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Attorneys for Plaintiff ROSE CHINGOFOR,
on behalf of herself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

ROSE CHINGOFOR, on behalf of herself and
others similarly situated,

Plaintiff,

vs.

ATTENTIVE HOME CARE, INC.; and DOES 1
to 100, inclusive,

Defendants.

Case No.: 30-2021-01220181-CU-OE-CXC

CLASS ACTION

*[Assigned for all purposes to the Hon. Richard
Sherman, Dept. CX105]*

**PLAINTIFF'S SUPPLEMENTAL
BRIEFING IN SUPPORT OF THE
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT; DECLARATION OF
MELISSA A. HUETHER**

Hearing Information:

Date: May 5, 2023

Time: 10:00 a.m.

Dept.: CX105

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Following the December 13, 2022 filing of Plaintiff's Motion for Preliminary Approval of
3 Class Action Settlement ("Motion for Preliminary Approval") the Court entered a Minute Order on
4 February 10, 2023 ordering the Parties to submit supplemental briefing addressing questions raised
5 by the Court in the checklist attached to the Minute Order ("February 10, 2023 Minute Order"). The
6 Court's February 10, 2023 Minute Order also continued the Motion for Preliminary Approval
7 Hearing for May 5, 2023 at 10:00 a.m. in Department CX105 of Orange County Superior Court,
8 Central Justice Center located at 700 Civic Center Drive West, Santa Ana, California 92701. (See
9 Declaration of Melissa A. Huether ("Huether Dec.") ¶2; ¶10, Ex. 1 [February 10, 2023 Minute
10 Order].) The following provides the proposed adjustments and clarifications in response to the
11 Court's questions.

12 **A. SETTLEMENT TERMS AND EVALUATION – FAIR, ADEQUATE AND**
13 **REASONABLE:**

14 The Court asked the Parties to address the various issues in the Settlement Agreement and
15 Release ("Original Settlement Agreement") as described below. The Parties entered into an
16 Amendment No. 1 to Settlement Agreement and Release to resolve and address the Court's issues
17 raised in the February 10, 2023 Minute Order. (See Declaration of Melissa A. Huether, ¶ 3, Ex. 5
18 [Redline Amendment No. 1] and Ex. 4 [Final Version of Amendment No. 1 incorporating redlines]).

19 1. The Court noted that the allocation of only 20% of the settlement payments
20 to wages appears to be low. As the Court suggested, the Parties amended
21 section II.B.1. to provide that 33.33% of each settlement payment will be
22 considered wages and the remaining 66.67% will be considered penalties and
23 interest. (Amendment No. 1, § A.).

24 2. The Court also noted that the Settlement Agreement appeared not to make
25 clear that class members cannot opt out of the PAGA settlement, though the
26 class notice was clear. The Parties amended the section II.B.2.c. to explicitly
27 provide that members of the PAGA Settlement Group cannot exclude
28

1 themselves or opt out of the PAGA portion of the Settlement and will remain
2 a PAGA Settlement Group members even if they exclude themselves from
3 the Class. (Amendment No. 1, § B.)

4 3. Finally, the Court notes that the Settlement Agreement and class notice state
5 that the Administrator will resolve any workweek disputes. The Court
6 requested that the Parties amend the Settlement to instead provide that while
7 the Administrator and the Parties will attempt to resolve any dispute, the
8 Court will ultimately decide any unresolved dispute. Therefore, the Parties
9 amended section II.B.b.4 to provide that the Settlement Administrator will
10 work with the Parties to resolve any work week disputes and in the any the
11 Settlement Administrator and the Parties cannot resolve the dispute, the
12 Court will decide. (Amended Settlement Agreement, § C.)

13 **B. REVISIONS TO THE CLASS NOTICE:**

14 The Court pointed out several errors in the Class Notice document which the Parties have
15 reviewed. The Parties have revised the Class Notice to correct and clarify as the Court requested.
16 The Parties have also revised the Class Notice as necessary to comport with Amendment No. 1.
17 (See Declaration of Melissa A. Huether, ¶ 4; ¶ 17, Ex. 5 [Redline Class Notice]).

18 **C. SETTLEMENT PAYMENTS TO CLASS MEMBERS:**

19 The Court requested information on the estimated average, high, and low payments to class
20 members and PAGA employees under the proposed settlement. (Huether Dec. ¶5.)

21 Based on information from Defendant, during the Class Period the Class worked an
22 average of 50 workweeks with the highest number of workweeks worked being 230 and the
23 lowest number of workweeks worked being 1. There were a total of 22,295 workweeks during the
24 Class Period. Therefore, the average settlement payment is \$161.50, the highest settlement
25 payment is approximately \$742.90, and the lowest settlement payment is approximately \$3.23.
26 (Huether Dec. ¶6.)

27 ///

1 Based on information from Defendant, during the PAGA Period the PAGA Settlement
2 Group worked an average of 31 workweeks with the highest number of workweeks worked being
3 81 and the lowest number of workweeks worked being 1. There are a total of 5,628 workweeks
4 during the PAGA period. Therefore, the average PAGA settlement payment is \$27.59, the highest
5 PAGA settlement payment is approximately \$72.09, and the lowest PAGA settlement payment is
6 approximately \$0.89. (Huether Dec. ¶7.)

7 **D. ENGLISH ONLY NOTICE:**

8 The Court inquired into whether it is sufficient that the Notice be sent to Class Members in
9 only English. Defendant represents that Class Members are required to speak, read, and write
10 English as part of their job duties. Thus, an English-only Notice is fair and adequate. (Huether
11 Dec. ¶8.)

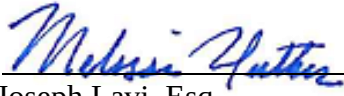
12 **E. LWDA NOTICE:**

13 On September 8, 2021 Plaintiff submitted notice to the LWDA of her intent to bring a
14 lawsuit for civil penalties pursuant to the Private Attorneys General Act of 2004, Labor Code
15 section 2698, et seq (“PAGA”). The LWDA did not respond to Plaintiff’s notice. Plaintiff’s notice
16 as sent to the LWDA is attached to the Declaration of Melissa A. Huether as **Exhibit 2**. (Huether
17 Dec. ¶9.)

18 Therefore, Plaintiff respectfully requests that the Court grant preliminary approval of the
19 Settlement and set a Final Approval Hearing on September 15, 2023 or a date and time thereafter
20 which is convenient to the Court.

21
22 Dated: April 21, 2023

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

24 By: 
25 Joseph Lavi, Esq.
26 Vincent C. Granberry, Esq.
27 Melissa A. Huether, Esq.
Attorneys for PLAINTIFF ROSE CHINGOFOR
on behalf of herself and others similarly situated

DECLARATION OF MELISSA A. HUETHER

I, Melissa A. Huether, declare:

1. I am an attorney licensed to practice law in the state of California and have been admitted to practice before this Court. I am an attorney with the law firm Lavi & Ebrahimian, LLP, Counsel for Plaintiff Rose Chingofor ("Plaintiff") in this action, and I am an attorney assigned to work on this case. Based on my assignment to this case and familiarity with the file and actions in this matter; I have personal knowledge of the matters stated herein and if called and sworn as a witness, I would and could competently testify under oath thereto. I am a member in good standing of the bar of all State and Federal District Courts of California. This Declaration is submitted in response to the Court's February 10, 2023 Minute Order and in support of Plaintiff's Motion for Preliminary Approval of the Class Action Settlement. The following provides the proposed adjustments and clarifications in response to the Court's questions.

2. Following the December 13, 2022 filing of Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Motion for Preliminary Approval") the Court entered a Minute Order on February 10, 2023 ordering the Parties to submit supplemental briefing addressing questions raised by the Court in the checklist attached to the Minute Order ("February 10, 2023 Minute Order"). The Court's February 10, 2023 Minute Order also continued the Motion for Preliminary Approval Hearing for May 5, 2023 at 10:00 a.m. in Department CX105 of Orange County Superior Court, Central Justice Center located at 700 Civic Center Drive West, Santa Ana, California 92701.

SETTLEMENT TERMS AND EVALUATION – FAIR, ADEQUATE AND REASONABLE:

3. The Court asked the Parties to address the various issues in the Settlement Agreement and Release ("Original Settlement Agreement") as described below. The Parties entered into an Amendment No. 1 to Settlement Agreement and Release to resolve and address the Court's issues raised in the February 10, 2023 Minute Order.

a. The Court noted that the allocation of only 20% of the settlement payments to wages appears to be low. As the Court suggested, the Parties amended section II.B.1. to

1 provide that 33.33% of each settlement payment will be considered wages and the
2 remaining 66.67% will be considered penalties and interest. (Amendment No. 1, §
3 A.)

4 b. The Court also noted that the Settlement Agreement appeared not to make clear that
5 class members cannot opt out of the PAGA settlement, though the class notice was
6 clear. The Parties amended the section II.B.2.c. to explicitly provide that members of
7 the PAGA Settlement Group cannot exclude themselves or opt out of the PAGA
8 portion of the Settlement and will remain a PAGA Settlement Group members even
9 if they exclude themselves from the Class. (Amendment No. 1, § B.)

10 c. Finally, the Court notes that the Settlement Agreement and class notice state that the
11 Administrator will resolve any workweek disputes. The Court requested that the
12 Parties amend the Settlement to instead provide that while the Administrator and the
13 Parties will attempt to resolve any dispute, the Court will ultimately decide any
14 unresolved dispute. Therefore, the Parties amended section II.B.b.4 to provide that
15 the Settlement Administrator will work with the Parties to resolve any work week
16 disputes and in the any the Settlement Administrator and the Parties cannot resolve
17 the dispute, the Court will decide. (Amended Settlement Agreement, § C.)

18 **REVISIONS TO THE CLASS NOTICE:**

19 4. The Court pointed out several errors in the Class Notice document which the Parties
20 have reviewed. The Parties have revised the Class Notice to correct and clarify as the Court
21 requested. The Parties have also revised the Class Notice as necessary to comport with Amendment
22 No. 1.

23 **SETTLEMENT PAYMENTS TO CLASS MEMBERS:**

24 5. The Court requested information on the estimated average, high, and low payments
25 to class members and PAGA employees under the proposed settlement.

26 6. Based on information from Defendant, during the Class Period the Class worked an
27 average of 50 workweeks with the highest number of workweeks worked being 230 and the
28 lowest number of workweeks worked being 1. There were a total of 22,295 workweeks during the

1 Class Period. Therefore, the average settlement payment is \$161.50, the highest settlement
2 payment is approximately \$742.90, and the lowest settlement payment is approximately \$3.233.

3 7. Based on information from Defendant, during the PAGA Period the PAGA
4 Settlement Group worked an average of 31 workweeks with the highest number of workweeks
5 worked being 81 and the lowest number of workweeks worked being 1. There are a total of 5,628
6 workweeks during the PAGA period. Therefore, the average PAGA settlement payment is \$27.59,
7 the highest PAGA settlement payment is approximately \$72.09, and the lowest PAGA settlement
8 payment is approximately \$0.89.

9 **ENGLISH ONLY NOTICE:**

10 8. The Court inquired into whether it is sufficient that the Notice be sent to Class
11 Members in only English. Defendant represents that Class Members are required to speak, read, and
12 write English as part of their job duties. Thus, an English-only Notice is fair and adequate.

13 **LWDA NOTICE:**

14 9. On September 8, 2021 Plaintiff submitted notice to the LWDA of his intent to bring
15 a lawsuit for civil penalties pursuant to the Private Attorneys General Act of 2004, Labor Code
16 section 2698, et seq (“PAGA”). The LWDA did not respond to Plaintiff’s notice. Plaintiff’s notice
17 as sent to the LWDA is attached hereto as **Exhibit 2**.

18 10. Attached as **Exhibit 1** is a true and correct February 10, 2023 Minute Order.

19 11. Attached as **Exhibit 2** is a true and correct copy of Plaintiff’s September 8, 2021
20 notice to the LWDA.

21 12. Attached as **Exhibit 3** is a true and correct copy of the LWDA’s email confirmation
22 of my upload of Amendment No. 1 and this briefing.

23 13. Attached as **Exhibit 4** is a true and correct copy of the fully executed Amendment
24 No. 1.

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1 14. Attached as **Exhibit 5** is a true and correct copy of the redline version of
2 Amendment No. 1 and the Class Notice exhibit.

3 I declare under penalty of perjury under the laws of the State of California that the foregoing
4 is true and correct. Executed this 21st day of April 2023 at Beverly Hills, California.

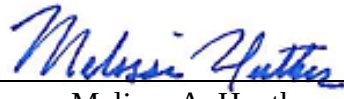
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8 Melissa A. Huether
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Exhibit 1

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CIVIL COMPLEX CENTER**

MINUTE ORDER

DATE: 02/10/2023

TIME: 10:00:00 AM

DEPT: CX105

JUDICIAL OFFICER PRESIDING: Randall J. Sherman

CLERK: J. Phu

REPORTER/ERM:

BAILIFF/COURT ATTENDANT:

CASE NO: **30-2021-01220181-CU-OE-CXC** CASE INIT.DATE: 09/08/2021

CASE TITLE: **Chingofor vs. Attentive Home Care, Inc.**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

EVENT ID/DOCUMENT ID: 73944506

EVENT TYPE: Motion for Approval of Class Settlement

MOVING PARTY: Rose Chingofor

CAUSAL DOCUMENT/DATE FILED: Motion - Other For Preliminary Approval of Class Action Settlement, 12/13/2022

APPEARANCES

No Appearance by all parties

Tentative Ruling posted on the Internet .

There are no appearances by any party.

Prior to calendar call, all parties submit on the Court's tentative ruling.

The Court confirms the tentative ruling as follows:

The ruling is to continue the hearing on Plaintiff Rose Chingofor's Motion for Preliminary Approval of Class Action Settlement to May 5, 2023 at 10:00 a.m. The court grants Plaintiff's request for leave to file a First Amended Complaint to add a Private Attorney General Act claim. The First Amended Complaint must be filed within seven days of this ruling.

Counsel must file supplemental papers addressing the court's concerns (not fully revised papers that would have to be reread) no later than two weeks before the next hearing date. Counsel must submit an amendment to the settlement agreement rather than any amended settlement agreement. Counsel also must provide a red-lined version of any revised papers. Counsel also should provide the court with an explanation of how the pending issues were resolved, with references to any corrections to the settlement agreement and the class notice, rather than with just a supplemental declaration or brief that simply asserts the issues have been resolved.

Plaintiff has not provided the court with the estimated average, high and low payments to class members or PAGA Settlement Group members under the proposed settlement. These estimates are needed to assist the court in properly determining the fairness of the proposed settlement. If the figures are not available now, they must be provided in the motion for final approval.

The allocation of only 20% of the settlement payments for wages appears to be low. The estimated

exposure analysis in the motion allocates over 80% of the class members' potential (non-PAGA) recovery to wages. Either an increase to 33 1/3% or an adequate explanation of why the figure is not at least 33 1/3% is required.

Unlike the class notice, the settlement agreement does not make clear that class members cannot opt out of the PAGA settlement.

The settlement agreement and class notice state that the Administrator will resolve any workweek disputes. The documents should reflect instead that while the Administrator and the parties will attempt to resolve any such dispute, the court ultimately will decide any unresolved dispute.

The moving papers do not include a copy of the LWDA letter that counsel asserts was sent to the LWDA on September 8, 2021. The court needs a copy of the letter to verify that the settlement terms are consistent with the notice provided to the LWDA.

The class notice is only provided in English, so Plaintiff must provide an explanation as to why the class notice does not need to be provided in any other language.

There are errors in the Class Notice that need to be corrected:

- Page 1: The chart should make clear that PAGA Settlement Group members may not opt out of the PAGA Settlement even if they request to be excluded from the class settlement.
- Page 3: The filing date of December 13, 2022 and the name of declarant, Melissa A. Heuther, should be stated instead of the placeholders.
- Page 4, first paragraph: The term "Net Settlement Amount" should be defined as "NSA" since it is later referenced as this acronym.
- Page 4: For workweek disputes, the class notice should state that while the Administrator and the parties will attempt to resolve any such dispute, the court ultimately will decide any unresolved dispute.
- Page 5, first paragraph of section D: The language should be corrected to state: "If you are a Class Member and you do not exclude yourself, you may object to the Settlement before Final Approval of the Settlement by the Court. In order to object to the Settlement, or any portion of it, you must do so either in writing, or orally at the Final Approval Hearing. If you wish to object to the Settlement in writing, you must complete and submit a written objection which must you or your attorney must sign, and which must include a written statement of the grounds of objection, along with all supporting papers if any."
- Page 5, last sentence: "Class Members may not object to the settlement of the PAGA claim or the PAGA Release and may not object to the Class Release." This sentence must be deleted. The court will hear any objections that get raised at the hearing.
- Page 6, second paragraph: The language should be corrected to state: "Defendant has agreed to pay a Settlement Amount of up to \$200,000 to settle the Lawsuit. The amount you receive depends on the number of Qualified Workweeks ("Qualified Workweek" means a calendar week during the Class Period in which the Class Member actually worked at least one day (as opposed to being on a leave or not on an assignment)) you worked during the Class Period for Defendant."
- Page 6, middle of page: The class notice erroneously states: "If you do not cash your check within 180 days, the funds from the uncashed checks funds shall be redistributed to those Class Members who cashed their checks." The settlement agreement provides for uncashed check funds to be transferred to the State Controller's Office, not to the other class members. The language should be corrected to be consistent with the settlement agreement.

Counsel should propose a realistic Final Approval Hearing date, bearing in mind that all papers in support of the Final Approval Hearing, including detailed hourly breakdowns of plaintiff's attorneys to support a lodestar cross-check, detailed plaintiff attorney cost breakdowns, an Administrator declaration and invoice, and plaintiff's declaration to support the enhancement request, must be filed at least 16 calendar days before the Final Approval Hearing date, to provide enough time for court review, and must be served in compliance with CCP notice of motion requirements.

Plaintiff is ordered to provide notice of this ruling to the LWDA and to Defendant.

Exhibit 2

LAW OFFICES OF
LAVI & EBRAHIMIAN, LLP
8889 W. OLYMPIC BLVD., SUITE 200
BEVERLY HILLS, CALIFORNIA 90211
TELEPHONE: (310) 432-0000
FACSIMILE: (310) 432-0001
WWW.LELAWFIRM.COM

September 8, 2021

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION 2699.3**

To: California Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612
Via Online Submission Only

Department of Industrial Relations
Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, California 94102
Certified Mail Number: **X 7020 0640 0002 1067 8230**

ATTENTIVE HOME CARE, INC.
c/o Legal Department
2020 N. Broadway Suite 300
Santa Ana, CA 92706
Certified Mail Number: **X 7020 0640 0002 1067 8223**

ATTENTIVE HOME CARE, INC.
Rick Davis, Agent for Service of Process
12 Via Inca
San Clemente, CA 92706
Certified Mail Number: **X 7020 0640 0002 1067 8216**

From: ROSE CHINGOFOR, on behalf of herself and all other current and former aggrieved California-based hourly non-exempt employees of ATTENTIVE HOME CARE, INC. and DOES 1 to 100, inclusive
c/o Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Boulevard, Suite 200

Beverly Hills, California 90211
Phone: (310) 432-0000
Fax: (310) 432-0001
Email: jlavi@lelawfirm.com
vgranberry@lelawfirm.com

Our firm has been retained by aggrieved employee ROSE CHINGOFOR concerning a representative action pursuant to the Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.* ("PAGA") against her employers, ATTENTIVE HOME CARE, INC..

I am filing this written notice with the Labor and Workforce Development Agency ("LWDA") pursuant to the provisions of the California Labor Code Sections 2699, 2699.3, and 2698, *et seq.* The purpose of this letter is to inquire whether LWDA intends to investigate and seek civil penalties associated with my client's allegations of violations of the Labor Code by her Employers. In addition to submitting this letter and the \$75.00 filing fee via the online PAGA filing system, I am causing a copy of this letter to be mailed to the Department of Industrial Relations – Accounting Unit.

FACTUAL STATEMENT AND THEORIES OF LABOR CODE VIOLATIONS

Aggrieved employee ROSE CHINGOFOR ("Employee") was employed by ATTENTIVE HOME CARE, INC. ("Defendants" or "Employers") as an hourly non-exempt employee from in or around 2018, until on or about January 2021.

1. Failure to Pay the Minimum Wage Rate of Pay for All Hours Worked

Employee alleges that during her employment, Employers failed to pay her and other current and former aggrieved California-based hourly non-exempt employees with compensation at the minimum wage rate of pay for all the hours that they worked in violation of Labor Code sections 1194 and 1197. Labor Code section 1197 provides, "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." Labor Code section 1194 states, "...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

In this case, Employee and other current and former aggrieved California-based hourly non-exempt employees worked more minutes per shift than Employers credited them with having worked by requiring them to be subject to the control of Employers while off-the-clock. Specifically, in this case, Employers employed policies, practices, and/or procedures of:

- Limiting Employee and other current and former aggrieved California-based hourly non-exempt employees' pay to the scheduled hours set by Defendants despite that Employee

and other current and former aggrieved California-based hourly non-exempt employees routinely worked beyond the hours Defendants scheduled;

- Automatically deducting thirty (30) minutes from Employee and other current and former aggrieved California-based hourly non-exempt employees' daily work hours and attributing that time to a meal period, despite that Defendants routinely failed to provide Employee and other current and former aggrieved California-based hourly non-exempt employees with uninterrupted, duty-free 30-minute meal periods; and/or
- Automatically deducting thirty (30) minutes from Employee and other current and former aggrieved California-based hourly non-exempt employees who worked as home health aides' daily hours worked and attributing that time to a meal period despite Defendants' requirement that Employee and other current and former aggrieved California-based hourly non-exempt employees who worked as home health aides remain on-duty during their meal breaks due to Defendants' requirement that they not leave patients alone coupled with Defendants' failure schedule another home health aide to cover the duties of Employee and other current and former aggrieved California-based hourly non-exempt employees who worked as home health aides during their meal periods and thereby allowing them to take a duty-free meal periods.

Employee and other current and former aggrieved California-based hourly non-exempt employees were not paid for this time resulting in Employers' failure to pay minimum wage for all the hours Employee and other current and former aggrieved California-based hourly non-exempt employees worked.

Employers' aforementioned policies, practices, and/or procedures resulted in time each day in which Employee and other current and former aggrieved California-based hourly non-exempt employees were subject to the control of Employers without being compensated for that time.

Based on these violations, Employee intends to seek civil penalties pursuant to the Private Attorneys General Act ("PAGA"), California Labor Code sections 2698, *et seq.*, and Labor Code section 1197.1, subdivisions (a)(1)-(2), on behalf of the Labor and Workforce Development Agency ("LWDA") against Employers if authorized to file a representative action on behalf of the State of California. As a derivative claim of Employers' failure to pay wages at a minimum wage rate for all hours worked, Employee will also seek statutory penalties under Labor Code section 226(a)(1) because the failure to pay such minimum wages for all hours worked rendered Employee's and other current and former aggrieved California-based hourly non-exempt employees' pay calculations inaccurate and in violation of Labor Code section 226(e)(2)(B)(i).

2. Failure to Pay Overtime Wages for Overtime Hours Work

Employee alleges that during her employment, Employers failed to pay her and other current and former aggrieved California-based hourly non-exempt employees for the overtime hours that they worked at their overtime rate of pay.

Labor Code section 510, subdivision (a), states in relevant part:

“Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

Further, Labor Code section 1198 provides,

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

Labor Code section 1194 provides, “...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

Employee alleges that during her employment, Employers failed to pay her and other current and former aggrieved California-based hourly non-exempt employees overtime wages for overtime hours worked due to Employers’ policies, practices, and/or procedures including, but not limited to:

- Limiting Employee and other current and former aggrieved California-based hourly non-exempt employees’ pay to the scheduled hours set by Defendants despite that Employee and other current and former aggrieved California-based hourly non-exempt employees routinely worked beyond the hours Defendants scheduled;
- Automatically deducting thirty (30) minutes from Employee and other current and former aggrieved California-based hourly non-exempt employees’ daily work hours and attributing that time to a meal period, despite that Defendants routinely failed to provide Employee and other current and former aggrieved California-based hourly non-exempt employees with uninterrupted, duty-free 30-minute meal periods; and/or,
- Automatically deducting thirty (30) minutes from Employee and other current and former aggrieved California-based hourly non-exempt employees who worked as home health aides’ daily hours worked and attributing that time to a meal period despite Defendants’ requirement that Employee and other current and former aggrieved California-based hourly non-exempt employees who worked as home health aides remain on-duty during their meal

breaks due to Defendants' requirement that they not leave patients alone coupled with Defendants' failure schedule another home health aide to cover the duties of Employee and other current and former aggrieved California-based hourly non-exempt employees who worked as home health aides during their meal periods and thereby allowing them to take a duty-free meal periods.

Employee and other current and former aggrieved California-based hourly non-exempt employees were not paid for this time resulting in Employers' failure to pay minimum wage for all the hours Employee and other current and former aggrieved California-based hourly non-exempt employees worked.

Employers' aforementioned policies, practices, and/or procedures resulted in time each day in which Employee and other current and former aggrieved California-based hourly non-exempt employees were subject to the control of Employers without being compensated for that time. To the extent that the foregoing unpaid time resulted from Employee and other current and former aggrieved California-based hourly non-exempt employees being subject to the control of Employers when they worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven days in a workweek, Employers failed to pay them at their overtime rate of pay for all the overtime hours they worked.

Employers' foregoing policies, practices, and/or procedures resulted in Employers failing to pay Employee and other current and former aggrieved California-based hourly non-exempt employees at their overtime rate of pay for all overtime hours worked, in violation of Labor Code sections 510, 1194, 1198, and the Wage Order.

Based on these violations, Employee intends to seek civil penalties pursuant to PAGA, Labor Code sections 2698, *et seq.*, and 558, subdivisions (a)(1)-(2) on behalf of LWDA against Employers if authorized to file a representative action on behalf of the State of California. As a derivative claim of Employers' failure to pay overtime wages for overtime hours worked, Employee will seek statutory penalties under Labor Code 226(a)(1) because the failure to pay such overtime wages rendered Employee's and other current and former aggrieved, California-based, hourly non-exempt employees' pay calculations inaccurate and in violation of Labor Code section 226(e)(2)(B)(i).

3. *Failure to Authorize or Permit Meal Periods in Violation of Labor Code Sections 512 and 226.7 and/or Failure to Pay Meal Period Premiums*

Employee alleges that during her employment, Employers failed to authorize or permit all legally required and compliant meal periods and/or pay meal period premiums. California law requires an employer to provide an employee an uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of all duties and the employer relinquishes control over the employee's activities prior to the employee's sixth hour of work. Labor Code §§226.7, 512; Wage Order 5, §11; *Brinker Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second such meal period of not less than thirty (30) minutes

prior to the start of the eleventh hour of work. *Id.* If the employer requires the employee to remain at the work site or facility during the meal period, the meal period must be paid. This is true even where the employee is relieved of all work duties during the meal period. *Bono Enterprises, Inc. v. Bradshaw* (1995) 32 Cal.App.4th 968. If an employer fails to provide an employee a meal period in accordance with the law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally required and compliant meal period was not provided. Labor Code §226.7; Wage Order 5, §11.

Employee alleges that Employers failed to authorize or permit her and other current and former aggrieved California-based hourly non-exempt employees to take all legally required and compliant meal periods due to Employers' policies, practices, and/or procedures including, but not limited to, the following:

- Limiting Employee and other current and former aggrieved California-based hourly non-exempt employees' pay to the scheduled hours set by Defendants despite that Employee and other current and former aggrieved California-based hourly non-exempt employees routinely worked beyond the hours Defendants scheduled;
- Automatically deducting thirty (30) minutes from Employee and other current and former aggrieved California-based hourly non-exempt employees' daily work hours and attributing that time to a meal period, despite that Defendants routinely failed to provide Employee and other current and former aggrieved California-based hourly non-exempt employees with uninterrupted, duty-free 30-minute meal periods; and/or,
- Automatically deducting thirty (30) minutes from Employee and other current and former aggrieved California-based hourly non-exempt employees who worked as home health aides' daily hours worked and attributing that time to a meal period despite Defendants' requirement that Employee and other current and former aggrieved California-based hourly non-exempt employees who worked as home health aides remain on-duty during their meal breaks due to Defendants' requirement that they not leave patients alone coupled with Defendants' failure schedule another home health aide to cover the duties of Employee and other current and former aggrieved California-based hourly non-exempt employees who worked as home health aides during their meal periods and thereby allowing them to take a duty-free meal periods.

Additionally, Employee alleges that Employers maintained a policy, practice, and/or procedure whereby they failed to pay Employee and other current and former aggrieved California-based hourly non-exempt employees a meal period premium wage of one (1) additional hour of pay at their regular rate of compensation for each workday that they did not receive all legally required and compliant meal periods, in violation of Labor Code section 226.7 and Wage Order 5 at § 11.

Based on these violations, Employee intends to seek civil penalties pursuant to PAGA, Labor Code sections 2698, *et seq.*, on behalf of LWDA against Employers if authorized to file a representative action on behalf of the State of California. As a derivative claim of Employers' failure to authorize or permit all legally required and compliant meal periods and/or failure to pay

meal period premium wages, Employee will seek statutory penalties under Labor Code section 226(a)(1) because the failure to pay meal period premiums and/or pay meal period premiums rendered Employee's and other current and former aggrieved California-based hourly non-exempt employees' pay calculations inaccurate and in violation of Labor Code section 226(e)(2)(B)(i).

4. *Failure to Authorize or Permit Rest Periods in Violation of Labor Code Section 226.7 and/or Failure to Pay Rest Period Premiums*

Employee alleges that during her employment, Employer failed to authorize or permit all legally required and compliant rest periods and/or failed to pay rest period premiums. California law requires that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof..." Wage Order 5, § 12. "Employees are entitled to 10 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7. Additionally, the rest period requirement "obligates Employer to permit – and authorizes employees to take – off-duty rest periods." *Augustus v. ABM Security Services, Inc.* (2016) 5 Cal.5th 257, 269. That is, during rest periods an employer must relieve employees of all duties and relinquish control over how employees spend their time. *Id.* If the employer fails to authorize or permit a required rest period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay for each workday the employer did not authorize or permit a legally required rest period. Labor Code section 226.7; Wage Order 5 at § 12.

Employee alleges that Employer failed to authorize or permit her and other current and former aggrieved California-based hourly non-exempt employees to take all legally required and compliant rest periods due to Employer's policies, practices, and/or procedures including, but not limited to, the following:

- Automatically deducting thirty (30) minutes from Employee and other current and former aggrieved California-based hourly non-exempt employees' daily work hours and attributing that time to a meal period, despite that Defendants routinely failed to provide Employee and other current and former aggrieved California-based hourly non-exempt employees with uninterrupted, duty-free 30-minute meal periods; and/or,
- Automatically deducting thirty (30) minutes from Employee and other current and former aggrieved California-based hourly non-exempt employees who worked as home health aides' daily hours worked and attributing that time to a meal period despite Defendants' requirement that Employee and other current and former aggrieved California-based hourly non-exempt employees who worked as home health aides remain on-duty during their meal breaks due to Defendants' requirement that they not leave patients alone coupled with Defendants' failure schedule another home health aide to cover the duties of Employee and other current and former aggrieved California-based hourly non-exempt

employees who worked as home health aides during their meal periods and thereby allowing them to take a duty-free meal periods.

Additionally, Employee alleges that Employer maintained a policy, practice, and/or procedure whereby they failed to pay Employee and other current and former aggrieved California-based hourly non-exempt employees a rest period premium wage of one (1) additional hour of pay at their regular rate of compensation for each workday that they did not receive all legally required and compliant rest periods, in violation of Labor Code section 226.7 and Wage Order 5 at § 12.

Based on these violations, Employee intends to seek civil penalties pursuant to PAGA, Labor Code sections 2698, et seq., on behalf of LWDA against Employer if authorized to file a representative action on behalf of the State of California. As a derivative claim of Employer's failure to authorize or permit all legally required and compliant rest periods and/or failure to pay rest period premium wages, Employee will seek statutory penalties under Labor Code section 226(a)(1) because the failure to pay rest period premiums and/or pay rest period premiums rendered Employee's and other current and former aggrieved California-based hourly non-exempt employees' pay calculations inaccurate and in violation of Labor Code section 226(e)(2)(B)(i).

5. *Failure to Indemnify Employees for Employment-Related Expenditures in Violation of Labor Code Section 2802*

Employee alleges that during his employment, Employers failed to indemnify her and other current and former aggrieved California-based hourly non-exempt employees for all necessary expenditures or losses incurred by them in the discharge of their duties. Labor Code section 2802(a) states, "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer..."

Employee alleges that during her employment, Employers failed to indemnify her and other current and former aggrieved California-based hourly non-exempt employees for all necessary expenditures or losses incurred by them in the discharge of their duties due to Employers' policies, practices, and/or procedures including, but not limited to, the following:

- Requiring Employee and other current and former aggrieved California-based hourly non-exempt employees to use their personal vehicles for work-related purposes including travel to and from different job sites and between clients without reimbursing Employee and other current and former aggrieved California-based hourly non-exempt employees for the costs associated with such use.

Employers' aforementioned policies, practices, and/or procedures resulted in Employee and other current and former aggrieved California-based employees not receiving indemnification for employment-related expenditures, in violation of Labor Code 2802.

Based on this violation, Employee will seek both restitution for herself and other current and former aggrieved California-based employees for Employers' violations of Labor Code

section 2802 and will seek civil penalties under PAGA, Labor Code sections 2698, et seq., on behalf of the LWDA against Employers if authorized to file a representative action on behalf of the State of California.

6. *Failure to Timely Pay Earned Wages During Employment in Violation of Labor Code Section 204*

Employee alleges that during her employment, Employers failed to timely pay Employee's and other current and former aggrieved California-based hourly non-exempt employees' earned wages. In California, wages must be paid at least twice during each calendar month on days designated in advance by the employer as regular paydays, subject to some exceptions. Labor Code §204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th and the 26th day of that month and wages earned between the 16th and the last day, inclusive, of any calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid within seven (7) calendar days following the close of the payroll period in which wages were earned. Labor Code §204(d).

As a derivative of Employee's claims above, Employee alleges that Employers failed to timely pay her and other current and former aggrieved California-based hourly non-exempt employees' earned wages (including minimum wages, overtime wages, meal period premium wages), in violation of Labor Code section 204. Employers' aforementioned policies, practices, and/or procedures resulted in Employers failing to pay Employee and other current and former aggrieved California-based hourly non-exempt employees their earned wages within the applicable time frames outlined in Labor Code 204.

Based on these violations, Employee intends to seek civil penalties pursuant to PAGA, Labor Code sections 2698, et seq., on behalf of LWDA against Employers if authorized to file a representative action on behalf of the State of California.

7. *Failure to Provide Accurate Wage Statements*

Labor Code section 226(a) states that "[a]n employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee...an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee...(3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer...and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...."

Employee alleges that as a derivative of Employee's claims above, Employers failed to provide accurate wage and hour statements to Employee and other current and former aggrieved California-based hourly non-exempt employees who were subject to Employers' control for uncompensated time and who did not receive all their earned wages (including minimum wages, overtime wages, and meal period premium wages), in violation of Labor Code section 226.

Based on these violations, Employee will seek civil penalties under Labor Code section 226.3, and PAGA, Labor Code sections 2698, *et seq.*, on behalf of LWDA, against Employers if authorized to file a representative action on behalf of the State of California.

8. Failure to Timely Pay Final Wages

Labor Code section 201(a) states that "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code section 202(a) continues, "[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter...." Finally, Labor Code section 203(a) provides, "[i]f an employer willfully fails to pay...any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days...."

As a result of the aforementioned violations of the Labor Code, Employee alleges that she was not paid her final wages in a timely manner as required by Labor Code section 203. Earned wages (including minimum wages, overtime wages, meal period premium wages, and rest period premium wages) (all described above), were not paid at the time of Employee's separation of employment. Employee is informed and believes and thereon alleges that former aggrieved California-based hourly non-exempt employees who separated from Employers, whether voluntarily or involuntarily, were not paid all wages due in a timely manner, as required by Labor Code sections 201, 202, and 203.

Based on these violations, Employee will seek civil penalties under PAGA, Labor Code sections 2698, *et seq.*, on behalf of LWDA, against Employers if authorized to file a representative action on behalf of the State of California.

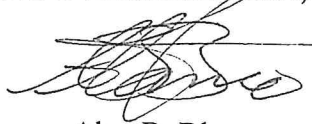
9. Employers' Other Violations of the California Labor Code

Finally, pursuant to *Huff v. Securitas Security Services USA, Inc.* (2018) 25 Cal.App.5th 745 ("*Huff*"), as an aggrieved employee, Employee has standing, and intends, on behalf of LWDA, to pursue civil penalties against Employers for any and all other Labor Code violations committed by Employers. In *Huff*, the California Court of Appeals held that an employee alleging a single violation of the Labor Code under PAGA may also bring PAGA claims against the employer for all other alleged Labor Code violations, even those suffered by other employees of the same employer. According to the *Huff* decision, Employee, as an "aggrieved" employee affected by at least one Labor Code violation may, and hereby does, pursue penalties on behalf of LWDA for unrelated Labor Code violations by Employers.

CONCLUSION

Our client intends to file a representative action pursuant to PAGA concerning her wage claims as warranted by Employers' violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1198, and the IWC Wage Orders. This letter is being sent to you as an inquiry into whether LWDA wishes to investigate our client's claims for civil penalties associated with Employers' violations of the Labor Code, as alleged herein. Thank you for your assistance and cooperation in this matter. If you have any questions or concerns, please contact me at the above-listed information.

Very truly yours,
LAVI & EBRAHIMIAN, LLP

A handwritten signature in black ink, appearing to read 'Alan B. Blanco', is written over a horizontal line.

Alan B. Blanco

Exhibit 3

Exhibit 4

AMENDMENT NO. 1 TO SETTLEMENT AGREEMENT AND RELEASE

Plaintiff Rose Chingofor (“Plaintiff”) on behalf of herself and on behalf of others similarly situated, and Defendant Attentive Home Care, Inc. (“Defendant”) pursuant to Section i, on page 14 of the Settlement Agreement and Release entered into on or around October 24, 2022 (“Settlement Agreement”), hereby agree to amend and supplant the Settlement Agreement, as stated herein. The amendments stated herein are incorporated by this reference:

A. Section II.B.1 of the Settlement Agreement is hereby amended to state as follows:

The Parties agree that for purposes of this settlement, the NSA to be distributed to Class Members shall be attributed as follows: 33.33% as wages and 66.67% as penalties and interest. The portions paid as penalties and interest shall be reported via an IRS 1099 form, and portions attributed to wages shall be paid via an IRS form W-2. The Class Members are responsible for their share of the payroll taxes, which shall be deducted from their individual settlement payments. Defendant is responsible for the employer payroll taxes, and these taxes will not be deducted from the NSA. Payments to the PAGA Settlement Group from the PAGA Settlement Amount will be attributed 100% to penalties and reported via an IRS 1099 form.

B. Section II.B.2.c of the Settlement Agreement is hereby amended to state as follows:

In order for any Class Member to validly exclude himself or herself from the Class and this Resolution (i.e., to validly opt out), a written request for exclusion (“Request to be Excluded”) must be signed by the Class Member or his or her authorized representative and must be sent to the Settlement Administrator, postmarked by no later than the Response Deadline, or if applicable the Extended Response Deadline. Class Members may also submit a completed and signed Exclusion Form. The Notice of Proposed Class Action Resolution shall contain instructions on how to opt out as well as an Exclusion Form. Members of the PAGA Settlement Group cannot exclude themselves or opt out of the PAGA portion of the Settlement and will remain a PAGA Settlement Group member even if they exclude themselves from the Class.

C. Section II.B.b.4 of the Settlement Agreement is hereby amended to state as follows:

For each Class Member, the Workweek Dispute Form will identify the number of Qualified Workweeks that she/he was employed and inform the employee of his or her right to dispute this number by completing and returning the form within forty-five (45) days of the postmark date of the Notice (i.e., the Response Deadline). A Class Member's receipt of settlement proceeds is not conditional on the submission of the Workweek Dispute Form. Absent the receipt of a Workweek Dispute Form, the number of workweeks identified in the Workweek Dispute Form shall be determined to be accurate. The Settlement Administrator will work with the Parties to resolve any work week disputes. In the event that the Settlement Administrator and the Parties cannot resolve the work week dispute, the Court will decide.

D. Exhibit B of the Settlement Agreement (the "Notice of Proposed Settlement and Fairness Hearing") **will be replaced with the revised** Notice of Proposed Settlement and Fairness Hearing attached hereto as **Exhibit A**.

APPROVED AND ACCEPTED.

Rose Chingofor:

Signature

DocuSigned by:

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April 10, 2023

Date

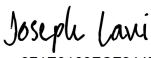
Attentive Home Care, Inc.

Signature

Date

APPROVED AS TO FORM:

Counsel for Plaintiff, Lavi & Ebrahimian, LLP:

DocuSigned by:

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Signature

April 10, 2023

Date

C. Section II.B.b.4 of the Settlement Agreement is hereby amended to state as follows:

For each Class Member, the Workweek Dispute Form will identify the number of Qualified Workweeks that she/he was employed and inform the employee of his or her right to dispute this number by completing and returning the form within forty-five (45) days of the postmark date of the Notice (i.e., the Response Deadline). A Class Member's receipt of settlement proceeds is not conditional on the submission of the Workweek Dispute Form. Absent the receipt of a Workweek Dispute Form, the number of workweeks identified in the Workweek Dispute Form shall be determined to be accurate. The Settlement Administrator will work with the Parties to resolve any work week disputes. In the event that the Settlement Administrator and the Parties cannot resolve the work week dispute, the Court will decide.

D. Exhibit B of the Settlement Agreement (the "Notice of Proposed Settlement and Fairness Hearing") **will be replaced with the revised Notice of Proposed Settlement and Fairness Hearing attached hereto as Exhibit A.**

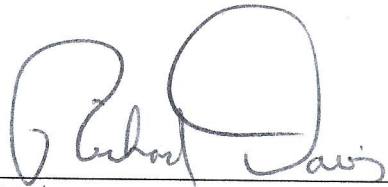
APPROVED AND ACCEPTED.

Rose Chingofor:

Signature

Date

Attentive Home Care, Inc.



Signature

04/14/23

Date

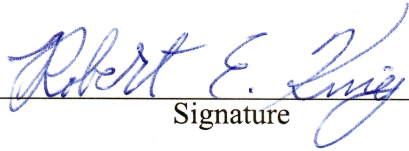
APPROVED AS TO FORM:

Counsel for Plaintiff, Lavi & Ebrahimian, LLP:

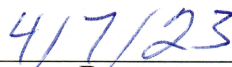
Signature

Date

Counsel for Defendant Attentive Home Care, Inc., Legally Nanny:



Signature

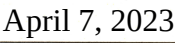


Date

Counsel for Defendant Attentive Home Care, Inc., CDF Labor Law LLP:



Signature



Date

Exhibit A

CHINGOFOR v. ATTENTIVE HOME CARE, INC.
Orange County Superior Court Case Number 30-2021-01220181-CU-OE-CXC
A court authorized this notice. This is not a solicitation. You are not being sued.

NOTICE OF PROPOSED SETTLEMENT AND FAIRNESS HEARING

If you were employed by Attentive Home Care, Inc. (“Defendant”) in the State of California as an hourly-paid or non-exempt employee during the period from September 8, 2017 to August 31, 2022, then you may get money from a class action settlement.

YOUR RIGHTS AND OPTIONS REGARDING THE SETTLEMENT	
<u>You may:</u>	<u>What will happen:</u>
Do nothing	You will get your settlement payment and give up the right to bring your own lawsuit for the Released Class Claims. See below.
Submit a workweeks dispute	A decision will be made regarding the number of workweeks based on the information in the evidence submitted. You will get your settlement payment and give up the right to bring your own lawsuit for the same claims. See below.
Request to be excluded from the settlement	You will not receive any payment. You will retain the right to file your own lawsuit for the same claims. See below. Even if you exclude yourself from the Class, if you are a member of the PAGA Settlement Group, you cannot exclude yourself from the Released PAGA Claims described below.
Object to the terms of the settlement	The court will consider your objection. If the court overrules your objection, you will still be bound by the terms of the settlement. See below.

I. What is the purpose of this notice?

The purpose of this notice is to let you know that there is a class action lawsuit pending in the Superior Court of California for the County of Orange, a proposed class settlement has been reached, and you may be a member of the class. This lawsuit was filed by a former employee of Defendant named Rose Chingofor (“Plaintiff”), Case Number 30-2021-01220181-CU-OE-CXC (“the Lawsuit”). The First Amended Class Action Complaint claims that Defendant allegedly failed to pay all wages including minimum wages, overtime wages, failed to provide meal periods, failed to provide rest periods, failed to provide reimbursement for business expenses, failed to provide accurate wage statements, failed to timely pay wages during employment, owes waiting time penalties, had unfair business practices, and owes penalties under the California Labor Code Private Attorneys’ General Act (Cal. Labor Code sections 2698 and 2699 “PAGA”). On [date of

preliminary approval], the Honorable Richard Sherman, Judge of the Orange County Superior Court, who is overseeing this class action, ordered that you be sent this Notice. The Court file contains the settlement documents with more information on the Lawsuit. You may access these documents creating an account with the Orange County Superior Court here: <https://www.occourts.org/online-services/case-access/>, selecting Civil Case Access, and entering Case Number 30-2021-01220181-CU-OE-CXC where prompted.

II. Why does Plaintiff seek settlement approval?

Plaintiff seeks approval of the settlement because she has reached a proposed settlement with Defendant that she believes to be fair, reasonable, and adequate and in the best interests of the members of the class and all parties that resolves the uncertainties in this case. Please note that the Court has only determined that there is sufficient evidence to suggest that the proposed settlement might be fair, reasonable, and adequate and any final determination of those issues will be made at the final hearing, and that you should get a copy of this Notice so that you can review the settlement and determine whether you want to participate in the settlement, object to it, or exclude yourself from the settlement.

III. What is Defendant's position on settlement?

Defendant denies that any of its practices at issue in this Lawsuit were or are unlawful and Defendant is not admitting to any allegations in the case. Defendant believes it would prevail at a trial of this case. Defendant views the settlement as a compromise, to which it has agreed in order to avoid the burden and expense of continued litigation.

IV. Why did I get this Notice?

You received this Notice because Defendant's records identify you as a member of the Class. You are a member of the Class and you may get money from the settlement if you worked for Defendant as an hourly-paid or non-exempt employee in the State California during the period from September 8, 2017 to August 31, 2022, (the "Class Period"). Specifically, the "Class Member" is defined as follows:

All current and former hourly-paid or non-exempt individuals employed by Defendant within the State of California at any time during the period from September 8, 2017 to August 31, 2022.

Class Members who also worked between September 8, 2020 through August 31, 2022 ("PAGA Period") will be deemed a member of the "PAGA Settlement Group" and will receive a share of the PAGA Settlement Amount.

V. Who are the parties in this class action?

This lawsuit was filed against Defendant. Rose Chingofor, a former hourly-paid, non-exempt employee of Defendant, is the Plaintiff who brought the action on behalf of herself and all similarly situated hourly non-exempt employees in the state of California, as described above. The parties are settling the Lawsuit.

VI. Who are the attorneys for the parties?

Counsel for Plaintiff and Class Counsel:

Joseph Lavi, Esq. (SBN 209776)
jlavi@lelawfirm.com
Vincent C. Granberry, Esq. (SBN 276483)
vgranberry@lelawfirm.com
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Blvd., Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
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Counsel for Defendant:

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Joel Van Parys, State Bar No. 227387
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Dalia Z. Khatib, State Bar No. 323712
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LEGALLY NANNY®
Robert E. King, State Bar No. 198325
info@legallynanny.com
37 Trailwood
Irvine, CA 92620-1216
Telephone: (714) 336-8864

VII. What is the proposed settlement?

Defendant has agreed to pay a settlement amount of up to Two Hundred Thousand Dollars (\$200,000) ("Settlement Amount"). The following will be deducted from the Settlement Amount to yield the "Net Settlement Amount": (i) Class Counsel's fees in an amount not to exceed \$66,000.00, which is approximately 33% of the Settlement Amount, (ii) Settlement Administrator's costs of administration in the amount of approximately \$10,000.00 ("Administration Costs"), (iii) Plaintiff's incentive award not to exceed \$10,000.00 ("Enhancement Award"), (iv) Class Counsel's costs not to exceed \$20,000.00, and (v) \$20,000.00 as the penalties portion of the Settlement Amount as the PAGA Settlement Amount, 75% of which, or \$15,000.00, will be paid to the California Labor and Workforce Development Agency ("LWDA"), the remaining 25% of the PAGA Settlement Amount, or \$5,000.00, will be paid to the members of the PAGA Settlement Group.

The following is a summary of the settlement provisions. The specific and complete terms of the proposed settlement are stated in the Settlement and Release Agreement between Plaintiff and Defendant ("Settlement Agreement"), a copy of which was filed on December 13, 2022 and attached as Exhibit 1 to the Declaration of Melissa A. Huether, as well as Amendment No. 1 to the Settlement and Release Agreement, a copy of which was filed on April 21, 2023 and attached as Exhibit 1 to the Supplemental Declaration of Melissa A. Huether, both of which were filed with the Clerk of the Court. You may review the terms of the settlement by utilizing the online services section of the Orange County Superior Court website identified above.

Settlement Payment. Defendant has agreed to pay all Class Members who do not submit a written Request to be Excluded or Exclusion Form through the Settlement Administrator in accordance with the terms of the Settlement Agreement and all Aggrieved Employees, after Final Approval of the Settlement.

Defendant will be funding the Settlement Amount in two equal installments. The first installment within three months of the Court granting final approval and the second installment within a year of the first installment. This means you will not receive your settlement payment until after the second installment is made.

The Net Settlement Amount (“NSA”) will be available to pay each Class Member of the Settlement Class who does not request exclusion (“Settlement Class Member”). The lump sum payment to each member of the Settlement Class will be determined by dividing the NSA by the total number of Qualified Workweeks (“Qualified Workweek” means a calendar week during the Class Period in which the Class Member actually worked at least one day (as opposed to being on a leave or not on an assignment)) worked by all members of the Settlement Class during the Class Period (the “Weekly Amount”) and then multiplying the Weekly Amount by the number of Qualified Workweeks by the individual Class Member as determined by the Settlement Administrator. The lump sum payment to each member of the PAGA Settlement Group as defined above will be determined by dividing the individual portion of the PAGA Settlement payment by the total number of Qualified Workweeks worked by all members of the PAGA Settlement Group during the PAGA Period (the “PAGA Weekly Amount”) and then multiplying the PAGA Weekly Amount by the number of PAGA Qualified Workweeks by the individual PAGA Settlement Group member as determined by the Settlement Administrator.

The settlement payments paid to each Settlement Class Member will be allocated as follows: 33.33% will be attributed to wages and will be reported as such on an IRS Form W-2 from which payroll withholding taxes and contributions shall be taken; 66.67% will be attributed to interest and penalties and will be reported on an IRS Form 1099. The parties agree that all Settlement Class Members who receive any payment pursuant to the settlement will be responsible for any and all tax obligations associated with such receipt. All PAGA settlement payments paid to PAGA Settlement Group members will be allocated as one hundred percent (100%) penalties to be reported on a 1099 form. **You will be responsible for correctly characterizing this compensation for tax purposes and paying any taxes that may be due on the payment you receive.**

VIII. What are my rights with regard to this matter?

A. Option One: You May Do Nothing.

If you do not request exclusion from the Class, you will receive a settlement payment and PAGA settlement payment (if you are an PAGA Settlement Group member) based on the information contained below, you will be bound by the Settlement, and you will be barred from separately pursuing the claims released by the Settlement Agreement.

B. Option Two: Workweeks Dispute

If you believe the information below regarding your workweeks is incorrect, you may complete and submit the attached Workweeks Dispute Form and return it to the Settlement Administrator, [REDACTED], at the address provided below **post-marked to the number shown on the bottom of each page of this Notice, on or before <<<Response Deadline>>>**. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether the Workweeks Dispute Form was timely submitted. The Settlement Administrator will

evaluate the information and document(s) you submit and, after reviewing the Company's records, the Settlement Administrator, will work to resolve the dispute with the Parties as to your correct number of workweeks. If the Settlement Administrator and the Parties are unable to resolve your dispute, the Court will decide the dispute.

C. Option Three: You May Exclude Yourself From the Settlement Agreement.

If you do not wish to participate in or be bound by the Settlement Agreement, you must submit to the Settlement Administrator a written signed statement expressing your desire to be excluded from the Settlement ("Request to be Excluded") or you may complete and submit the attached Exclusion Form and submit it to the Settlement Administrator as described on the Exclusion Form. Any such written statement shall include the name (and former names, if any), current address, telephone number and the last four (4) digits of Social Security number of the Class Member and state that you do not wish to participate in the Settlement and be postmarked by <<<Response Deadline>>> and returned to the Settlement Administrator at the specified address. Any Request for Exclusion will not be valid if it is not timely submitted. The date of the postmark on the return mailing envelope on the Request to be Excluded or Exclusion Form shall be the exclusive means used to determine whether the Request for Exclusion was timely submitted. Any Class Member who requests to be excluded from the Class will not be entitled to any recovery under the Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal, or comment thereon. Class Members who fail to submit a valid and timely written Request to be Excluded or Exclusion Form on or before <<< Response Deadline>>> will be bound by all terms of the Settlement Agreement and any final judgment entered in this Action if the Settlement Agreement is approved by the Court. Note that if you are an member of the PAGA Settlement Group, you will receive your PAGA settlement payment even if you request exclusion. You will however not receive a settlement payment and you will retain your right to sue for claims described in the Released Class Claims (described in Section X).

D. Option Four: You May Object to the Settlement.

If you are a Class Member and you do not exclude yourself, you may object to the Settlement before Final Approval of the Settlement by the Court. In order to object to the Settlement, or any portion of it, you must do so in writing, or orally at the Final Approval Hearing. If you wish to object to the Settlement in writing you must complete and submit a written objection which you or your attorney must sign, and which must include a written statement of the grounds of the objection, along with all supporting papers if any. You must send such written objection on or before <<<Response Deadline>>> to the Settlement Administrator. The date of the postmark on the return mailing envelope or fax stamp on objection shall be the exclusive means used to determine whether the objection was timely submitted.

If you do not submit an objection to the Settlement, you may still appear at the Final Approval Hearing and orally object to the Settlement.

Any Class Member who submits a Request for Exclusion will not have the right to object to the Settlement.

IX. How much money will I get if I do not submit a Request for Exclusion?

The estimated gross share you will receive under the settlement if you are a Settlement Class Member and/or PAGA Settlement Group member is described below. The actual amount you receive may be higher or lower than this amount.

Defendant has agreed to pay a Settlement Amount of up to \$200,000 to settle the Lawsuit. The amount you receive depends on your number of Qualified Workweeks. “Qualified Workweek” means a calendar week during the Class Period in which the Class Member actually worked at least one day (as opposed to being on a leave or not on an assignment) you worked during the Class Period for Defendant.

Under the terms of the class action settlement described above, you are entitled to receive a settlement payment in the approximate estimated amount of \$[MERGED_EstSettAmnt_CALC], minus all applicable payroll and tax deductions, after the Court approves the Settlement, and after it goes into effect.

You have been credited with [MERGED] Qualified Workweeks during the Class Period for purposes of calculating your settlement payment.

Based on your dates of employment with Defendant as an hourly non-exempt employee, you <<ARE>><<ARE NOT>> a member of the PAGA Settlement Group.

You have been credited with [MERGED] Qualified Workweeks during the PAGA Period for purposes of calculating your settlement payment.

You are entitled to receive a PAGA Settlement Payment in the estimated amount of \$[MERGED_EstSettAmnt_CALC].

You will have 180 days to cash your check. If you do not cash your check within 180 days, the funds from the uncashed checks funds shall be distributed to the California State Controller’s Office: Unclaimed Property in the name of the individual who did not cash their check.

X. What is the effect of the settlement on my rights?

Upon the Date of Final Approval and full funding of the Settlement Amount, Class Representative and all Class Members, except those who make a valid and timely request to be excluded from the Class, will release any and all claims and causes of action against Defendant and their franchisors, owners, officers, shareholders, partners, members, customers, agents and employees, and all related or affiliated entities (“Released Parties”), arising out of the facts and claims asserted in the Action, or any other claims or causes of action that could have reasonably been asserted in the Action, based upon the facts alleged, including but not limited to California Labor Code §§201-04, 226, 226.7, 510, 512, 1194, 1197, and 2802, and relevant sections of the applicable Wage Orders, and for failure to pay wages for all hours worked at minimum wage, failure to pay overtime wages for daily overtime worked, failure to authorize or permit meal periods, failure to authorize or permit rest periods, failure to indemnify employees for employment-based losses/expenses, failure to timely pay earned wages, failure to provide complete and accurate wage statements,

failure to timely pay all earned wages and final paychecks due at the time of separation, unfair business practices in violation of Business and Professions Code section 17200, *et seq.*, claims for civil penalties pursuant to the California Labor Code, and any comparable claims that were or could have been asserted based on the facts alleged in the Operative Complaint and asserted in the Action arising during the Class Period (“Released Class Claims”).

Upon the Date of Final Approval and full funding of the Settlement Amount, Plaintiff, the State of California, the LWDA, and the PAGA Settlement Group will release any and all claims against the Released Parties for civil penalties pursuant to PAGA under California Labor Code section 2698, *et seq.* based on the violations of the Labor Code alleged and asserted in Plaintiff’s September 8, 2021 LWDA Notice and as asserted in the Operative Complaint arising during the PAGA Period (“Released PAGA Claims”).

If the Settlement Agreement is not approved by the Court or does not become final for some other reason, then the litigation will continue.

XI. What is a “Class Representative Enhancement Award”?

In class actions such as this one, a court may provide the Class Representative a “class representative enhancement award” in recognition of the time, effort and risks the Class Representative took to prosecute the class action and the Class Representative’s execution of a general release of all claims. Plaintiff Chingofor will request that the Court approve a Class Representative Enhancement Award not to exceed \$10,000, which will be deducted from the Settlement Amount if approved by the Court.

XII. Why does the Labor Workforce Development Agency receive any money?

PAGA allows private citizens to step into the State’s shoes and recover civil penalties for alleged violations of California’s Labor Code. Seventy-five (75%) percent of any such recovery must be given to the State. In the present case, the Settlement provides that \$15,000 be paid to the State as its share of the penalties recovered in this case.

XIII. How much will the attorneys for Plaintiff get?

Plaintiff’s Attorneys and/or Plaintiff will seek approval from the Court for payment of attorneys’ fees in an amount up to 33.3% of the Settlement Amount or \$66,000, plus costs for reimbursement of litigation costs expended in prosecution of the action not to exceed \$20,000. These amounts, if approved by the Court, will be deducted from the Settlement Amount.

XIV. Who is the Settlement Administrator?

The Settlement Administrator is an independent third party appointed by the Court to send this notice, process and issue settlement checks, and otherwise administer the settlement. It is estimated that it will cost approximately \$10,000 for the Settlement Administrator to fully administer the settlement. The Court has approved CPT Group to be the Settlement Administrator in this case. You may contact the Settlement Administrator to provide updated contact information, make corrections regarding your employment information at the Company, or ask questions regarding the processing of settlement payments. **It is your responsibility to keep a**

current address on file with the Settlement Administrator to ensure receipt of your settlement payment. You may contact the Settlement Administrator at:

Chingofor v. Attentive Home Care, Inc. Settlement Administrator

c/o _____

FAX NUMBER: _____

EMAIL: _____

XV. When will the Court consider whether to finally approve the Settlement?

The Court will hold a Final Approval/Settlement Fairness Hearing in Department CX105 of the Orange County Superior Court, located at 700 Civic Center Drive West, Santa Ana, California 92701 on _____, to decide whether to finally approve the settlement as fair, reasonable, and adequate. At that time, the Court also will be asked to approve Plaintiff's Attorneys' request for attorneys' fees and reimbursement of costs, Administration Costs, and the Class Representative Enhancement Award. The hearing may be postponed without further notice to the Class. If the Settlement is not approved, the lawsuit will continue to be prepared for trial or other judicial resolution.

Questions? You can contact the Settlement Administrator or Plaintiff's Attorneys at the numbers listed above.

DO NOT TELEPHONE THE COURT REGARDING THE SETTLEMENT OR THE SETTLEMENT ADMINISTRATION PROCESS.

CHINGOFOR v. ATTENTIVE HOME CARE, INC.
Orange County Superior Court Case Number 30-2021-01220181-CU-OE-CXC

EXCLUSION FORM

If you do not want to be part of the Settlement, you must submit this written request by mail to be excluded from the Settlement to the Settlement Administrator at *Chingofor v. Attentive Home Care, Inc.* Settlement, [address], [City], [State] [Zip], postmarked on or before **[Response Deadline]** at:

Chingofor v. Attentive Home Care, Inc. Settlement Administrator

c/o _____

FAX NUMBER: _____

EMAIL: _____

If you do not submit this Exclusion Form or a written Request to be Excluded, on or before [Response Deadline], you will be deemed a Settlement Class Member, you will receive a settlement payment, and you will be bound by the Class Release and release the Class Released Claims as described in the Notice and all other terms of the Settlement, whether favorable or not.

If you submit this Exclusion Form, you will retain the right to bring an individual claim, and you will not be entitled to any benefits as a result of the Settlement and Release Agreement and will not be entitled to or permitted to assert an objection to the Settlement. Note that even if you exclude yourself from the Class Release, you will remain a member of the PAGA Settlement Group (if you worked for Defendant as a Class Member between September 8, 2020 through August 31, 2022) and receive an PAGA settlement payment.

By submitting this form, you are stating: "I wish to exclude myself from the settlement reached in the matter of *Chingofor v. Attentive Home Care, Inc.* I understand the consequences of excluding myself and understand I will not receive a settlement payment but I will have the option to pursue legal action against Defendant."

In order to be valid, you must provide the following information and sign below:

Full name: _____

Address: _____

City, State, Zip Code: _____

Last four digits of your social security number or Employee ID: _____

Your Signature: _____

CHINGOFOR v. ATTENTIVE HOME CARE, INC.

Orange County Superior Court Case Number 30-2021-01220181-CU-OE-CXC

WORKWEEK DISPUTE FORM

You do NOT have to mail this form to get your settlement share.

TO CLASS MEMBER [MERGED_FirstName] [MERGED_LastName]:

TO RECEIVE MONEY FROM THE SETTLEMENT, YOU DO NOT NEED TO TAKE ANY ACTION.

1. You have received this Notice because you may be a Class Member in this Class Action. You are a Class Member if at any time during the period September 8, 2017 to August 31, 2022 you were employed as an hourly-paid or non-exempt employee at in the Statue of California at Attentive Home Care, Inc.
2. Under the terms of the class action settlement described above, you are entitled to receive a settlement payment in the approximate estimated amount of \$[MERGED_EstSettAmnt_CALC], minus all applicable payroll and tax deductions, after the Court approves the Settlement, and after it goes into effect.
3. You have been credited with [MERGED] Qualified Workweeks during the Class Period for purposes of calculating your settlement payment.
4. If you **DO NOT WANT TO DISPUTE** the amount of Qualified Workweeks being credited to you, **YOU SHOULD NOT RETURN THIS FORM AND DO NOT NEED TO TAKE ANY FURTHER ACTION TO BE ELIGIBLE FOR A SETTLEMENT PAYMENT.**
5. **YOU SHOULD ONLY COMPLETE THIS SECTION IF YOU WANT TO DISPUTE** the number of Qualified Workweeks. To file a dispute you must: (1) check the dispute box below and fully complete the chart that follows, including specifying the dates you were employed at Attentive Home Care, Inc. between September 8, 2017 and August 31, 2022 and providing documents to establish the dates of your employment at Attentive Home Care, Inc. between September 8, 2017 and August 31, 2022; (2) sign this form under penalty of perjury; and (3) mail the completed and signed form to the Settlement Administrator so that it is postmarked no later than [RESPONSE DEADLINE].

Defendant will review records to verify the information contained in the Class Member's file and payment records. Defendant's records will have a rebuttable presumption of correctness. After consultation with the Class Member, Class Counsel, and Defendant, the Settlement Administrator will make a determination that will be final and binding on the Class Member and Defendants and is not appealable. The Settlement Administrator will review all valid dispute forms and notify you of the results by written notice. Late or incomplete disputes, or

disputes that are mailed without a visible postmark date, will not be considered and your settlement payment will be based on the Qualified Workweeks listed above.

QUESTIONS?

CALL THE SETTLEMENT ADMINISTRATOR AT [REDACTED]

☐ I WANT TO DISPUTE the number of Qualified Workweeks credited to me under this Settlement and/or my employment status. I worked the following number of Qualified Workweeks:

	Qualified Workweeks worked at Attentive Home Care, Inc. between September 8, 2017 to August 31, 2022 (i.e., the Class Period)
--	---

BY SIGNING BELOW, THAT I WORKED AS AN HOURLY-PAID OR NON-EXEMPT EMPLOYEE IN CALIFORNIA DURING THE CLASS PERIOD.

Date Signature

Daytime Telephone Number Print Name

Last 4 digits of Social Security Number: ____ _

UNLESS YOU ARE FILING A DISPUTE REGARDING THE NUMBER OF YOUR WORKWEEKS SPECIFIED ABOVE, YOU SHOULD NOT RETURN THIS FORM.

Exhibit 5

AMENDMENT NO. 1 TO SETTLEMENT AGREEMENT AND RELEASE

Plaintiff Rose Chingofor (“Plaintiff”) on behalf of herself and on behalf of others similarly situated, and Defendant Attentive Home Care, Inc. (“Defendant”) pursuant to Section i, on page 14 of the Settlement Agreement and Release entered into on or around October 24, 2022 (“Settlement Agreement”), hereby agree to amend and supplant the Settlement Agreement, as stated herein. The amendments stated herein are incorporated by this reference:

A. Section II.B.1 of the Settlement Agreement is hereby amended to state as follows:

The Parties agree that for purposes of this settlement, the NSA to be distributed to Class Members shall be attributed as follows: ~~20~~33.33% as wages and ~~80~~66.67% as penalties and interest. The portions paid as penalties and interest shall be reported via an IRS 1099 form, and portions attributed to wages shall be paid via an IRS form W-2. The Class Members are responsible for their share of the payroll taxes, which shall be deducted from their individual settlement payments. Defendant is responsible for the employer payroll taxes, and these taxes will not be deducted from the NSA. Payments to the PAGA Settlement Group from the PAGA Settlement Amount will be attributed 100% to penalties and reported via an IRS 1099 form.

B. Section II.B.2.c of the Settlement Agreement is hereby amended to state as follows:

In order for any Class Member to validly exclude himself or herself from the Class and this Resolution (i.e., to validly opt out), a written request for exclusion (“Request to be Excluded”) must be signed by the Class Member or his or her authorized representative and must be sent to the Settlement Administrator, postmarked by no later than the Response Deadline, or if applicable the Extended Response Deadline. Class Members may also submit a completed and signed Exclusion Form. The Notice of Proposed Class Action Resolution shall contain instructions on how to opt out as well as an Exclusion Form. Members of the PAGA Settlement Group cannot exclude themselves or opt out of the PAGA portion of the Settlement and will remain a PAGA Settlement Group member even if they exclude themselves from the Class.

C. Section II.B.b.4 of the Settlement Agreement is hereby amended to state as follows:

For each Class Member, the Workweek Dispute Form will identify the number of Qualified Workweeks that she/he was employed and inform the employee of his or her right to dispute this number by completing and returning the form within forty-five (45) days of the postmark date of the Notice (i.e., the Response Deadline). A Class Member's receipt of settlement proceeds is not conditional on the submission of the Workweek Dispute Form. Absent the receipt of a Workweek Dispute Form, the number of workweeks identified in the Workweek Dispute Form shall be determined to be accurate. The Settlement Administrator ~~will~~with work with the Parties to resolve shall decide any work week disputes. In the event that the Settlement Administrator and the Parties cannot resolve the work week dispute, the Court will decide.

D. Exhibit B of the Settlement Agreement (the "Notice of Proposed Settlement and Fairness Hearing") **will be replaced with the revised** Notice of Proposed Settlement and Fairness Hearing attached hereto as **Exhibit A.**

APPROVED AND ACCEPTED.

Rose Chingofor:

Signature

Date

Attentive Home Care, Inc.

Signature

Date

APPROVED AS TO FORM:

Counsel for Plaintiff, Lavi & Ebrahimian, LLP:

Signature

Date

Counsel for Defendant Attentive Home Care, Inc., Legally Nanny:

Signature

Date

Counsel for Defendant Attentive Home Care, Inc., CDF Labor Law LLP:

Signature

Date

Exhibit A

CHINGOFOR v. ATTENTIVE HOME CARE, INC.
Orange County Superior Court Case Number 30-2021-01220181-CU-OE-CXC
A court authorized this notice. This is not a solicitation. You are not being sued.

NOTICE OF PROPOSED SETTLEMENT AND FAIRNESS HEARING

If you were employed by Attentive Home Care, Inc. (“Defendant”) in the State of California as an hourly-paid or non-exempt employee during the period from September 8, 2017 to August 31, 2022, then you may get money from a class action settlement.

YOUR RIGHTS AND OPTIONS REGARDING THE SETTLEMENT	
<u>You may:</u>	<u>What will happen:</u>
Do nothing	You will get your settlement payment and give up the right to bring your own lawsuit for the Released Class Claims. See below.
Submit a workweeks dispute	A decision will be made regarding the number of workweeks based on the information in the evidence submitted. You will get your settlement payment and give up the right to bring your own lawsuit for the same claims. See below.
Request to be excluded from the settlement	You will not receive any payment. You will retain the right to file your own lawsuit for the same claims. See below. <u>Even if you exclude yourself from the Class, if you are a member of the PAGA Settlement Group, you cannot exclude yourself from the Released PAGA Claims described below.</u>
Object to the terms of the settlement	The court will consider your objection. If the court overrules your objection, you will still be bound by the terms of the settlement. See below.

I. What is the purpose of this notice?

The purpose of this notice is to let you know that there is a class action lawsuit pending in the Superior Court of California for the County of Orange, a proposed class settlement has been reached, and you may be a member of the class. This lawsuit was filed by a former employee of Defendant named Rose Chingofor (“Plaintiff”), Case Number 30-2021-01220181-CU-OE-CXC (“the Lawsuit”). The First Amended Class Action Complaint claims that Defendant allegedly failed to pay all wages including minimum wages, overtime wages, failed to provide meal periods, failed to provide rest periods, failed to provide reimbursement for business expenses, failed to provide accurate wage statements, failed to timely pay wages during employment, owes waiting time penalties, had unfair business practices, and owes penalties under the California Labor Code Private Attorneys’ General Act (Cal. Labor Code sections 2698 and 2699 “PAGA”). On [date of

preliminary approval], the Honorable Richard Sherman, Judge of the Orange County Superior Court, who is overseeing this class action, ordered that you be sent this Notice. The Court file contains the settlement documents with more information on the Lawsuit. You may access these documents creating an account with the Orange County Superior Court here: <https://www.occourts.org/online-services/case-access/>, selecting Civil Case Access, and entering Case Number 30-2021-01220181-CU-OE-CXC where prompted.

II. Why does Plaintiff seek settlement approval?

Plaintiff seeks approval of the settlement because she has reached a proposed settlement with Defendant that she believes to be fair, reasonable, and adequate and in the best interests of the members of the class and all parties that resolves the uncertainties in this case. Please note that the Court has only determined that there is sufficient evidence to suggest that the proposed settlement might be fair, reasonable, and adequate and any final determination of those issues will be made at the final hearing, and that you should get a copy of this Notice so that you can review the settlement and determine whether you want to participate in the settlement, object to it, or exclude yourself from the settlement.

III. What is Defendant's position on settlement?

Defendant denies that any of its practices at issue in this Lawsuit were or are unlawful and Defendant is not admitting to any allegations in the case. Defendant believes it would prevail at a trial of this case. Defendant views the settlement as a compromise, to which it has agreed in order to avoid the burden and expense of continued litigation.

IV. Why did I get this Notice?

You received this Notice because Defendant's records identify you as a member of the Class. You are a member of the Class and you may get money from the settlement if you worked for Defendant as an hourly-paid or non-exempt employee in the State California during the period from September 8, 2017 to August 31, 2022, (the "Class Period"). Specifically, the "Class Member" is defined as follows:

All current and former hourly-paid or non-exempt individuals employed by Defendant within the State of California at any time during the period from September 8, 2017 to August 31, 2022.

Class Members who also worked between September 8, 2020 through August 31, 2022 ("PAGA Period") will be deemed a member of the "PAGA Settlement Group" and will receive a share of the PAGA Settlement Amount.

V. Who are the parties in this class action?

This lawsuit was filed against Defendant. Rose Chingofor, a former hourly-paid, non-exempt employee of Defendant, is the Plaintiff who brought the action on behalf of herself and all similarly situated hourly non-exempt employees in the state of California, as described above. The parties are settling the Lawsuit.

VI. Who are the attorneys for the parties?

Counsel for Plaintiff and Class Counsel:

Joseph Lavi, Esq. (SBN 209776)
jlavi@lelawfirm.com
Vincent C. Granberry, Esq. (SBN 276483)
vgranberry@lelawfirm.com
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Blvd., Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001

Counsel for Defendant:

CDF LABOR LAW LLP
Joel Van Parys, State Bar No. 227387
jvanparys@cdfsaborlaw.com
Dalia Z. Khatib, State Bar No. 323712
dkhatib@cdfsaborlaw.com
900 University Avenue, Suite 200
Sacramento, CA 95825
Telephone: (916) 361-0991

LEGALLY NANNY®
Robert E. King, State Bar No. 198325
info@legallynanny.com
37 Trailwood
Irvine, CA 92620-1216
Telephone: (714) 336-8864

VII. What is the proposed settlement?

Defendant has agreed to pay a settlement amount of up to Two Hundred Thousand Dollars (\$200,000) ("Settlement Amount"). The following will be deducted from the Settlement Amount to yield the "Net Settlement Amount": (i) Class Counsel's fees in an amount not to exceed \$66,000.00, which is approximately 33% of the Settlement Amount, (ii) Settlement Administrator's costs of administration in the amount of approximately \$10,000.00 ("Administration Costs"), (iii) Plaintiff's incentive award not to exceed \$10,000.00 ("Enhancement Award"), (iv) Class Counsel's costs not to exceed \$20,000.00, and (v) \$20,000.00 as the penalties portion of the Settlement Amount as the PAGA Settlement Amount, 75% of which, or \$15,000.00, will be paid to the California Labor and Workforce Development Agency ("LWDA"), the remaining 25% of the PAGA Settlement Amount, or \$5,000.00, will be paid to the members of the PAGA Settlement Group.

The following is a summary of the settlement provisions. The specific and complete terms of the proposed settlement are stated in the Settlement and Release Agreement between Plaintiff and Defendant ("Settlement Agreement"), a copy of which was filed on ~~MPA Filing Date~~ December 13, 2022 and attached as Exhibit 1 to the Declaration of ~~[NAME]~~ Melissa A. Huether, as well as Amendment No. 1 to the Settlement and Release Agreement, a copy of which was filed on April 21, 2023 and attached as Exhibit [] to the Supplemental Declaration of Melissa A. Huether, both of which ~~is~~ were filed with the Clerk of the Court. You may review the terms of the settlement by utilizing the online services section of the Orange County Superior Court website identified above.

Settlement Payment. Defendant has agreed to pay all Class Members who do not submit a written Request to be Excluded or Exclusion Form through the Settlement Administrator in accordance with the terms of the Settlement Agreement and all Aggrieved Employees, after Final Approval of the Settlement.

Defendant will be funding the Settlement Amount in two equal installments. The first installment within three months of the Court granting final approval and the second installment within a year of the first installment. This means you will not receive your settlement payment until after the second installment is made.

The Net Settlement Amount ("NSA") will be available to pay each Class Member of the Settlement Class who does not request exclusion ("Settlement Class Member"). The lump sum payment to each member of the Settlement Class will be determined by dividing the NSA by the total number of Qualified Workweeks ("Qualified Workweek" means a calendar week during the Class Period in which the Class Member actually worked at least one day (as opposed to being on a leave or not on an assignment)) worked by all members of the Settlement Class during the Class Period (the "Weekly Amount") and then multiplying the Weekly Amount by the number of Qualified Workweeks by the individual Class Member as determined by the Settlement Administrator. The lump sum payment to each member of the PAGA Settlement Group as defined above will be determined by dividing the individual portion of the PAGA Settlement payment by the total number of Qualified Workweeks worked by all members of the PAGA Settlement Group during the PAGA Period (the "PAGA Weekly Amount") and then multiplying the PAGA Weekly Amount by the number of PAGA Qualified Workweeks by the individual PAGA Settlement Group member as determined by the Settlement Administrator.

The settlement payments paid to each Settlement Class Member will be allocated as follows: ~~20~~33.33% will be attributed to wages and will be reported as such on an IRS Form W-2 from which payroll withholding taxes and contributions shall be taken; ~~80~~66.67% will be attributed to interest and penalties and will be reported on an IRS Form 1099. The parties agree that all Settlement Class Members who receive any payment pursuant to the settlement will be responsible for any and all tax obligations associated with such receipt. All PAGA settlement payments paid to PAGA Settlement Group members will be allocated as one hundred percent (100%) penalties to be reported on a 1099 form. **You will be responsible for correctly characterizing this compensation for tax purposes and paying any taxes that may be due on the payment you receive.**

VIII. What are my rights with regard to this matter?

A. Option One: You May Do Nothing.

If you do not request exclusion from the Class, you will receive a settlement payment and PAGA settlement payment (if you are an PAGA Settlement Group mmeber) based on the information contained below, you will be bound by the Settlement, and you will be barred from separately pursuing the claims released by the Settlement Agreement.

B. Option Two: Workweeks Dispute

If you believe the information below regarding your workweeks is incorrect, you may complete and submit the attached Workweeks Dispute Form and return it to the Settlement Administrator, [redacted], at the address provided below **post-marked to the number shown on the bottom of each page of this Notice, on or before** <<<Response Deadline>>>. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether the Workweeks Dispute Form was timely submitted. The Settlement Administrator will

evaluate the information and document(s) you submit and, after reviewing the Company's records, the Settlement Administrator, will work to resolve the dispute with the Parties as to your correct number of workweeks. If the Settlement Administrator and the Parties are unable to resolve your dispute, the Court will decide the dispute.

C. Option Three: You May Exclude Yourself From the Settlement Agreement.

If you do not wish to participate in or be bound by the Settlement Agreement, you must submit to the Settlement Administrator a written signed statement expressing your desire to be excluded from the Settlement ("Request to be Excluded") or you may complete and submit the attached Exclusion Form and submit it to the Settlement Administrator as described on the Exclusion Form. Any such written statement shall include the name (and former names, if any), current address, telephone number and the last four (4) digits of Social Security number of the Class Member and state that you do not wish to participate in the Settlement and be postmarked by <<<Response Deadline>>> and returned to the Settlement Administrator at the specified address. Any Request for Exclusion will not be valid if it is not timely submitted. The date of the postmark on the return mailing envelope on the Request to be Excluded or Exclusion Form shall be the exclusive means used to determine whether the Request for Exclusion was timely submitted. Any Class Member who requests to be excluded from the Class will not be entitled to any recovery under the Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal, or comment thereon. Class Members who fail to submit a valid and timely written Request to be Excluded or Exclusion Form on or before <<< Response Deadline>>> will be bound by all terms of the Settlement Agreement and any final judgment entered in this Action if the Settlement Agreement is approved by the Court. Note that if you are a member of the PAGA Settlement Group, you will receive your PAGA settlement payment even if you request exclusion. You will however not receive a settlement payment and you will retain your right to sue for claims described in the Released Class Claims (described in Section X).

D. Option Four: You May Object to the Settlement.

If you are a Class Member and you do not exclude yourself, you may object to the Settlement before Final Approval of the Settlement by the Court. In order to object to the Settlement, or any portion of it, you must do so in writing, or orally at the Final Approval Hearing. If you wish to object to the Settlement in writing you must complete and submit a written objection which you or your attorney must sign, and which must include a written statement of the grounds of the objection, along with all supporting papers if any. If you choose to object to the Settlement, you may enter an appearance by yourself or through an attorney that you hire and pay for yourself. In order to object to the Settlement, or any portion of it you must do so either in writing or orally at the Final Approval Hearing. If you wish to object to the Settlement in writing, you complete and submit a written objection which must be signed by the Class Member make a written statement of the grounds of objection, be signed by the objecting Settlement Class Member or his or her attorney, along with all supporting papers if any. You must send such written objection on or before <<<Response Deadline>>> to the Settlement Administrator. The date of the postmark on the return mailing envelope or fax stamp on objection shall be the exclusive means used to determine whether the objection was timely submitted.

If you do not submit an objection to the Settlement, you may still appear at the Final Approval Hearing and orally object to the Settlement.

-Any Class Member who submits a Request for Exclusion will not have the right to object to the Settlement. ~~Class Members may not object to the settlement of the PAGA claim or the PAGA Release and may not object to the Class Release.~~

IX. How much money will I get if I do not submit a Request for Exclusion?

The estimated gross share you will receive under the settlement if you are a Settlement Class Member and/or PAGA Settlement Group member is described below. The actual amount you receive may be higher or lower than this amount.

Defendant has agreed to pay a Settlement Amount of up to \$200,000 to settle the Lawsuit. The amount you receive depends on ~~the—your~~ number of Qualified Workweeks. (“Qualified Workweek” means a calendar week during the Class Period in which the Class Member actually worked at least one day (as opposed to being on a leave or not on an assignment)_you worked during the Class Period for Defendant.

Under the terms of the class action settlement described above, you are entitled to receive a settlement payment in the approximate estimated amount of \$[**MERGED_EstSettAmnt_CALC**], minus all applicable payroll and tax deductions, after the Court approves the Settlement, and after it goes into effect.

You have been credited with [**MERGED**] Qualified Workweeks during the Class Period for purposes of calculating your settlement payment.

Based on your dates of employment with Defendant as an hourly non-exempt employee, you **<<ARE>><<ARE NOT>>** a member of the PAGA Settlement Group.

You have been credited with [**MERGED**] Qualified Workweeks during the PAGA Period for purposes of calculating your settlement payment.

You are entitled to receive a PAGA Settlement Payment in the estimated amount of \$[**MERGED_EstSettAmnt_CALC**].

You will have 180 days to cash your check. If you do not cash your check within 180 days, the funds from the uncashed checks funds shall be ~~redistributed to those Class Members who cashed their checks~~distributed to the California State Controller’s Office: Unclaimed Property in the name of the individual who did not cash their check.

X. What is the effect of the settlement on my rights?

Upon the Date of Final Approval and full funding of the Settlement Amount, Class Representative and all Class Members, except those who make a valid and timely request to be excluded from the Class, will release any and all claims and causes of action against Defendant and their franchisors, owners, officers, shareholders, partners, members, customers, agents and employees, and all

related or affiliated entities (“Released Parties”), arising out of the facts and claims asserted in the Action, or any other claims or causes of action that could have reasonably been asserted in the Action, based upon the facts alleged, including but not limited to California Labor Code §§201-04, 226, 226.7, 510, 512, 1194, 1197, and 2802, and relevant sections of the applicable Wage Orders, and for failure to pay wages for all hours worked at minimum wage, failure to pay overtime wages for daily overtime worked, failure to authorize or permit meal periods, failure to authorize or permit rest periods, failure to indemnify employees for employment-based losses/expenses, failure to timely pay earned wages, failure to provide complete and accurate wage statements, failure to timely pay all earned wages and final paychecks due at the time of separation, unfair business practices in violation of Business and Professions Code section 17200, *et seq.*, claims for civil penalties pursuant to the California Labor Code, and any comparable claims that were or could have been asserted based on the facts alleged in the Operative Complaint and asserted in the Action arising during the Class Period (“Released Class Claims”).

Upon the Date of Final Approval and full funding of the Settlement Amount, Plaintiff, the State of California, the LWDA, and the PAGA Settlement Group will release any and all claims against the Released Parties for civil penalties pursuant to PAGA under California Labor Code section 2698, *et seq.* based on the violations of the Labor Code alleged and asserted in Plaintiff’s September 8, 2021 LWDA Notice and as asserted in the Operative Complaint arising during the PAGA Period (“Released PAGA Claims”).

If the Settlement Agreement is not approved by the Court or does not become final for some other reason, then the litigation will continue.

XI. What is a “Class Representative Enhancement Award”?

In class actions such as this one, a court may provide the Class Representative a “class representative enhancement award” in recognition of the time, effort and risks the Class Representative took to prosecute the class action and the Class Representative’s execution of a general release of all claims. Plaintiff Chingofor will request that the Court approve a Class Representative Enhancement Award not to exceed \$10,000, which will be deducted from the Settlement Amount if approved by the Court.

XII. Why does the Labor Workforce Development Agency receive any money?

PAGA allows private citizens to step into the State’s shoes and recover civil penalties for alleged violations of California’s Labor Code. Seventy-five (75%) percent of any such recovery must be given to the State. In the present case, the Settlement provides that \$15,000 be paid to the State as its share of the penalties recovered in this case.

XIII. How much will the attorneys for Plaintiff get?

Plaintiff’s Attorneys and/or Plaintiff will seek approval from the Court for payment of attorneys’ fees in an amount up to 33.3% of the Settlement Amount or \$66,000, plus costs for reimbursement of litigation costs expended in prosecution of the action not to exceed \$20,000. These amounts, if approved by the Court, will be deducted from the Settlement Amount.

XIV. Who is the Settlement Administrator?

The Settlement Administrator is an independent third party appointed by the Court to send this notice, process and issue settlement checks, and otherwise administer the settlement. It is estimated that it will cost approximately \$10,000 for the Settlement Administrator to fully administer the settlement. The Court has approved CPT Group to be the Settlement Administrator in this case. You may contact the Settlement Administrator to provide updated contact information, make corrections regarding your employment information at the Company, or ask questions regarding the processing of settlement payments. **It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your settlement payment.** You may contact the Settlement Administrator at:

Chingofor v. Attentive Home Care, Inc. Settlement Administrator

c/o _____

FAX NUMBER: _____

EMAIL: _____

XV. When will the Court consider whether to finally approve the Settlement?

The Court will hold a Final Approval/Settlement Fairness Hearing in Department CX105 of the Orange County Superior Court, located at 700 Civic Center Drive West, Santa Ana, California 92701 on _____, to decide whether to finally approve the settlement as fair, reasonable, and adequate. At that time, the Court also will be asked to approve Plaintiff's Attorneys' request for attorneys' fees and reimbursement of costs, Administration Costs, and the Class Representative Enhancement Award. The hearing may be postponed without further notice to the Class. If the Settlement is not approved, the lawsuit will continue to be prepared for trial or other judicial resolution.

Questions? You can contact the Settlement Administrator or Plaintiff's Attorneys at the numbers listed above.

DO NOT TELEPHONE THE COURT REGARDING THE SETTLEMENT OR THE SETTLEMENT ADMINISTRATION PROCESS.

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EXCLUSION FORM

If you do not want to be part of the Settlement, you must submit this written request by mail to be excluded from the Settlement to the Settlement Administrator at *Chingofor v. Attentive Home Care, Inc.* Settlement, [address], [City], [State] [Zip], postmarked on or before **[Response Deadline]** at:

Chingofor v. Attentive Home Care, Inc. Settlement Administrator

c/o _____

FAX NUMBER: _____

EMAIL: _____

If you do not submit this Exclusion Form or a written Request to be Excluded, on or before [Response Deadline], you will be deemed a Settlement Class Member, you will receive a settlement payment, and you will be bound by the Class Release and release the Class Released Claims as described in the Notice and all other terms of the Settlement, whether favorable or not.

If you submit this Exclusion Form, you will retain the right to bring an individual claim, and you will not be entitled to any benefits as a result of the Settlement and Release Agreement and will not be entitled to or permitted to assert an objection to the Settlement. Note that even if you exclude yourself from the Class Release, you will remain a member of the PAGA Settlement Group (if you worked for Defendant as a Class Member between September 8, 2020 through August 31, 2022) and receive an PAGA settlement payment.

By submitting this form, you are stating: "I wish to exclude myself from the settlement reached in the matter of *Chingofor v. Attentive Home Care, Inc.* I understand the consequences of excluding myself and understand I will not receive a settlement payment but I will have the option to pursue legal action against Defendant."

In order to be valid, you must provide the following information and sign below:

Full name: _____

Address: _____

City, State, Zip Code: _____

Last four digits of your social security number or Employee ID: _____

Your Signature: _____

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WORKWEEK DISPUTE FORM

You do NOT have to mail this form to get your settlement share.

TO CLASS MEMBER [MERGED_FirstName] [MERGED_LastName]:

TO RECEIVE MONEY FROM THE SETTLEMENT, YOU DO NOT NEED TO TAKE ANY ACTION.

1. You have received this Notice because you may be a Class Member in this Class Action. You are a Class Member if at any time during the period September 8, 2017 to August 31, 2022 you were employed as an hourly-paid or non-exempt employee at in the Statue of California at Attentive Home Care, Inc.
2. Under the terms of the class action settlement described above, you are entitled to receive a settlement payment in the approximate estimated amount of \$[MERGED_EstSettAmnt_CALC], minus all applicable payroll and tax deductions, after the Court approves the Settlement, and after it goes into effect.
3. You have been credited with [MERGED] Qualified Workweeks during the Class Period for purposes of calculating your settlement payment.
4. If you **DO NOT WANT TO DISPUTE** the amount of Qualified Workweeks being credited to you, **YOU SHOULD NOT RETURN THIS FORM AND DO NOT NEED TO TAKE ANY FURTHER ACTION TO BE ELIGIBLE FOR A SETTLEMENT PAYMENT.**
5. **YOU SHOULD ONLY COMPLETE THIS SECTION IF YOU WANT TO DISPUTE** the number of Qualified Workweeks. To file a dispute you must: (1) check the dispute box below and fully complete the chart that follows, including specifying the dates you were employed at Attentive Home Care, Inc. between September 8, 2017 and August 31, 2022 and providing documents to establish the dates of your employment at Attentive Home Care, Inc. between September 8, 2017 and August 31, 2022; (2) sign this form under penalty of perjury; and (3) mail the completed and signed form to the Settlement Administrator so that it is postmarked no later than [RESPONSE DEADLINE].

Defendant will review records to verify the information contained in the Class Member's file and payment records. Defendant's records will have a rebuttable presumption of correctness. After consultation with the Class Member, Class Counsel, and Defendant, the Settlement Administrator will make a determination that will be final and binding on the Class Member and Defendants and is not appealable. The Settlement Administrator will review all valid dispute forms and notify you of the results by written notice. Late or incomplete disputes, or

disputes that are mailed without a visible postmark date, will not be considered and your settlement payment will be based on the Qualified Workweeks listed above.

QUESTIONS?

CALL THE SETTLEMENT ADMINISTRATOR AT [REDACTED]

☐ I WANT TO DISPUTE the number of Qualified Workweeks credited to me under this Settlement and/or my employment status. I worked the following number of Qualified Workweeks:

	Qualified Workweeks worked at Attentive Home Care, Inc. between September 8, 2017 to August 31, 2022 (i.e., the Class Period)
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BY SIGNING BELOW, THAT I WORKED AS AN HOURLY-PAID OR NON-EXEMPT EMPLOYEE IN CALIFORNIA DURING THE CLASS PERIOD.

Date Signature

Daytime Telephone Number Print Name

Last 4 digits of Social Security Number: ____ _

UNLESS YOU ARE FILING A DISPUTE REGARDING THE NUMBER OF YOUR WORKWEEKS SPECIFIED ABOVE, YOU SHOULD NOT RETURN THIS FORM.