

MEMORANDUM OF UNDERSTANDING OF SETTLEMENT
Brooks v. Dewitt & Associates Behavioral Services, Inc. and Juve Vela
(Contra Costa County Superior Court Case No.: MSC21-02441)

This Private Attorneys General Act Settlement Agreement and Release (“Settlement” or “Agreement”) is made pursuant to the Private Attorneys General Act, Labor Code section 2698 *et seq.* (“PAGA”) by and between Plaintiff Tatashya Brooks (“Plaintiff”) on behalf of herself and as private attorney general on behalf of the California Labor and Workforce Development Agency (“LWDA”) on behalf of all other allegedly aggrieved employees (“PAGA Members” as defined below), on the one hand, and Defendants Dewitt & Associates Behavioral Services, Inc. and Juve Vela (jointly as the “Defendants”) on the other hand. Plaintiff and Defendants are collectively referred to herein jointly as “the Parties” or, in the singular, “Party”. This Agreement, and the settlement embodied herein, shall be binding on Plaintiff, the PAGA Members, the California LWDA, and Defendants, subject to the approval of the Court.

RECITALS

WHEREAS, Plaintiff served notice to the LWDA and to Defendants of Plaintiff’s intent to pursue a representative action pursuant to PAGA, as codified in California Labor Code §§ 2698 *et seq.*, on behalf of herself and the State of California, as well as on behalf of the PAGA Members.

WHEREAS, the Parties agreed to mediation with Michael J. Loeb, Esq., which took place on July 31, 2023.

WHEREAS, Plaintiff and Defendants engaged in substantial discovery prior to mediation.

WHEREAS, Defendants denied and continue to deny any liability or wrongdoing of any kind associated with the claims alleged by Plaintiff, and contend that they, as applicable, have complied at all times with the California Labor Code, IWC Wage Orders, and all applicable California laws.

WHEREAS, the Parties believe and agree that this Settlement provides for a fair, adequate, and reasonable resolution of Plaintiff’s claims, and have arrived at the settlement in extensive, arms-length negotiations, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

WHEREAS, based on their own independent investigations and evaluations, Plaintiff and PAGA Counsel (as defined below) are of the opinion that the amount and terms of the Settlement are in the best interests of Plaintiff, the PAGA Members, and the LWDA in light of all known facts and circumstances and the risks inherent in litigation, including the potential for appellate issues. Further, PAGA Counsel believes that the settlement amount entered into is in the best interests of the PAGA Members and that the settlement for each PAGA Member is fair, reasonable, and adequate, given the facts, defenses, and inherent risk of litigation.

NOW, THEREFORE, in consideration of the promises and agreements contained herein, and to avoid the uncertainty, risks, costs, and delays associated with further litigation, the

Parties agree to, and seek approval, pursuant to Labor Code § 2699, of the following settlement terms.

DEFINITIONS

The following terms, when used in this Settlement, shall have the following meanings:

1. “Action” means the action filed in the Superior Court of California, County of Contra Costa, entitled *Tatashya Brooks v. Dewitt & Associates Behavioral Services, Inc., et al.*, Case No. MSC21-02441.
2. “PAGA Members” shall be defined to include all current and former hourly-paid and non-exempt employees of Defendants who were employed by Defendants during the Settlement Period (as defined below).
3. “Effective Date” means the date of Court approval of the Settlement and entry of judgment.
4. “Final Judgment” shall be after all appeals and/or petitions for writ review of the Court’s approval order and/or judgment have been exhausted, but if no appeal or petition for a writ are filed, Final Judgment shall be sixty-one (61) days after notice of entry of judgment is served/filed.
5. “Settlement Period” means the time period from September 9, 2020 through the Effective Date.
6. “PAGA Counsel” means counsel for Plaintiff, Protection Law Group, LLP and Lawyers for Justice, P.C.

SETTLEMENT TERMS

1. **Persons Covered By the Settlement.** This Settlement covers all PAGA Members during the Settlement Period. PAGA Members are not able to opt-out of the Settlement as it is a PAGA settlement and PAGA does not provide for notice or opt out rights.
2. **Duties of the Parties Prior to Approval.**
 - a. Within 14 days of execution of this Agreement Plaintiff shall cause submission of an Amended PAGA Notice (attached hereto as Exhibit A) adding claims relating back to the LWDA letter dated September 9, 2021, for failure to provide suitable seating; for failure to pay all wages—specifically, COVID-19 sick pay; and, for failure to reimburse all necessary business expenses, including use of their personal cell phones, driving personal vehicles, and use of personal protective equipment, such as masks.
 - b. Following execution of this Agreement, but not sooner than 71 days thereafter and no later than December 15, 2023, Plaintiff shall cause the filing of Stipulated Amended

Complaint reflecting claims found in the Amended PAGA Notice referenced in subsection 2(a) above.

c. Plaintiff shall apply to the Court for the entry of an order approving this Settlement as required by Labor Code section 2699(l) (the “Motion for Approval”) within 45 days of the filing of the Amended Complaint. The Motion for Approval will request Court approval of the following: (1) the terms of this Settlement, (2) the amount of PAGA Counsel fees & costs, and (3) entry of an Order and Judgment. In conjunction with the Motion for Approval, Plaintiff shall submit a proposed Order and Judgment requesting an Order and Judgment for the Total Settlement Amount.

3. **Notice to LWDA.** Pursuant to California Labor Code § 2699(l)(1), Plaintiff shall submit to the LWDA a copy of this Settlement prior to the date that Plaintiff submits the Settlement to the Court for approval. Plaintiff shall be responsible for complying with all such notification requirements.

4. **Total Settlement Amount.** Defendant Dewitt & Associates Behavioral Services, Inc. agrees to pay, in accordance with the terms set forth herein, the total sum of Five Hundred Thousand Dollars (\$500,000.00) (the “Total Settlement Amount”) in full settlement of the Action. The Total Settlement Amount is the maximum Dewitt & Associates Behavioral Services, Inc. can be required to pay under this Settlement (other than as set forth in section 9(c) below), including all (1) penalty payments to the PAGA Members by virtue of payments through the agreed-upon Settlement Administrator (as defined below); (2) PAGA Counsel’s fees; (3) PAGA Counsel’s costs; (4) payment of the third party Settlement Administrator; (5) PAGA penalties paid to the State of California (LWDA); and (6) service payments to Plaintiff. All payments to Plaintiff and PAGA Members shall be made as a 1099 payment and each PAGA Member shall be responsible for paying any taxes due on their settlement payment, if any. Subject to approval by the Court, these amounts shall be paid and allocated as set forth below.

a. **Attorneys’ Fees and Costs.** Subject to Court approval, one-third of the Total Settlement Amount shall be paid to PAGA Counsel for payment of attorneys’ fees, and PAGA Counsel shall seek reimbursement for out-of-pocket costs, according to proof, incurred on behalf of Plaintiff and the PAGA Members. Defendants shall not oppose PAGA Counsel’s request for attorneys’ fees up to one-third (1/3) of the One Hundred Sixty-Six Thousand Six Hundred and Sixty-Six Dollars and Sixty Seven Cents (\$166,666.67). Defendants shall not oppose PAGA Counsel’s request for reimbursement of litigation costs up to Thirty Thousand Dollars (\$30,000). Any fees or costs award approved by the Court shall constitute a full and complete satisfaction of all claims Plaintiff, PAGA Members, and the LWDA may have for costs and attorneys’ fees for work performed on claims arising during the Settlement Period. PAGA Counsel shall submit a declaration to the Court detailing the costs incurred and/or expected to be incurred in the Action. If the Court awards fees or costs of less than the amount requested by PAGA Counsel, the unawarded amounts shall become part of the Net Settlement Amount (defined below). This Settlement is not contingent upon the Court awarding PAGA Counsel any particular amount in attorneys’ fees or costs.

b. **Administration Costs.** The Settlement Administrator shall be Phoenix Settlement Administrators. Settlement administration expenses shall be paid from the Total

Settlement Amount, subject to court approval. Reasonable settlement administration expenses, not to exceed \$5,750.00 shall be deducted from the Total Settlement Amount for the payment of the third-party settlement administrator (the "Settlement Administrator Fees"). Any unused portion of the Settlement Administrator Fees shall become part of the Net Settlement Amount.

c. **Named Plaintiff's Service Payment:** Defendants agree not to oppose Plaintiff's request for a service payment of up to Five Thousand Dollars (\$5,000.00) to named Plaintiff (the "Service Award"). The Service Award is to compensate Plaintiff for Plaintiff's service as a named PAGA representative. Any Service Award will be paid out of the Total Settlement Amount. If the Court reduces the amount of Plaintiff's Service Award in the course of the settlement approval process, only the amount approved by the Court will be paid to Plaintiff as a Service Award. Any amount of the Service Award not approved by the Court shall become part of the Net Settlement Fund.

d. **Net Settlement Amount.** The remaining and any unused funds (the Total Settlement Amount less the Settlement Administrator Fees, and PAGA Counsel's fees and costs, and Service Award) shall be referred to as the "Net Settlement Amount." The Net Settlement Amount shall be designated as PAGA penalties to be allocated between the LWDA and PAGA Members pursuant to Labor Code section 2699(i) with seventy-five percent (75%) paid to the LWDA, and twenty-five percent (25%) paid to the PAGA Members, including Plaintiff as a PAGA Member.

5. Releases

a. **PAGA Release.**

As of the Effective Date Plaintiff, the PAGA Members, and the LWDA fully and finally release Defendants, and each of them, and each of its past, present and future agents, employees, servants, officers, directors, partners, trustees, representatives, shareholders, stockholders, attorneys, parents, subsidiaries, equity sponsors, related or affiliated companies/corporations and/or partnerships (defined as a company/corporation and/or partnership that is, directly or indirectly, under common control with Defendants or any of its parents and/or affiliates), divisions, assigns, predecessors, successors, insurers, consultants, any actual or alleged joint employers, and alter-egos, and all of their respective past, present and future employees, directors, officers, agents, attorneys, stockholders, fiduciaries, parents, subsidiaries, insurers, and assigns (collectively, the "Released Parties"), from all "Released Claims," as defined herein. "Released Claims" means any and all claims alleged in the Action, and all claims arising out of or in connection with the facts, alleged in the PAGA Notice, Amended PAGA Notice to the LWDA and the operative Complaint in the Action, and which arose during the Settlement Period. The Released Claims include all claims under PAGA associated with all claims for or arising in connection with: failure to pay minimum wages; failure to pay straight time compensation, including COVID-19 paid sick leave, overtime compensation, double-time compensation, reporting time compensation, and/or interest; missed, late, short or interrupted meal and/or rest periods, including any claim for any alleged failure to pay premiums for missed, late, short or interrupted meal or rest periods, or to pay such premiums at the regular rate of compensation, inaccurate or otherwise improper wage statements and/or failure to keep or maintain accurate records; claims for off the clock work including, but not limited to waiting to be relieved following the end of their shift or working off the clock prior

to the start of their shift; claims for failing to provide suitable seats; failure to reimburse for business-related expenses, including but not limited to for use of personal vehicle, cellular phone use, and personal protective equipment; any claim for penalties arising out of, arising in connection with, or related to any or all of the aforementioned facts and claims, including, but not limited to, recordkeeping penalties, wage statement penalties, minimum-wage penalties, liquidated damages, and waiting-time penalties; and attorneys' fees and costs. For purposes of clarification, the claims released by the PAGA Members and the LWDA include any and all claims under PAGA that reasonably arise out of the facts alleged in the Action, and any claims which could have reasonably been asserted in the Action arising from the alleged facts, to the fullest extent permitted by law. Without limitation by any other language in this Agreement, the release includes any and all claims under PAGA alleging violation of the Wage Orders of the California Industrial Welfare Commission that could have been alleged based on the facts in the PAGA Notice, Amended PAGA Notice and the operative Complaint in the Action, whether alleged or not alleged, and specifically includes allegations regarding violations of California Labor Code §§ 201, 202, 203, 204, 210, , 226, 226.3, 226.7, 510, 512, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2698, *et seq.*, 2800, and 2802,. The release of the "Released Claims" is explicitly limited to those claims that arose during the Settlement Period. Further this release does not release any individual's non-PAGA claims, except for Plaintiff as explained below.

b. General Release by Named Plaintiff. In consideration of the Service Award, Plaintiff's release of claims include all claims, whether known or unknown, under federal, state, and/or local law, including, but not limited to claims arising from or related to Plaintiff's employment with Released Parties ("Plaintiff's Released Claims"). Plaintiff's Released Claims include, but are not limited to, any claims, causes of action, rights, actions, suits, charges, or disputes that have been or could be asserted against any of the Released Parties arising out of, in connection with, or in any way related to (i) any and all claims alleged in the Action any and all claims arising from or related to the facts, theories, or claims alleged in the Action, and any claims which could have been asserted in the Action arising from the alleged facts, claims, theories, and/or primary rights alleged to have been invaded to the fullest extent permitted by law; (ii) Plaintiff's application for employment with Defendant, employment with Defendant and/or the termination of Plaintiff's employment with Defendant; (iii) any term or condition of Plaintiff's employment with Defendant, including but not limited to any and all wages, compensation, salaries, minimum wage, overtime, holiday pay, bonuses, commissions, pay, allowances, monies, meal and rest period violations or premiums, off the clock work, expenses/reimbursements, wage statements, employee benefits, sick/vacation pay, sick leave, severance pay, retention pay, paid leave benefits, notification rights, any other wage and hour related claims, and any other benefits, penalties, interest, damages, and promises related to the same; and (iv) any claims to any equity interest in Defendant, including without limitation stock options, shadow stock, restricted stock, membership units, distribution rights, partnership, stock, and all other forms of equity. Without limiting the foregoing, and by way of examples only, the Plaintiff's Released Claims also extend to any and all claims for alleged (a) violation of the National Labor Relations Act (NLRA) (to the extent permitted by law), Title VII of the Civil Rights Act (Title VII), the Americans With Disabilities Act of 1990 (ADA), the Employee Retirement Income Security Act (excluding vested benefits) (ERISA); the Rehabilitation Act, the Occupational Safety and Health Act (OSHA) (federal and California), the American Rescue Plan Act (ARPA), the Families First Coronavirus Response Act (FFCRA), the Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA), the

California Family Rights Act (CFRA), the Worker Adjustment and Retraining Notification Act (federal and California), the California Fair Employment and Housing Act (FEHA), the Unfair Business Practices Act/Unfair Competition Law (UCL); the California Labor Code, the California Government Code, the California Civil Code, the applicable California Wage Order(s), and the California Private Attorneys General Act (to the extent permitted by law) (all as amended); (b) discrimination or harassment on the basis of any protected status, such as race, color, ancestry, national origin (including language use restrictions), citizenship, religious creed (including religious dress and grooming practices), sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), marital status, domestic partnership status, sexual orientation, gender, gender identity or gender expression, veteran status, military status, political affiliation, family care or medical leave status or the denial of family and medical care leave, age, physical or mental disability (including HIV and AIDS), medical condition (including cancer and genetic characteristics), genetic information, or any other basis protected by applicable federal, state or local law, rule, ordinance or regulation; (c) any whistleblower or retaliation claims on the basis of any protected activity or other protected basis; (d) breach of any express or implied promise, contract or agreement (express or implied), or breach of the implied covenant of good faith and fair dealing; (e) any tort or common law claims, including wrongful discharge, intentional or negligent infliction of emotional distress, negligence, fraud, misrepresentation, defamation, interference with prospective economic advantage, or other tort or common law actions; (f) claims for misclassification, wage and hour, or other claims related to hours, conditions, or compensation related to work; and (g) any other violation of local, state, or federal law, constitution, statute, regulation, ordinance, order, guidance, resolution, public policy, contract, or tort or common law claim, whether for legal or equitable relief, having any bearing whatsoever on the terms and conditions of employment, or association or working relationship, with any of the Released Parties, including but not limited to any allegations for penalties, interest, costs and fees, including attorneys' fees, incurred in any of these matters, which Plaintiff ever had, now have, or may have as of the date of this release. All such claims, liabilities or causes of action (including, without limitation, claims for related attorneys' fees and costs) are forever barred by this Agreement regardless of the forum in which they may be brought. The Parties intend for this release to be as broad as possible. Even if Plaintiff discovers facts in addition to or different from those that Plaintiff now knows or believes to be true with respect to the subject matter of Plaintiff's claims, those claims will remain released and forever barred.

c. It is a condition of this Agreement, and it is the Parties' intention by executing this Agreement, that Plaintiff's Released Claims contained in this Agreement shall be effective as a bar to each and every claim, whether now known or unknown. As such, Plaintiff expressly, knowingly and voluntarily waives any and all rights and benefits conferred by section 1542 of the California Civil Code and do so understanding and acknowledging the significance and consequence of such specific waiver of section 1542, which provides:

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.

Notwithstanding the foregoing, Plaintiff does not waive or release any claim which cannot be waived or released by private agreement. Further, nothing in this Settlement shall prevent Plaintiff

from filing a charge or complaint with, or from participating in, an investigation or proceeding conducted by the SEC, OSHA, EEOC, DFEH, NLRB or any other federal, state or local agency charged with the enforcement of any employment or other applicable laws. Plaintiff, however, understands that by signing this Settlement, Plaintiff waives the right to recover any damages or to receive other relief in any claim or suit brought by or through the EEOC, the DFEH or any other state or local deferral agency on their behalf to the fullest extent permitted by law, but expressly excluding any monetary award or other relief available from the SEC/OSHA, including an SEC/OSHA whistleblower award, or other awards or relief that may not lawfully be waived.

ADMINISTRATION OF SETTLEMENT

6. **Settlement Administrator.** The Settlement Administrator shall be responsible for sending the explanatory letters, for calculating Individual Settlement Payments, and preparing all checks and mailings in compliance with all requirements set forth in Paragraph 9. The Settlement Administrator Fees (including settlement administration costs) shall be paid out of the Total Settlement Amount and shall not exceed \$5,750.00. Defendants are not responsible or liable for any errors in the calculation of pay periods or settlement amount to be awarded to each PAGA Member. Defendants are also not liable or responsible for any errors made by the Settlement Administrator in the administration of the settlement.

7. **Distribution of the Net Settlement Amount.** The Net Settlement Amount shall be allocated between the LWDA and PAGA Members pursuant to Labor Code section 2699(i) with seventy-five percent (75%) paid to the LWDA, and twenty-five percent (25%) paid to Plaintiff and PAGA Members. The twenty-five percent (25%) of the Net Settlement Amount paid to Plaintiff and PAGA Members shall be referred to as “PAGA Member Payment.” The PAGA Member Payment shall be divided among the PAGA Members based on the number of total pay periods in the Settlement Period to establish the amount of the settlement allocation for each PAGA Pay Period (“Pay Period Amount”).

8. **Individual Settlement Payment Calculation.** PAGA Members shall receive a pro rata value equal to the number of PAGA pay periods the PAGA Members worked during the Settlement Period, as provided by Defendants to the Settlement Administrator, multiplied by the Pay Period Amount (the “Individual Settlement Payments”). Each PAGA Member’s number of pay periods will be derived from the hire and termination (or the Effective Date) dates contained in the records kept by Defendant Dewitt & Associates Behavioral Services, Inc. in the ordinary course of business during the Settlement Period. For avoidance of doubt, a “PAGA pay period” references Defendant Dewitt & Associates Behavioral Services, Inc.’s payroll cycle during which a PAGA Member performed work for which s/he/they received compensation as contained in the records kept by Defendant Dewitt & Associates Behavioral Services, Inc. in the ordinary course of business during the Settlement Period. If for whatever reason a PAGA Member received multiple pay stubs / wage statements during a payroll cycle, that fact shall not increase the number of PAGA pay periods worked by that employee during that payroll cycle. All Individual Settlement Payments made to PAGA Members will be reported on an IRS Form 1099, if such reporting is required. The Individual Settlement Payments shall be allocated 100% as penalties.

9.

10. **PAGA Settlement Payment Procedures.**

a. **Timing of Funding and PAGA Member list to Settlement Administrator.**

Within thirty (30) calendar days after the Final Judgment, Defendant Dewitt & Associates Behavioral Services, Inc. shall: (1) deposit with the Settlement Administrator the Total Settlement Amount; and (2) within thirty (30) days after Final Judgment, Defendant Dewitt & Associates Behavioral Services, Inc. shall provide to the Settlement Administrator a list of the PAGA Members that identifies for each PAGA Member their full name, social security number, last known address, last known telephone number(s), and the number of pay periods for each PAGA Member during the Settlement Period. However, no funds will be distributed to anyone until all deadlines to appeal have passed, or if an appeal is filed, after all appeals have been resolved without impacting the effectiveness of this Settlement, whichever is later.

b. Defendant Dewitt & Associates Behavioral Services, Inc. agrees to consult with the Settlement Administrator as required to provide the list of PAGA Members in a format reasonably acceptable for the performance of the duties of the Settlement Administrator. The Settlement Administrator will keep the list confidential, use it only for the purposes described herein, take adequate safeguards to protect confidential or private information and return or certify the destruction of the information upon completion of the Settlement Administration process. The list of PAGA Members shall not be shared with Plaintiff or Plaintiff's counsel, including PAGA Counsel, other than in a redacted format as necessary to approve settlement calculations.

c. Defendant Dewitt & Associates Behavioral Services, Inc. estimates that there were 20,000 PAGA pay periods through July 31, 2023. Within ten (10) days of receipt of the PAGA Member list, the Settlement Administrator shall provide to all Parties the exact number of pay periods worked during the Settlement Period. To the extent the number of pay periods increases beyond 10% (i.e., above 22,000 pay periods) by the date of final approval of the settlement, Defendant Dewitt & Associates Behavioral Services, Inc. shall have the option to either (a) increase the gross settlement proportionally after the number of pay periods exceeds 22,000 (for example, if the number of pay periods increases by 11%, the Total Settlement Amount will increase by 1% (i.e., \$5,000.00)), or (b) to shorten the release period so that there is no increase in the settlement amount.

d. Within ten (10) calendar days after receipt of the list of PAGA Members, the Settlement Administrator shall run all the addresses of PAGA Members through the United States Postal Service NCOA database to obtain current address information, and shall remit (1) Settlement Administrator Fees to itself, (2) PAGA Counsel's fees and costs to PAGA Counsel, (3) any Service Award to Plaintiff; and (4) the remaining Net Settlement Amount, as awarded by the Court, in the amount of 25% of the Net Settlement Amount to the PAGA Members and 75% of the Net Settlement Amount to the LWDA. The Parties are to jointly inform Settlement Administrator of the date which triggers the Settlement Administrator to perform its duties under this paragraph.

e. PAGA Members shall not be required to make claims but shall simply receive a check for Individual Settlement Payments. The Settlement Administrator shall send Individual Settlement Payments to each PAGA Member by U.S. First Class mail to the PAGA Member's address with directions to the Postmaster to forward the payment checks and return all

undeliverable payment checks to the Settlement Administrator. The Settlement Administrator shall send the PAGA Members an explanatory letter, which will be mutually approved by the Parties, with the Individual Settlement Payment checks. It will be conclusively presumed that a PAGA Member's Individual Settlement Payment check was received if the payment check has not been returned within thirty (30) days of the original mailing of the payment check.

f. Individual Settlement Payment checks issued to PAGA Members pursuant to this Settlement will expire one hundred and eighty (180) calendar days from the date of issuance. Funds represented by settlement checks returned as undeliverable and those settlement checks remaining un-cashed for more than 180 days will be tendered by Settlement Administrator to the State Controller's Office, Unclaimed Property Division in the name of each PAGA Member.

g. The Parties shall not 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.

11. **Dismissal of Pending Action.** Within 14 days of the Settlement Administrator informing the Parties that it has completed the transfer of all unclaimed funds to the California State Controller's Office Unclaimed Property Division, Plaintiff shall file a request to dismiss the proceedings against all Defendants with prejudice.

12. **Tax Treatment of Settlement Amounts.** With regard to the Service Award to Plaintiff and, if applicable, the Individual Settlement Payments to PAGA Members, IRS Form 1099s will be issued. Nothing in this Settlement is intended to constitute legal or tax advice regarding federal, state, and/or local tax obligations. Plaintiff acknowledges that Plaintiff has obtained no tax advice from Defendants or any of the Released Parties, and that neither Defendants nor its attorneys have made any representation concerning the tax consequences, if any, of the settlement payments in this Settlement or any payment to be made pursuant to this Settlement. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any state or federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Defendants are not responsible for any employee tax obligations regarding the allocation of the settlement payments. Payment of PAGA Counsel's fees and costs will be reflected in a Form 1099 to PAGA Counsel who shall assume full responsibility and liability for the payment of taxes due on such payments and shall defend and indemnify Defendants with respect to any and all such taxes, penalties, interests and/or costs.

13. **Circular 230 Disclaimer.** EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED

EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX ADVISERS FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISOR'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

MISCELLANEOUS

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

15. **Non-Admission of Wrongdoing.** The Parties agree that this Settlement does not constitute an admission by Defendants or any of the Released Parties, of any of the matters alleged in the Action or of any violation by any of them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. Neither this Settlement nor anything in this Settlement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Plaintiff, Defendants or the Released Parties.

16. **No Credit Toward Benefit Plans.** Payments to PAGA Members as referenced herein will not be utilized to calculate any additional benefits under any benefit plans to which any PAGA Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement will not affect any rights, contributions, or amounts to which any PAGA Member may be entitled under any benefit plans.

17. **Nullification of PAGA Settlement.** In the event that: (i) the Court does not approve the Settlement as provided herein; (ii) the Settlement does not become final for any other reason; or (iii) Plaintiff terminates the Agreement for any reason, then this Settlement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions, after which neither this Settlement nor any of its terms will be usable or admissible for any purpose whatsoever.

18. **No Claim for Distributions or Payments.** No person shall have any claim against Defendants, Defendants' counsel, Plaintiff, PAGA Members, PAGA Counsel or the Settlement Administrator based on distributions and payments made in accordance with this Settlement.

19. **Nondisclosure and Nonpublication.** The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communications with the press about the facts, amount, or terms of the Settlement prior to approval. Plaintiff and PAGA Counsel agree that, prior to final court-approval of the Settlement, they will keep the terms of the Settlement confidential except for purposes of communicating with Plaintiff only, their spouses, or their tax professionals and as necessary in order to obtain approval of the settlement. The terms of this Settlement shall be kept strictly confidential until such time as the Settlement is submitted to the Court and the LWDA. Plaintiff and PAGA Counsel agree not to publicize the Settlement, the fact of the Settlement, its terms or contents, and the negotiations underlying the Settlement, in any manner or form, at any time, directly or indirectly, to any person or entity, beyond filing the Settlement with the Court and submitting a copy to the LWDA. Plaintiff and PAGA Counsel further agree that they shall not discuss or communicate the terms of this Settlement with any current or former employee of any of Defendants or the Released Parties prior to the Effective Date.

20. **Use and Return of Aggrieved Employee Data.** Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA data provided to PAGA Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Settlement Administrator discharges its obligation to pay out all of the Settlement funds, Plaintiff shall destroy all paper and electronic versions of PAGA Member data, Defendants' policies, and copies of other documents PAGA Counsel received from Defendants.

21. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement 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 will not constitute a waiver of any other provision.

22. **Communications.** All communications to be provided concerning this Settlement shall be in writing by e-mail to the addresses set forth below, or such other addresses as any Party may designate in writing from time to time:

To Defendants: Oleg I. Albert of Le Clerc & Le Clerc LLP, 155 Montgomery St., Suite 1004, San Francisco, CA 94104, oleg@leclerclaw.com.

To Plaintiffs: Amir Nayebdadash of Protection Law Group, LLP, 237 California St., El Segundo, CA 90245, amir@protectionlawgroup.com.

23. **Entire Settlement.** This Settlement 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. The Parties are not relying on any representations (or omissions of fact) not expressly stated in this Settlement. Any representation, promise or agreement not specifically included in this Settlement shall not be binding upon or enforceable against any Party. This is a fully integrated agreement. No other promises or agreements shall be

binding or shall modify this Settlement unless in writing and signed by the Parties or their successors-in-interest.

24. **Waiver of Certain Appeals/Appellate rights.** The Parties agree to waive appeals; except, however, that any Party may appeal any court order that approves the Settlement but materially alters the Settlement's terms, so long as the appealing Party provides written notice to counsel for the other Parties of their intent to appeal within ten (10) business days after entry of the judgment.

25. **Invalidity and Severability.** Before declaring any provision of this Settlement invalid, the Court shall first attempt to construe the provisions to be valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement valid and enforceable, including minimally reforming any offending provision to make it valid and enforceable to the extent permitted by law. If any provision of this Settlement or the application thereof is held invalid or unenforceable, the invalidity or unenforceability shall not affect other provisions or applications of the Settlement which can be given effect without the invalid or unenforceable provision(s) or application, and to this end the provisions of this Settlement are declared to be severable. Notwithstanding the foregoing, no portion of any release contained herein may be deemed severed or deleted from this Settlement, except upon waiver in writing by Defendant.

26. **Authorization to Enter Into Settlement.** Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to implement the Settlement. If the Parties are unable to reach agreement on the form or content of any document to implement the Settlement, or any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may first seek the assistance of a mediator, and in the event that does not resolve the dispute, then the Court to resolve such disagreement.

27. **No Construction Against the Drafter.** Each Party has cooperated in the drafting and preparation of this Settlement. Hence, in any construction to be made of this Settlement, the same shall not be construed against any Party on the basis that the Party was the drafter.

28. **Calendar Days.** Unless otherwise noted, all references to "days" in this agreement shall be to calendar days. In the event any date or deadline set forth in this agreement falls on a weekend or court holiday, such date or deadline shall be on the first court day thereafter.

29. **Choice of Law.** This Settlement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the Parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

30. **Counterparts.** This Settlement 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. Photographic, electronic or facsimile copies of any such signed counterparts may be used in lieu of the original for any said purpose.

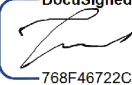
31. **Cooperation.** Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees that they will abide by this Settlement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Settlement.

32. **Employee Rights.** Plaintiff has a right to consult an attorney regarding this Agreement and may have five (5) business days to do so. However, Plaintiff may sign this Agreement prior to the end of five (5) business days as long as the Plaintiff's decision is knowing and voluntary.

IN WITNESS THEREOF, the Parties each acknowledge that they/it have read the foregoing Settlement, accepts and agrees to the provisions contained in this Settlement and hereby executes it knowingly and voluntarily and with full understanding of its consequences.

PLAINTIFF:

Dated: 9/29/2023

DocuSigned by:

 By: 768F46722CD1449...
 Tatashya Brooks

**DEFENDANT DEWITT &
ASSOCIATES BEHAVIORAL
HEALTH, INC.**

Dated: 10 / 10 / 2023

By: 
 Juve Vela, Chief Executive Officer

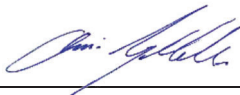
DEFENDANT JUVE VELA

Dated: 10 / 10 / 2023

By: 
 Juve Vela

**AGREED AND APPROVED AS TO
FORM:**

Dated: 9/29/2023

By: 
Amir Nayebdadash
Protection Law Group, LLP
Attorneys for Plaintiff

**AGREED AND APPROVED AS TO
FORM:**

Dated: October 2, 2023

By: 
Oleg I. Albert
Le Clerc & Le Clerc, LLP
Attorneys for Defendants

Exhibit A

September 26, 2023

BY ONLINE SUBMISSION

California Labor & Workforce Development Agency
PAGAfilings@dir.ca.gov

**Re: *DEWITT & ASSOCIATES BEHAVIORAL SERVICES, INC.; JUVE VELA,
AN INDIVIDUAL—Amended PAGA Notice***

Dear Representative:

Plaintiff Tatashya Brooks submitted her original PAGA Notice in this matter against Dewitt & Associates Behavioral Services, Inc. (including any and all affiliates, subsidiaries, parents, directors, officers, agents, and executive employees), Juve Vela (collectively referred to as “Dewitt & Associates Behavioral Services”) on September 10, 2021.. Ms. Brooks files this Amended PAGA Notice consistent with her intent to investigate and seek additional penalties for Dewitt & Associates Behavioral Services’ conduct that did/does not comply with applicable laws. This Amended PAGA Notice is being sent simultaneously to Dewitt & Associates Behavioral Services and its counsel by Certified Mail. Juve Vela is the Chief Executive Officer and Chief Financial Officer of Dewitt & Associates Behavioral Services, Inc. Juve Vela, at all times herein relevant, was acting either individually or as an officer, owner, director, agent, or employee of Dewitt & Associates Behavioral Services, Inc., who caused and continues to cause all of the wage and hour violations alleged herein against the “aggrieved employees,” as defined herein, including without limitation violations of Labor Code Section 558 and 1197.

Ms. Brooks seeks these remedies on behalf of the State of California and “aggrieved employees,” as defined herein. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Dewitt & Associates Behavioral Services employed Ms. Brooks as an hourly-paid, non-exempt employee from approximately December 2019 through May 2021, in the State of California.

The “aggrieved employees” that Ms. Brooks may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California.

Dewitt & Associates Behavioral Services classified Ms. Brooks and other aggrieved employees as “personal attendants” under IWC Wage Order 15 despite Ms. Brooks and other aggrieved employees spending more than 20% of their total weekly hours worked on tasks outside of “supervising, dressing, and feeding” individuals who “by reason of advanced age, physical disability, or mental disability needs supervision.” These tasks, which required more than 20% of

Plaintiff and other aggrieved employees tasks each week included general housekeeping duties such as dusting, vacuuming, cleaning up trash, cleaning up spills and messes, straightening clutter, washing dishes, cleaning the kitchen, making beds, sweeping, mopping floors, taking out the trash, cleaning bathrooms, cleaning up after pets, doing laundry, and other household chores. Additionally, Defendant required Ms. Brooks and other aggrieved employees to perform nursing related tasks including regularly administering oral and topical medications, ensuring this medication was taken, changing bandages, dressing wounds, monitoring health progress, compiling detailed medication logs and regularly observing and documenting patients general physical and emotional state. As a result, and based on the following facts and theories, Dewitt & Associates Behavioral Services has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and IWC Wage Orders including *inter alia*, Wage Orders 4-2001 and 5-2001, and 15-2001

1. FAILURE TO PAY ALL WAGES

Dewitt & Associates Behavioral Services required aggrieved employees to perform work before their scheduled shifts, after their scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks and failed to compensate aggrieved employees for this time. Dewitt & Associates Behavioral Services failed to compensate employees who worked beyond their scheduled shift waiting to be relieved of their job duties. Dewitt & Associates Behavioral Services failed to schedule employees in a manner that permitted them to effectively transfer shifts thereby requiring employees to stay beyond their scheduled shift, for which they were not compensated. Dewitt & Associates Behavioral Services failed to accurately record the actual time worked by Ms. Brooks and Aggrieved Employees, which resulted in a failure to pay Ms. Brooks and Aggrieved Employees for all hours actually worked, including minimum wages, straight time wages and overtime wages. Dewitt & Associates Behavioral Services rounded the work time and lunches recorded by aggrieved employees in a manner that was not fair and neutral on its face and/or that favored Dewitt & Associates Behavioral Services over time, resulting in aggrieved employees being underpaid for their time worked. Moreover, Dewitt & Associates Behavioral Services failed to pay Ms. Brooks and other Aggrieved Employees COVID-19 Supplemental Paid Sick Leave when employees required leave for reasons related to COVID-19 including when either themselves or a family member tested positive for COVID-19.

California Labor Code sections 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, Dewitt & Associates Behavioral Services did not provide Ms. Brooks and other aggrieved employees with the minimum wages to which they were entitled for work performed “off-the-clock.” California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Ms. Brooks and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week. Therefore, Ms. Brooks and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked. Dewitt & Associates Behavioral Services failed to

pay overtime to Ms. Brooks and Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly calculated to include all applicable remuneration at the applicable weighted average based on their varying rates of pay worked within the same week.

2. FAILURE TO PROVIDE MEAL OR REST PERIODS AND PAY MEAL AND REST PERIOD PREMIUMS

California Labor Code sections 226.7 and 512 require Dewitt & Associates Behavioral Services to pay an employee one additional hour of pay at the employee's regular rate for each meal or rest period that is not provided. During the relevant time period, Dewitt & Associates Behavioral Services misclassified Ms. Brooks and other Aggrieved Employees as personal attendants and accordingly as a matter of policy failed to provide Ms. Brooks and other Aggrieved Employees with duty-free meal and rest periods, required Ms. Brooks and other aggrieved employees to work during meal and rest periods, and failed to compensate them properly for non-compliant meal and rest periods.

In the rare event that Ms. Brooks and other employees were provided meal and rest periods, Dewitt & Associates Behavioral Services failed to provide Ms. Brooks and Aggrieved Employees with legally-compliant 30-minute meal periods. Ms. Brooks and Aggrieved Employees were required by Dewitt & Associates Behavioral Services to work more than five (5) hours per day but were not provided with uninterrupted 30-minute meal periods. Further, Ms. Brooks and Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. Dewitt & Associates Behavioral Services regularly required Ms. Brooks and Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5th) hour of work, and/or to take their second meal periods after their tenth (10th) hour of work. On the occasions that Ms. Brooks and Aggrieved Employees did take a meal period, their meal periods were frequently interrupted or cut short.

Dewitt & Associates Behavioral Services failed to authorize and permit Ms. Brooks and Aggrieved Employees take legally-compliant 10-minute periods. Dewitt & Associates Behavioral Services required Ms. Brooks and Aggrieved Employees to work through rest periods. Ms. Brooks and Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. Further, Ms. Brooks and Aggrieved Employees were not provided with a second uninterrupted, duty-free rest period when they worked more than six (6) hours in a day, or a third uninterrupted, duty-free rest period after working more than ten (10) hours in day. In the rare event that a rest period was taken, it was frequently interrupted or cut short. Moreover, Ms. Brooks and Aggrieved Employees were never completely relieved of duty or permitted to leave the premises as required by *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257 (2016).

Dewitt & Associates Behavioral Services' policies, practices, and procedures were responsible for the violations alleged above and prevented Ms. Brooks and other Aggrieved Employees from taking timely, complete and duty-free meal periods because, amongst other reasons: (1) Dewitt & Associates Behavioral Services misclassified Ms. Brooks and other Aggrieved Employees as Personal Attendants; (2) Dewitt & Associates Behavioral Services did not have legally-compliant policies regarding the provision and timing of meal and rest periods or systematically disregarded its own purported policies; (3) Dewitt & Associates Behavioral Services' management at various

levels, affecting all hourly-non-exempt employees, failed and refused to implement and enforce legally compliant meal and rest period policies and practices; (4) Dewitt & Associates Behavioral Services failed to adequately inform and train Ms. Brooks and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal and rest periods; (5) Dewitt & Associates Behavioral Services failed to adequately inform and train Ms. Brooks and other Aggrieved Employees about their right to premium wages for non-compliant meal and rest periods; (6) Dewitt & Associates Behavioral Services failed to ensure that there was adequate staffing to allow Ms. Brooks and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal and rest periods; (7) Dewitt & Associates Behavioral Services prohibited Ms. Brooks and other Aggrieved Employees from leaving their assigned work sites during purported meal and rest periods; and (8) Dewitt & Associates Behavioral Services' policy and culture prevented Ms. Brooks and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal and rest periods.

3. FAILURE TO TIMELY PAY ALL WAGES UPON TERMINATION OF EMPLOYMENT

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, Dewitt & Associates Behavioral Services failed to pay Ms. Brooks and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

4. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Dewitt & Associates Behavioral Services failed to pay Ms. Brooks and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

5. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Dewitt &

Associates Behavioral Services did not provide Ms. Brooks and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Dewitt & Associates Behavioral Services were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include the total hours worked by Ms. Brooks and other aggrieved employees, including time spent working off-the-clock and during meal and rest periods as discussed above, failure to include employees correct rate of overtime based on the applicable regular rate, failure to includes all wages owed, and other violations derivative of the claims alleged above.

6. FAILURE TO PROVIDE DAY OF REST

California Labor Code sections 551 and 552 require that every person employed in any occupation of labor is entitled to one day's rest in a seven-day workweek, that no employer of labor shall cause his employees to work more than six days in a workweek, and that an employer shall pay a civil penalty in the amounts of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation. During the relevant time period, Ms. Brooks and the aggrieved employees were misclassified as personal attendants and were required to regularly and/or consistently work in excess of six (6) days in a workweek. During the relevant time period, Ms. Brooks and the aggrieved employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. During the relevant time period, Ms. Brooks and the aggrieved employees were required to work in excess of six (6) days in a workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and when Ms. Brooks and the aggrieved employees accumulated days of rest, they were not actually provided the opportunity to take the equivalent of one (1) day's rest in seven (7) during each calendar month.

7. FAILURE TO MAINTAIN ACCURATE RECORDS

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Dewitt & Associates Behavioral Services failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Ms. Brooks and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

8. FAILURE TO DISCLOSE INFORMATION AT TIME OF HIRING

California Labor Code section 2810.5 requires an employer to provide written notice to an employee, at the time of hiring, containing the following information:

The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including

any rates for overtime, as applicable. Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances. The regular payday designated by the employer in accordance with the requirements of this code. The name of the employer, including any “doing business as” names used by the employer. The physical address of the employer’s main office or principal place of business, and a mailing address, if different. The telephone number of the employer. The name, address, and telephone number of the employer’s workers’ compensation insurance carrier. That an employee: may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates. Any other information the Labor Commissioner deems material and necessary.

Dewitt & Associates Behavioral Services failed to accurately provide aggrieved employees with the requisite notice in violation of California Labor Code section 2810.5.

9. REPORTING TIME PAY

California Labor Code section 1198 provides that “The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful.” The applicable Industrial Wage Orders, including *inter alia*, Wage Orders 4-2001 and 5-2001, require that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay. Further, if an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee’s regular rate of pay. During the relevant time period, Dewitt & Associates Behavioral Services failed to pay Ms. Brooks and other aggrieved employees half the usual or scheduled day’s work in an amount no less than two (2) hours nor more than four (4) hours at the employee’s regular rate of pay for workdays in which Ms. Brooks and the other aggrieved employees reported to work and were furnished less than half the usual or scheduled day’s work. During the relevant time period, Dewitt & Associates Behavioral Services failed to pay Ms. Brooks and other aggrieved employees for two (2) hours at the employee’s regular rate of pay on days in which Ms. Brooks and the other aggrieved employees were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

10. FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Ms. Brooks and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by Dewitt & Associates

Behavioral Services. These costs include but were not limited to failure to the failure to reimburse employees for the use of their personal vehicles, including the payment of mileage at a rate of reimbursement that fully compensates the for the cost; failure to reimburse employees for trips beyond a certain distance; failure to reimburse for the use of their personal cell phones; and failure to reimburse for personal protective equipment.

11. FAILURE TO PROVIDE SEATING

Pursuant to Labor Code section 1198 “. . . the standard conditions of labor fixed by the commission . . . shall be . . . the standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.” IWC Wage Orders paragraph 14 requires “all working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.” The wage order also requires employers to provide “an adequate number of suitable seats shall be in reasonable proximity to the work area,” which employees must be allowed to use when it does not interfere with their duties.

Ms. Brooks and Aggrieved Employees were not provided with seats despite the fact that the nature of the work reasonably permitted the use of seats. Accordingly, Employer violated Labor Code section 1198 and the applicable IWC Order *See also Bright v. 99¢ Only Stores*, 189 Cal.App.4th 1472 (2010).

CONCLUSION

Therefore, on behalf of all aggrieved employees, Ms. Brooks seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the Labor and Workforce Development Agency, for violation of the California Labor Code pursuant to PAGA, including civil penalties pursuant to Labor Code section 558.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

With kind regards,



Amir Nayebdadash.

Cc: (By U.S. Certified Mail / Return Receipt Requested)

Oleg I. Albert, Esq.
Le Clerc & Le Clerc LLP
155 Montgomery St. Suite 1004
San Francisco, CA 94104