminary Approval	0.40	825.00	330.00
07-26-2022	RGG	Draft A. Gundzik declaration ISO Motion for Preliminary Approval	7.80	825.00	6,435.00
07-27-2022	RGG	Review and revise declaration ISO Motion for Preliminary Approval	5.80	825.00	4,785.00
07-28-2022	RGG	Revise A. Gundzik declaration ISO Motion for Preliminary Approval; begin drafting Motion for Preliminary Approval	7.20	825.00	5,940.00
07-29-2022	RGG	Revise A. Gundzik declaration ISO Motion for Preliminary Approval; draft TPA declaration; draft Plaintiff's declaration; draft D. Holzman declaration; draft [Proposed] Order	10.40	825.00	8,580.00
08-01-2022	RGG	Emails with opposing counsel regarding Motion for Preliminary Approval; email with client regarding declaration regarding Motion for Preliminary Approval;	6.70	825.00	5,527.50

Date	Professional	Description	Hours	Rate	Amount
		email with D. Holzman regarding Motion for Preliminary Approval; revise Motion for Preliminary Approval and supporting documents and [Proposed] Order			
08-02-2022	RGG	Prepare Motion for Preliminary Approval and all supporting documents for filing	2.80	825.00	2,310.00
08-08-2022	RGG	Revise and finalize all documents for Motion for Preliminary Approval; confer with paralegal regarding same	6.30	825.00	5,197.50
08-09-2022	RGG	Oversee filing of Motion for Preliminary Approval and confer with court messengers regarding same	1.60	825.00	1,320.00
08-16-2022	RGG	Review minute order regarding Motion for Preliminary Approval	0.20	825.00	165.00
09-20-2022	ACG	Review Tentative Ruling regarding Motion for Preliminary Approval	0.50	825.00	412.50
01-30-2023	ACG	Work on supplemental briefing for Motion for Preliminary Approval	5.50	825.00	4,537.50
01-30-2023	RGG	Review correspondence regarding supplemental briefing regarding Motion for Preliminary Approval; review supplemental briefing regarding Motion for Preliminary Approval	2.30	825.00	1,897.50
01-31-2023	RGG	Review correspondence regarding further amendments regarding blow-up provision; confer with co-counsel regarding court's questions in Tentative Ruling	0.80	825.00	660.00
01-31-2023	ACG	Work on supplemental briefing; email with defense counsel regarding same	3.60	825.00	2,970.00
02-06-2023	RGG	Review correspondence regarding amendment to settlement stipulation and supplemental briefing regarding Motion for Preliminary Approval; review correspondence with client regarding same; review revised notice	2.30	825.00	1,897.50
02-07-2023	ACG	Review final signed agreement; emails with defense counsel	0.30	825.00	247.50
02-13-2023	ACG	Work on supplemental declaration for Motion for Preliminary Approval; emails with defense counsel regarding same	2.80	825.00	2,310.00
02-13-2023	RGG	Analyze, review and revise supplemental briefing	1.80	825.00	1,485.00
02-14-2023	ACG	Revise and finalize supplemental declaration for Motion for Preliminary Approval	1.60	825.00	1,320.00
03-19-2023	ACG	Review Tentative Ruling on Motion for Preliminary Approval; post message to court regarding same	0.70	825.00	577.50

Date	Professional	Description	Hours	Rate	Amount
03-21-2023	RGG	Review final order and ruling granting Motion for Preliminary Approval from court, Notice of Motion of Final Approval hearing; review emails with TPA regarding Motion for Preliminary Approval Order	2.10	825.00	1,732.50
03-22-2023	RGG	Review TPA timeline of events	0.20	825.00	165.00
04-14-2023	ACG	Emails with defense counsel and TPA regarding class data	0.30	825.00	247.50
04-21-2023	ACG	Emails with TPA and defense counsel regarding status of notice mailing	0.40	825.00	330.00
04-27-2023	RGG	Email with TPA regarding class notice	0.40	825.00	330.00
04-28-2023	ACG	Review data from TPA; emails with TPA regarding same; review and revise final version of class notice	1.60	825.00	1,320.00
04-30-2023	ACG	Review revised class data; emails with defense counsel regarding same	0.70	825.00	577.50
05-01-2023	ACG	Revise class notice; review class data and M. Hughes workdays; emails with defense counsel; emails with M. Hughes	2.30	825.00	1,897.50
05-01-2023	RGG	Review emails with defense counsel regarding class data and client data	0.40	825.00	330.00
05-02-2023	ACG	Emails with TPA regarding notice mailing	0.30	825.00	247.50
05-15-2023	ACG	Review TPA report	0.30	825.00	247.50
05-20-2023	ACG	Review TPA report	0.30	825.00	247.50
05-30-2023	ACG	Review TPA report	0.30	825.00	247.50
07-06-2023	RGG	Work on AG declaration ISO Motion for Final Approval	3.20	825.00	2,640.00
07-10-2023	RGG	Finish draft of A. Gundzik declaration ISO Motion for Final Approval; draft D. Holzman declaration ISO Motion for Final Approval; draft M. Hughes declaration ISO Motion for Final Approval; draft TPA declaration ISO Motion for Final Approval	8.60	825.00	7,095.00
07-11-2023	RGG	Draft Motion for Final Approval [Proposed] Order; draft [Proposed] Judgment; confer with co-counsel regarding Motion for Final Approval and M. Hughes declaration	2.40	825.00	1,980.00
07-12-2023	RGG	Review revised TPA declaration from TPA; revise A. Gundzik declaration; begin drafting Motion for Final Approval	5.80	825.00	4,785.00
07-13-2023	RGG	Work on Motion for Final Approval; confer with TPA	4.60	825.00	3,795.00

Date	Professional	Description	Hours	Rate	Amount
		regarding TPA declaration; confer with co-counsel regarding D. Holzman declaration			
07-20-2023	RGG	Continue working on Motion for Final Approval	5.20	825.00	4,290.00
07-21-2023	RGG	Review billing records and prepare for court; work on Motion for Final Approval	8.20	825.00	6,765.00
07-24-2023	RGG	Complete draft of Motion for Final Approval	5.40	825.00	4,455.00
			Total		309,292.50

Time Summary

Professional	Hours	Amount
Aaron C. Gundzik	150.50	124,162.50
Rebecca G. Gundzik	224.40	185,130.00
Total		309,292.50

Expenses

Date	Expense	Description	Amount
08-19-2021	Filing fees	LWDA	75.00
08-19-2021	Express Network	Summ; Cover Sheet; Addendum; Complaint	1,663.75
08-20-2021	Express Network	Summons and Complaint	166.85
08-26-2021	Express Network	POS	40.00
09-08-2021	Express Network	POS	80.00
09-10-2021	Express Network	Notice of Initial Status	40.00
09-12-2021	Federal Express	Federal Express	45.08
11-01-2021	Express Network	First Amended Complaint	64.00
11-17-2021	Express Network	Stip and Order balance	199.25
11-30-2021	Express Network	Notice of Entry	43.00
02-28-2022	Corporate Research	Case Anywhere 12/1/21-2/28/22	120.00
04-18-2022	Mediation Services	Kyriacou Mediation	4,500.00
05-24-2022	Express Network	Notice of Settlement	49.00
06-01-2022	Corporate Research	Case Anywhere 3/1/22-5/31/22	126.00
06-02-2022	Express Network	Joint Status Conference	49.00
06-06-2022	Express Network	Stip and Order	74.00
06-13-2022	Express Network	Notice of Entry	49.00
08-08-2022	Express Network	Motion; Dec (x4); Order	115.00

We appreciate your business

Date	Expense	Description	Amount
08-31-2022	Corporate Research	Case Anywhere 6/1/22-8/31/22	180.00
11-30-2022	Corporate Research	Case Anywhere 9/1/22-11/30/22	120.00
02-14-2023	Express Network	Sup Dec	49.00
02-28-2023	Corporate Research	Case Anywhere 12/1/22-2/28/23	132.00
03-21-2023	Express Network	Notice of Motion	51.00
05-31-2023	Corporate Research	Case Anywhere 3/1/23-5/31/23	126.00
Total Expenses			8,156.93
Total for this Invoice			317,449.43

Matter Statement of Account

As of 08-07-2023

Matter	Invoices / Credits	Trust	Balance Due
6211- Hughes v. Jeffery Lee Galitz, MD d/b/a Woundtech	317,449.43		317,449.43
	Total Amount to Pay		317,449.43

6211- Hughes v. Jeffery Lee Galitz, MD d/b/a Woundtech

Transactions

Date	Transaction	Applied	Invoice	Amount
07-24-2023	Invoice 1453			317,449.43
			Balance	317,449.43

Open Invoices and Credits

Date	Transaction	Amount	Applied	Balance
07-24-2023	Invoice 1453	317,449.43		317,449.43
			Balance	317,449.43

Exhibit 5



National Association of Legal Fee Analysis
Specializing in Attorney Fees & Legal Billing
— *The Nation's Top Attorney Fee Experts*

News Release

FOR IMMEDIATE RELEASE

March 4, 2020

Survey: Defense Rates Keep Pace with Plaintiffs' Rates in Class Action Litigation

Chicago, IL -- Defense rates keep pace with plaintiffs' rates in class action litigation at partner and associate levels in 2020. That's just one of the findings from a recent survey, The 2020 Class Action Hourly Rate Survey, conducted by the National Association of Legal Fee Analysis (NALFA). This billing rate survey, conducted via email over a two month period, asked class action litigators from the nation's 16 largest legal markets if their current regular hourly rate falls within a given range.

The NALFA survey shows that 95 percent of all class actions fall within the \$200-\$1,200 hourly rate range for both defense and plaintiffs' counsel at partner and associate levels. In short, only 5 percent of class action hourly rates are less than \$200 and over \$1,200. Thus, nearly all class action hourly rates fall within a \$1,000 hourly rate statistical variance.

This survey is the first in a series of hourly rate surveys that NALFA will be conducting in specific practice areas. NALFA also conducts custom hourly rate surveys for clients such as law firms, corporate legal departments, and government agencies. NALFA surveys provide the most accurate and current hourly rate ranges within a given geography and practice area.

"This survey data may be the nation's first and only quantitative class action hourly rate data of its kind," said Terry Jesse, NALFA Executive Director. With more class action hourly rate data to follow, here are some of the top level findings from NALFA's 2020 Class Action Hourly Rate Survey:

The 2020 Average Hourly Rate Range in Class Actions		
	Plaintiffs' Rate	Defense Rate
Senior Partner (20+ Years in Practice)	\$801-\$900	\$801-\$900
Partner (16-19 Years in Practice)	\$701-\$800	\$601-\$700
Junior Partner (12-15 Years in Practice)	\$501-\$600	\$401-\$500
Senior Associate (9-11 Years in Practice)	\$401-\$500	\$301-\$400
Associate (5-8 Years in Practice)	\$201-\$300	\$201-\$300
Junior Associate (2-4 Years in Practice)	\$201-\$300	\$201-\$300
Estimated Margin of Error: +/- \$25.00		

For more information on this survey, visit <http://www.thenalfa.org/blog/survey-class-action-defense-rates-keep-pace-with-plaintiffs-rates-in-2020/> or contact Terry Jesse, NALFA Executive Director at terry@thenalfa.org or call us at (312) 907-7275.



The National Association of Legal Fee Analysis (NALFA) is a 501(c)(6) non-profit professional association for the legal fee analysis field. Our members provide a range of services on attorney fee and legal billing matters.

Courts and clients turn to us for expertise when attorney fees and expenses are at issue in large, complex cases. NALFA members are fully qualified attorney fee experts, special fee masters, bankruptcy fee examiners, fee dispute neutrals, and legal bill auditors. Our members follow Best Practices in Legal Fee Analysis. Our services include: Custom Hourly Rate Surveys and Fee Dispute Mediation. For more on NALFA, visit www.thenalfa.org. Follow us on Twitter at [@AttorneyFees](https://twitter.com/AttorneyFees).

NALFA | 1336 W. Greenleaf Ave, #3E, Chicago, IL 60626

[Unsubscribe agundzik@gghslaw.com](mailto:unsubscribe_agundzik@gghslaw.com)

[Update Profile](#) | [About Constant Contact](#)

Sent by info@thenalfa.org

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and not a party to the within action. My business address is 14011 Ventura Blvd., Suite 206E, Sherman Oaks, CA 91423.

On August 10, 2023, I served the following document described as

- **DECLARATION OF AARON GUNDZIK IN SUPPORT OF PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**

on the interested parties in this action:

(X) by serving () the original (X) true copies thereof as follows:

Please see attached service list

() BY MAIL I caused such envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.	() BY FACSIMILE TRANSMISSION I caused said document(s) to be transmitted by facsimile transmission to the name(s) and facsimile telephone number(s) of the person(s) named on the attached service list. The facsimile machine telephone number of the sending facsimile machine was (818) 918-2316. A transmission report was issued by the sending facsimile machine confirming that the transmission was completed without error. A true and correct copy of said transmission report is attached hereto.
() BY OVERNIGHT DELIVERY Said document was placed in an envelope designated by the express service center and placed for collection in a box regularly maintained by said carrier with whom we have a direct billing account, to be delivered to the office of the addressee listed above on the next business day.	(XX) BY ELECTRONIC TRANSMISSION I caused the above-described document to be electronically served to the names and email addresses listed on the Service List attached hereto.

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

() FEDERAL I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

(X) EXECUTED on August 10, 2023, at Sherman Oaks, California.



Nicole Salazar

Case Anywhere Electronic Service List

Case Name: **Hughes, et al. v. Jeffrey Lee Galitz, MD, a Professional Medical Corporation**

Case Info: **21STCV30732, Los Angeles Superior Court**

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Mary Beth Hughes, et al.

The Service List is compiled from information provided to Case Anywhere and is not independently reviewed for accuracy.

Only attorneys are listed. Other authorized users may also receive case notifications by email.