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situated

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Attorneys for Defendants
LOMA LINDA UNIVERSITY HEALTH and LINDA
UNIVERSITY MEDICAL CENTER – MURRIETA

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

GLORIA WALKER and YASMIN GAMEZ, as
an individual, and on behalf of all others similarly
situated,

Plaintiffs,

v.

LOMA LINDA UNIVERSITY HEALTH, a
California domestic nonprofit; LOMA LINDA
UNIVERSITY MEDICAL CENTER -
MURRIETA, a California domestic nonprofit; and
DOES 1 through 100, inclusive,

Defendants.

Case No. CIV SB 2133010

ASSIGNED FOR ALL PURPOSES TO
HON. JOSEPH T. ORTIZ - DEPT. S17

**STIPULATION AND SETTLEMENT OF
CLASS, COLLECTIVE, AND
REPRESENTATIVE ACTION**

Complaint filed: November 15, 2021
CMC Date: January 23, 2023

1 Subject to final approval by the Court, which counsel and the Parties agree to diligently pursue
2 and recommend in good faith, Plaintiffs Gloria Walker and Yasmin Gamez (“Plaintiffs”), individually
3 and on behalf of all other similarly situated persons and aggrieved employees, on the one hand, and
4 Defendants Loma Lina University Medical Center-Murrieta and Loma Linda University Health
5 (“Defendants”), on the other hand (collectively, the “Parties” and individually, a “Party”), hereby agree
6 to the following binding settlement of the class and representative action designated *Gloria Walker and*
7 *Yasmin Gamez v. Loma Linda University Health & Loma Linda University Medical Center - Murrieta*
8 (San Bernardino Superior Court, Case No. CIV-SB 2133010) (the “Action”), pursuant to the terms and
9 conditions set forth below (the “Settlement,” “Settlement Agreement” or “Agreement”). Upon the
10 Effective Date, and the payment by Defendants of all monies due under the Agreement, the Parties shall
11 file a Satisfaction of Judgment with the Court.

12 **I. Definitions.**

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

15 **A. “Action.”**

16 The case entitled *Gloria Walker and Yasmin Gamez v. Loma Linda University Health & Loma*
17 *Linda University Medical Center - Murrieta*, San Bernardino Superior Court, Case No. CIV-SB
18 2133010.

19 **B. “Attorneys’ Fees and Costs.”**

20 The attorneys’ fees agreed upon by the Parties and approved by the Court for Class Counsel’s
21 litigation and resolution of the Action, and all costs incurred and to be incurred by Class Counsel in the
22 Action, including, but not limited to, costs associated with documenting the Settlement, providing any
23 notices required as part of the Settlement or Court’s Order, securing the Court’s approval of the
24 Settlement, administering the Settlement, mediation expenses, any expert expenses, and securing entry
25 of judgment in the Action. Class Counsel will request attorneys’ fees not to exceed thirty-five percent
26 (35%) of the Class Settlement Amount which is presently \$2,300,000.00 (i.e., no more than \$805,000 in
27 attorneys’ fees, presently), plus litigation costs incurred not to exceed \$25,000 (“Attorneys’ Fees and
28 Costs”). The amount of Attorneys’ Fees and Costs awarded are subject to the Court’s approval.

1 Defendants have agreed not to oppose Class Counsel's request for Attorneys' Fees and Costs as set forth
2 above. Such Attorneys' Fees and Costs shall be paid from the Class Settlement Amount. Defendants
3 shall have no liability for any other attorneys' fees or costs. To the extent that the Court approves less
4 than the amount of Attorneys' Fees and Costs that Class Counsel request, the difference between the
5 requested and awarded amounts will be distributed to Class Members on a proportional basis relative to
6 the size of their claims as set forth in Section V below. Class Counsel will be issued an IRS Form 1099
7 for the Attorneys' Fees and Costs detailed in this Section and shall be solely and legally responsible for
8 paying all applicable taxes on the payment made pursuant to this Section. No counsel shall be entitled
9 to attorneys' fees or costs for work performed in this Action other than as provided in this Settlement
10 Agreement. The instant Settlement Agreement is the exclusive means for recovery of attorneys' fees
11 and costs incurred in this Action by any attorney, law firm and/or other legal services provider.

12 **C. "Class Counsel."**

13 Kyle Todd, P.C. shall be appointed Class Counsel upon approval by the Court.

14 **D. "Class List."**

15 A complete list of all Class Members that Defendants will diligently and in good faith compile
16 from their records and provide to the Settlement Administrator within thirty (30) days after Preliminary
17 Approval of this Settlement. The Class List will be formatted in a readable Microsoft Office Excel
18 spreadsheet and will include each Class Member's full name, most recent mailing address, telephone
19 number, Social Security number, dates of employment (*i.e.*, hire date and termination date, if
20 applicable), number of workweeks that a Class Member worked, and any other relevant information
21 needed to calculate settlement payments.

22 **E. "Class Member(s)" or "Settlement Class."**

23 All current and former non-exempt employees of Defendants in the State of California from
24 November 15, 2017 through the date of Preliminary Approval or to an earlier date at Defendants'
25 election in order for Defendants to exercise their option under the Escalator Clause to avoid pro rata
26 increase if workweeks exceed 10% over 250,000 workweeks. It shall be an opt out class. Individuals
27 who submit a timely and valid request for exclusion shall not be Class Members.
28

1 **F. “Class Period.”**

2 The period from November 15, 2017 through the date of Preliminary Approval or to an earlier
3 date at Defendants’ election in order for Defendants to exercise their option under the escalator clause to
4 avoid pro rata increase if workweeks exceed 10% over 250,000 workweeks.

5 **G. “Class Representative Enhancement Payment.”**

6 The amount to be paid to Plaintiffs Gloria Walker and Yasmin Gamez in recognition of their
7 efforts and work in prosecuting the Action on behalf of Class Members and for their general release of
8 claims. Subject to the Court granting Final Approval of this Settlement Agreement, Plaintiffs will
9 request Court approval of Class Representative Enhancement Payment in an amount not to exceed
10 \$10,000 for each of them. Plaintiffs will be issued an IRS Form 1099 in connection with their Class
11 Representative Enhancement Payment. Plaintiffs shall be solely and legally responsible for paying any
12 and all applicable taxes on this payment and shall hold Defendants harmless from any claim or liability
13 for taxes, penalties or interest arising as a result of the payment. The Class Representative Enhancement
14 Payment will be paid from the Class Settlement Amount and will be in addition to Plaintiffs’ Individual
15 Settlement Payment paid pursuant to the Settlement and are conditioned on the execution of a general
16 release of claims as set forth below. Defendants make no representations as to the tax treatment or legal
17 effect of the payments called for herein, and Plaintiffs are not relying on any statement or representation
18 by Defendants or their counsel in this regard. To the extent that the Court approves less than the amount
19 of Class Representative Enhancement Payment that Plaintiffs request, the difference between the
20 requested and awarded amounts will be distributed to Class Members on a proportional basis relative to
21 the size of their claims as set forth in Section V below.

22 **H. “Class Settlement Amount.”**

23 The sum of no more than a Gross Fund Value of \$2,300,000.00 to be paid by Defendants in full
24 satisfaction of all claims arising from the Action. The settlement will be on a common fund basis, there
25 will be no claim form or claims process and there will be no reversion to Defendants. The Class
26 Settlement Amount includes all Individual Settlement Payments to Class Members, the Class
27 Representative Enhancement Payment to Plaintiffs, Settlement Administration Costs to the Settlement
28 Administrator, the Labor and Workforce Development Agency (“LWDA”) Payment, and the Attorneys’

1 Fees and Costs. Defendants will be responsible for any employer-side payroll taxes required by law,
2 separate and in addition to the Class Settlement Amount, including the employer FICA, FUTA, and SDI
3 contributions on the wage portion of the Individual Settlement Payments.

4 **I. “Defendants.”**

5 Loma Linda University Medical Center - Murrieta and Loma Linda University Health.

6 **J. “Defendants’ Counsel”**

7 Christian Rowley and Kerry Friedrichs of Seyfarth Shaw LLP.

8 **K. “Effective Date.”**

9 “Effective Date” refers to the date upon which both of the following have occurred: (i) final
10 approval of the settlement is granted by the Court and (ii) the Court’s Judgment approving the settlement
11 becomes Final. Final shall mean the latest of: (i) if there is an appeal of the Court’s Judgment, the date
12 the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to
13 file a petition for review with the California Supreme Court or other court in California assuming
14 jurisdiction of this matter, or, (ii) if a petition for review is filed, the date of denial of the petition, or the
15 date the Court’s Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the
16 expiration date of the time for filing or noticing any appeal of the Court’s Judgment. If a timely
17 objection to settlement is filed (including an objection from the LWDA), “Effective Date” shall be the
18 later of: (a) the date on which the time for all appeals relating to objections to Settlement and the Final
19 Approval Order has expired; or (b) if an appeal, review or writ is sought, the date on which the highest
20 reviewing court renders its decision denying any petition (where the immediately lower court affirmed
21 the judgment) or affirming the judgment. Provided, however, if the California Labor & Workforce
22 Development Agency (“LWDA”) has commenced an investigation or issued a Citation prior to the
23 Effective Date, as determined under the forgoing definition, the Effective Date will be extended to the
24 date that the LWDA concludes its investigation or resolves the Citation (whichever is later), or if the
25 LWDA objects to the Settlement, the date when the LWDA’s objection to the Settlement is resolved and
26 no longer appealable.

1 **L. Escalator Clause**

2 Defendants represent that there are approximately 250,000 unique workweeks during the Class
3 Period. In the event the number of unique workweeks during the Class Period is more than ten percent
4 (10%) of the represented number of workweeks, Defendants will have the option to either pay a
5 proportional amount in addition to the GFV for each additional unique workweek that exceeds the 10%
6 above the 250,000 workweeks, or to stop the Class Period at the point at which the number of unique
7 workweeks is no more than 10% above 250,000.

8 **M. “Final Approval” or “Final Award.”**

9 The court order granting final approval of the Settlement Agreement.

10 **N. “Individual Settlement Payment.”**

11 Each Class Member’s share of the Net Settlement Amount, which shall be distributed to the
12 Class Members, less employee portions of state and federal withholding taxes, including the employee
13 FICA, FUTA and SDI contributions and any other applicable payroll deductions required by law as a
14 result of the payment of the amount allocated to such Class Member as set forth herein.

15 **O. “LWDA Notice.”**

16 The Parties agree that Plaintiffs will submit a Notice to the Labor and Workforce Development
17 Agency (“LWDA”) of this Settlement along with a copy of this Settlement Agreement within ten (10)
18 calendar days of its execution by all Parties and Class Counsel, and will thereafter submit a copy of any
19 judgment or any other order (*e.g.*, the Final Award) providing for an award of civil penalties in
20 conformity with Labor Code Section 2699(l).

21 **P. “LWDA Payment.”**

22 The amount that the Parties have agreed to pay to the LWDA in connection with settlement of
23 Plaintiffs’ PAGA claims. The Parties have agreed that \$100,000 of the Class Settlement Amount will be
24 allocated to the resolution of any Class Members’ claims arising under the PAGA (“LWDA Payment”)
25 Pursuant to the PAGA, \$75,000 (75%) of the LWDA Payment will be paid to the LWDA and \$25,000
26 (25%) of the LWDA Payment will be included in the Net Settlement Amount as the PAGA Allocation.
27 Any change in the requested LWDA Payment is not a material term of this Agreement. If the Court
28 approves a lesser or greater amount than that requested, the other terms of this Agreement shall still

1 remain in effect. However, some approval of an LWDA Payment is a material term of the Settlement
2 and this Agreement. If the Court does not approve any LWDA Payment, then the entire Agreement will
3 be, at Defendants' sole discretion, void and unenforceable. In such a case, the Parties shall be returned
4 to their respective statuses as of the date and time immediately prior to the execution of this Settlement
5 Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had not been
6 executed, except that the costs of administration shall be borne by Defendants.

7 **Q. "Net Settlement Amount."**

8 The portion of the Class Settlement Amount remaining after deduction of: (a) all costs of
9 settlement administration performed by a third- party settlement administrator; (b) Class Representatives
10 Enhancement Payment; (c) payment to the LWDA for its portion of PAGA penalties; and (d) reasonable
11 costs and Attorneys' Fees.

12 **R. "Notice of Class Action Settlement."**

13 The document substantially in the form attached as Exhibit 1 that will be mailed to Class
14 Members' last known addresses and which will provide Class Members with information regarding the
15 Action and information regarding the Settlement of the Action.

16 **S. "Notice of Objection."**

17 A Class Member's valid and timely written objection to the Settlement Agreement. For the
18 Notice of Objection to be valid, it must include the objector's full name, signature, address, telephone
19 number and a written statement of all grounds for the objection accompanied by legal support, if any, for
20 such objection. The Notice of Objection must be returned by mail to the Settlement Administrator at the
21 specified address and postmarked on or before the Response Deadline. The date of the postmark will be
22 the exclusive means to determine whether a Notice of Objection has been timely submitted. Plaintiffs
23 agree not to object to the Settlement.

24 Absent good cause found by the Court, Class Members who fail to make objections in the
25 manner specified above shall be deemed to have waived any objections and shall be foreclosed from
26 making any objection (whether by appeal or otherwise) to the Settlement Agreement. Neither the Parties
27 nor their counsel will solicit or otherwise encourage Class Members to submit written objections to the
28 Settlement Agreement or appeal from the Order and Judgment. Class Counsel will not represent any

1 Class Members with respect to any such objections to this Settlement. The Settlement Administrator
2 shall provide counsel for the Parties with complete copies of all objections received, including the date
3 of postmark for each objection, within five (5) business days of receipt. Class Counsel will provide a
4 single packet of copies of any objections and supporting documents to the Court at least sixteen (16)
5 court days before the Final Approval Hearing. A Class Member who excludes himself or herself from
6 the Settlement shall lose standing to object.

7 **T. "Notice Packet."**

8 The Notice of Class Action Settlement and Individual Settlement Payment calculations, to
9 include workweek information.

10 **U. "PAGA Period."**

11 The period from September 7, 2020 through the date of preliminary approval or to the same end
12 date as the Class Period.

13 **V. "Plaintiffs."**

14 Plaintiff Gloria Walker and Plaintiff Yasmin Gamez.

15 **W. "Plaintiffs' Released Claims."**

16 Upon the Effective Date, and as a condition of receiving any portion of their Class
17 Representative Enhancement Payments, Plaintiffs shall fully and finally release the Releasees from any
18 and all claims, known and unknown, under federal, state and/or local law, statute, ordinance, regulation,
19 common law, or other source of law, including but not limited to claims arising from or related to their
20 employment with Defendants and their compensation while an employee of Defendants. Plaintiffs'
21 Released Claims include, but are not limited to, all claims arising from or related to the Action.
22 Plaintiffs' Released Claims include any and all claims, debts, liabilities, demands, obligations, penalties,
23 premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of
24 whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory
25 under federal and state law, that were alleged in the lawsuit or could have been alleged in the lawsuit,
26 for any alleged failure to pay all wages due (including minimum wage and overtime wages), claims
27 regarding failure to pay for all hours worked (including off-the clock work), failure to provide meal and
28 rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods,

1 failure to timely pay wages and final wages, failure to properly calculate the regular rate of pay, failure
2 to pay or properly calculate meal period premiums, donning and doffing, pre or post-shift activities,
3 reporting time pay, for the alleged non-payment or underpayment for any time off taken or that could be
4 taken for sick-related reasons, including all reasons covered by the California Labor Code, including the
5 Healthy Workplaces, Healthy Families Act (Cal. Labor Code Section 245 *et seq.*) (“HWHFA”), failure
6 to furnish accurate wage statements including claims derivative and/or related to these claims, liquidated
7 damages, conversion of wages, record-keeping violations, up to and including the date of preliminary
8 approval by the Court. This Release shall include all claims and theories arising under the California
9 Labor Code, wage orders, and applicable regulations, including Labor Code Sections 201, 202, 203,
10 204, 206, 218, 218.5, 226, 226.3, 226.7, 227, 510, 511, 512, 515, 517, 551, 552, 558, 1174, 1175,
11 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, and 1199, all claims and theories arising under
12 Labor Code Section 2802, all claims and theories arising under: the Wage Orders of the California
13 Industrial Welfare Commission; the California Private Attorneys General Act of 2004 (PAGA);
14 California Business and Professions Code section 17200, *et seq.*; the California Civil Code; 12 CCR §
15 11040; 8 CCR § 11060; California Code of Civil Procedure § 1021.5; the California common law of
16 contract; the FLSA, 29 U.S.C. § 201, *et seq.* and all regulations implementing and interpreting the
17 FLSA, federal common law; and the Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et*
18 *seq.* (ERISA). Plaintiff’s Released Claims also include all claims for lost wages and benefits, emotional
19 distress, retaliation, punitive damages, and attorneys’ fees and costs arising under federal, state, or local
20 laws for discrimination, harassment, retaliation, and wrongful termination, such as, by way of example
21 only, (as amended) 42 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964, the Americans with
22 Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), and the California Fair
23 Employment and Housing Act (FEHA); and the law of contract and tort. Notwithstanding the foregoing,
24 this waiver and release of claims excludes the release of claims not permitted by law, including claims
25 related to Workers’ Compensation, the rights to sue to enforce this Agreement, and rights to vested
26 benefits, unemployment benefits, disability benefits, social security benefits, and workers’ compensation
27 benefits.

28 Plaintiffs’ Released Claims include all claims as set forth above, whether known or unknown.

1 Even if Plaintiffs discover facts in addition to or different from those that they now know or believe to
2 be true with respect to the subject matter of Plaintiffs' Released Claims, those claims will remain
3 released and forever barred. Thus, Plaintiffs expressly waive and relinquish the provisions, rights and
4 benefits of California Civil Code Section 1542, which reads:

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

9 **X. "Preliminary Approval."**

10 The Court's order granting preliminary approval of the Settlement Agreement.

11 **Y. "Qualified Settlement Account."**

12 The fund established by the Settlement Administrator pursuant to Internal Revenue Code Section
13 1.468B-1.

14 **Z. "Released Claims."**

15 By operation of the entry of the Final Approval Order and Judgment, and except as to rights this
16 Agreement creates, each Class Member releases Defendants and their present and former affiliates and
17 all of their officers, directors, employees, agents, servants, registered representatives, attorneys, insurers,
18 successors and assigns, and any other persons acting by through, under or in concert with any of them
19 ("Releasees"), from any and all claims, debts, liabilities, demands, obligations, penalties, premium pay,
20 guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of whatever kind or
21 nature, whether known or unknown, contingent or accrued, under any legal theory under federal and
22 state law, that were alleged in the lawsuit or could have been alleged in the lawsuit, for any alleged
23 failure to pay all wages due (including minimum wage and overtime wages), claims regarding failure to
24 pay for all hours worked (including off-the clock work), failure to provide meal and rest periods,
25 short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, failure to
26 timely pay wages and final wages, failure to properly calculate the regular rate of pay, failure to pay or
27 properly calculate meal period premiums, donning and doffing, pre or post-shift activities, reporting
28 time pay, for the alleged non-payment or underpayment for any time off that was taken or that could

1 have been taken for sick-related reasons, including all reasons covered by the California Labor Code,
2 including the Healthy Workplaces, Healthy Families Act (Cal. Labor Code Section 245 et seq.)
3 (“HWHFA”), failure to furnish accurate wage statements including claims derivative and/or related to
4 these claims, liquidated damages, conversion of wages, record-keeping violations, up to and including
5 the date of preliminary approval by the Court. This Release shall include all claims and theories arising
6 under the California Labor Code, wage orders, and applicable regulations, including Labor Code
7 Sections 201, 202, 203, 204, 206, 218, 218.5, 226, 226.3, 226.7, 227, 510, 511, 512, 515, 517, 551, 552,
8 558, 1174, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, and 1199, all claims and theories
9 arising under Labor Code Section 2802 as well as claims under Business and Professions Code section
10 17200 et seq. and/or Labor Code Section 2698 *et seq.* based on alleged violations of the above Labor
11 Code provisions. The release shall run through the date of Preliminary Approval. Class Members may
12 not opt out of the settlement as it relates to the PAGA claims and the release of the PAGA claims. In
13 addition to the claims enumerated above, each member of the Settlement Class who endorses his or her
14 Individual Settlement Payment check by signing the back of the check and depositing or cashing the
15 check shall release and forever waive any and all claims the Settlement Class member may have under
16 claims asserted in the Complaint for violations of the Fair Labor Standards Act (“FLSA”); and any and
17 all claims for restitution, including without limitation back pay, attorneys’ fees and costs, interest, and
18 liquidated damages under the FLSA that occurred during the Class Period.

19 The Released Claims include all claims as set forth above, whether known or unknown. Thus,
20 with respect to the Released Claims only, each Settlement Class Member expressly waives and
21 relinquishes the provisions, rights and benefits of California Civil Code Section 1542, which reads:

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

26 This Agreement is contingent upon the releases by Plaintiffs and the Class Members as described
27 herein, and upon covenants by Plaintiffs and Class Members that they will not participate in any actions,
28 lawsuits, proceedings, complaints or charges in any court or before any administrative body related to

any claims they have released under this Agreement. Apart from such award of fees and reimbursement of costs for which provision is made herein, Plaintiffs and Defendants waive any and all claims for fees, costs, indemnity or contribution against Plaintiffs, any Class Member, Plaintiffs' Counsel, Defendants or their counsel.

AA. "Releasees."

Defendants and each of their present and former affiliates and all of their officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them.

BB. "Request for Exclusion."

A notice submitted by a Class Member requesting to be excluded from the Settlement. For the Request for Exclusion to be valid, it must include the Class Member's full name and a written statement that the Class Member does not wish to participate in the settlement and requesting to be excluded from this Settlement. The Request for Exclusion must be returned by mail to the Settlement Administrator at the specified address and postmarked on or before the Response Deadline. The date of the postmark will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. A Class Member who does not submit a timely or valid Request for Exclusion from the Settlement will be deemed a Class Member and will be bound by all terms of the Settlement Agreement if the Settlement is granted Final Approval by the Court. Plaintiffs agree not to request to be excluded from the Settlement.

Any Class Member who opts out of this Agreement may not submit an Objection and shall not receive any Individual Settlement Payment, and shall not be bound by the releases set forth in this Agreement. If a Class Member submits both a Request for Exclusion and an Objection, then the Request for Exclusion will be valid and will invalidate the Objection.

CC. "Response Deadline."

The deadline by which Class Members must mail to the Settlement Administrator valid Requests for Exclusion, Notices of Objection to the Settlement, or workweek disputes. The Response Deadline will be thirty (30) days from the initial mailing of the Notice Packet by the Settlement Administrator, unless the 30th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline for Requests

1 for Exclusion, Notices of Objection, or workweek disputes will be extended fifteen (15) calendar days
2 for any Class Member who is re-mailed a Notice Packet by the Settlement Administrator, unless the
3 15th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to
4 the next day on which the U.S. Postal Service is open. The Response Deadline may also be extended by
5 express agreement between Class Counsel and counsel for Defendants. Under no circumstances,
6 however, will the Settlement Administrator have the authority to unilaterally extend the deadline for
7 Class Members to submit a Request for Exclusion, Notice of Objection to the Settlement, or workweek
8 disputes.

9 **DD. "Settlement Administrator."**

10 After obtaining not-to-exceed quotes from a minimum of two qualified settlement
11 administrators, Simpluris shall be the third-party class action settlement administrator as mutually
12 agreed to by the Parties and approved by the Court for the purposes of administering this Settlement and
13 will issue to class members Forms W-2 and 1099 for all amounts paid under this settlement, making all
14 deductions and withholdings required under law. The Parties each represent that they do not have any
15 financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement
16 Administrator that could create a conflict of interest.

17 **EE. "Settlement Administration Costs."**

18 The costs payable from the Class Settlement Amount to the Settlement Administrator are for
19 administering this Settlement, including, but not limited to, printing, distributing, and tracking
20 documents for this Settlement, address searches, calculating estimated amounts per Class Member, tax
21 reporting, distributing the Class Settlement Amount, and providing necessary reports and declarations,
22 and other duties and responsibilities set forth herein to process this Settlement Agreement, and as
23 requested by the Parties. The Settlement Administration Costs will be paid from the Class Settlement
24 Amount, including, if necessary, any such costs in excess of the amount represented by the Settlement
25 Administrator as being the maximum costs necessary to administer the Settlement. The Settlement
26 Administration Costs are estimated to not exceed \$19,615.23 based upon the receipt of the not-to-exceed
27 quote from the Settlement Administrator. To the extent actual Settlement Administration Costs are
28 greater than \$19,615.23, such excess amount will be deducted from the Class Settlement Amount,

subject to the Court’s approval. Settlement Administration Costs allocated but not paid to the Settlement Administrator will be distributed to the Settlement Class pro rata.

FF. “Settlement Payment Check.”

The Settlement Payment Check is the payment to Class Members. The back of the Settlement Payment Check shall state, immediately below the space where the check is to be endorsed by the payee: “By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the Action, elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.”

II. Recitals

A. On November 15, 2021, Plaintiffs Gloria Walker and Yasmin Gamez filed a Complaint against Defendants Loma Linda University Health and Loma Linda University Medical Center – Murrieta in the Superior Court of the State of California, County of San Bernardino, Case No. CIVSB 2133010. In the Complaint, Plaintiffs allege the following claims against Defendants:

1. Failure to pay minimum wages (Lab. Code §§ 1182.12, 1194, 1194.2, 1197)
2. Failure to pay overtime compensation (Lab. Code §§ 510, 1194)
3. Failure to provide meal periods (Lab. Code § 226.7, 512, and applicable wage order)
4. Failure to authorize and permit rest periods (Lab. Code § 226.7 and applicable wage order)
5. Failure to provide accurate and complete itemized wage statements (Labor Code § 226)
6. Failure to pay all wages owed upon discharge or voluntary quit (Labor Code §§ 201-203)
7. Violation of Labor Code Section 233
8. Unfair competition law (Business and Professions Code §§ 17200 *et seq.*)
9. Violation of the Private Attorneys General Act (“PAGA”) (Labor Code §§ 2698 *et seq.*)

B. Thereafter, Defendant shared informal discovery consisting of over a dozen categories of documents and information on a class basis, including 20% sampling of payroll and related documents.

C. On April 4, 2023, the Parties participated in a mediation with Eve Wagner, Esq., a respected mediator of wage and hour class actions. Following the mediation, each side, represented by

its respective counsel, were able to agree to settle the Action based on a mediator's proposal which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.

D. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants that the claims in the Action of Plaintiffs or the Class have merit or that Defendants bear any liability to Plaintiffs or the Class on those claims or any other claims, or as an admission by Plaintiffs that Defendants' defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendants reserve the right to contest certification of any class for any reason and reserve all available defenses to the claims in the Action.

III. Funding of the Class Settlement Amount.

Within fifteen (15) calendar days after the Effective Date of the Settlement, Defendants will make a one-time deposit of all approved and claimed amounts from the Class Settlement Amount into a Qualified Settlement Account to be established by the Settlement Administrator. Within fourteen (14) calendar days of the funding of the Settlement, the Settlement Administrator shall issue the checks constituting the Individual Settlement Payments to the Class Members, the LWDA Payment, enhancement payments to Plaintiffs, and Court approved attorneys' fees and costs. Defendants have no obligation to deposit such funds prior to the deadline set forth herein.

IV. Labor and Workforce Development Agency ("LWDA") Payment.

Subject to Court approval, the Parties agree that \$100,000 of the Class Settlement Amount will be designated for satisfaction of Plaintiffs' and Class Members' PAGA claims (the "LWDA Payment"). Pursuant to the PAGA, \$75,000 (75%) of the LWDA Payment will be paid to the LWDA and \$25,000 (25%) of the LWDA Payment will be included in the Net Settlement Amount for distribution to the Class Members based upon their respective workweeks worked during the PAGA Period. If the Court approves a PAGA Settlement Amount of less than \$100,000, the remainder will be retained in the Net Settlement Amount for distribution to Class Members.

1 **V. Individual Settlement Payment Calculations.**

2 Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount based
3 on the number of workweeks that a Class Member worked during the Class Period and the number of
4 workweeks that a Class Member worked during the PAGA Period. Specific calculations of Individual
5 Settlement Payments will be made as follows: Defendants will calculate the total number of workweeks
6 worked by each Class Member ("Individual Workweeks") and the total number of workweeks worked by
7 all Class Members ("Class Workweeks") during the Class Period and during the PAGA Period.

8 To determine the Class Claims portion of each Class Member's Individual Settlement Payment,
9 the Settlement Administrator will use the following formula: Individual Class Settlement Payment =
10 $(\text{Individual Class Workweeks} \div \text{Total Class Workweeks}) \times \text{Net Settlement Amount (less PAGA}$
11 $\text{Allocation})$.

12 To determine the PAGA Claims portion of each Class Member's Individual Settlement Payment,
13 the Settlement Administrator will use the following formula: Individual PAGA Settlement Payment =
14 $(\text{Individual PAGA Workweeks} \div \text{Total PAGA Workweeks}) \times \text{PAGA Allocation}$.

15 The Individual Settlement Payment will be reduced by any required deductions for each Class
16 Member as set forth herein, including employee-side tax withholdings or deductions. The Individual
17 Settlement Payments made to Class Members under this Settlement, and any other payments made
18 pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans
19 to which any Class Members may be eligible, including, but not limited to, profit-sharing plans, bonus
20 plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other
21 benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights,
22 contributions, or amounts to which any Class Members may be entitled under any benefit plans.

23 **VI. Effect of Request for Exclusion.**

24 Class Members who submit a valid Request for Exclusion will receive no Individual Settlement
25 Payments and their Requests for Exclusion will reduce neither the Gross Settlement Amount nor the Net
26 Settlement Amount. Their respective Individual Settlement Payments will remain a part of the Net
27 Settlement Amount for distribution to Class Members who do not submit valid Requests for Exclusion
28 on a *pro rata* basis relative to their Individual Settlement Shares.

1 **VII. Settlement Administration Process.**

2 1. The Parties agree to cooperate in the administration of the Settlement and to make all
3 reasonable efforts to control and minimize the costs and expenses incurred in administration of the
4 Settlement. The Settlement Administrator will provide the following services:

- 5 a. Establish and maintain a Qualified Settlement Account.
- 6 b. Calculate the Individual Settlement Payment each Class Member is eligible to
7 receive.
- 8 c. Print and mail the Notice Packet.
- 9 d. Establish and maintain a toll-free information telephone support line to assist
10 Class Members who have questions regarding the Notice Packet.
- 11 e. Conduct additional address searches for mailed Notice Packets that are returned
12 as undeliverable.
- 13 f. Process Requests for Exclusion, calculate Class Members' Individual Settlement
14 Payment, field inquiries from Class Members, and administer any Requests for
15 Exclusion. This service will include settlement proceeds calculation, printing and
16 issuance of Settlement Payment Checks, and preparation of IRS W-2 and 1099
17 Tax Forms. Basic accounting for and payment of employee tax withholdings and
18 forwarding all payroll taxes and penalties to the appropriate government
19 authorities will also be included as part of this service.
- 20 g. Issuing to Plaintiffs, Class Members, and Plaintiffs' Counsel any W-2, 1099, or
21 other tax forms as may be required by law for all amounts paid pursuant to this
22 Settlement.
- 23 h. Provide declarations and/or other information to the Court as requested by the
24 Parties and/or the Court.
- 25 i. Provide weekly status reports to counsel for the Parties.

26 2. Within thirty (30) calendar days of Preliminary Approval, Defendants will provide the
27 Class List to the Settlement Administrator.

28

1 3. Using best efforts to mail it as soon as possible, and in no event later than twenty-one
2 (21) calendar days after receiving the Class List from Defendants, the Settlement Administrator will
3 mail a Notice Packet to all Class Members via regular First-Class U.S. Mail, using the last known
4 mailing addresses identified in the Class List.

5 4. Prior to mailing, the Settlement Administrator will perform a search based on the
6 National Change of Address Database for information to update and correct any known or identifiable
7 address changes. Any Notice Packets returned to the Settlement Administrator as non-deliverable on or
8 before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding
9 address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the
10 Notice Packet. If no forwarding address is provided, the Settlement Administrator will promptly attempt
11 to determine the correct address using a skip-trace, or other search using the name, address and/or Social
12 Security number of the Class Member involved, and will then perform a single re-mailing. Those Class
13 Members who receive a re-mailed Notice Packet, whether by skip-trace or by request, will have between
14 the later of (a) an additional fifteen (15) calendar days or (b) the Response Deadline to postmark a
15 Request for Exclusion or Notice of Objection to the Settlement. The Settlement Administrator will be
16 responsible for taking reasonable steps, consistent with its agreed-upon job parameters, Court orders,
17 and fee, as agreed to with the Parties and according to the following deadlines, to trace the mailing
18 address of any Class Member for whom a Notice Packet is returned by the U.S. Postal Service as
19 undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail;
20 performing address searches for all mail returned without a forwarding address using available email
21 addresses, phone numbers, social security numbers, credit reports, LinkedIn, and Facebook; and
22 promptly re-mailing to Class Members for whom new addresses are found. If the Notice Packet is re-
23 mailed, the Settlement Administrator will note for its own records and notify Defendants' Counsel of the
24 date and address of each such re-mailing as part of a weekly status report provided to the Parties.

25 5. All Class Members will be mailed a Notice Packet containing the forms attached as
26 Exhibit 1 as approved by the Court.

27 6. Class Members will have an opportunity to dispute the information provided in their
28 Notice Packets. To the extent Class Members dispute the number of workweeks to which they have

1 been credited or the amount of their Individual Settlement Payment, Class Members may produce
2 evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence
3 rebutting Defendants' records, Defendants' records will be presumed determinative. However, if a
4 Class Member produces evidence to the contrary, the Settlement Administrator will evaluate the
5 evidence submitted by the Class Member and will make the final decision as to the number of eligible
6 workweeks that should be applied and/or the Individual Settlement Payment to which the Class Member
7 may be entitled. The workweek dispute must be returned by mail to the Settlement Administrator at the
8 specified address and postmarked on or before the Response Deadline. The date of the postmark will be
9 the exclusive means to determine whether a workweek dispute has been timely submitted. All such
10 disputes are to be resolved not later than fourteen (14) calendar days after the Response Deadline.

11 7. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the
12 requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The
13 Settlement Administrator will mail the Class Member a cure letter within three (3) business days of
14 receiving the defective submission to advise the Class Member that his or her submission is defective
15 and that the defect must be cured to render the Request for Exclusion valid. The Class Member will
16 have until the later of (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the
17 cure letter, whichever date is later, to postmark a revised Request for Exclusion.

18 8. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
19 Settlement Agreement must sign and postmark a written Request for Exclusion to the Settlement
20 Administrator within the Response Deadline. The date of the postmark on the return mailing envelope
21 will be the exclusive means to determine whether a Request for Exclusion has been timely submitted.
22 All Requests for Exclusion will be submitted to the Settlement Administrator, who will certify jointly to
23 Class Counsel and Defendants' Counsel the Requests for Exclusion that were timely submitted. Any
24 Class Member who does not timely seek exclusion will be bound by the terms of this Settlement
25 Agreement.

26 9. The Settlement Administrator shall have its own Employer Identification Number under
27 Internal Revenue Service Form W-9 and shall use its own Employer Identification Number in
28 calculating payroll withholdings for taxes and shall transmit the required employers' and employees'

1 share of the withholdings to the appropriate state and federal tax authorities. The Settlement
2 Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement
3 Fund ("QSF") under US Treasury Regulation section 468B-1.

4 **VIII. Nullification of the Settlement Agreement.**

5 1. Defendants' Option to Nullify the Settlement Agreement. If more than five percent (5%)
6 of the Class Members opt out of the Settlement, Defendants, in their sole discretion, shall have the
7 option of nullifying the Settlement Agreement. Defendants shall give written notice to Class Counsel
8 within fourteen (14) calendar days after the Settlement Administrator informs the Parties that the opt out
9 rate exceeds five percent (5%). In such a case, the Parties and any funds to be awarded under this
10 Settlement Agreement shall be returned to their respective statuses as of the date and time immediately
11 prior to the execution of this Agreement, and the Parties shall proceed in all respects as if this Settlement
12 Agreement had not been executed, except that any fees already incurred by the Settlement Administrator
13 shall be paid by Defendants.

14 2. Nullification of the Settlement Agreement. In the event: (i) the Court does not enter the
15 Preliminary Approval Order and approve the Released Settlement specified herein; (ii) the Court does
16 not finally approve the Settlement as provided herein; (iii) Defendants exercise their option to nullify the
17 Settlement Agreement based on an excessive number of opt-outs, as described in the above Section; or
18 (iv) the Settlement does not become final for any other reason (*e.g.*, an objection by the LWDA), this
19 Settlement Agreement shall be null and void. Any order or judgment entered by the Court in
20 furtherance of this Settlement Agreement shall be treated as void from the beginning, and the
21 Stipulations and Recitals contained herein shall be of no force or effect, and shall not be treated as an
22 admission by the Parties or their counsel. In such a case, the Parties and any funds to be awarded under
23 this Settlement Agreement shall be returned to their respective statuses as of the date and time
24 immediately prior to the execution of this Settlement Agreement, and the Parties shall proceed in all
25 respects as if this Settlement Agreement had not been executed, except that any fees or costs already
26 incurred by the Settlement Administrator shall be shared equally.

1 3. Settlement Terms Bind All Class Members Who Do Not Opt Out. Any Class Member
2 who does not affirmatively opt out of the Settlement Agreement by submitting a timely and valid
3 Request for Exclusion will be bound by all its terms.

4 **IX. Certification Reports Regarding Individual Settlement Payment Calculations.**

5 1. The Settlement Administrator will provide Defendants' counsel and Class Counsel a
6 weekly report which certifies: (a) the number of Class Members who have submitted valid Requests for
7 Exclusion; (b) any objections submitted to the Settlement along with a copy of any such objection; and
8 (c) whether any Class Member has submitted a challenge to any information contained in his/her Notice
9 Packet. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated
10 reports regarding the administration of the Settlement Agreement as needed or requested.

11 2. Uncashed Settlement Checks. Any checks issued by the Settlement Administrator to
12 Class Members will be negotiable for one-hundred eighty (180) calendar days. If a check is returned to
13 the Settlement Administrator within one-hundred twenty (120) calendar days after the mailing, the
14 Settlement Administrator will make all reasonable efforts to re-mail it to the affected Class Member at
15 his or her correct address by use of available email addresses, phone numbers, social security numbers,
16 credit reports, LinkedIn and Facebook. If a Class Member's check is not cashed within 120 days after
17 its last mailing to the Class Member, the Settlement Administrator will also send the affected Class
18 Member a notice informing him or her that unless the check is cashed in the next 60 days, the check will
19 expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not
20 cashed. The sum value of all expired checks will be tallied by the Settlement Administrator. All such
21 uncollected funds associated with Class Members' checks will escheat to the State of California's
22 Controller, to be held in the name of each expired check payee, pursuant to applicable unclaimed
23 property laws.

24 3. Certification of Completion. Within ten (10) calendar days of the completion of
25 administration of the Settlement, the Settlement Administrator will provide a written declaration under
26 oath to certify such completion to the Court and counsel for all Parties.

27 **X. Tax Treatment of Individual Settlement Payments.**

28 All Individual Settlement Payments will be allocated as follows: one-third (1/3) wages, one-third

1 (1/3) interest and one-third (1/3) penalties.

2 The portion allocated to wages will be reported on an IRS Form W-2 and the portions allocated
3 to non-wages will be reported on an IRS Form-1099 by the Settlement Administrator. The Gross
4 Individual Settlement Payments will be reduced by any required legal deductions for each Class
5 Member. All standard employee payroll deductions will be made for state and federal withholding
6 taxes, including any other applicable payroll deductions owed by the Class Members as a result of the
7 Wage Component, resulting in a net wage component. The Settlement Administrator will issue a check
8 and W-2 Form to each Class Member for the wage component. No withholding shall be made on the
9 penalty portions of the Gross Individual Settlement Payment. The Settlement Administrator will issue a
10 second check and IRS Form-1099 for the remaining penalty component. The Settlement Administrator
11 shall be responsible for issuing the payments and calculating and withholding all required state and
12 federal taxes. The Settlement Administrator shall determine the eligibility for, and the amounts of, any
13 Individual Settlement Payments under the terms of this Settlement Agreement. Any disputes not
14 resolved by the Settlement Administrator concerning the administration of the Settlement will be
15 resolved by the Court, under the laws of the State of California. Prior to any such involvement of the
16 Court, counsel for the Parties will confer in good faith to resolve the dispute without the necessity of
17 involving the Court.

18 **XI. Administration of Taxes by the Settlement Administrator.**

19 1. Tax Liability. Class Counsel, Defendants, and Defendants' Counsel make no
20 representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiffs
21 and Class Members are not relying on any statement, representation, or calculation by Defendants or by
22 the Settlement Administrator in this regard. Plaintiffs and Class Members understand and agree they
23 will be solely responsible for the payment of their respective share of any taxes and penalties assessed
24 on the payments described herein.

25 2. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT
26 (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY
27 TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN
28 "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS

1 SETTLEMENT AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE
2 BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS
3 OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE
4 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE
5 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10,
6 AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON
7 HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE
8 (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT,
9 (B) HAS NOT ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE
10 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY
11 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
12 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY
13 TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
14 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
15 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX
16 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING)
17 UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
18 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED
19 BY THIS SETTLEMENT AGREEMENT.

20 **XII. Release by Class Members.**

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

25 2. It is the desire of Plaintiffs, Class Members (except those who exclude themselves from
26 the Settlement), and Defendants to fully, finally, and forever settle, compromise, and discharge the
27 Released Claims and Plaintiffs' Released Claims. Upon the Final Approval by the Court of this
28 Settlement Agreement, and except as to such rights or claims as may be created by this Settlement

1 Agreement, Plaintiffs and the Class Members shall fully release and discharge the Releasees from any
2 and all Released Claims for the entire Class Period. This release shall be binding on all Class Members
3 who have not timely submitted a valid and complete Request for Exclusion, including each of their
4 respective attorneys, agents, spouses, executors, representatives, guardians ad litem, heirs, successors,
5 and assigns, and shall inure to the benefit of the Releasees, who shall have no further or other liability or
6 obligation to any Class Member with respect to the Released Settlement, except as expressly provided
7 herein.

8 **XIII. Materiality of Terms.**

9 1. The Court's approval of Class Representative Enhancement Payment, Attorneys' Fees
10 and Costs, and the full LWDA Payment are not material terms of this Agreement. If the Court approves
11 only a lesser amount of these payments, then the other terms of this Agreement shall still remain in
12 effect and the difference will remain part of the Net Settlement Amount.

13 2. Except as otherwise stated herein, each substantive term of this Agreement is material
14 and has been relied upon by the Parties in entering into this Agreement. Any failure by the Court to
15 fully and completely approve the material terms of this Settlement Agreement will result in this
16 Settlement Agreement entered into by the Parties, and all obligations under this Settlement Agreement,
17 being nullified and voided. Upon such failure, any order or judgment entered by the Court in
18 furtherance of this Settlement Agreement shall be treated as void from the beginning, and the
19 Stipulations and Recitals contained herein shall be of no force or effect and shall not be treated as an
20 admission by the Parties or their counsel. In such a case, the Parties and any funds to be awarded under
21 this Settlement Agreement shall be returned to their respective statuses as of the date and time
22 immediately prior to the execution of this Settlement Agreement, and the Parties shall proceed in all
23 respects as if this Settlement Agreement had not been executed, except that any fees already incurred by
24 the Settlement Administrator shall be paid equally by both Parties.

25 **XIV. Preliminary Approval Hearing.**

26 1. Plaintiffs will obtain a hearing before the Court to request Preliminary Approval of the
27 Settlement Agreement and the entry of a Preliminary Approval Order for: (a) conditional certification of
28 the Settlement Class for settlement purposes only, (b) Preliminary Approval of the proposed Settlement

1 Agreement, and (c) setting a date for a Final Approval/Settlement Fairness Hearing. Plaintiffs shall
2 endeavor to file a Motion for Preliminary Approval with sufficient notice to allow for a hearing date as
3 soon as possible.

4 2. The Preliminary Approval Order will provide for the Notice Packet to be sent to all Class
5 Members as specified herein. In conjunction with the Preliminary Approval Hearing, Plaintiffs will
6 submit this Settlement Agreement and will include the proposed Notice Packet.

7 3. Class Counsel will be responsible for drafting all documents necessary to obtain
8 Preliminary Approval. Class Counsel will provide Defendants' Counsel with a reasonable opportunity
9 to review the Motion for Preliminary Approval and supporting papers prior to filing them with the
10 Court.

11 4. At the hearing before the Court to request Preliminary Approval, the Parties will jointly
12 appear, support the granting of the motion, and submit a proposed Order Granting Preliminary Approval
13 of the Settlement.

14 5. Should the Court decline to preliminarily approve material aspects of the Settlement
15 (including but not limited to the scope of release to be granted by Class Members or the binding effect
16 of the Settlement on Class Members who do not submit valid Requests for Exclusion), the Parties shall
17 work together in good faith to address any concerns raised by the Court and propose a revised
18 Settlement for the Court's approval.

19 **XV. Final Settlement Approval Hearing and Entry of Judgment.**

20 1. Upon expiration of the Response Deadline, and with the Court's permission, a Final
21 Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval of the
22 Settlement Agreement along with the amounts properly payable for: (a) Individual Settlement Payments;
23 (b) the LWDA Payment; (c) the Attorneys' Fees; (d) Costs; (e) the Class Representative Enhancement
24 Payment; and (f) all Settlement Administration Costs.

25 2. The Final Approval/Settlement Fairness Hearing will be held no later than forty-five (45)
26 calendar days after the Response Deadline.

27 3. Class Counsel will be responsible for drafting all documents necessary to obtain Final
28 Approval. Class Counsel will also be responsible for drafting the Attorneys' Fees and Costs application

1 to be heard at the Final Approval/Settlement Fairness Hearing. Class Counsel will provide Defendants'
2 Counsel with a reasonable opportunity to review the Motion for Final Approval and supporting papers
3 prior to filing them with the Court.

4 4. At the hearing before the Court to request Final Approval, the Parties will jointly appear,
5 support the granting of the motion, and submit a proposed Final Approval Order and Judgment.

6 **XVI. Judgment and Continued Jurisdiction.**

7 1. The Court shall retain jurisdiction under California Code of Civil Procedure section 664.6
8 with respect to the interpretation, implementation, and enforcement of the terms of this Settlement
9 Agreement and all orders and judgments entered in connection therewith, and the Parties and their
10 counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and
11 enforcing the Settlement embodied in this Settlement Agreement and all orders and judgments entered in
12 connection therewith.

13 **XVII. Other Provisions.**

14 1. Exhibits Incorporated by Reference. The terms of this Settlement include the terms set
15 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein.
16 Any Exhibits to this Settlement are an integral part of the Settlement.

17 2. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the
18 entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements
19 may be deemed binding on the Parties.

20 3. Amendment or Modification. This Settlement Agreement may be amended or modified
21 only by a written instrument signed by counsel for all Parties or their successors-in-interest and
22 approved by the Court. If the Court requires certain non-material modifications to be made to this
23 Settlement Agreement as a condition for granting approval, then the Parties agree that their counsel can
24 enter into a stipulation to modify this agreement to conform it to the Court's Order and that signatures of
25 counsel shall suffice for such an amendment.

26 4. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
27 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
28 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant

1 to this Settlement Agreement to effectuate its terms and to execute any other documents required to
2 effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with
3 each other and use their best efforts to effect the implementation of the Settlement. If the Parties are
4 unable to reach agreement on the form or content of any document needed to implement the Settlement,
5 or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement,
6 the Parties may seek the assistance of Eve Wagner to resolve such disagreement.

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

9 6. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto
10 will be governed by and interpreted according to the laws of the State of California.

11 7. Execution and Counterparts. This Agreement may be executed in one or more
12 counterparts by facsimile, electronic signature, DocuSign (or similar e-signature provider), or email
13 which for purposes of this Agreement shall be accepted as an original. All executed counterparts and
14 each of them will be deemed to be one and the same instrument. Any executed counterpart will be
15 admissible in evidence to prove the existence and contents of this Agreement.

16 8. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
17 Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at
18 this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into
19 account all relevant factors, present and potential. The Parties further acknowledge that they are each
20 represented by competent counsel and that they have had an opportunity to consult with their counsel
21 regarding the fairness and reasonableness of this Settlement.

22 9. Invalidity of Any Provision. Before declaring any provision of this Settlement
23 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
24 possible consistent with applicable precedents so as to define all provisions of this Settlement
25 Agreement valid and enforceable.

26 10. Waiver of Certain Appeals. Provided that the Judgment is consistent with the terms and
27 conditions of this Agreement, Class Members who did not timely submit an objection to the Settlement,
28 Defendants, and their respective counsel hereby waive any and all rights to appeal from the Judgment,

1 including all rights to any post-judgment proceeding and appellate proceeding, such as, but not limited
2 to, a motion to vacate judgment, a motion for new trial, and any extraordinary writ. The waiver of appeal
3 does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment
4 proceedings.

5 11. Vacating, Reversal, or Material Modification of Judgment on Appeal or Review. If, after
6 a notice of appeal, a petition for review, or a petition for certiorari, or any other motion, petition, or
7 application, the reviewing Court vacates, reverses, or modifies the Judgment such that there is a material
8 modification to the Settlement (including, but not limited to, the scope of release to be granted by Class
9 Members), and that Court's decision is not completely reversed and the Judgment is not fully affirmed
10 on review by a higher Court, then the Parties shall work together in good faith to address any concerns
11 raised by the reviewing Court and propose a revised Settlement for the approval of the Court not later
12 than fourteen days after the reviewing Court's decision vacating, reversing, or materially modifying the
13 Judgment becomes Final. A vacation, reversal, or modification of the Court's award of the Class
14 Representative Enhancement Payment or the Attorneys' Fees and Costs will not constitute a vacation,
15 reversal, or material modification of the Judgment within the meaning of this paragraph, provided that
16 Defendants' obligation to make payments under this Settlement will remain limited by the Gross
17 Settlement Amount.

18 12. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to
19 class certification only for purposes of the Settlement. If, for any reason, the Settlement is not approved,
20 the stipulation to certification will be void. The Parties further agree that certification for purposes of
21 the Settlement is not an admission that class action certification is proper under the standards applied to
22 contested certification motions and that this Settlement Agreement will not be admissible in this or any
23 other proceeding as evidence that either: (a) a class action should be certified against any Defendants or
24 (b) Defendants are liable to Plaintiffs or any Class Member, other than according to the Settlement's
25 terms. Plaintiff's counsel, however, may cite in court to this matter in discussing their experience
26 litigating class action cases.

27 13. Non-Admission of Liability. The Parties enter into this Settlement Agreement to resolve
28 the dispute that has arisen between them and to avoid the burden, expense, and risk of continued

1 litigation. In entering into this Settlement Agreement, Defendants do not admit, and specifically deny,
2 that they have violated any federal, state, or local law; violated any regulations or guidelines
3 promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements;
4 breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or
5 engaged in any other unlawful conduct with respect to their employees. Neither this Settlement
6 Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be
7 construed as an admission or concession by Defendants of any such violations or failures to comply with
8 any applicable law. Except as necessary in a proceeding to enforce the terms of this Settlement
9 Agreement, this Settlement Agreement and its terms and provisions shall not be offered or received as
10 evidence in any action or proceeding to establish any liability or admission on the part of Defendants or
11 to establish the existence of any condition constituting a violation of, or a non-compliance with, federal,
12 state, local or other applicable law.

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

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

19 16. Enforcement Action. If one or more of the Parties institutes any legal action or other
20 proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare
21 rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover
22 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees
23 incurred in connection with any enforcement actions.

24 17. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
25 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed
26 more strictly against one Party than another merely by virtue of the fact that it may have been prepared
27 by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations
28 between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

1 18. Representation by Counsel. The Parties acknowledge that they have been represented by
2 counsel throughout all negotiations that preceded the execution of this Settlement Agreement and that
3 this Settlement Agreement has been executed with the consent and advice of counsel and reviewed in
4 full.

5 19. All Terms Subject to Final Court Approval. All amounts and procedures described in
6 this Settlement Agreement herein will be subject to final Court approval.

7 20. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
8 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
9 Settlement Agreement.

10 21. Binding Agreement. The Parties warrant that they understand and have full authority to
11 enter into this Settlement, intend that this Settlement Agreement will be fully enforceable and binding on
12 all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its
13 terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under
14 federal or state law. Plaintiffs, and not their respective representative(s), must personally execute this
15 Settlement Agreement.

16 22. No Prior Assignments or Undisclosed Liens. Plaintiffs and Class Counsel represent that
17 they have not assigned, transferred, conveyed, or otherwise disposed of any Released Claim or claim to
18 attorneys' fees and costs award to be paid under this Agreement. Plaintiffs and Class Counsel further
19 represent and warrant that there are not any liens or claims against any amount that Defendants are to
20 pay under this Agreement. Plaintiffs and Class Counsel agree to defend, to indemnify, and to hold
21 Defendants harmless from any liability, losses, claims, damages, costs, or expenses, including
22 reasonable attorneys' fees, resulting from a breach of these representations or from any lien or
23 assignment.

24 23. Confidential Information. Class Counsel will destroy all confidential documents and
25 information provided by Defendants within 60 calendar days after the completion of the administration
26 of this Agreement. Class Counsel further agree that none of the information provided by Defendants
27 shall be used for any purpose other than prosecution of this Action.
28

1 24. Publicity and Representations. Neither Plaintiffs nor Class Counsel will publicize the
2 Settlement in any way prior to preliminary approval. Plaintiffs and Plaintiffs' Counsel shall not
3 publicize the settlement on their websites, in advertising/marketing materials or on social media, other
4 than filing documents with the Court, and general non-specific citation to this case, among others, as
5 demonstrating their experience in such matters. The Parties and their counsel agree that they will not
6 issue any press releases or initiate any contact with the media about the fact, amount, or terms of the
7 settlement. If counsel for any party receives an inquiry about the Settlement from the media, counsel
8 may respond only after the motion for approval of the settlement has been filed and only by confirming
9 the accurate terms of the settlement. Nothing in this provision shall prevent Plaintiffs or Defendants
10 from making any required disclosure.

11 Nothing in this Stipulation shall preclude Class Counsel from communicating with members of
12 the Settlement Class after preliminary approval, and after preliminary approval Class Counsel agree that
13 they will not identify by name or identifiable characteristics any of the Defendants or their officers,
14 owners, employees, or agents on any marketing or advertising materials, website, or other forum,
15 mailing, communication, or service unrelated to the approval and administration of the settlement.

16 25. Headings. The descriptive heading of any section or paragraph of this Agreement is
17 inserted for convenience of reference only and does not constitute a part of this Agreement.

18 26. Notice. All notices, demands or other communications given under this Agreement will
19 be in writing and deemed to have been duly given upon being sent, via email, to the following
20 individuals, provided that the recipients confirm receipt within two business days:

21 To Plaintiffs and the Class:

22 KYLE TODD, P.C.
23 Kyle Todd
24 E-Mail: kyle@kyletodd.com
25 Rex Phillips
26 E-Mail: rphillips@kyletodd.com
27 171 North Altadena Drive, Suite 270
28 Pasadena, CA 91107
 Tel.: (323) 208-9171
 Fax: (323) 693-0822

To Defendants:

SEYFARTH SHAW LLP
Christian J. Rowley
E-Mail: crowley@seyfarth.com
Kerry Friedrichs
E-Mail: kfriedrichs@seyfarth.com
560 Mission Street, 31st Floor
San Francisco, CA 94105
Tel.: (415) 397-2823
Fax: (415) 397-8549

27. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, including with respect to California Code of Civil Procedure section 583.310, except to effectuate the terms of this Agreement.

SO AGREED:

Dated: 07/27, 2023



Plaintiff Gloria Walker

Dated: July 27,, 2023



Plaintiff Yasmin Gamez

Dated: _____, 2023

For Defendants Loma Linda University Medical
Center – Murrieta and Loma Linda University
Health

COUNSEL SIGNATURES ON FOLLOWING PAGE

To Defendants:

SEYFARTH SHAW LLP
Christian J. Rowley
E-Mail: crowley@seyfarth.com
Kerry Friedrichs
E-Mail: kfriedrichs@seyfarth.com
560 Mission Street, 31st Floor
San Francisco, CA 94105
Tel.: (415) 397-2823
Fax: (415) 397-8549

27. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, including with respect to California Code of Civil Procedure section 583.310, except to effectuate the terms of this Agreement

SO AGREED:

Dated: _____, 2023

Plaintiff Gloria Walker

Dated: _____, 2023

Plaintiff Yasmin Gamez

Dated: August 15, 2023

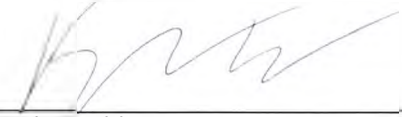
Mare Helston
For Defendants Loma Linda University Medical
Center -- Murrieta and Loma Linda University
Health

COUNSEL SIGNATURES ON FOLLOWING PAGE

1 **Approval As To Form And Content By Counsel:**

2
3 DATED: July 27, 2023

KYLE TODD, P.C.

4
5 By: 

6 Kyle Todd, Esq.
7 Rex Phillips, Esq.
8 Attorney for Plaintiffs Gloria Walker and
9 Yasmin Gamez

10 DATED: _____, 2023

SEYFARTH SHAW LLP

11 By _____

12 Christian J. Rowley
13 Kerry Friedrichs
14 Attorneys for Defendants Loma Linda
15 University Medical Center – Murrieta and
16 Loma Linda University Health
17
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20
21
22
23
24
25
26
27
28

1 Approval As To Form And Content By Counsel:

2
3 DATED: _____, 2023

KYLE TODD, P.C.

4
5 By: _____

6 Kyle Todd, Esq.
7 Rex Phillips, Esq.
8 Attorney for Plaintiffs Gloria Walker and
9 Yasmin Gamez

10 DATED: 8/14, 2023

SEYFARTH SHAW LLP

11 By: _____

12 Christian J. Rowley
13 Kerry Friedrichs
14 Attorneys for Defendants Loma Linda
15 University Medical Center – Murrieta and
16 Loma Linda University Health
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