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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

LAURA LOPEZ, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

BARLOW RESPIRATORY HOSPITAL, a
California corporation; and DOES 1 through
100,

Defendants.

Case No.: 21STCV29754 (Related to Case
Nos. 22STCV03831; 22STCV34472)

*[Assigned for all purposes to Hon. Carolyn
B. Kuhl, Dept. SSC-12]*

**DECLARATION OF SEAN M.
BLAKELY IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: July 9, 2024
Time: 10:30 a.m.
Dept.: 12

Action Filed: August 12, 2021
Trial Date: None Set

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1 I, SEAN M. BLAKELY, declare as follows:

2 1. I am a Partner at Haines Law Group, APC, and co-counsel for the named Plaintiffs
3 Laura Lopez and Winifred Allison (“Plaintiffs”) and the proposed Settlement Class in the above-
4 captioned matter. I am a member in good standing of the bar of the State of California and am
5 admitted to practice in this Court. I have personal knowledge of the facts stated in this declaration
6 and could testify competently to them if called upon to do so.

7 2. I am a 2008 graduate of Southwestern Law School. I was admitted to the California
8 State Bar in September 2009. From December 2010 to September 2011, I worked as a Law Clerk
9 for Rose, Klein & Marias, a civil litigation firm in Long Beach, California. At Rose, Klein &
10 Marias I assisted trial attorneys in employment and personal injury cases. From September 2011
11 to May 2016, I worked as an associate at the employment law firm of Mahoney Law Group, APC
12 in Long Beach, California. The vast majority of my work at Mahoney Law Group, APC focused
13 on representing employees in wage and hour class actions. My work at Mahoney Law Group,
14 APC also included representing employees in individual claims for wrongful termination,
15 harassment, discrimination, and retaliation. Although non-exhaustive, the types of work I
16 performed at Mahoney Law Group, APC included: conducting client intakes; performing pre-
17 filing research and analysis; drafting complaints; attending court hearings; corresponding with
18 opposing counsel; drafting and responding to written discovery; preparing for and taking and
19 defending depositions; analyzing payroll and timekeeping records and employee handbooks;
20 opposing motions for summary judgment, as well as a variety of other motions such as motions
21 for remand, demurrers and motions to dismiss, motions to strike, motions to compel, motions to
22 quash, and motions for class certification; drafting mediation briefs; attending mediations;
23 drafting long-form settlement agreements; drafting motions for preliminary and final settlement
24 approval; and overseeing the notice process.

25 3. Since November 8, 2016, I have worked at my current firm, Haines Law Group,
26 APC, where, in 2020, I became a Partner. I am currently responsible for managing over sixty
27 (60) active wage and hour class and representative actions in both state and federal court.

28 4. The following is a non-exhaustive list of wage and hour class actions in which I

1 have been appointed as class counsel and/or played a significant role in prosecuting the litigation,
2 and which have received final approval: *Santimateo v. Sun Healthcare Group, Inc., et al*, Case
3 No. BC471884, California Superior Court, Los Angeles County, Judge Jane L. Johnson presiding
4 (granted final approval of settlement on behalf of employees at rehabilitation facility involving
5 claims for unpaid wages and meal and rest period violations, and other claims, in which I was
6 approved at an hourly rate of \$325 for work performed in 2012-2013); *Teyuca v. Pacific Alliance*
7 *Medical Center, Inc.*, California Superior Court, Los Angeles County, Judge William F.
8 Highberger presiding (granting final approval of settlement on behalf of healthcare workers for
9 unpaid wages, meal and rest period violations, and other claims, in which I was approved at an
10 hourly rate of \$325 for work performed in 2012-2013); *Arteaga v. Command Center Security,*
11 *Inc.*, Case No. BC480496, California Superior Court, Los Angeles County, Judge John Shepard
12 Wiley, Jr. presiding (granting final approval of settlement on behalf of security guards involving
13 claims for unpaid overtime, meal and rest period violations, and other claims, in which I was
14 approved at an hourly rate of \$425 for work performed in 2012-2015); *Casadine v. Maxim*
15 *Healthcare Services, Inc.*, Case No. CV 12-10078-DMG (CWx), United States District Court,
16 Central District of California, Judge Dolly M. Gee presiding (granting final approval of settlement
17 on behalf of home health care employees involving claims for unpaid wages and other claims, in
18 which I was approved at an hourly rate of \$425 for work performed in 2012-2015); *Guzman v.*
19 *Andrew Lauren Interiors, Inc., et al.*, Case No. BC567757, California Superior Court, Los
20 Angeles County, Judge Elihu M. Berle presiding (granting final approval of settlement on behalf
21 of construction workers involving claims for unpaid wages, meal and rest period violation, and
22 other claims, in which I was approved at an hourly rate of \$425 for work performed in 2014-
23 2016); *Booker v. The Goodyear Tire and Rubber Company*, Case No. BC498399, California
24 Superior Court, Los Angeles County, Judge Amy Hogue presiding (granting final approval of
25 settlement on behalf of tire mechanics involving claims for unpaid wages, meal and rest period
26 violations, and other claims, in which I was approved at an hourly rate of \$425 for work performed
27 in 2013-2015); *Nunez v. CompuCom Systems, Inc.*, Case No. BC618385, California Superior
28 Court, Los Angeles County, Judge John Shepard Wiley, Jr. presiding (granting final approval of

1 settlement on behalf of IT support workers for overtime, meal and period, reimbursement, and
2 related violations, approved at hourly rate of \$475 for work performed in 2016 and 2017); *Galvan*
3 *v. AMVAC Chemical Corporation*, Case No. 30-2014-00716103-CU-OE-CXC, California
4 Superior Court, Orange County, Judge William D. Claster presiding (granting final approval of
5 settlement on behalf of non-exempt employees of a chemical manufacturing company involving
6 claims for unpaid overtime and waiting time penalties); *Razon v. TTM Technologies, Inc., et al.*,
7 Case No. 37-2016-00038326-CU-OE-CTL, California Superior Court, San Diego County, Judge
8 Gregory W. Pollack presiding (granting final approval of settlement involving claims for unpaid
9 overtime wages, wage statement violations, and meal period violations); *Blank v. Coty, Inc., et*
10 *al.*, Case No. BC624850, California Superior Court, Los Angeles County, Judge Williams F.
11 Highberger presiding (granting final approval of settlement involving claims for wage statement
12 violations, meal period violations, and other claims); *Morales v. Caremeridian, LLC, et al.*, Case
13 No. BC593191, California Superior Court, Los Angeles County, Judge William F. Highberger
14 presiding (granting final approval of settlement on behalf of direct support professionals
15 involving claims for unpaid wages, meal and rest period violations, wage statement violations,
16 and other claims); *Aguilar v. Act Fulfillment, Inc.*, Case No. RIC1616643, California Superior
17 Court, Riverside County, Judge Sharon J. Waters presiding (granting final approval of settlement
18 on behalf of non-exempt factory workers involving claims for meal period violations); *Sandoval*
19 *v. AMCOR Flexibles Inc.*, Case No. BC617499, California Superior Court, Los Angeles County,
20 Judge Kenneth R. Freeman presiding (granting final approval of settlement on behalf of
21 manufacturing employees involving claims for unpaid wages, meal period violations, rest period
22 violations, and waiting time penalties); *Le v. GBW Railcar Services, L.L.C.*, Case No.
23 RIC1612209, California Superior Court, Riverside County, Judge Sharon J. Waters presiding
24 (granting final approval of settlement on behalf of non-exempt employees of a freight railcar
25 manufacturer involving claims for unpaid overtime and minimum wages, meal period violations,
26 and rest period violations); *Silva v. ADJ Products, LLC*, Case No. BC618581, California Superior
27 Court, Los Angeles County, Judge William F. Highberger presiding (granting final approval of
28 settlement involving claims for unpaid overtime and minimum wages, rest period violations,

wage statement violations, and waiting time penalties); *Lira v. Discus Dental, LLC, et al.*, Case No. CIVDS1620402, California Superior Court, San Bernardino County, Judge David Cohn presiding (granting final approval of settlement on behalf of non-exempt manufacturing employees involving claims for unpaid minimum and overtime wages, meal and rest period violations, and other claims); *Gonzales v. PathPoint*, Case No. BC657147, California Superior Court, Los Angeles County, Judge Carolyn B. Kuhl presiding (granting final approval of settlement on behalf of non-exempt direct support professionals involving claims for meal and rest period violations and other claims); *Duran v. PRADA USA CORP.*, Case No. BC644319, California Superior Court, Los Angeles County, Judge Maren E. Nelson presiding (granting final approval of settlement on behalf of non-exempt commissioned salespersons involving claims for unpaid overtime wages, meal and rest period violations, failure to reimburse for necessary expenditures, and other claims); *Banegas v. UPM, Inc.*, Case No. BC644438, California Superior Court, Los Angeles County, Judge Carolyn B. Kuhl presiding (granting final approval of settlement on behalf of non-exempt manufacturing employees involving claims for unpaid wages, meal and rest period violations, and other claims); *Palafox v. Pacific Line Clean-Up, Inc.*, Case No. 30-2017-00921632-CU-OE-CXC, California Superior Court, Orange County, Judge William D. Claster presiding (granting final approval of settlement on behalf of non-exempt employees involving claims for unpaid overtime wages, meal and rest period violations, and other claims); *Janet Arroyo v. AST Sportswear, Inc., dba Bayside Apparel Manufacturing, Inc.*, Case No. 30-2017-00909663-CU-OE-CXC, California Superior Court, Orange County, Judge Glenda Sanders presiding (granting final approval of settlement on behalf of non-exempt garment employees involving claims for unpaid minimum wages, meal and rest period violations, and other claims); *Carlos Garcia v. Fabrica International, Inc.*, Case No. 30-2017-00949461-CU-OE-CXC, California Superior Court, Orange County, Judge William D. Claster presiding (granting final approval of settlement on behalf of non-exempt manufacturing employees involving claims for unpaid minimum and overtime wages, meal and rest period violations, and statutory penalties); *Jonathan Leon v. Piercey West, Inc.*, Case No. BC656874, California Superior Court, Los Angeles County, Judge Amy D. Hogue presiding (granting final approval of settlement on behalf

1 of non-exempt commissioned salespersons and other employees involving claims for unpaid
2 wages, meal and rest period violations, unreimbursed business expenses, and other claims); and
3 *Matthew Tovar, et al. v. Rentokil North America, Inc.*, Case No. BC676386, California Superior
4 Court, Los Angeles County, Judge Daniel J. Buckley presiding (granting final approval of
5 settlement on behalf of non-exempt employees involving claims for unpaid overtime, meal and
6 rest break violations, and other claims); *Seungmin Samantha Lee v. Infor (US) Inc.*, Case No.
7 CGC-18-566393, California Superior Court, San Francisco County, Judge Ethan P. Schulman
8 presiding (granting final approval of settlement on behalf of sales development representatives
9 involving claims for unpaid overtime, meal and rest period violations, and penalty claims); *Tracy*
10 *Aguilar, et al. v. Aero Port Services, Inc.*, Case No. BC659234, California Superior Court, Los
11 Angeles County, Judge Carolyn B. Kuhl presiding (granting final approval of settlement on behalf
12 of non-exempt employees involving claims for meal and rest period violations, and other claims);
13 *Carlos Perez, et al. v. Moss Bros. Auto Group, Inc., et al.*, Case No. RIC1709905, California
14 Superior Court, Riverside County, Judge Sunshine S. Sykes presiding (granting final approval of
15 settlement on behalf of non-exempt commissioned salespersons involving claims for unpaid
16 wages, meal and rest period violations, other claims); and *Julio Alfaro v. Orange Automotive*
17 *d/b/a Kia of Orange*, Case No. 30-2017-00945105-CU-OE-CXC, California Superior Court,
18 Orange County, Judge Randall J. Sherman presiding (granting final approval settlement on behalf
19 of non-exempt commissioned employees involving claims for unpaid wages, meal and rest period
20 violations, unreimbursed business expenses, and penalty claims).

21 5. I have also moved to certify and have received an order certifying a class action in
22 *Ontiveros v. Safelite Fulfillment, Inc., et al.*, Case No. CV 15-7118-DMG (RAOx), United States
23 District Court, Central District of California, Honorable Dolly M. Gee presiding (certifying six
24 classes of employees for rest period violations, wage statement violations, meal period violations,
25 and overtime and double-time violations); and *Vazquez v. Kraft Heinz Foods Company*, Case No.
26 16-CV-02749-WQH (BLM), United States District Court, Southern District of California,
27 Honorable William Q. Hayes, presiding (certifying unpaid wages classes, meal period classes,
28 wage statement class, and waiting time penalty class).

1 6. In each year from 2018 through 2023, Thomson Reuters recognized me as a Top
2 Young Attorney in Southern California in the annual Rising Star Edition of Super Lawyers. This
3 is an honor awarded to no more than two-and-a-half percent (2.5%) of attorneys under the age of
4 forty in Southern California each year.

5 7. As counsel for Plaintiffs and the proposed Settlement Class, I have been intimately
6 involved in this case and I believe that the proposed Settlement is a favorable result for the
7 Settlement Class.

8 8. Founded in 1902, Defendant Barlow Respiratory Hospital (“Barlow”) is a long-
9 term acute care hospital that specializes in ventilator weaning and post-ICU care.

10 9. On August 12, 2021, Plaintiff Lopez filed her Class Action Complaint in Los
11 Angeles County Superior Court, alleging that Barlow: (i) failed to pay all wages at the agreed-
12 upon rate; (ii) failed to pay all minimum wages; (iii) failed to issue accurate, itemized wage
13 statements; and (iv) engaged in unfair competition in violation of California Business &
14 Professions Code § 17200 *et seq.* That same day, Plaintiff Lopez sent her PAGA notification
15 letter to the Labor & Workforce Development Agency (“LWDA”). A true and correct copy of
16 Plaintiff’s Lopez’ August 12, 2021 PAGA letter is attached as **Exhibit B**. On November 12, 2021,
17 Plaintiff Lopez filed a First Amended Class and Representative Action Complaint (“FAC”)
18 adding a cause of action for civil penalties under the Private Attorneys’ General Act of 2004,
19 Labor Code Section 2698, *et seq.*

20 10. On January 31, 2022, Plaintiff Allison filed a Class Action Complaint against
21 Barlow in Los Angeles County Superior Court, in the matter entitled *Winifred Allison v. Barlow*
22 *Respiratory Hospital*, Case No. 22STCV03831 (the “Allison Action”). The *Allison* Action alleged
23 the following causes of action: (i) minimum wage violations; (ii) meal period violations; (iii) rest
24 period violations; (iv) failure to timely pay earned wages during employment; (v) wage statement
25 violations; (vi) waiting time penalties; and (vii) unfair competition. On October 27, 2022, Plaintiff
26 Allison filed a separate representative action against Barlow in Los Angeles Superior Court in the
27 matter entitled *Winifred Allison v. Barlow Respiratory Hospital*, Case No. 22STCV34472 (the
28 “Allison PAGA Action”). The *Allison* PAGA Action alleges a single cause of action for civil

1 penalties under PAGA.

2 11. As part of the Settlement, the Parties agreed and stipulated to the filing of a Second
3 Amended Class and Representative Action Complaint (“SAC”) in this action, which adds
4 Winifred Allison as a named plaintiff and class representative and adds all causes of action alleged
5 in the *Allison* Action. The operative SAC was filed on May 15, 2024.

6 12. In connection with mediation, the Parties engaged in extensive informal discovery.
7 Barlow produced a 20% sampling of timekeeping and payroll records for non-exempt employees
8 during the Class Period, as well as its relevant written wage and hour policies/procedures. Barlow
9 also provided relevant data points such as the total number of workweeks in the Class Period and
10 the total number of Settlement Class members employed by Barlow in California during the Class
11 Period. Plaintiffs hired a labor economist with a Ph.D. in economics to assist Plaintiffs in
12 conducting a comprehensive analysis and extrapolation of the payroll and timekeeping data
13 produced by Barlow to create a detailed exposure analysis for all claims at issue. This discovery
14 allowed the Parties to assess the merits and value of Plaintiffs’ claims, the chances of certification
15 of Plaintiffs’ claims, and Barlow’s potential defenses.

16 13. On June 22, 2022, the Parties participated in a full-day mediation with Jeffrey
17 Ross, Esq., a well-respected wage and hour class action mediator. During mediation, the Parties
18 vigorously debated their opposing legal positions, the likelihood of certification of Plaintiffs’
19 claims, and the legal basis for the claims and defenses, as well as Barlow’s financial condition.
20 The Parties did not reach a settlement at mediation. In the months following mediation, Barlow
21 provided Plaintiffs’ counsel with its financial records and Plaintiffs, with the help of their retained
22 forensic accountant, reviewed the documents provided by Barlow to evaluate Barlow’s financial
23 condition. Following Barlow’s representation of its financial condition, Barlow turned over its
24 financial records to Plaintiffs’ retained expert, Keith D. Messerschmidt, who is a forensic
25 accountant and has consulted or provided expert testimony in dozens of litigation and insurance
26 matters. Following an extensive review of Barlow’s financial records, the Parties continued their
27 discussions and ultimately agreed to a class-wide settlement.

28 14. During the months that followed, the Parties finalized the terms of the Settlement

and executed a long-form settlement agreement now before the Court. A true and correct copy of the Stipulation of Settlement is attached hereto as **Exhibit A**. The proposed Class Notice and Notice of Estimated Settlement Award are attached as **Exhibits 1** and **2**, respectively, to the Settlement Agreement.

15. The monetary terms of the Settlement are summarized below:

• Gross Settlement Amount:	\$1,174,200.00
• Minus Court-approved attorneys' fees:	\$391,400.00
• Minus Court-approved verified costs (up to):	\$50,000.00
• Minus Court-approved Enhancement Payments:	\$15,000.00
• Minus amount set aside as PAGA penalties:	\$50,000.00
• <u>Minus estimated Settlement Administration costs:</u>	<u>\$16,000.00</u>
Net Settlement Amount ("NSA"):	\$651,800.00
• PLUS 25% "PAGA Amount" to Settlement Class:	\$12,500.00
Total Amount Paid to Settlement Class members:	\$664,300.00

16. Based on information from Barlow, there are approximately 1,163 Settlement Class members. Therefore, the average Settlement Amount from the NSA is projected to be approximately \$560.45. There are also approximately 605 Aggrieved Employees during the PAGA Period who will each receive an average payment of approximately \$20.66 from the PAGA Amount.

17. Plaintiff alleges that Barlow failed to provide legally compliant first meal periods due to their meal period policies/practices, which frequently resulted in late (commencing after the fifth hour of work) and/or short (i.e., less than a full 30 minutes) first meal periods. Specifically, due to work demands imposed by Barlow, Plaintiff alleges they were often not provided with a first meal period prior to the conclusion of their fifth hour of work. Plaintiffs further allege that Settlement Class members were not provided with second meal periods when they worked shifts in excess of 10.0 hours in a workday. Based on Plaintiffs' expert's review and extrapolation of the timekeeping records Barlow produced, there were approximately 253,715 non-compliant meal periods. Plaintiffs' expert also calculated the average hourly rate of pay to be approximately \$35.63 per hour and determined that Barlow paid approximately 1,100 meal period premium payments during the relevant time period. Therefore, Plaintiffs calculated

Barlow's maximum exposure for meal period violations at approximately \$9,000,672 ([253,715 non-complaint meal periods – 1,100 meal period premiums] * \$35.63 average meal period premium). In response, Barlow counters that it has maintained compliant written meal period policies throughout the Class Period and has always provided compliant meal periods in line with those policies. Barlow further contends that it always provides employees the opportunity to take meal periods and is not required to *ensure* they are taken. Thus, Barlow argues that any non-compliant meal periods resulted from lawful employee waiver or choice, rather than any policy and/or practice of Barlow. Barlow also argues that pursuant to Wage Order 5, § 11(D), employees can voluntarily waive their right to one of their two meal periods. Finally, Barlow maintains Plaintiffs' meal period claim is not suited for class certification since individual inquiries would be needed to assess which employees, if any, took non-compliant or missed meal periods, how many meal periods were non-compliant or missed, the reasons why a particular employee did not take a meal period on a particular shift, and for second meal periods, whether they waived the meal period. In light of these defenses, Plaintiffs discounted Barlow's maximum exposure by 65% for the risk of non-certification, and an additional 80% to account for Barlow's defenses on the merits or failure to recover the maximal amount sought, to arrive at an estimated total of approximately \$630,047.

18. Plaintiffs allege that Barlow failed to authorize and permit all required off-duty rest periods. Specifically, Plaintiffs allege they were not authorized or permitted to take any off-duty rest period during their work shifts due to work demands imposed by Barlow and the need to be on standby to service Barlow's patients. Moreover, Plaintiffs allege that Barlow failed to authorize and permit a full ten minutes of "net rest" in an area appropriate for rest away from the workstation during rest periods. Based on Plaintiffs' expert's analysis and extrapolation of employee timekeeping records, there were approximately 316,506 shifts in excess of 3.5 hours worked by Settlement Class members during the Class Period. Therefore, Plaintiffs estimated Barlow's maximum exposure for this claim at approximately \$11,277,109 (316,506 rest period eligible shifts * \$35.63 average rest period premium). Barlow counters that it has maintained compliant written rest period policies throughout the Class Period and has always authorized and

1 permitted employees a full 10-minute rest period for each four (4) hours worked, or major fraction
2 thereof, as required under the Wage Order, and that any failure to take rest periods was a result
3 of employee choice, rather than any Barlow policy and/or practice. Barlow also argues that
4 Plaintiffs' rest period claim is not amenable to class treatment, since individual inquiries would
5 be required to determine which employees failed to take rest periods, how many rest periods they
6 failed to take, and the reasons why each employee failed to take rest period(s) on a particular shift.
7 These manageability concerns are especially present with respect to rest period claims, Barlow
8 argues, given that rest periods are not recorded. In light of these defenses, Plaintiffs discounted
9 the maximum amount that the class could potentially recover by 80% for risk of non-certification
10 and an additional 80% for risk of being unsuccessful on the merits or failure to recover the full
11 amount sought, to arrive at a projected exposure of \$451,084.

12 19. Plaintiffs further allege that Barlow failed to pay Plaintiffs and other non-exempt
13 employees timely in compliance with Labor Code Section 204. Specifically, Barlow pays
14 employees bi-weekly, and Labor Code § 204(d) requires employers who pay bi-weekly to pay
15 their employees no later than 7 days after the close of the pay period. However, until September
16 2021, Plaintiffs contend that Barlow did not pay its employees until 8 days after the end of the bi-
17 weekly pay period in violation of Labor Code Section 204. In response, Barlow contends that it
18 has always timely paid its employees their wages and that it has always deposited employees'
19 wages prior to the "Deposit Date" stated on their wage statements. Barlow further contends that
20 there is no private right of action under Labor Code section 204, and therefore, Plaintiffs can only
21 pursue civil penalties under the PAGA for this theory of liability.

22 20. Plaintiffs allege that Barlow underpaid Settlement Class members due to its
23 allegedly unlawful rounding policies/practices. Plaintiffs contend that although Barlow's
24 timekeeping system recorded hours worked to the minute, Barlow rounded all time-punches to
25 tenth-of-an-hour increments so that, over a period of time, they have been deprived of all earned
26 minimum wages. Barlow argues that its rounding policies/practices were lawful, since it was both
27 neutral on its face and resulted, over time, in employees being paid for all hours worked.
28 Additionally, Barlow contends that multiple Courts of Appeal have found rounding mechanisms

1 to be lawful under similar circumstances. Barlow further asserts that the Court of Appeals
2 decision in *Camp v. Home Depot U.S.A* is currently on appeal and is not binding on trial courts.
3 *Camp v. Home Depot U.S.A*, (February 1, 2023) S277518. Additionally, Barlow asserts Plaintiffs
4 would be unable to certify a rounding class given the individualized inquiries as to whether
5 Settlement Class members were in fact underpaid, or potentially overpaid, for each workday in
6 question. Based on Plaintiffs' expert's analysis of employee timekeeping records, Barlow's time-
7 rounding practice appears to be neutral and resulted in the overwhelming majority of employees
8 being overpaid during the Class Period. Accordingly, and based on the case law at the time the
9 settlement was reached, Plaintiffs did not anticipate a realistic recovery on this claim.

10 21. Plaintiffs contend that Barlow failed to pay employees at the rates of pay indicated
11 on their wage statements, resulting in employees being underpaid each pay period. For example,
12 in the pay period ending January 5, 2021, Plaintiff Lopez's wage statement indicates that she
13 worked 64 regular hours at a rate of \$18.28 per hour, which should yield a total of: $\$18.28 * 64.0$
14 $= \$1,169.92$. However, Plaintiff Lopez was in fact only paid \$1,169.68 for that pay period.
15 Accordingly, Plaintiffs allege that Barlow failed to pay employees at the agreed upon rate of pay.
16 Based on Plaintiffs' expert's review and extrapolation of employee payroll records, Barlow's
17 policy/practice of failing to pay employees at the correct rate only affected a limited amount pay
18 periods during the Class Period and only resulted in an underpayment of approximately \$250.00.
19 Barlow asserts that the failure to pay employees at the rates listed on their wage statements was
20 due to an inadvertent software glitch and that Barlow immediately fixed the error when they
21 became aware. Barlow further argues that the glitch only affected a small number of employees
22 during a short period of time. Lastly, Barlow argues that the amount underpaid was only a few
23 cents each instance and that in total the amount allegedly underpaid was at most \$250, which
24 Barlow argues further illustrates that any underpayment was not willful.

25 22. As a result of the unpaid wages and unpaid meal and rest period premium wages
26 described above, Plaintiffs allege that Barlow failed to comply with their final pay obligations set
27 forth in Labor Code §§ 201-203. Barlow's records show approximately 364 Settlement Class
28 members who separated their employment with Barlow since February 15, 2018, and are therefore

1 eligible for waiting time penalties. Based on an hourly rate of \$35.63, Plaintiffs estimated the
2 average waiting time penalty per former employee to be approximately \$8,551 ($\$35.63 * 8$ hours
3 per day * 30 days). Therefore, Plaintiffs calculated Barlow's maximum exposure for potential
4 waiting time penalties to be approximately \$3,112,564 (364 former employees * \$8,551 average
5 penalty). Barlow argues that it possess strong, good faith defenses to Plaintiffs' underlying claims,
6 thus precluding recovery of waiting time penalties, which are only available for the "willful"
7 failure to pay wages. Barlow further asserts that Plaintiffs' waiting time penalty exposure was
8 grossly inflated as not every former employee experienced the alleged Labor Code violations.
9 Moreover, because the waiting time claim is derivative of Plaintiffs' underlying wage claims,
10 Barlow argues that Plaintiffs would need to overcome Barlow's defenses, both as to class
11 certification and on the merits, as to their underlying claims. To account for Barlow's defenses,
12 Plaintiffs discounted the maximum exposure by 80% for the risk of non-certification and an
13 additional 85% for the risk of losing on the merits and/or not receiving the maximum penalties
14 sought, to arrive at an estimated exposure of approximately \$93,377.

15 23. As a further result of the unpaid wages and unpaid meal and rest period premium
16 wages described above, Plaintiffs allege that Barlow is liable for wage statement penalties. Those
17 penalties are calculated as \$50 for each "initial" violation and \$100 for each "subsequent"
18 violation, with a maximum of \$4,000 per employee. Assuming each employee could recover the
19 \$4,000 maximum penalty, Plaintiffs calculated Barlow's potential wage statement exposure to be
20 approximately \$2,420,000 ($\$4,000$ max. penalty * 605 employees). Barlow argues any alleged
21 wage statement violations were not "knowing and intentional," and Plaintiffs cannot show they
22 or other employees "suffer[ed] injury" due to the alleged wage statement violations, as required
23 by Labor Code § 226(e) for the imposition of penalties. Further, Barlow contends its wage
24 statements always accurately reflected hours worked and amounts paid as well as all other
25 required information, precluding liability for wage statement penalties. In light of these risks,
26 Plaintiffs discounted the maximum exposure by 80% for risk of non-certification, and by an
27 additional 85% for risk of being unsuccessful on the merits, for an estimated realistic exposure of
28 approximately \$72,600.

1 24. As a result of the foregoing Labor Code violations, Plaintiffs allege that Barlow is
2 liable for civil penalties under the PAGA. Plaintiffs estimated a maximum total PAGA exposure
3 of approximately \$2,598,100 (25,981 pay periods * \$100 “initial” penalty). Since Plaintiffs’
4 PAGA claim is derivative of Plaintiffs’ underlying wage claims, Barlow asserts the PAGA claim
5 would fail with those claims. Barlow further maintains that, given its good faith defenses, this
6 Court would exercise its discretion to substantially reduce any PAGA penalties if it were to find
7 Barlow liable for any of Plaintiffs’ claims. Therefore, Plaintiffs discounted the maximum figure
8 by 75% for the risk of losing on the merits and/or not recovering a PAGA penalty for each and
9 every pay period, and an additional 80% to account for the possibility of this Court reducing
10 penalties, to arrive at an estimated exposure of approximately \$129,905.

11 25. Using these estimated figures for each of the claims described above, Plaintiffs
12 predicted that the potential realistic recovery for the Settlement Class would be approximately
13 \$1,377,263. The proposed Settlement of \$1,174,200 represents approximately 85% of the
14 reasonably forecasted recovery for the Settlement Class.

15 26. Although the Parties engaged in significant discovery prior to reaching the
16 proposed Settlement, the Parties still had significant formal discovery to complete had the matter
17 not settled. This would have required expenditure of substantial time and resources by both Parties
18 that would have very likely spanned several more years. Even if Plaintiffs were to certify the
19 classes, the Parties would incur considerably more attorneys’ fees and costs through a possible
20 decertification motion, trial, and possible appeal. This Settlement avoids those risks and the
21 accompanying expense.

22 27. Class Counsel will also apply for an attorneys’ fees award of one-third of the Gross
23 Settlement Amount, which is currently estimated to be \$391,400.00, and up to \$50,000.00 in
24 verified costs reimbursement. Plaintiffs submit the requested fee is fair compensation for
25 undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent fee
26 basis. Class Counsel has incurred substantial attorneys’ fees conducting pre-filing investigation,
27 analyzing Plaintiffs’ claims, conducting legal research, conducting extensive informal and formal
28 discovery, meeting and conferring with Barlow regarding their discovery responses, analyzing

1 Settlement Class members' timekeeping and payroll records with the help of a retained expert,
2 creating a comprehensive damages model, preparing for and attending mediation, reviewing
3 Barlow's financials with the help of a retained forensic accountant, negotiating and preparing the
4 long-form Settlement Agreement, preparing this Motion, and otherwise litigating the case. Class
5 Counsel expects to expend additional attorney time in attending the hearing on this Motion,
6 overseeing the Notice process and fielding questions from Settlement Class members, preparing
7 the Final Approval papers, and attending the Final Approval hearing.

8 28. Plaintiffs will apply for Class Representative Enhancement Payments at the time
9 of seeking final approval of the proposed class action settlement in the amount of \$7,500 each,
10 for a total of \$15,000, for their service to the Settlement Class. As will be fully briefed at the time
11 of final approval, Plaintiffs' requested Enhancement Payments are intended to recognize the time
12 and effort Plaintiffs expended on behalf of the Settlement Class, including providing substantial
13 factual information and documents to Class Counsel, discussing the claims and theories at issue
14 in the litigation, actively participating in the prosecution of their claims, as well as the significant
15 risks Plaintiffs undertook by agreeing to serve as the named plaintiffs in this case, and the fact
16 that Plaintiffs agreed to a general release of all claims subject to a waiver of Civil Code § 1542.

17 29. Under the proposed Settlement in this case, uncashed funds will be sent to *cy pres*
18 recipient CASA of Los Angeles. Neither I nor any attorney at my law firm have any personal
19 and/or financial interest and/or connection with CASA of Los Angeles.

20 I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct. Executed on May 24, 2024, at El Segundo, California.

22
23 
24 Sean M. Blakely
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EXHIBIT A

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiffs Laura Lopez and Winifred Allison (“Plaintiffs”), individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant Barlow Respiratory Hospital (hereinafter “Defendant”), on the other hand. Plaintiffs and Defendant are referred to herein collectively as the “Parties.” Plaintiffs and the Settlement Class are represented by Paul K. Haines, Sean M. Blakely, and Alexandra R. McIntosh of Haines Law Group, APC, Sahag Majarian II of The Law Office of Sahag Majarian II, and Joseph Lavi and Vincent Granberry of Lavi & Ebrahimi, LLP (“Class Counsel”). Defendant is represented by Allison Wallin of Littler Mendelson P.C. and Lyne A. Richardson and Brittney L. Turner of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

On August 12, 2021, Plaintiff Lopez filed a Class Action Complaint against Defendant in Los Angeles County Superior Court, in the matter entitled *Laura Lopez v. Barlow Respiratory Hospital*, Case No. 21STCV29754 (the “*Lopez Action*”). On November 12, 2021, Plaintiff Lopez filed the operative First Amended Class and Representative Action Complaint (“FAC”). The FAC alleges the following causes of action: (i) failure to pay all wages at the agreed-upon rate; (ii) minimum wage violations; (iii) wage statement violations; (iv) unfair competition; and (v) civil penalties under the Private Attorneys General Act (“PAGA”).

On January 31, 2022, Plaintiff Allison filed a Class Action Complaint against Defendant in Los Angeles County Superior Court, in the matter entitled *Winifred Allison v. Barlow Respiratory Hospital*, Case No. 22STCV03831 (the “*Allison Action*”). The Complaint alleges the following causes of action: (i) minimum wage violation; (ii) meal period violations; (iii) rest period violations; (iv) failure to timely pay earned wages during employment; (v) wage statement violations; (vi) waiting time penalties; and (vii) unfair competition.

On October 27, 2022, Plaintiff Allison filed a separate representative action against Defendant in Los Angeles Superior Court in the matter entitled *Winifred Allison v. Barlow Respiratory Hospital*, Case No. 22STCV34472 (the “*Allison PAGA Action*”). The Complaint alleges a single cause of action for civil penalties under PAGA.

The *Lopez Action*, *Allison Action*, and *Allison PAGA Action* are collectively referred to the “Actions”. Plaintiffs will move for approval in the *Lopez Action* and the Parties stipulate to the filing of a Second Amended Complaint in the *Lopez Action* to add Plaintiff Winifred Allison and all claims alleged in the *Allison Action* and *Allison PAGA Action*.

Given the uncertainty of litigation, Plaintiffs and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiffs and Defendant agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiffs and Defendant stipulate to the certification of the following Settlement Class:

All current and former non-exempt employees who worked for Defendant Barlow Respiratory Hospital in California from February 15, 2017 until February 27, 2024

(“Class Period”). Defendant represents that there are approximately 1,163 Settlement Class members.

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved, does not become Final as defined below, or is terminated or materially modified without agreement of the Parties, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

Additionally, the “Aggrieved Employees” shall be defined as:

All current and former non-exempt employees who performed work for Defendant Barlow Respiratory Hospital in the State of California from August 12, 2020 until February 27, 2024 (the “PAGA Period”).

2. **Release by Settlement Class Members, Aggrieved Employees, and Plaintiffs.** Upon the Effective Date (as defined below) and the complete funding of the Gross Settlement Amount, Plaintiffs, every member of the Settlement Class (except those who opt out), and Aggrieved Employees will fully release and discharge Released Parties (as defined below) as follows:

- A. “Released Parties” means Defendant Barlow Respiratory Hospital and each of its former and present boards, directors, officers, shareholders, owners, joint employers, co-employers, agents, attorneys, insurers, predecessors, successors, assigns, parent companies, affiliates, and subsidiaries.
- B. Settlement Class members will release all claims, causes of action, and legal theories alleged or which could have been alleged based on the facts in the Actions, including: (a) failure to properly calculate and/or pay all wages; (b) failure to provide all meal periods in accordance with California law; (c) failure to authorize and permit all rest periods in accordance with California law; (d) failure to furnish accurate and itemized wage statements; (e) failure to timely pay all wages during employment; (f) failure to pay all wages owed upon separation of employment; (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the Actions (collectively, the “Class Released Claims”). The period of the Release shall extend to the limits of the Class Period.
- C. Release by Aggrieved Employees. Upon the occurrence of the Effective Date and the Settlement being fully funded, Plaintiffs and all Aggrieved Employees release and forever discharge Defendant from all claims for civil penalties under California Labor Code Private Attorneys General Act of 2004 arising out of or based on the facts alleged in Plaintiff Lopez’s letter to the Labor & Workforce Development Agency (“LWDA”) dated August 12, 2021 and/or Plaintiff Allison’s letter to the LWDA dated January 31, 2022, including claims for civil penalties due to an alleged failure to properly calculate and/or pay all wages; failure to provide all meal

periods in accordance with California law; failure to authorize and permit all rest periods in accordance with California law; failure to furnish accurate and itemized wage statements; failure to timely pay all wages during employment; and failure to pay all wages owed upon separation of employment (“PAGA Released Claims”). The PAGA Period and the time period of the PAGA Released Claims is defined as August 12, 2020 through February 27, 2024 (“PAGA Period”).

- D. **Plaintiffs’ Releases.** Plaintiffs and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: (1) the Class Released Claims; and (2) the PAGA Released Claims (“Plaintiffs’ Releases”). Plaintiffs’ Releases do not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, social security benefits, workers’ compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that they may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs’ Releases shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs’ discovery of them.

Plaintiffs’ Waiver of Rights under California Civil Code Section 1542. For purposes of Plaintiffs’ Releases, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

3. **Gross Settlement Amount.** As consideration and subject to the express condition precedent that this Settlement Agreement becomes Final (as defined below), Defendant agrees to pay a non-reversionary “Gross Settlement Amount” of One Million One Hundred Seventy-Four Thousand Two Hundred Dollars and Zero Cents (\$1,174,200) in full and complete settlement of the Action, as follows:
- A. The Parties have agreed to engage Apex Class Action LLC as the “Settlement Administrator” to administer this Settlement.
 - B. The Settlement will become final and effective when: (a) the Court’s final approval of the Settlement (if no timely objections by or on behalf of Settlement Class members have been filed, or any timely objections have been withdrawn); or (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been filed (“Effective Date”).

- C. The Gross Settlement Amount shall be deposited into an escrow account to be established by the Settlement Administrator in two installments. The first installment of \$410,970.00 shall be deposited within thirty (30) days of the Effective Date. The second installment of \$763,230.00 shall be deposited within one year of the Effective Date.
- D. This is a non-reversionary settlement. The Gross Settlement Amount includes:
- (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than \$16,000.00;
 - (3) Up to Seven Thousand Five Hundred Dollars (\$7,500.00) each for Plaintiffs' Class Representative Enhancement Payments, for a total of Fifteen Thousand Dollars and Zero Cents (\$15,000.00) in recognition for Plaintiffs' contributions to the Action and Plaintiffs' service to the Settlement Class. In the event that the Court reduces or does not approve the requested Class Representative Enhancement Payments, Plaintiffs shall not have the right to revoke the Settlement Agreement for that reason, and the Settlement will remain binding;
 - (4) Up to one-third of the Gross Settlement Amount in Class Counsel's attorneys' fees, plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than Fifty Thousand Dollars and Zero Cents (\$50,000.00). If Class Counsel's request for attorneys' fees and/or reimbursement of litigation costs is not approved and/or reduced by the Court, any amount not approved and/or reduced by the Court will revert to the participating Settlement Class members; and
 - (5) Fifty Thousand Dollars and Zero Cents (\$50,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Thirty-Seven Thousand and Five Hundred Dollars and Zero Cents (\$37,500.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) will be payable to the Aggrieved Employees as the "PAGA Amount."
- E. Defendant's share of employer payroll taxes shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount at the time of the first installment.
- F. **Escalator Clause.** Defendant represents that that there were an estimated 123,600 total workweeks worked by the Settlement Class members during the Class Period. If the number of workweeks worked during the Class Period exceeds this figure by more than 10% (i.e., if there are 135,961 or more total workweeks), Defendant may

elect to either: (a) increase the Gross Settlement Amount on a proportional basis (i.e., if there was a 12% increase in the number of total workweeks, Defendant shall increase the Gross Settlement Amount by 2%); or (b) cut off the Class Period as of the date that there are 135,961 workweeks worked. Pursuant to Paragraph 10(A) below, Defendant will provide the Class Data to the Settlement Administrator within 30 calendar days of this Agreement being fully executed so that the Parties will know whether this Escalator Clause has been triggered by the time Plaintiffs file their Motion for Preliminary Approval.

4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment (“Settlement Award”) from the settlement. Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel’s attorneys’ fees, Class Counsel’s costs and expenses, Plaintiffs’ Class Representative enhancement payment, the amount designated as PAGA civil penalties, and the Settlement Administrator’s fees and expenses for administration. The remaining amount shall be known as the “Net Settlement Amount.”
- B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member’s Settlement Award based on the following formula:
 - i. Payments to all participating Settlement Class members: Eighty percent (80%) of the Net Settlement Amount will be distributed to all participating Settlement Class members based on each participating Settlement Class member’s proportionate workweeks worked during the Class Period, and will be calculated by multiplying 80% of the Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member’s number of workweeks worked during the Class Period, and the denominator of which is the total workweeks worked by all participating Settlement Class members during the Class Period.
 - ii. Waiting Time Amount: Ten Percent (10%) of the Net Settlement Amount shall be designated as the “Waiting Time Amount.” Each participating Settlement Class member whose employment with Defendant ended at any time from February 15, 2018 to February 27, 2024, shall receive an equal, pro-rata share of the Waiting Time Amount. In other words, the Waiting Time Amount will be divided equally among all participating Settlement Class members whose employment with Defendant ended at any time from February 15, 2018 to the date of preliminary approval.
 - iii. Wage Statement Amount: Ten percent (10%) of the Net Settlement Amount shall be designated as the “Wage Statement Amount.” Each participating Settlement Class member who was employed by Defendant at any time from February 15, 2020 to February 27, 2024 shall receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he

or she worked during the period from February 15, 2020 to February 27, 2024, and which will be calculated by multiplying 10% of the Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member's number of workweeks worked from October 8, 2020 to the date of preliminary approval, and the denominator of which is the total number of workweeks worked by all participating Settlement Class members during the time period from February 15, 2020 to February 27, 2024.

- iv. PAGA Amount: Each Aggrieved Employee (including those who submit a valid and timely Request for Exclusion from the class action settlement) shall receive a portion of the Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) of the Gross Settlement Amount that has been designated as the "PAGA Amount" proportionate to the number of workweeks that he or she worked during the PAGA Period, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the Settlement Class member's number of workweeks worked during the PAGA Period, and the denominator of which is the total number of workweeks worked by all Settlement Class members during the PAGA Period (including those who submit a valid and timely Request for Exclusion from the class action settlement).

- C. Within ten (10) calendar days following Defendant's deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for review and approval. Within seven (7) calendar days of approval by counsel, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant's counsel. After Settlement Awards are mailed to Settlement Class members, the Settlement Administrator shall distribute the amounts approved for Class Counsel's attorneys' fees and litigation costs, Plaintiffs' Enhancement Payment, payment to the LWDA for its share of PAGA civil penalties, and settlement administration expenses.
- D. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: 80% as penalties and interest; and 20% as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.

- E. Each Settlement Class member who receives a Settlement Award must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing will escheat to CASA of Los Angeles, a nonprofit organization dedicated to child advocacy programs.
- F. Neither Plaintiffs nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Gross Settlement Amount, which is currently estimated to be Three Hundred Ninety-One Thousand Four Hundred Dollars and Zero Cents (\$391,400.00). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Fifty Thousand Dollars and Zero Cents (\$50,000.00), from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court.

6. **Class Representative Enhancement Payment.** Defendant will not object to a request for Class Representative Enhancement Payments of up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) to each of the named Plaintiffs for a collective total of Fifteen Thousand Dollars and Zero Cents (\$15,000.00) for their time and risk in prosecuting this case, and their service to the Settlement Class. These payments will be in addition to each Plaintiff's Settlement Award as a Settlement Class member and shall be reported on an IRS Form 1099 issued by the Settlement Administrator.

7. **Settlement Administrator.** Defendant will not object to the appointment of Apex Class Action LLC as Settlement Administrator. Defendant will not object to Plaintiffs seeking permission to pay up to Sixteen Thousand Hundred Dollars and Zero Cents (\$16,000.00) to Settlement Administrator for its services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices and for calculating Settlement Awards and preparing all checks and mailings, calculating Defendant's share of taxes payable on the wages, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Settlement Awards have been mailed to all participating Settlement Class members. The Settlement Administrator shall also give notice of final judgment by posting the final judgment to its website.

8. **Notice to LWDA.** Plaintiffs' counsel will timely notify the LWDA of this Settlement Agreement as required by California Labor Code, § 2699(1)(2).

9. Preliminary Approval. Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiffs shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing Paul K. Haines, Sean M. Blakely, and Alexandra R. McIntosh of Haines Law Group, APC, Sahag Majarian II of the Law Offices of Sahag Majarian II, and Joseph Lavi and Vincent Granberry of Lavi & Ebrahimian, LLP as Class Counsel;
- C. Appointing Laura Lopez and Winifred Allison as Class Representatives for the Settlement Class;
- D. Approving Apex Class Action LLC as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice, Request for Exclusion Form, and Notice of Estimated Settlement Award), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

10. Notice to Settlement Class. Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within thirty calendar days after this Agreement is fully executed, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, and workweek information for each Settlement Class member employed during the Class Period (the “Class Data”). The Class Data shall be provided to the Settlement Administrator in an electronic format reasonably satisfactory to the Settlement Administrator.
- B. Within ten (10) business days preliminary approval, and using the information provided for in Paragraph 9(A), the Settlement Administrator shall: (i) run the names of all Settlement Class members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the settlement must complete and mail a Request for Exclusion Form to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).

- i. The Notice Packet shall state that a Settlement Class member who wishes to exclude themselves from the settlement must submit a Request for Exclusion Form by the Response Deadline. The Request for Exclusion Form must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion Form does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the settlement, except a Request for Exclusion Form not containing a Settlement Class member's telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion Form shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the settlement or have any right to object, appeal or comment thereon. Notwithstanding the foregoing, the PAGA settlement and release provisions will apply to all Settlement Class members employed during the PAGA Period, whether or not they exclude themselves from the class action settlement. Settlement Class members who were employed by Defendant at any time during the PAGA Period and submit a valid and timely Request for Exclusion shall still be entitled to their portion of the PAGA Amount described above, and will release all claims for civil penalties under the PAGA that were or could have been alleged based on the claims, causes of action or legal theories of relief pled in the FAC or the Allison PAGA Action, whether they submit a valid and timely Request for Exclusion or not.
 - ii. At no time will the Parties or their counsel seek to solicit or otherwise encourage any Settlement Class member to object to the settlement or opt out of the Settlement Class or encourage any Settlement Class member to appeal from the final judgment.
 - iii. Notwithstanding any other provisions of this Agreement, in the event that five percent (5%) or more of the total Settlement Class members exclude themselves and opt out of the settlement, Defendant may, in its sole discretion, unilaterally withdraw from and terminate the settlement no later than five (5) days prior to the date of the Final Approval Hearing. In the event of Defendant's withdrawal, no party may use the fact that the Parties agreed to the Resolution for any reason. In the event that Defendant elects to terminate this settlement under this provision, Defendant shall pay all of the Administrative Costs incurred by the Settlement Administrator up to that point.
- D. Objections. Settlement Class members who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written

objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel via e-mail, as well as file all such objections with the Court). Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days from the date of service to the objections by the Settlement Administrator to file a response to the objections. All objections should contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection. Settlement Class members may also appear at the final approval hearing to orally object, even if they have not submitted a written objection.

- E. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Settlement Award as well as all of the information that was used from Defendant's records in order to calculate the Settlement Award. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall initially determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Settlement Agreement. However, the Court shall have the right to review the Settlement Administrator's initial determination, and the Court shall make the final determination regarding the eligibility for and amount of any Settlement Award, and the Court's determination shall be binding upon the Settlement Class members and the Parties.
- F. Any Notice Packets returned to the Settlement Administrator as non-deliverable on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within five (5) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. It will be conclusively presumed that, if an envelope so mailed has not been returned within thirty (30) days of the mailing, the Settlement Class member received the Notice Packet. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of

re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet shall not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement.

11. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiffs shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiffs' and Class Counsel's application for attorneys' fees and costs, Class Representative enhancement payments, LWDA payment, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769. Said judgment shall be posted on the website of the Settlement Administrator.

12. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

13. **Non-disclosure and Non-publication.** Plaintiffs and Class Counsel agree that they have not and will not publish the Settlement Agreement, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. Class Counsel shall not report the Settlement Agreement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiffs, the Settlement Class, or the settlement on their website, and shall not contact any reporters or media regarding the settlement. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel.

14. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

15. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Brittney L. Turner, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., 191191 S. Vermont Avenue, Suite 950, Torrance, CA 90502; brittney.turner@ogletree.com

if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, CA 90245; phaines@haineslawgroup.com.

16. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

17. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

18. **Enforcement and Continuing Jurisdiction of the Court.** To the extent consistent with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties and Settlement Class members, to the fullest extent to enforce and effectuate the terms and intent of this Settlement Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this settlement or to declare rights and/or obligations under this settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

DATED:

05/02/2024

Barlow Respiratory Hospital

By: 

Its: CEO

DATED:

Laura Lopez

By: _____

Plaintiff and Settlement Class Representative

DATED:

Winifred Allison

By: _____

Plaintiff and Settlement Class Representative

15. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Brittney L. Turner, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., 191191 S. Vermont Avenue, Suite 950, Torrance, CA 90502; brittney.turner@ogletree.com

if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, CA 90245; phaines@haineslawgroup.com.

16. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

17. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

18. **Enforcement and Continuing Jurisdiction of the Court.** To the extent consistent with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties and Settlement Class members, to the fullest extent to enforce and effectuate the terms and intent of this Settlement Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this settlement or to declare rights and/or obligations under this settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

DATED: Barlow Respiratory Hospital

By: _____
Its: _____

DATED: Laura Lopez

04/18/24

By:  _____
Laura Lopez (Apr 18, 2024 17:44 PDT)
Plaintiff and Settlement Class Representative

DATED: Winifred Allison

By: _____
Plaintiff and Settlement Class Representative

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DATED: Barlow Respiratory Hospital

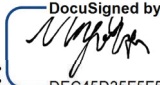
By: _____
Its: _____

DATED: Laura Lopez

By: _____
Plaintiff and Settlement Class Representative

DATED: April 23, 2024

Winifred Allison

By:  _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: May 3, 2024

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.



By: _____
Brittney L. Turner
Attorneys for Defendant

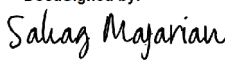
DATED:

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Attorneys for Plaintiffs

DATED: 5/23/2024

LAW OFFICES OF SAHAG MAJARIAN II

DocuSigned by:

3142D9828E6E4A2...

By: _____
Sahag Majarian
Attorneys for Plaintiffs

DATED:

LAVI & EBRAHIMIAN, LLP

By: _____
Joseph Lavi
Vincent C. Granberry
Attorneys for Plaintiffs

APPROVED AS TO FORM:

DATED:

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

By: _____
Brittney L. Turner
Attorneys for Defendant

DATED: April 23, 2024

HAINES LAW GROUP, APC

By:  _____
Paul K. Haines
Attorneys for Plaintiffs

DATED:

LAW OFFICES OF SAHAG MAJARIAN II

By: _____
Sahag Majarian
Attorneys for Plaintiffs

DATED: April 23, 2024

LAVI & EBRAHIMIAN, LLP

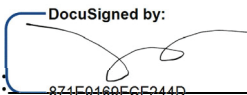
By:  _____
Joseph Lavi
Vincent C. Granberry
Attorneys for Plaintiffs

EXHIBIT 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

LAURA LOPEZ, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

BARLOW RESPIRATORY HOSPITAL, a
California corporation; and DOES 1 through 100,

Defendants.

Case No. 21STCV29754 (Related to Case No.
22STCV03831)

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED
SETTLEMENT**

To: All current and former non-exempt employees who worked for Defendant Barlow Respiratory Hospital in California from February 15, 2017 until February 27, 2024. These employees will be referred to as the “Settlement Class” or “Settlement Class members.”

**PLEASE READ THIS NOTICE CAREFULLY.
THIS NOTICE IS BEING PROVIDED TO YOU IN BOTH ENGLISH AND SPANISH.
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT.**

Why should you read this notice?

The Court has granted preliminary approval of a proposed settlement (the “Settlement”) in *Laura Lopez v. Barlow Respiratory Hospital*, Los Angeles County Superior Court Case No. 21STCV29754 (the *Lopez* Action) and in *Winifred Allison v. Barlow Respiratory Hospital*, Los Angeles County Superior Court Case No. 22STCV03831 (the *Allison* Action) (collectively with the *Lopez* Action the “Lawsuit”). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from this Settlement. Defendant Barlow Respiratory Hospital’s (“Barlow”) records indicate that you were employed by Barlow as a non-exempt employee in California between February 15, 2017 until February 27, 2024 (the “Class Period”). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the proposed Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves this Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

On August 12, 2021, Plaintiff Laura Lopez (“Plaintiff Lopez”) filed a class action lawsuit alleging the following causes of action against Barlow: (1) failure to pay all wages at the agreed-upon rate; (2) minimum wage violations; (3) wage statement violations; and (4) unfair competition. On November 12, 2021, Plaintiff Lopez filed a First Amended Class and Representative Action Complaint to add a cause of action for civil penalties under the Private Attorneys General Act (“PAGA”). On January 31, 2022, Plaintiff Winifred Allison (“Plaintiff Allison”) (collectively with Plaintiff Lopez, the “Plaintiffs”) filed a Class Action Complaint against Barlow alleging the following causes of action: (1) minimum wage violations; (2) meal period violations; (3) rest period violations; (4)

failure to timely pay earned wages during employment; (5) wage statement violations; (6) waiting time penalties; and (7) unfair competition. On May 15, 2024, Plaintiff Lopez filed the operative Second Amended Class and Representative Action Complaint (“SAC”) adding Plaintiff Allison as a named plaintiff and class representative and adding all claims alleged in the *Allison* Action. Plaintiffs are known as the “Class Representatives,” and their attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

Barlow denies that it has done anything wrong or that it owes Settlement Class members any wages, restitution, penalties, or other damages. Accordingly, this class-wide Settlement constitutes a compromise of highly disputed claims and should not be construed as an admission of liability on the part of Barlow, by whom all liability is expressly denied.

The Court has not ruled on the merits of Plaintiffs’ claims. However, to avoid additional expense, inconvenience, and interference with Barlow’s business operations, the parties have agreed to settle the Lawsuit on the terms summarized in this Notice. After Barlow provided relevant information and documents to Class Counsel, the Settlement was reached after mediation and intensive arm’s length negotiations between the parties.

The Class Representatives and Class Counsel support this Settlement. Among the reasons for support are the defenses to liability potentially available to Barlow, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

Who are the attorneys?

Attorneys for Plaintiffs/Settlement Class Members: HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Sean M. Blakely sblakely@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 Sahag Majarian II Garen Majarian LAW OFFICE OF SAHAG MAJARIAN, II 18250 Ventura Boulevard Tarzana, California 91356 Telephone: (818) 609-0807 Facsimile: (818) 609-0892 Joseph Lavi Vincent C. Granberry LAVI & EBRAHIMIAN, LLP 8889 W. Olympic Blvd., Suite 200 Beverly Hills, California 90211 Telephone: (310) 432-0000 Facsimile: (310) 432-0001 Email: jlavi@lelawfirm.com	Attorneys for Barlow: Lyne A. Richardson lyne.richardson@ogletree.com Brittney L. Turner brittney.turner@ogletree.com OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C. 19191 S. Vermont Avenue, Suite 950 Torrance, CA 90502 Telephone: 310-217-8191 Facsimile: 310-217-8184
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vgranberry@lelawfirm.com	
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What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt employees employed by Barlow in California from February 15, 2017 until February 27, 2024. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release claims against Barlow as specifically described below.

Barlow has agreed to pay \$1,174,200.00 (the “Gross Settlement Amount”) to fully resolve all claims in the Lawsuit, including claims by Settlement Class members, attorneys’ fees, costs, settlement administration costs, and Plaintiffs’ Enhancement Payments.

The following deductions from the Gross Settlement Amount will be requested by the Parties:

Settlement Administration Costs. The Court has approved Apex Class Action LLC to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$16,000.00 from the Gross Settlement Amount to pay the settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of the Settlement Class members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to one-third of the Gross Settlement Amount, which is estimated to be \$391,400.00, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$50,000.00 for reimbursement of verified costs Class Counsel incurred in connection with the Lawsuit.

Plaintiffs’ Enhancement Payments. Class Counsel will ask the Court to approve Enhancement Payments of \$7,500.00 to each Plaintiff, for a total of \$15,000.00. This payment is to compensate Plaintiffs for their services and extra work performed on behalf of the Settlement Class members.

PAGA Payment to State of California. The parties have agreed to allocate \$50,000.00 towards the Settlement of the PAGA claims in the Action. \$37,500.00 will be paid to the Labor & Workforce Development Agency (“LWDA”), representing its 75% share of the civil penalties. The remaining \$12,500.00 will be allocated to Settlement Class members as the “PAGA Amount” as described below.

Calculation of Settlement Class members’ Settlement Awards. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount, which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (defined below). The Net Settlement Amount is estimated to be approximately \$651,800.00 and will be divided as follows:

All Settlement Class members: Eighty Percent (80%) of the Net Settlement Amount shall be allocated to all participating Settlement Class members based on each participating Settlement Class member’s proportionate number of workweeks worked for Barlow during the Class Period.

Waiting Time Amount: Ten Percent (10%) of the Net Settlement Amount shall be designated as the “Waiting Time Amount.” Each participating Settlement Class member who separated their employment from Barlow at any time from February 15, 2018 to February 27, 2024, shall receive an equal share of the Waiting Time Amount.

Wage Statement Amount: Ten Percent (10%) of the Net Settlement Amount shall be designated as the “Wage Statement Amount.” Each participating Settlement Class member who was employed by Barlow at any time from February 15, 2020 to February 27, 2024, shall receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he or she worked during the period from February 15, 2020 to February 27, 2024

PAGA Amount: In addition to the Net Settlement Amount, each Settlement Class member who was employed by Barlow at any time from August 12, 2020 until February 27, 2024 (“PAGA Period”) (including those who request exclusion from the class settlement) shall receive a portion of the PAGA Amount proportionate to the number of workweeks worked during the PAGA Period.

Payments to Settlement Class members. If the Court grants final approval of the Settlement, individual Settlement Awards will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion from the Settlement. Barlow shall deposit the Gross Settlement Amount as follows: Barlow will deposit the Gross Settlement Amount with the Settlement Administrator in two (2) installments. The first installment of \$410,970.00 shall be deposited within thirty (30) days of the Effective Date and the second installment of \$763,230.00 shall be deposited within one year of the Effective Date.

Allocation and Taxes. For tax purposes, a Settlement Award from the Net Settlement Amount shall be treated as follows: twenty percent (20%) of each Settlement Award shall be designated as wages subject to W-2 reporting and normal payroll withholdings; and eighty percent (80%) of each Settlement Award shall be designated as penalties and interest. Any payment from the PAGA Amount shall be allocated as 100% penalties. The Settlement Administrator will be responsible for issuing to Settlement Class members IRS Forms W-2 for amounts deemed “wages” and IRS Forms 1099 for the amounts allocated as penalties and interest. Settlement Class members are responsible for the proper income tax treatment of the Settlement Awards. The Settlement Administrator, Barlow and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, and upon the complete funding of the Gross Settlement Amount, Settlement Class members will release and discharge Barlow and each of its former and present boards, directors, officers, shareholders, owners, joint employers, co-employers, agents, attorneys, insurers, predecessors, successors, assigns, parent companies, affiliates, and subsidiaries (collectively the “Released Parties”) from all claims, causes of action, and legal theories alleged or which could have been alleged based on the facts in the Actions, including: (a) failure to properly calculate and/or pay all wages; (b) failure to provide all meal periods in accordance with California law; (c) failure to authorize and permit all rest periods in accordance with California law; (d) failure to furnish accurate and itemized wage statements; (e) failure to timely pay all wages during employment; (f) failure to pay all wages owed upon separation of employment; (g) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories of relief pled in the Actions (collectively, the “Class Released Claims”). This period of the Released Claims shall extend to the limits of the Class Period.

In addition, all Settlement Class members (regardless of whether they opt out) who worked for Barlow at any time during the PAGA Period are “Aggrieved Employees” and shall release the Released Parties from all claims for civil penalties under PAGA arising during the PAGA Period as disclosed in Plaintiff Lopez’s August 12, 2021

Notification Letter to the LWDA and/or Plaintiff Allison's January 31, 2022 Notification Letter to the LWDA ("the PAGA Released Claims").

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class, and the entry of Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your Settlement Award based on your proportionate number of workweeks worked during the Class Period, the number of workweeks worked during the time period from February 15, 2020 to February 27, 2024, the number of workweeks worked during the time period of August 12, 2020 until February 27, 2024, as well as whether your employment with Barlow ended during the relevant time period, as stated in the enclosed Notice of Estimated Settlement Award. You will also be bound by the Settlement, including the release of claims stated herein.

If you are issued a Settlement, Check, you must cash the check(s) within 180 days from the date the Settlement Administrator mails it to you. Any checks that were not cashed within 180 days will escheat to CASA of Los Angeles, a nonprofit organization dedicated to child advocacy programs.

What other options do I have?

Disputing Information in Notice of Estimated Settlement Award. Your estimated Settlement Award is based on your number of proportionate workweeks worked during the Class Period, the number of workweeks worked from February 15, 2020 to February 27, 2024, the number of workweeks worked during the time period of August 12, 2020 until February 27, 2024, as well as whether your employment with Barlow ended during the time period from February 15, 2018 to February 27, 2024. The information contained in Barlow's records regarding each of these factors is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with what is contained in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting information and documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting information and documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Awards. However, the Court shall have the right to make the final determination regarding the eligibility for and amount of any Settlement Award.

Excluding Yourself from the Settlement. If you **do not** wish to take part in the class action Settlement, you may exclude yourself by sending to the Settlement Administrator a written "Request for Exclusion" letter or card postmarked no later than <<RESPONSE DEADLINE>>, with your full name, current address and telephone number, last four digits of your social security number, and signature. The Request for Exclusion should state:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *LAURA LOPEZ V. BARLOW RESPIRATORY HOSPITAL*, LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THE CLASS CLAIMS IN THIS LAWSUIT."

Send the Request for Exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a valid and timely Request for Exclusion shall, upon receipt, no longer be a Settlement Class member, shall be barred from participating in any portion of the class action Settlement, and shall receive no monetary benefits from the class action Settlement. However, all Settlement Class members who worked for Barlow during the PAGA Period, including those who opt out, will be bound by the PAGA portion of the Settlement and will receive a portion from the PAGA Amount. **Do not submit both a Dispute and a Request**

for Exclusion. If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail a written objection to the Settlement Administrator. Your written objection should include your full name, current address, the name and address of any attorney representing you, the case name and number, each specific objection, and any legal or factual support for each objection, including any supporting papers, briefs, written evidence, declarations, and/or other evidence. Objections should be submitted by mail to the Settlement Administrator and must be postmarked on or before **<<RESPONSE DEADLINE>>**.

Members of the Settlement Class who do not request exclusion may also object to the Settlement by appearing at the Final Approval Hearing scheduled for **<<FINAL APPROVAL HEARING DATE/TIME>>** in Department 12 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012. You have the right to appear either in person or through your own attorney at this hearing. You need not file a written objection in order to appear at the Final Approval Hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before **<<RESPONSE DEADLINE>>**. All objections or other correspondence must state the name and number of the case, which is *Laura Lopez v. Barlow Respiratory Hospital*, Los Angeles County Superior Court Case No. 21STCV29754.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on **<<FINAL APPROVAL HEARING DATE/TIME>>**, in Department 12 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012. The Court will also be asked to rule on Class Counsel's request for attorneys' fees and costs, settlement administration costs, and Plaintiffs' Enhancement Payments. The Final Approval Hearing may be postponed without further notice to the Class. You may contact Class Counsel using the contact information provided above to confirm the address, date and time of the Final Approval Hearing. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

If the Court grants Final Approval, the Court will issue a final judgment which shall be posted on the Settlement Administrator's website (<http://www.apexclassaction.com>).

How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012, during regular court hours, please visit <https://www.lacourt.org> for the Court's current hours as the hours may be impacted by the COVID-19 pandemic and an appointment may be required to inspect the Court's files. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, BARLOW, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT.

Reminder as to time limits

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

EXHIBIT 2

NOTICE OF ESTIMATED SETTLEMENT AWARD

LAURA LOPEZ, et al. V. BARLOW RESPIRATORY HOSPITAL

Los Angeles County Superior Court Case No. 21STCV29754 (Related to Case No. 22STCV03831)

Please complete, sign, date and return this Form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

Phone number (if you wish to be contacted by phone)

(III) Information Used to Calculate Your Estimated Settlement Award:

According to Barlow Respiratory Hospital's ("Barlow") records:

- (a) you worked [REDACTED] workweeks between February 15, 2017 and February 27, 2024, for Barlow;
- (b) you worked [REDACTED] workweeks between February 15, 2020 and February 27, 2024, for Barlow;
- (c) you worked [REDACTED] workweeks between August 12, 2020 and February 27, 2024, for Barlow; and
- (d) your employment with Barlow <<DID/DID NOT>> end between February 15, 2018 and February 27, 2024.

Based on the above, your Settlement Award is estimated at \$ [REDACTED].

(IV) If you disagree with items (a), (b), (c), and/or (d) in Section (III) above, please explain why in the space provided below and include copies of any supporting documentation with this Form:

If you dispute the above information garnered from Barlow's records, Barlow's records will control unless you are able to provide documentation that establishes otherwise. If there is a dispute about whether Barlow's information or yours is accurate, and the dispute cannot be resolved informally by the Parties, the dispute will be resolved by the Settlement Administrator as described in the accompanying "Notice of Pendency of Class Action and Proposed Settlement."

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE
POSTMARKED NO LATER THAN <<RESPONSE DEADLINE>>.**

EXHIBIT B

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

August 12, 2021

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

Re: *Laura Lopez v. Barlow Respiratory Hospital, et al*

To Whom It May Concern:

Please be advised that this law firm represents Laura Lopez (“Ms. Lopez”) in claims arising from her employment with Barlow Respiratory Hospital, and DOES 1-100 (collectively, “Barlow”). Ms. Lopez is an “aggrieved employee” as defined by Labor Code Section 2698, *et seq.* (“PAGA”), due to Barlow’s violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code § 2699.3, which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated.

Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations of more than 180 days were suspended for 178 days, from April 6, 2020 through October 1, 2020. Accordingly, the relevant time period for the violations described herein is one year plus 178 days prior to the date of this letter. Thus, the “aggrieved employees” whom Ms. Lopez seeks to represent include all employees who worked for Barlow in California at any time from one year plus 178 prior to the date of this letter through the present.

During Ms. Lopez’s employment with Barlow, Barlow has purported to pay Ms. Lopez at various hourly rates, but in fact paid her a wage lower than the rates represented on her wage statements. For example, in the pay period of December 23, 2020, to January 5, 2021, Barlow issued a wage statement to Ms. Lopez that purported to pay her regular hours (denoted “REG” on Ms. Lopez’s wage statement) at a rate of \$18.28 per hour, for 64.00 hours worked. This should have computed to a total of **\$1,169.92** (i.e., \$18.28 * 64.00 hours). However, Barlow paid Ms. Lopez only \$1,169.68 for her regular hours worked. Similarly, in the same pay period, the wage statement issued to Ms. Lopez purported to pay her a shift differential (denoted as “SDIFF 2”) at a rate of \$1.77 for 16.00 hours worked. This should have computed to a total of **\$28.32** (i.e., \$1.77 * 16.00 hours), but Barlow paid Ms. Lopez only \$28.24. On information and belief, Barlow has underpaid other aggrieved employees in a similar manner during relevant time period. As a result of Barlow’s failure to pay Ms. Lopez and other aggrieved employees at the rates promised to them and represented in their wage statements, Ms. Lopez and other aggrieved employees have been underpaid their wages.

In addition to paying Ms. Lopez and other aggrieved employees at a rate lower than what is purported in their wage statements, Barlow have also utilized a timekeeping system which has resulted in Ms. Lopez and other aggrieved employees not being compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise. Barlow has rounded Ms. Lopez's timekeeping entries in an uneven manner to tenth-of-an-hour increments so that, over a period of time, she has been deprived of all earned minimum wages. Upon information and belief, Barlow's timekeeping and payroll systems regularly, systematically, and impermissibly rounded the hours worked by Ms. Lopez and other aggrieved employees in Barlow's favor, resulting, over a period of time, in the failure to properly compensate Ms. Lopez and other aggrieved employees at least the minimum wage for all hours worked. Due to Barlow's timekeeping policies and/or practices that fail to compensate for all hours worked, Ms. Lopez and other aggrieved employees have not been compensated for all required minimum wages.

Barlow has also failed to Ms. Lopez and other aggrieved employees timely in compliance with Labor Code Section 204. Specifically, throughout her employment with Barlow, Ms. Lopez's paycheck has been dated 8 days after the end of the bi-weekly pay period. For example, for the pay period ending on January 5, 2021, referenced above, Ms. Lopez's wage statement indicates a deposit date of January 13, 2021, i.e., 8 days after the end of the pay period. Similarly, in the very next pay period, spanning from January 6 to 19, 2021, Ms. Lopez's wage statement indicates a deposit date of January 27, 2021 – again, 8 days after the end of the pay period. Ms. Lopez was paid in the same manner throughout the relevant time period, and on information and belief, Barlow has paid other aggrieved employees in the same time frame, i.e., 8 days after the close of the pay period. This practice violates Labor Code Section 204(d), which requires employers who pay on a bi-weekly basis to pay all wages “no later than seven calendar days following the close of the payroll period.”

As a result of Barlow's failure to pay all agreed-upon wages and all minimum wages owed, Barlow has maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Lopez and other aggrieved employees. In addition, and as described above, the wage statements issued by Barlow did not contain the rates of pay actually paid to Ms. Lopez or other aggrieved employees as required by Labor Code § 226(a)(9), as Barlow actually paid them at lower rates than reported on their wage statements. In addition, the wage statements issued to Ms. Lopez and other aggrieved employees did not contain an accurate accounting of total hours worked, in violation of Labor Code § 226(a)(2), since the wage statement did not report a total number of hours worked, and adding up all of the hours in the “Hours” column did not yield an accurate accounting of the total hours worked since hours were often double-counted, such as when Ms. Lopez earned a shift differential as in the example noted above.

As described above, Barlow committed, and continues to commit, the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 5 (“Wage Order 5”):

Failure to Pay All Agreed-Upon Wages

Barlow was required to properly compensate Ms. Lopez and other aggrieved employees for all hours worked at the rate agreed to with Barlow, pursuant to California Labor Code §§ 204, 218, and 221-223. As alleged herein, at all relevant times Barlow did not actually pay Ms. Lopez or other aggrieved employees at the rates stated on their wage statements, which resulted in Ms. Lopez and similarly aggrieved employees to be paid less than the agreed-upon rate for their work. This pattern and practice by Barlow of failing to pay the agreed-upon rate for all work performed violates the Labor Code and constitutes unjust enrichment.

Minimum Wage Violations

Barlow was, and is, required to pay Ms. Lopez and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour worked. *See* Labor Code §§ 1182.12, 1194, 1194.2, 1197, and Wage Order 5, § 4. As alleged above, Barlow maintained, and continues to maintain, timekeeping policies/practices and pay policies/practices that regularly, systematically, and impermissibly fail to compensate Ms. Lopez and other aggrieved employees for all hours worked. As a result of these policies/practices, Ms. Lopez and other aggrieved employees have been, and continue to be, deprived of all required minimum wages.

Failure to Pay Wages Timely

As alleged herein, Barlow has failed to pay Ms. Lopez or other aggrieved employees timely under California law, in violation of Labor Code Section 204. Rather than paying employees within 7 days of the close of the pay period as required by Section 204, Barlow has paid Ms. Lopez and other aggrieved employees 8 days after the close of the pay period.

Wage Statement Violations

As alleged herein, Barlow has knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Ms. Lopez and other aggrieved employees with complete and accurate wage statements with respect to their total hour worked, total gross wages earned, total net wages earned, each hourly rate in effect during the pay period, and total hours worked at each hourly rate, in violation of Labor Code § 226 *et seq.* Barlow's failure to furnish Ms. Lopez and other aggrieved employees with complete and accurate itemized wage statements resulted in injury, as said failures led to, among other things, the non-payment of all earned wages and deprived them of the information necessary to identify the discrepancies in Barlow's reported data.

Failure to Timely Pay All Final Wages

As a result of the above alleged violations, Barlow has also failed to timely pay aggrieved former employees all of their final wages at the time of separation of employment, including but not limited to all earned wages and minimum wages, as

required under Labor Code §§ 201-202. Barlow's failure to pay all final wages due to former aggrieved employees was willful and, consequently, entitles them to waiting time penalties in an amount equal to their daily wage for each day Barlow failed to pay final wages after separation of employment, accruing up to a maximum of thirty days, pursuant to Labor Code § 203.

Ms. Lopez is informed and believes, and based thereon alleges, that the violations alleged herein are continuing to the present. As an "aggrieved employee," Ms. Lopez will initiate a civil action on behalf of herself, the State of California, and other aggrieved employees to recover civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Lopez's own investigation, and on information and belief, Barlow has committed the following Labor Code violations:

- a. Barlow has violated Labor Code §§ 204, 218, and 221-223 by failing to pay Ms. Lopez and other aggrieved employees all agreed-upon compensation for all hours worked;
- b. Barlow has violated Labor Code §§ 1182.12, 1194, 1194.2, 1197, and 1198 by failing to pay Ms. Lopez and other aggrieved employees at least the statutory minimum wage for all hours worked;
- c. Barlow has violated Labor Code §§ 204 and 210 by failing to timely pay wages to Ms. Lopez and other aggrieved employees;
- d. Barlow has violated Labor Code § 226 by failing to issue accurate itemized wage statements to Ms. Lopez and other aggrieved employees; and
- e. Barlow has violated Labor Code §§ 201-203 by failing to timely pay all final wages to aggrieved former employees.

Pursuant to Labor Code section 2699.3, please notify us and Barlow if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC



Paul K. Haines

cc: Barlow Respiratory Hospital, c/o Amit Mohan, Agent for Service of Process (via certified mail)

PROOF OF ACCEPTANCE (ELECTRONIC)

PRODUCED DATE: 08/13/2021

HAINES LAW GROUP:

The following is information for Certified Mail™/RRE item number:

9214 8901 9403 8346 8686 18

Our records indicate that this item was accepted by the USPS at:

SHIPMENT RECEIVED ACCEPTANCE PENDING EL SEGUNDO,CA 90245 08/12/2021

ORIGINAL INTENDED RECIPIENT:

BARLOW RESPIRATORY HOSPITAL

C/O: AMIT MOHAN

2000 STADIUM WAY

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