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Attorneys for Plaintiff, on a representative basis and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO

JAMIE JOHNSON, individually, on a  
representative basis, and on behalf of all  
others similarly situated;

Plaintiff,

vs.

SAN FRANCISCO HEALTH CARE AND  
REHAB INC, a California Corporation;  
and DOES 1 through 20, inclusive;

Defendants.

Case No.: CGC-22-597785  
*[Assigned to Hon. Jeffrey S. Ross., Dept. 606 for  
all purposes]*

**DECLARATION OF BRIAN J. MANKIN,  
ESQ., IN SUPPORT OF MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION AND PAGA SETTLEMENT**

Hearing

Date: June 11, 2025

Time: 9:00 a.m.

Dept.: 606

I, Brian J. Mankin, state and declare:

1. I am an attorney licensed to practice before all of the courts of the State of California. I manage the employment department within my firm where I am also a Partner. I represent Plaintiff in this action and I am thoroughly familiar with and have personal knowledge of all of the facts set forth herein. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval of this Class Action Settlement. If called as a witness, I could and would competently testify thereto.

1 **COUNSEL’S EXPERIENCE**

2 2. I have been a member, in good standing, of the State Bar of California since 2001.  
3 I am admitted to practice in the United States District Courts for the Central and Southern  
4 District of California and the Ninth Circuit Court of Appeal and have tried cases in various  
5 courts in California.

6 3. I have handled well over 500 employee vs. employer litigation matters during my  
7 23 years in practice. Over the last 18 years, my practice has almost entirely consisted of  
8 representing employees, the majority of which has included class action and representative  
9 action wage and hour matters. In total, I have handled well over 300 class action and  
10 representative action wage/hour cases, and have been appointed by the court as class counsel and  
11 have received final court approval and judgment in over half of those actions to date, and  
12 anticipate receiving final approval in many more of those in the future.

13 4. As part of these settlements and judgments, I have recovered well in excess of  
14 \$250 million in damages for my clients and the class members (who often work as nurses,  
15 ambulance drivers, technicians, warehouse workers, truck drivers, sales, professional  
16 occupations and countless other trades). My team and I once held the record for the largest  
17 PAGA-only case in California’s history - a \$12.5 million-dollar court approved settlement,  
18 which followed extensive litigation, summary adjudication and writs to the CA Supreme Court  
19 against a Fortune 50 company (*Garcia v. Macy’s*, San Bernardino Superior Court).

20 5. I have tried two major class and PAGA cases against Fortune 100 companies over  
21 the last few years. I was lead counsel in a PAGA case that my firm tried in the Orange County  
22 Superior Court and received a \$425,000 judgment. I was co-counsel in a class action case  
23 against Walmart that was tried to the jury in District Court, wherein the jury awarded Plaintiffs  
24 over \$6 million. Both cases were appealed, and ultimately the jury trial verdict was affirmed and  
25 the PAGA case was reversed and remanded.

26 6. I was named by the LA Times as one “Southern California Leading Lawyers” in  
27 the May 2023 issue of Consumer Attorney’s of Southern California (a recognition given to 17  
28 employment/labor law attorneys in 2023). Additionally, over the last 5+ consecutive years, I

1 have been selected by my peers as a “Super Lawyer” in Employment Litigation, a distinction that  
2 only 5% of lawyers receive.

3 **BRIEF SUMMARY OF THE SETTLEMENT**

4 7. Following a contested litigation process, Plaintiff and Defendant (collectively, the  
5 “Parties”) finalized a Class Action and PAGA Settlement Agreement and Release (the  
6 “Settlement Agreement” or “S.A.”). At the initial preliminary approval hearing, the Court  
7 requested certain revisions, and the revised version with the requested changes is attached hereto  
8 as **Exhibit 1**.

9 8. As brief background, and as explained in more detail below, this was not a run-of-  
10 the-mill case with standard claims, minimal litigation, and a quick mediation and settlement. To  
11 the contrary, this case involved intense litigation in state court, federal court, and arbitration,  
12 including a bifurcated proceeding whereby certain claims were in arbitration and other claims  
13 proceeded in court, with extensive motion practice, and discovery disputes that required court  
14 intervention. More specifically, Defendant’s removal to federal court was paired with the filing  
15 of two separate motions to dismiss Plaintiff’s claims under the Labor Management Relations Act  
16 (“LMRA”), 29 U.S.C. § 185, based on the argument that Plaintiff’s claims are preempted under §  
17 301 of the LMRA because they arise under a collective bargaining agreement (“CBA”). In  
18 response, Plaintiff moved to remand, arguing that LMRA preemption does not apply, and  
19 Plaintiff further opposed the motion to dismiss on the merits. After multiple rounds of briefing  
20 and oral argument, the Northern District ultimately denied, in part, Defendant’s motion to  
21 dismiss and sent this action back to this Court. But the fight did not end there – instead,  
22 Defendant then brought a motion to compel arbitration which, after contested briefing and  
23 argument, the Hon. Richard Ulmer granted in part and denied in part, effectively sending certain  
24 Class Claims to arbitration while leaving certain Class Claims and PAGA Claims for unpaid  
25 wages to be adjudicated in this Court. And yet the battles *still* did not end. After Plaintiff  
26 propounded class discovery, seeking information to prepare for class certification, Defendant  
27 raised several objections, leading to discovery disputes that necessitated a lengthy meet and  
28 confer process followed by an Informal Discovery Conference. These disputes continued until

1 Defendant added new specialized counsel, at which time the Parties agreed to attend mediation  
2 with Hon. Brian Walsh (former Presiding Judge of the complex civil litigation department in  
3 Santa Clara County<sup>1</sup>), who put his 20+ years of judicial and mediation experience to work. After  
4 extensive work, Judge Walsh issued a proposal that he believed was fair and reasonable based on  
5 the facts of this case and which resulted in a global resolution of all issues and claims.

6 9. Plaintiff now seeks preliminary approval of this Settlement. Notably, this  
7 Settlement Agreement is an amended version of the document previously submitted, and the  
8 changes were made to address and resolve Judge Cheng's concerns,<sup>2</sup> namely: (1) a reduction in  
9 the attorneys' fees to 30% [S.A. ¶ 48(f)], which Plaintiff's counsel will support at final approval  
10 with a full lodestar analysis, (2) the reduction in Plaintiff's service award to \$3,000, a request  
11 which Plaintiff will fully support at final approval, and (3) the elimination of Plaintiff's separate  
12 individual release, which Judge Cheng repeatedly called "overbroad", by transitioning Plaintiff's  
13 general release and § 1542 waiver to an individual settlement of \$7,000, paid separately by  
14 Defendant with new money (which increases the net settlement available to pay the Class).

15 10. The Settlement Agreement seeks to release and discharge Defendant from the  
16 claims brought against it in exchange for Defendant's agreement to pay \$760,000 on a non-  
17 reversionary, non-claims made basis (each Class Member will receive his/her share of the Net  
18 Settlement Amount without having to submit a claim form or take any action). As set forth in  
19 the motion and Settlement Agreement, Plaintiff seeks to represent "All current and former  
20 nonexempt employees employed by Defendant in California during the Class Period."  
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23 <sup>1</sup> See <https://www.jamsadr.com/brian-walsh/>

24 <sup>2</sup> Even if the Court has remaining concerns about the requests for attorneys' fees, costs, or the  
25 service award, Plaintiff and her counsel propose that the proper approach is to preliminarily  
26 approve the amounts. After that occurs, the Class Notice will explain all terms to the Class  
27 Members, who can object or comment upon the fee/cost/service award. Then Plaintiff can  
28 present the Class Member reactions (if any) at final approval, along with a full lodestar analysis,  
actual receipts and proof of cost expenditures (which will likely be less than the \$30,000  
allocation), and support for the service award. At that point, the Court can exercise its discretion  
to award the fees and service award it believes are fair and reasonable (and Plaintiff and her  
counsel strongly believe that the amounts requested now fall within that category).

11. Under the terms of the Settlement Agreement, Defendant will not oppose my firm's application for a reasonable award of attorneys' fees not to exceed \$228,000 (reduced to 30%), litigation expenses not to exceed \$30,000, Settlement Administrator Costs of \$10,000, PAGA penalties of \$40,000 (75% to the LWDA and 25% to the Aggrieved Employees on a pro rata basis), and a Service Payment that has been reduced to \$3,000 to Plaintiff Jamie Johnson ("Class Representative"). After subtracting the agreed-upon deductions from the Settlement Amount, approximately \$449,000.00 will be available to pay the individual settlement amounts to approximately the Class Members who do not opt-out of the settlement, as follows:

|                                     |                      |
|-------------------------------------|----------------------|
| <b><i>Settlement Amount</i></b>     | <b>\$ 760,000.00</b> |
| Attorneys' Fees (reduced to 30%)    | \$ 228,000.00        |
| Litigation Costs (not to exceed)    | \$ 30,000.00         |
| Administrator Costs                 | \$ 10,000.00         |
| PAGA Penalties                      | \$ 40,000.00         |
| Class Representative Service Award  | \$ 3,000.00          |
| <b><i>Net Settlement Amount</i></b> | <b>\$ 449,000.00</b> |

12. Assuming 700 Class Members, the average payment will be approximately \$641.43 (\$449,000.00 / 700). However, the actual payments will be calculated on a pro-rata basis according to the number of Weeks Worked by each Class Member during the Class Period, with an estimated gross value of \$20 per workweek and an estimated net value of \$11.82 per workweek (the Parties settled the Action at \$20 per workweek [\$20 x 38,000 = \$760,000] but, after deductions, the net value per workweek is \$11.82 [\$449,000.00 / 38,000 workweeks]). In addition, approximately 420 Aggrieved Employees will receive a share of the \$10,000 PAGA Penalties (25% of the \$40,000 allocation), shared pro-rata based on Weeks Worked during the PAGA Period.

13. Each Class Member will receive the Class Notice, explaining the nature of the case, and the process for participating, objecting and opting-out, and advising of his/her estimated settlement payment and the number of Weeks or Pay Periods he/she is credited with working during the Class Period which is attached hereto as **Exhibit 2**.

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15. After being retained by Plaintiff, we sent a letter to Defendant requesting the production of Plaintiff's personnel and timekeeping records in order to further evaluate her wage and hour claims. On January 21, 2022, we submitted a letter to the California Labor Workforce Development Agency (the "LWDA") for civil penalties under the Private Attorney General Act of 2004 (the "PAGA"), which is attached hereto as **Exhibit 3**.

17. SFHCR retained counsel, began to defend the case, and removed the Action to the U.S. District Court for the Northern District of California on March 28, 2022, under § 301 of the Labor Management Relations Act. Defendant filed a motion to dismiss certain causes of action in federal court. Plaintiff also filed a motion to remand the Action back to state court, which was set to be heard concurrently with Defendant's motion to dismiss. Ultimately, the federal court granted in part and denied in part Defendant's motion to dismiss and remanded this Action back to this Court. *See Johnson v. San Fran. Health Care* (N.D. Cal. 2022) 2022 U.S. Dist. LEXIS 126222.

18. After returning to state court, the Parties discussed and scheduled mediation with Mark Rudy in April 2023. However, a dispute arose among the Parties concerning the scope of sampling and pre-mediation data, that mediation was cancelled, and litigation resumed. SFHCR then filed a petition to compel arbitration, which the Hon. Richard Ulmer granted in part and

1 denied in part, effectively sending certain Class Claims to arbitration while leaving certain Class  
2 Claims and PAGA Claims for unpaid wages to be adjudicated in this Court.

3 19. Plaintiff and her counsel immediately sought class-wide discovery seeking  
4 information relevant to class certification, including class contact information. Defendant  
5 disputed the propriety of many of Plaintiff's discovery requests for various reasons. The Parties  
6 thereafter engaged in extensive "meet and confer" efforts, including an Informal Discovery  
7 Conference with this Court, on these issues.

8 20. Ultimately, the Parties agreed to table the pending discovery disputes and attend  
9 mediation as to all Class and PAGA claims alleged.

10 21. In preparation for mediation, the Parties informally exchanged documents and  
11 information which allowed both sides to calculate the potential damages and evaluate potential  
12 risk. Defendant produced extensive documents and information to Plaintiff (spanning over 3,000  
13 pages of documents), including without limitation: policies and procedures pertaining to the  
14 claims, the number of current and former employees, the number of shifts worked, and the  
15 number of pay periods worked. Defendant also provided the following: the Employee ID for  
16 every Class Member, their hourly rate, job title, hire and termination date (if applicable), the  
17 number of pay periods worked, and the amount of pay received in various categories relating to  
18 Plaintiff's claims (*e.g.*, shift differential pay, bonuses, hazard pay, amount of meal premiums  
19 paid, and so forth). Defendant provided a significant sampling of the Class Members' payroll  
20 and timekeeping records spanning more than 1,800 pages to Plaintiff's counsel. This  
21 information enabled both parties to delve deeply into the merits of the claims and, during this  
22 process, Plaintiff and her counsel analyzed, researched, and investigated the potential issues,  
23 including matters related to the calculation of damages, the costs associated with preparing for  
24 trial, and potential appellate issues and risks.

25 22. On March 19, 2024, Plaintiff and SFHCR participated in mediation with Hon.  
26 Brian Walsh (Ret.), a well-respected employment mediator. At the conclusion of mediation and  
27 extensive arms-length negotiations, the Parties entered into the Settlement Agreement. Plaintiff  
28 now seeks the Court's preliminary approval of the Settlement.

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24. For instance, Plaintiff alleged that Defendant paid Class Members on an hourly basis *plus* additional earned compensation (*i.e.*, shift differentials and bonuses). Plaintiff contended SFHCR failed to include this compensation in the regular rate calculations and, thus, failed to pay all required overtime. Defendant denied this contention in its entirety, and further pointed to affidavits from the stewards of Plaintiff's Union to show Plaintiff was paid in compliance with the Cal. Labor Code. Defendant maintained the hours worked by its employees, and any shift differentials or bonuses, were correctly accounted for in calculating their pay. Moreover, Defendant contended this matter was preempted by Cal. Labor Code §514.

26. Third, Plaintiff alleged that SFHCR utilized a practice that “rounded” the Class Members’ timekeeping and paid in quarter-hour increments, and further alleged that this practice underpaid the Class because it did not pay all wages owed. (See *Camp v. Home Depot U.S.A. Inc.*, (2022) 84 Cal.App.5th 638, 660.) Defendant denied this allegation and contended that, if any such “rounding” occurred, such “rounding” would have worked to the employees’ favor, not to their detriment.

1           27.     Fourth, Plaintiff alleged that, during COVID, SFHCR required the Class to  
2 complete pre-shift temperature checks and screenings prior to clocking in, leading to unpaid  
3 wages on each such occasion. (See *Boone v. Amazon Servs., LLC* (E.D. Cal. 2022) 562  
4 F.Supp.3d 1103 [pre-shift COVID temperature checks constitute “hours worked” and must be  
5 compensated].) Defendant denied any such practice occurred.

6           28.     Plaintiff also argued these violations resulted in unpaid minimum wages and  
7 overtime, waiting time penalties under Labor Code § 203, and other derivative penalties.  
8 Defendant opposed each of these unpaid wage claims on numerous grounds, and further,  
9 disputed the propriety of adjudicating all of Plaintiff’s claims on a class or representative basis.  
10 For instance, Plaintiff also alleged that Class Members were denied compliant meal and rest  
11 breaks. However, Defendant argued it provided and made all mandated breaks available to the  
12 Class, and any employee who did not take a break did so of their own volition. Thus, Defendant  
13 argued these claims were without merit because, for each violation, a factfinder must determine  
14 why a break was noncompliant, because if it was by the employee’s choice, no liability attaches  
15 to Defendant.

16           29.     Finally, Plaintiff alleged a variety of other, derivative claims (all of which  
17 Defendant disputed), such as the failure to timely pay wages each period (under Labor Code §  
18 204), failure to timely pay all wages upon separation of employment (Labor Code §§ 201 – 203),  
19 and failure to provide accurate itemized wage statements (Labor Code § 226).

20           30.     Despite the disputed nature of the claims, the Parties concluded that further  
21 litigation of the Action would be protracted and expensive, and that it is desirable that the Action  
22 be fully and finally settled to limit further risk, expense, and protracted litigation.

### 23                           **EVALUATION OF THE SETTLEMENT**

24           31.     In preparation for mediation, Peter Carlson, a senior associate with 10 years of  
25 litigation experience within my office, and I formulated a damages model and risk analysis based  
26 upon detailed data obtained through informal discovery and information exchanges. The  
27 summary of the claims below is based on calculations by our expert and us, and a declaration  
28 from our statistical expert was previously filed with the Court (*see* Declaration of Sean Berger,

1 filed on August 12, 2024). The analysis considered the risks that we potentially faced, giving  
2 significant credit to the defenses that Defendant raised or would likely raise in further  
3 proceedings.

4 32. In evaluating the Settlement, my firm, with assistance of a statistical expert (Sean  
5 Berger), analyzed the potential value of each set of claims. And this declaration provides the  
6 Court with “basic information about the nature and magnitude of the claims in question and the  
7 basis for concluding that the consideration being paid for the release of those claims represents a  
8 reasonable compromise.” *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.  
9 Specifically, this declaration provides the information necessary under controlling authority,  
10 namely an understanding of the amount that is in controversy and the realistic range of outcomes  
11 of the litigation.” *Munoz v. BCI Coca-Cola Bottling Co.* (2010) 186 Cal.App.4th 399, 408-409  
12 (rejecting the notion that any “explicit statement of [maximum] value” is required).

13 33. Following the informal exchange and other information provided by Defendant,  
14 we estimated the following data points through the date of mediation: (1) 700 Class Members,  
15 (2) 550 *former* Class Members for purposes of Labor Code § 203, (3) 38,000 workweeks, (4)  
16 136,800 shifts worked, and (4) approximately 6,000 wage statements during the PAGA Period.

17 34. Here, Plaintiff alleged a variety of claims against Defendant, which boil down to  
18 these categories: (1) unpaid wages, (2) meal and rest break violations, (3) waiting time penalties  
19 under Labor Code §§ 201 – 203, (4) wage statement penalties under § 226(e), and (5) PAGA  
20 civil penalties for the same claims. The risks at class certification and on the merits, along with  
21 the “realistic range of outcomes” for each claim (*Munoz*, 186 Cal.App.4th at 408-409) are  
22 addressed below.

23 **Plaintiff’s Unpaid Wage Claims**

24 35. Plaintiff’s unpaid wage claims had several distinct theories of liability, including:  
25 (1) alleged regular rate issues (*i.e.*, failure to include shift differentials, bonuses, and other  
26 payments in overtime and other calculations), (2) Defendant’s alleged “auto-deduct” policy, (3)  
27 an alleged “rounding policy”, and (4) off-the-clock violations for COVID temperature checks.  
28 However, Defendant vehemently opposed these unpaid wage claims on the merits and as to the

1 propriety of class certification.

2       36. Defendant attacked the propriety of certifying the “auto-deduct” claims because it  
3 intended to offer evidence that no practice existed and, even if records indicate it occurred, this  
4 claim is also not proper for certification since it would require a string of noncertifiable  
5 individualized issues to determine whether the “auto-deducts” were a common and uniform  
6 practice and whether the class members were actually working during those 30 minutes (since, if  
7 the auto-deducts occurred on days when the employee took a meal, there is no unpaid wages, no  
8 violation, and nothing to certify). Defendant also argued that the regular rate claim should not be  
9 certified because that claim was pre-empted by the LMRA and Labor Code § 514. Also, as to the  
10 rounding claim, Defendant argued that certification was improper because the majority of  
11 workers were overpaid, not underpaid, and this cuts against certification (based on arguments  
12 such as “typicality”, “commonality” and whether common questions predominate among the  
13 Class). Finally, for the COVID temperature check claim, Defendant argued that these claims  
14 could not be certified because employees were permitted to clock in *then* do the temperature  
15 check, and no unpaid wages would attach; moreover, even if an employee clocked in after the  
16 temperature check, certification should be denied because determining whether this applied to a  
17 specific employee, and why, will require the precise type of individualized inquiry that requires  
18 denial of class certification. In sum, when faced with these risks and defenses, my office  
19 assigned a 30% risk to the unpaid wage claims at the class certification stage. In sum, when  
20 faced with these risks and defenses, my office assigned a 30% risk to the unpaid wage claims at  
21 the class certification stage.

22       37. As to the merits of the unpaid wage claims, there were several strong defenses.  
23 Notably, as to the regular rate claim, Defendant argued that it was not required to incorporate  
24 bonuses and shift differentials into overtime because it was exempt from the requirement to do  
25 so because these were union employees, covered by a valid collective bargaining agreement, and  
26 Labor Code § 514 applied. Then, as to the auto-deduct claim, Defendant denied the existence of  
27 such policy but argued, in the alternative, that even if there were instances where an employee’s  
28 timekeeping showed 8.5 hours (without a meal) and they were paid 8.0 hours, that accurately

1 paid for all hours worked because Defendant provided, made available, and scheduled meal  
2 periods for employees so there were no instances where the meal did not occur. Defendant also  
3 argued that the COVID temperature check claim had no merit because class members were  
4 permitted to clock in first and then go through the temperature check, so no liability should  
5 attach. Further, Defendant argued that both the COVID and auto-deduct claims would fail  
6 because it maintained lawful policies that prohibited “off-the-clock work” for the class members  
7 – and Defendant produced copies of its policies and procedures which noted that employees were  
8 required to accurately record their time worked, including the time work begins and ends. For  
9 this reason, Defendant argued that its lawful written policy creates a “presumption [that  
10 employees] are doing no work” when they are clocked out. *Brinker v. Superior Court* (2012) 53  
11 Cal.4th 1004, 1051. Thus, any claim for off-the-clock work would require unmanageable  
12 individualized inquiries into why an employee failed to follow the company’s lawful policy and  
13 whether that employee actually performed compensable (but unpaid) work. Plaintiff also  
14 anticipated that Defendant would cite cases holding that an employer cannot be liable for unpaid  
15 wages where the employee (1) fails to notify the employer of such time, and (2) where the  
16 employer has no constructive or actual knowledge of the work being performed off-the-clock.  
17 Finally, as to the rounding claim, Defendant argued that this claim would fail outright because its  
18 policy was neutral on its face (as it rounded to the nearest 15 minutes) and more-than-neutral in  
19 application since the timekeeping data showed that more employees were overpaid than  
20 underpaid. In total, when considering all of these risks and defenses on the merit, my office  
21 assigned a 40% risk on the merits for the unpaid wage claims.

22 38. “Realistic Range of Outcome” for Unpaid Wage Claims. Based on these facts,  
23 and as stated above, my firm’s analysis was that the unpaid wage claims had a risk-adjusted  
24 value (*i.e.*, a “realistic range of outcome”) of \$308,751. However, it must be stressed that there  
25 was the possibility of a \$0 value on these putative class claims because Defendant made clear its  
26 intent to appeal Judge Ulmer’s ruling regarding arbitration, and if that decision were overturned  
27 it would eliminate the class-wide unpaid wage claims entirely, resulting in no recovery.

28 ///

**Plaintiff's Meal and Rest Break Claims**

39. Plaintiff also alleged meal and rest break claims against Defendant. Based on the pre-mediation analysis and investigation, and when incorporating violation rates from expert review of the timekeeping records and other evidence, Class Counsel estimated a 39.7% violation rate for meal periods and a 50% violation rate for rest breaks. However, Defendant raised strong arguments in defense of these claims, both at class certification and on the merits.

40. For instance, Defendant argued that it maintained fully compliant written policies and specifically authorized the Class Members to take meal and rest breaks, meaning that no one had a reason or cause to miss a break or take a short/late break. Based on documents that Defendant provided prior to mediation, including its written meal and rest break policies, Plaintiff recognized that this defense carries weight because it establishes that Defendant properly provided the meal/rest breaks under *Brinker*. Therefore, when considering a motion for class certification or eventual dispositive motion, a ruling would be necessary to determine for each Class Member whether a break was missed and why, and why a break was noncompliant or nonexistent, because if it was by the employee's choice, no liability attaches to Defendant. These issues raise questions regarding whether the meal and rest break claims could be certified, and Plaintiff placed a 50% risk at the class certification stage for meal periods and rest breaks. These defenses also go toward the merits given the evidentiary question (and hurdle) of proving the number of meal and rest violations. As such, Plaintiff placed a 50% risk on the merits for meal breaks, and an additional 50% risk on the merits for rest breaks.

41. "Realistic Range of Outcome" for Meal and Rest Break Claims. Based on these facts, and as stated above, my firm's analysis was that the meal and rest break claims had a risk-adjusted values (*i.e.*, a "realistic range of outcome") of \$329,523 for meal periods and \$415,017 for rest breaks. However, these meal and rest break claims also had a possible (and realistic) \$0 value because they were both subject to Judge Ulmer's arbitration order. These claims were sent to arbitration and it was very unlikely that they would be allowed to proceed on a class action basis. *See Lamps Plus, Inc. v. Varela* (2018) 587 U.S. 176 (where SCOTUS held that class arbitration is not available unless the parties affirmatively agreed to arbitrate on a classwide

1 basis). So, even though my firm intended to appeal Judge Ulmer’s order in this regard, it was a  
2 very realistic possibility that these class claims would have \$0 value if litigated through finality.

3 **Plaintiff’s Waiting Time Penalty Claims**

4 42. Plaintiff also alleged claims for waiting time penalties, which was a derivative  
5 claim based on this theory: because Defendant did not pay *all wages owed* upon separation of  
6 employment (because of the unpaid wage claims above), waiting time penalties attach.

7 43. However, Defendant argued that the valuation (and appropriate discount for  
8 negotiation purposes) had to account for the “derivative” nature of this claims since, if the other  
9 claims failed at certification or on the merits, there would be no waiting time penalties owed, so  
10 the same risks for those claims applied to this claim. Furthermore, even if the unpaid wage  
11 and/or meal/rest claims succeeded at certification and on the merits, Plaintiff would have to  
12 prove that the violations (if any existed) were “willful” under the meaning of Labor Code § 203.  
13 And, here, Defendant argued that there could not be a finding of a “willful” violation since it had  
14 compliant written policies, and any deviations therefrom were inadvertent and unintentional.  
15 And Defendant stressed that this is especially applicable where it believed that: (1) the regular  
16 rate claim had no merit given the alleged application of the § 514 exemption, (2) its rounding  
17 policy and practice benefitted employees, rather than harmed them, and (3) the COVID  
18 temperature check claim cannot be used as a basis for waiting time penalties since there is a  
19 “good faith” defense where Defendant did not require this to occur prior to clocking in and the  
20 temperature check itself was critical given Defendant’s and the class members’ roles as  
21 healthcare providers. Thus, for the waiting time penalty claim, Plaintiff assigned a 50% risk at  
22 class certification and an additional 50% risk on the merits.

23 44. “Realistic Range of Outcome” for Waiting Time Penalty Claims. Based on these  
24 facts, and as stated above, my firm’s analysis was that the waiting time penalty claims had a risk-  
25 adjusted value (*i.e.*, a “realistic range of outcome”) of \$815,760. But, like the other claims, this  
26 claim could also be impacted by the motion to compel arbitration and appeal. If Judge Ulmer’s  
27 decision was overturned in full, then this claim could not proceed on a class basis. Furthermore,  
28 even if Judge Ulmer’s decision was overturned in *part*, this claim was at risk because it is

possible that an appellate court could determine that the waiting time penalty claims should have been sent to arbitration, despite the FAA vs. CAA arguments.

**Plaintiff's Wage Statement Claims**

45. Finally, Plaintiff alleged claims for wage statement violations. Like the waiting time penalty claims, these were “derivative” in nature, *e.g.*, because Defendant did not properly calculate and pay all wages owed each period, the wage statements were inaccurate.

46. In our analysis of this claim and its value, we had to account for the fact that these were “derivative” as opposed to “direct” wage statement violations (*i.e.*, because these claims were entirely derivative of the claims above, they only had merit if the claims for unpaid wages or meal/rest breaks were successful). Additionally, Defendant argued that the wage statements did not violate Labor Code § 226 and even if there was a “technical” violation, that Plaintiff would be unable to prove the required “knowing and intentional” and “injury” elements. And this was especially true given the pending decision looming from the California Supreme Court in *Naranjo v. Spectrum Security* which was set to touch on this very topic. Thus, we applied a 40% risk at class certification and another 40% risk on the merits for wage statement claims.

47. However, as this Court is likely aware, the California Supreme Court issued the *Naranjo* decision less than 2 months after this mediation/settlement, and the holding cuts against a finding of liability for Defendant on wage statement violations, to wit: “We now conclude that if an employer reasonably and in good faith believed that it was providing a complete and accurate wage statement in compliance with the requirements of [§ 226], then it has not knowingly and intentionally failed to comply with the wage statement law.” *Naranjo v. Spectrum Security Services, Inc.* (2024) 15 Cal.5th 1056, 1065. Given this result, and in hindsight, our risks/discounts on the wage statement claims were low because the recent *Naranjo* decision greatly reduces the chances of certifying and/or succeeding on the merits of purely “derivative” wage statement claims where (as here) the employer believed it had compliant policies.

48. “Realistic Range of Outcome” for Wage Statement Claims. Based on these facts, and as stated above, my firm’s analysis was that the wage statement claims had a risk-adjusted value (*i.e.*, a “realistic range of outcome”) of \$208,440. However, just like the other claims

1 above, there were several lingering issues that could result in \$0 value for this claim that are not  
2 expressly incorporated into the above. For instance, if this claim was now litigated through  
3 finality, the recent *Naranjo* decision may result in a loss on the merits for these “derivative”  
4 wage statement claims. Additionally, these wage statement claims were part of Judge Ulmer’s  
5 arbitration order, and as such, the claims likely could not proceed on a class action basis (*see*  
6 *Lamps Plus*, 587 U.S. 176) unless succeeded on appeal (and appeals of orders regarding  
7 arbitration typically have a low success rate).

8 49. In sum, Plaintiff calculated the “realistic range of outcomes” (*i.e.*, the risk-  
9 adjusted value) for all Class claims, combined, to be \$2,077,491. But, as detailed above, there  
10 were still several scenarios where the Class claims would end with no recovery, and this was  
11 discussed and considered during the mediation and settlement process.

12 50. Then, as to the PAGA claims, our analysis and valuation acknowledged that  
13 courts have wide latitude to reduce the civil penalties “based on the facts and circumstances of a  
14 particular case” and if “to do otherwise would result in an award that is unjust, arbitrary and  
15 oppressive, or confiscatory.” Labor Code § 2699(e)(2). Under this discretionary authority,  
16 many courts have greatly reduced PAGA claims where, such as here, the company raised several  
17 good faith arguments that, if successful, would have defeated the claims (such as the Labor Code  
18 § 512 exemption, LMRA preemption, compliant written policies, and so forth). *See, e.g.*,  
19 *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504 (approving of trial court applying only  
20 \$5 per violative pay period); *Fleming v. Covidien Inc.* (C.D. Cal. 2011) 2011 WL 7563047 (82%  
21 reduction in PAGA penalties); *Aguirre v. Genesis Logistics* (C.D. Cal. 2013) 2013 WL  
22 10936035 (72% reduction in PAGA penalties). Defendant also argued against the merits of the  
23 underlying claims and particularly that the “willfulness” standard and/or “good faith” defenses  
24 mitigated the civil penalty claims and rendered any such penalties as uncertain. Moreover,  
25 Defendant took the position that Plaintiff would not be entitled to “stack” more than one PAGA  
26 civil penalty per employee per pay period (regardless of whether there was one Labor Code  
27 violation or five). Without conceding ground on this “stacking” defense, Plaintiff and her  
28 counsel acknowledged the possibility that a court may rule that only \$100 (total) per pay period

1 was available in PAGA penalties, regardless of the number of violations. With these  
2 considerations, defenses, and risks in mind, the Parties believe – in sum – that the \$40,000  
3 PAGA penalties payable under the settlement are fair and reasonable because that amounts to  
4 \$6.66 per pay period (\$40,000 / 6,000 PAGA periods = \$6.66). And that amount is fair and  
5 reasonable given the following claim-specific risks, especially where it is *more* than the amount  
6 awarded in *Carrington* after trial and prevailing on the merits.

7 **THE SETTLEMENT IS FAIR, JUST, AND REASONABLE**

8 51. The settlement was the product of extensive arm's length negotiations, facilitated  
9 by an experienced mediator. Though cordial and professional, the settlement negotiations were  
10 adversarial and non-collusive in nature. The settlement reached is the product of substantial  
11 effort by the parties and their counsel. Although we believed that there was a possibility of  
12 certifying the claims, we recognized the potential risk, expense, and complexity posed by  
13 litigation, such as unfavorable decisions on class certification, summary judgment, at trial and/or  
14 on the damages awarded, and/or on an appeal that can take several more years to litigate.

15 52. The settlement will result in a fair payment to each Class Member based on the  
16 percentage of weeks worked during the Class Period and other factors as set forth in the  
17 Settlement Agreement. As set forth hereinabove, Plaintiff and her counsel have diligently  
18 investigated the claims and defenses on behalf of the Class Members and worked to achieve a  
19 resolution of the claims to maximize the recovery by avoiding further expenditure of attorneys'  
20 fees and costs. After evaluating the significant risks attendant with further litigation described  
21 above and weighing them against the benefits of a known compromise and settlement as set forth  
22 in the Settlement Agreement, settlement on the terms agreed to is believed to be in the best  
23 interest of Plaintiff and the Class, and is a fair and reasonable resolution of the claims alleged.

24 53. My office brought to bear a great deal of experience in negotiating the settlement  
25 of this case. As detailed herein, my office engaged in the necessary discovery and investigation,  
26 making it possible to exercise informed judgment throughout the settlement process, including  
27 significant document review (e.g. documents pertaining to Defendant's policies and procedures,  
28 personnel documents, among others), and conducted an extensive analysis of the detailed class-

1 wide data provided by Defendant.

2 54. Based on my experience in other cases, including wage and hour matters, I  
3 believe I am qualified to evaluate the class claims and viability of defenses in this class action.  
4 In this case, the recovery for each class member is reasonable, fair, and adequate, and a  
5 settlement at this time is in the best interests of the class. The settlement provides each class  
6 member with compensation for the alleged violations when viewed in relation to the costs and  
7 risks inherent in obtaining class certification and proceeding to trial.

8 55. Plaintiff's counsel, as well as Defendant's counsel, fully endorse the terms and  
9 conditions of the settlement as set forth in the abovementioned Settlement Agreement.

10 56. Of course, the settlement amount represents a compromise figure, taking into  
11 account the various risks surrounding class certification and the merits of Defendant's asserted  
12 defense. Nevertheless, the settlement provides for fair and adequate payments to the class  
13 members, with no reversion to Defendant.

14 **PLAINTIFF'S REQUESTED ENHANCEMENT PAYMENT**

15 57. Plaintiff seeks an enhancement payment of \$3,000 for her service to the class,  
16 which I believe is fair and warranted. Plaintiff came forward in an effort to effectuate a policy  
17 and practice change that benefitted all other Class Members, and to recover unpaid wages. She  
18 assumed significant risk in bringing this litigation—namely, had she lost, she would have been  
19 ordered to pay Defendant's costs.

20 58. Plaintiff provided invaluable assistance to my office and the Class in this case,  
21 including providing factual background for the Class Complaint; reviewing the litigation  
22 documents; providing information and documents about Defendant's policies and practices;  
23 participating in phone calls to discuss litigation and settlement strategy; drafting responses to  
24 formal discovery; and reviewing the settlement documents. Plaintiff agreed to participate in this  
25 case with no guarantee of personal benefit. At final approval, Plaintiff will submit a  
26 comprehensive declaration setting forth all of the reasons why she believes that the service award  
27 should be approved.

28 ///

1     **ADEQUACY OF COUNSEL AND THE PROVISIONAL REASONABLENESS OF THE**  
2                     **REQUESTED FEES AND COSTS**

3             59.     As set forth above, I have handled over 500 class and representative actions, have  
4     been appointed as class counsel and have successfully resolved over half of those cases, and  
5     many others remain pending and will successfully resolve in the future.

6             60.     When this case was taken on a contingency fee basis, with my firm agreeing to  
7     assume responsibility for all litigation costs, the ultimate result was far from certain. In the  
8     course of this litigation, my firm paid all costs including filing fees, court costs, research fees,  
9     and mediation costs. There was never a guarantee that we would recoup those expenditures.

10            61.     It is my experience that attorney fee awards of one-third of a common fund  
11     settlement is the standard benchmark in California state courts. In this case, my firm agreed to  
12     reduce our fee request to 30% of the Settlement Amount for attorneys' fees. Defendant does not  
13     oppose this fee request. The fee is further warranted because it is within the range of  
14     reasonableness typically awarded in class actions. The costs are reasonably capped at \$30,000  
15     and will be based on the actual amount of costs incurred at the time of final approval.

16                     **SETTLEMENT ADMINISTRATOR**

17            62.     The parties request that the Court appoint Phoenix Settlement Administrators to  
18     serve as the Settlement Administrator. Phoenix is experienced in administering class action  
19     settlements and has provided a proposal to administer this settlement for a total of \$10,000,  
20     which is attached hereto as **Exhibit 4**.

21                     **SUBMISSION TO THE LWDA**

22            63.     Plaintiff has concurrently submitted the settlement and motion documents to the  
23     LWDA in accordance with Labor Code § 2699(1)(2). The proof of submission is attached hereto  
24     as **Exhibit 5**.

25                     **EXHIBITS AND CONCLUSION**

26            64.     A true and correct copy of the Settlement Agreement is attached as **Exhibit 1**.

27            65.     A true and correct copy of the proposed Class Notice is attached hereto as  
28     **Exhibit 2**.

66. A true and correct copy of Plaintiff's letter to the LWDA is attached hereto as **Exhibit 3.**

67. A true and correct copy of Phoenix's proposal to administer the Settlement is attached as **Exhibit 4**.

68. A true and correct copy of the LWDA's confirmation of receipt of this Motion, Declarations and exhibits is attached hereto as **Exhibit 5**.

69. For the foregoing reasons, it is respectfully requested that the Court grant preliminary approval of the settlement as being fair, reasonable, and in the best interests of the class, as well as preliminarily approve the requested attorneys' fees, costs, and enhancement payment to the Class Representative.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 9, 2025, at Riverside, California.

By: Brian J. Mankin  
Brian J. Mankin, Esq.

EXHIBIT “1”

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Attorneys for Defendant San Francisco Health Care and Rehab, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO

JAMIE JOHNSON, individually, on a  
representative basis, and on behalf of all  
others similarly situated;

Plaintiff,

vs.

SAN FRANCISCO HEALTH CARE AND  
REHAB, INC., a California Corporation; and  
DOES 1 through 20, inclusive;

Defendants.

Case No.: CGC-22-597785  
*[Assigned to Hon. Jeffrey S. Ross, Dept. 606,  
for all purposes]*

**CLASS ACTION AND PAGA  
SETTLEMENT AGREEMENT AND  
RELEASE OF CLAIMS**

1 This Class Action and PAGA Settlement Agreement and Release of Claims is entered  
2 into by and between Plaintiff Jamie Johnson, individually and on behalf of all others similarly  
3 situated, and on behalf of the State of California, and Defendant San Francisco Health Care and  
4 Rehab, Inc., and is approved by their respective counsel of record, subject to the terms and  
5 conditions hereof and the Court's approval.

6 **A. Definitions**

7 1. "Action" or "Lawsuit" means and refers to the case entitled *Johnson, et al. v. San*  
8 *Francisco Health Care and Rehab, Inc.*, San Francisco County Superior Court, Case No. CGC-  
9 22-597785.

10 2. "Aggrieved Employee(s)" means all current and former nonexempt employees  
11 employed by Defendant in California during the PAGA Period.

12 3. "Agreement" or "Settlement Agreement" or "Settlement" shall mean this Class  
13 Action and PAGA Settlement Agreement and Release of Claims.

14 4. "Class" means and refers to all current and former nonexempt employees  
15 employed by Defendant in California during the Class Period.

16 5. "Class Member(s)" refers to individual members of the Class.

17 6. "Class Counsel" refers to Brian Mankin and Peter Carlson of Lauby, Mankin &  
18 Lauby LLP.

19 7. "Class Data" means a complete list that Defendant will diligently and in good  
20 faith compile from its records and provide to the Settlement Administrator on one spreadsheet  
21 which shall include, for each Class Member: the individual's full name, last known address,  
22 Social Security Number, and total Weeks Worked during the PAGA Period and the Class Period.

23 8. "Class Period" is deemed to be any time during the period of January 24, 2018,  
24 through September 6, 2024.

25 9. "Class Representative" or "Plaintiff" means and refers to Plaintiff Jamie Johnson.

26 10. "Complaint" refers to the operative first amended complaint, which pleads class  
27 action and PAGA representative claims.

28 11. "Court" (or "Judge") means the California Superior Court, County of San

1 Francisco.

2 12. “Defendant” means and refers to Defendant San Francisco Health Care and  
3 Rehab, Inc.

4 13. “Defendant’s Counsel” or “Defense Counsel” means and refers to Susan Bishop  
5 of Berliner Cohen, LLP, and Jonathan Van Ee of The Law Offices of Jonathan Van Ee.

6 14. “Effective Date” means the latest of the following dates: (i) if no Class Member  
7 timely and properly intervenes or files a motion to vacate the Judgment under Code of Civil  
8 Procedure § 663, then the date the Court enters an order granting Final Approval of the  
9 Settlement; (ii) if a Class Member intervenes or files a motion to vacate the Judgment, then  
10 sixty-one (61) calendar days following the date the Court enters an order granting Final  
11 Approval, assuming no appeal is filed; or (iii) if a Class Member timely and properly intervenes  
12 or files a motion to vacate the Judgment under Code of Civil Procedure § 663 or initiates another  
13 collateral attack, and if a timely appeal is filed, then the date of final resolution of that appeal or  
14 other collateral attack (including any requests for rehearing and/or petitions for certiorari),  
15 resulting in final judicial approval of the Settlement.

16 15. “Escalator Clause:” Defendant represents that there are approximately 700 Class  
17 Members who worked approximately 38,000 Work Weeks during the Class Period. Should the  
18 total number of Work Weeks in the Class Period exceed 41,800 (which is 10% more than  
19 Defendant’s representation), then Defendant shall have the option of either: (i) increasing the  
20 Settlement Amount by \$20.00 (which is the Settlement Amount divided by 38,000) for each  
21 additional Work Week above 41,800, or (ii) changing the end date of the Class Period to a date  
22 through which there are no more than 41,800 Workweeks. However, in no event shall the Class  
23 Period end before the date of mediation (March 19, 2024).

24 16. “Final Approval” refers to the order of the Court granting final approval of this  
25 Settlement Agreement and entering a judgment approving this Agreement on substantially the  
26 terms provided herein or as may be modified by subsequent agreement of the Parties.

27 17. “Individual Class Payment” refers to each Participating Class Members’ share of  
28 the Net Settlement Amount, as further discussed in Paragraph 48(c) below.

1           18.     “Individual PAGA Payment” refers to each Aggrieved Employees’ share of the  
2 PAGA Penalties, as further discussed in Paragraph 48(h) below.

3           19.     “Net Settlement Amount” is the Settlement Amount less the Attorneys’ Fees and  
4 Costs Award, the Service Payment to the Class Representative as awarded by the Court, the  
5 Settlement Administration Costs, and PAGA Penalties, as further discussed in Paragraph 48(b)  
6 below.

7           20.     “Notice” means the notice of proposed class settlement that will be sent to the  
8 Class Members, and which will advise each Class Member of the settlement and his or her  
9 estimated Individual Class Amount, Individual PAGA Amount, total Weeks Worked during the  
10 Class and PAGA Period, and will further advise of the setting of a Final Approval Hearing.

11          21.     “Objecting Class Member” means a Class Member, other than Plaintiff, who  
12 submits a valid and timely objection to the terms of this Agreement, pursuant to Paragraph 65(c)  
13 below.

14          22.     “PAGA Penalties” means the amount that the Parties have agreed to pay to the  
15 Labor and Workforce Development Agency (“LWDA”) in connection with the California Labor  
16 Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”), as well  
17 as the Individual PAGA Payment allocated to each Aggrieved Employee.

18          23.     “PAGA Period” is deemed to be any time during the period of January 24, 2021,  
19 through September 6, 2024.

20          24.     “Participating Class Member” means any and all Class Members who are deemed  
21 to participate and receive an Individual Class Payment and do not opt-out by submitting timely  
22 valid Requests for Exclusion.

23          25.     “Parties” mean Plaintiff and Defendant, collectively.

24          26.     “Preliminary Approval Date” means the date the Court approves the Settlement  
25 Agreement and enters the Preliminary Approval Order.

26          27.     “Preliminary Approval Order” means the judicial Order to be entered by the  
27 Court, upon the application or motion of the Plaintiff, preliminarily approving this Settlement  
28 and providing for the issuance of the Notice to the Class, an opportunity to opt out of the

1 Settlement, an opportunity to submit timely objections to the Settlement, and setting a final  
2 approval hearing on the fairness of the terms of Settlement, including approval of attorneys' fees  
3 and costs. Provided that the motion is consistent with the terms herein, Defendant will not object  
4 to Plaintiff's motion for preliminary approval but will be provided with an opportunity to review  
5 and comment upon the motion before it is filed.

6 28. "QSF" means the Qualified Settlement Fund set up by the Settlement  
7 Administrator for the benefit of the Participating Class Members and Aggrieved Employees, and  
8 from which the settlement payments shall be made.

9 29. "Released Class Claims" or "Class Claims" means all claims that were alleged in  
10 the Complaint, or that reasonably could have been alleged based upon the facts stated in the  
11 Complaint, including: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3)  
12 failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to timely pay final  
13 wages, (6) failure to provide accurate itemized wage statements, and (7) unfair and unlawful  
14 competition. This includes all statutory penalties, damages, fees, costs, and interest recoverable  
15 under these claims. The time period governing the Released Class Claims shall be the Class  
16 Period.

17 30. "Released PAGA Claims" means the PAGA claims alleged in the Complaint, or  
18 that reasonably could have been based on the facts stated in the Complaint and in the relevant  
19 LWDA notice letter, including all PAGA claims seeking civil penalties premised upon: (1)  
20 failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal  
21 periods, (4) failure to provide rest breaks, (5) failure to timely pay wages each period, (6) failure  
22 to timely pay wages upon separation of employment, (7) failure to provide accurate itemized  
23 wage statements, and (8) all other claims for civil penalties recoverable under the Private  
24 Attorneys General Act, Labor Code §§ 2698 *et seq.* based on the facts or claims alleged in the  
25 LWDA notice letter and Complaint. The time period governing the PAGA Released Claims  
26 shall be the PAGA Period. The PAGA Released Claims do not release any Aggrieved  
27 Employees' claims for wages or statutory penalties.

28 31. "Released Parties" means Defendant and its parents, subsidiaries, directors,

owners, shareholders, officers, agents, attorneys, insurers, servants, joint employers and employees, past and present, and each of them and anyone acting in concert with foregoing.

32. “Release” shall mean the release and discharge of the Released Class Claims by Plaintiff and all Participating Class Members and their assignees.

33. “Response Deadline” is 45 calendar days from the date the Notice is mailed to the Class Members.

34. “Request for Exclusion” shall have the meaning ascribed to it in Paragraph 65(a) below.

35. “Settlement Amount” is \$760,000, exclusive of Defendant’s obligation to fund its share of payroll taxes, as further discussed in Paragraph 48(d) below.

36. “Service Payment” or “Service Award” means the amount approved by the Court to be paid to Class Representative in addition to their Individual Class Payments as Participating Class Members and Individual PAGA Payments as Aggrieved Employees.

37. “Settlement Administrator” or “Administrator” means and refers to Phoenix Settlement Administrators, the third-party class action settlement administrator agreed to by the Parties, that will provide the Notice to the Class Members and distribute the settlement amounts as described in this Agreement.

38. “Settlement Administration Costs” means the costs payable from the Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, tax reporting, and deposit of the employee and employer share of payroll taxes, unclaimed property due diligence, reporting and remittance obligations, distributing the Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The Settlement Administration Costs shall be paid from the Settlement Amount, and shall not exceed the amount approved by the Court, regardless of any additional costs that the Settlement Administrator may request or feel is necessary to administer the Settlement.

39. “Work Weeks” or “Weeks Worked” in the context of a Class Members means any and all work weeks during the Class Period during which the Class Member worked at least one

1 day for Defendant in California. Likewise, in the context of Aggrieved Employees, it means any  
2 and all weeks worked during the PAGA Period during which the Aggrieved Employee worked at  
3 least one day for Defendant in California.

4 **B. General Terms**

5 40. On January 21, 2022, Plaintiff gave written notice by online filing to the Labor  
6 and Workforce Development Agency (“LWDA”) and by certified mail to Defendant of the  
7 specific provisions of the Labor Code alleged to have been violated, including the facts and  
8 theories to support the alleged violations. Then on January 24, 2022, Plaintiff filed the instant  
9 putative class action, alleging that Defendant violated various sections of the Labor Code. The  
10 LWDA declined to assert jurisdiction over the PAGA claims, so on March 30, 2022, Plaintiff  
11 filed the operative first amended Complaint that added PAGA claims to the Action.

12 41. Defendant removed the Action to the United States District Court for the Northern  
13 District of California (“District Court”) on March 28, 2022, under § 301 of the Labor  
14 Management Relations Act. On April 4, 2022, Defendant filed a motion to dismiss certain  
15 causes of action, and on April 14, 2022, Plaintiff filed a motion to remand the Action to state  
16 court. Ultimately, on July 15, 2022, the District Court granted in part and denied in part  
17 Defendant’s motion to dismiss, and remanded the Action to state Court. On about March 20,  
18 2023, Defendant filed a petition to compel arbitration, which the Court granted in part and  
19 denied in part, effectively sending certain Class Claims to arbitration while leaving certain Class  
20 Claims and PAGA Claims in Court. Ultimately, after extensive discovery, the Parties agreed to  
21 submit the entire Action to mediation, inclusive of all Class Claims and PAGA claims.

22 42. Defendant denies Plaintiff’s claims and allegations, and contends that the Action  
23 is not suitable for class certification.

24 43. The Class Representative believes that she can proceed with the representative  
25 and class claims, that the Action is meritorious, and that class certification is appropriate.

26 44. The Parties have conducted a thorough investigation into the facts of the Action.  
27 This includes extensive litigation, motion practice, formal discovery, as well as the exchange of  
28 informal discovery, including a sampling of payroll and timekeeping records for Class Members.

1 Class Counsel is both knowledgeable about and has done extensive research with respect to the  
2 applicable law and potential defenses to the claims of the Class. Class Counsel has diligently  
3 pursued an investigation of the Class Members' claims against Defendant. Based on the  
4 foregoing data and on their own independent investigation and evaluation, Class Counsel is of  
5 the opinion that the settlement with Defendant for the consideration and on the terms set forth in  
6 this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class  
7 Members in light of all known facts and circumstances, including the risk of significant delay  
8 and uncertainty associated with litigation, various defenses asserted by Defendant, and numerous  
9 potential appellate issues.

10 45. On March 19, 2024, Plaintiff and Defendant participated in a full-day mediation  
11 with Hon. Brian Walsh (ret.), a former judge and now a well-respected mediator. At the  
12 conclusion of mediation and extensive arms-length negotiations, the Parties reached a global  
13 settlement and entered into a Memorandum of Understanding.

14 46. The Parties agree that neither the Parties' Settlement, this Agreement, nor the acts  
15 to be performed or judgment to be entered pursuant to the terms of the Settlement and  
16 Agreement, shall be construed as an admission by Defendant of any wrongdoing or violation of  
17 any statute or law or liability on the claims or allegations in the Action.

18 47. Stipulation for Class Certification. For settlement purposes only, Defendant will  
19 stipulate that the Participating Class Members may be conditionally certified as a Class. This  
20 stipulation to certification is in no way an admission that class action certification is proper and  
21 shall not be admissible in this action except for the sole purposes of enforcing this Agreement.  
22 Should, for whatever reason, the Court fail to issue Final Approval, the Parties' stipulation to  
23 class certification as part of the Settlement shall become null and void ab initio and shall have no  
24 bearing on, and shall not be admissible in this Action in connection with, the issue of whether  
25 certification would be appropriate in a non-settlement context. Defendant expressly reserves its  
26 rights and declare that it would continue to oppose class certification and the substantive merits  
27 of the case should the Court fail to issue Final Approval. Plaintiff expressly reserves her rights  
28 and declares that she will continue to pursue class certification and a trial should the Court fail to

1 issue Final Approval.

2 **C. Terms of Settlement**

3 48. The financial terms of the Settlement are as follows:

4 (a) Settlement Amount: The Parties agree to settle this Action for the  
5 Settlement Amount, which is the maximum amount that will be paid by Defendant, except: (1)  
6 Defendant shall separately pay the employer's share of applicable payroll tax obligations in  
7 addition to the Settlement Amount, and (2) if the Escalator Clause is triggered, and Defendant  
8 does not elect to shorten the Class Period, the Settlement Amount shall increase as discussed  
9 below. The Settlement Amount includes payments to the Participating Class Members, PAGA  
10 Penalties (to the Aggrieved Employees and LWDA), Attorneys' Fees and Costs Award, the  
11 Service Payment to the Class Representative, and Settlement Administration Costs.

12 (b) Net Settlement Amount: If the Court reduces the Attorneys' Fees and  
13 Costs Award, Service Awards, or Settlement Administrator Costs, or either increases or  
14 decreases the amount allocated to the PAGA Penalties, the difference shall be placed in the Net  
15 Settlement Amount and allocated to the Participating Class Members.

16 (c) Calculation of Individual Class Payments: Individual Class Payments for  
17 each Class Member will be calculated by the Administrator using the Class Data provided by  
18 Defendant as follows. Compensable workweeks will be all Weeks Worked by the Class  
19 Members during the Class Period. The dollars per compensable work week will be calculated by  
20 dividing the total Weeks Worked by Class Members into the Net Settlement Amount to  
21 determine a per work week value ("Workweek Value"). The Workweek Value will be  
22 multiplied by the number of Weeks Worked by a Participating Class Member during the Class  
23 Period to determine the distribution for a Participating Class Member. If there are any timely  
24 submitted Requests for Exclusion, the Administrator shall proportionately increase the Individual  
25 Class Payments for each Participating Class Member so that the amount actually distributed to  
26 Participating Class Members equals 100% of the Net Settlement Amount. Class Members are  
27 not required to submit a claim form to receive an Individual Class Payment.

28 (d) Tax Allocation of Individual Class Payments: The Individual Class

1 Payments to Participating Class Members will be allocated as follows: one-third (33.33%) will  
2 be allocated as wages subject to withholding of all applicable local, state and federal taxes; and  
3 two-thirds (66.67%) will be allocated for interest and statutory penalties (pursuant to, *e.g.*,  
4 California Labor Code sections 203, 210, 226) from which no taxes will be withheld. The  
5 Administrator will issue to each Participating Class Member an Internal Revenue Service Form  
6 W-2 and comparable state forms with respect to the wage allocation and a Form 1099 with  
7 respect to the penalties and interest allocations. Participating Class Members assume full  
8 responsibility and liability for any employee taxes owed on their Individual Class Payment.

9 (e) Service Payment to Class Representative: The amount, if any, awarded to  
10 the Class Representative as a Service Payment will be set by the Court in its discretion, not to  
11 exceed \$3,000, in exchange for the service that Plaintiff performed on behalf of the Class.  
12 Defendant agrees not to oppose this request. The Service Payment to Class Representative will  
13 be paid out of the Settlement Amount. The Class Representative will be issued an IRS Form  
14 1099 in connection with this payment. Class Representative shall be solely and legally  
15 responsible to pay any and all applicable taxes on this payment. The Parties agree that any  
16 amount awarded as the Service Payment to Class Representative less than the requested amount  
17 shall not be a basis to void this Settlement Agreement. Should the Court approve a lesser  
18 amount for the Service Payment, the difference shall be added to the Net Settlement Amount to  
19 be distributed to Participating Class Members.

20 (f) Attorneys' Fees and Costs Award: Defendant agrees to not oppose a  
21 request by Class Counsel to the Court for an award of attorneys' fees of thirty percent (30%) of  
22 the Settlement Amount, plus reasonable litigation costs not to exceed \$30,000 ("Attorney's Fees  
23 and Cost Award"). Defendant agrees not to oppose any contention by Class Counsel that  
24 attorneys' fees should be based on the common fund theory. The Attorneys' Fee and Cost  
25 Award shall be paid from the Settlement Amount, and, except for this award, Defendant shall  
26 have no further obligation to pay any attorneys' fees, costs or expenses to Class Counsel. Should  
27 the Court approve a lesser amount than what is sought by Class Counsel, the difference shall be  
28 added to the Net Settlement Amount to be distributed to the Participating Class Members. Any

1 Court order awarding less than the amount sought by Class Counsel shall not be grounds to  
2 rescind the Settlement Agreement or otherwise void the Settlement. The Settlement  
3 Administrator shall issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys'  
4 fees and costs awarded by the Court.

5 (g) Settlement Administration Costs: The fees and other charges of the  
6 Settlement Administrator will be paid from the Settlement Amount, not to exceed \$10,000,  
7 unless otherwise approved by all Parties and the Court.

8 (h) PAGA Penalties: The Parties agree that \$40,000 is allocated to PAGA  
9 Penalties, and is to be paid from the Settlement Amount, subject to Court approval. Of this  
10 amount, \$30,000 (75%) shall be paid to the LWDA in satisfaction of civil penalties under the  
11 Private Attorney General Act of 2004 ("PAGA") and \$10,000 (25%) will form the Individual  
12 PAGA Payments to the Aggrieved Employees, which shall be calculated and allocated pro-rata  
13 on a Work Week basis, which will be treated entirely as civil penalties and shall be reported as  
14 required on an IRS Form 1099. Class Counsel shall give proper notice to the LWDA of the  
15 Settlement.

16 (i) Tax Liability: Class Counsel and Defendant make no representations as to  
17 the tax treatment or legal effect of settlement amounts called for hereunder, and Plaintiff and the  
18 Class Members are not relying on any statement or representation by Class Counsel or Defendant  
19 in this regard. Plaintiff, Participating Class Members, and Aggrieved Employees understand and  
20 agree that they will be solely responsible for the payment of any taxes and penalties assessed on  
21 their respective Individual Class Payments and Individual PAGA Payments, described herein.  
22 Forms 1099 will be distributed in the manner required by the Internal Revenue Code of 1986 (the  
23 "Code") and consistent with this Agreement. If the Code, the regulations promulgated  
24 thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes  
25 set forth in this Section may be modified in a manner to bring Defendant into compliance with  
26 any such changes. Plaintiff, Participating Class Members, and Aggrieved Employees understand  
27 and agree that they will be solely responsible for the payment of any taxes and penalties assessed  
28 on their respective payments described herein.

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

26 (k) “Non-Reversionary” Settlement. This is a “non-reversionary” settlement.  
27 Under no circumstances will any portion of the Settlement Amount revert to Defendant.  
28 Participating Class Members and Aggrieved Employees will not have to make a claim to receive

an Individual Class Payment or Individual PAGA Payment. Distributions, in the form of Individual Class Payment or Individual PAGA Payments will be made directly to each Participating Class Member and Aggrieved Employee. The Settlement Administrator shall be responsible for accurately and timely reporting and remittance obligations with respect to unclaimed funds as a result of a Participating Class Member and/or Aggrieved Employee not cashing any checks delivered pursuant to the Settlement by the check cashing deadline, as set forth herein.

(l) Class Counsel and Plaintiff believe that the Settlement is fair and reasonable and will so represent same to the Court.

**D. Release by the Participating Class Members**

49. Upon entry of the Final Approval Order and Defendant's funding of the Settlement Amount and all employer payroll taxes owed on the wage portion of the Individual Class Payments, and except as to such rights or claims as may be created by this Agreement, Plaintiff and the Participating Class Members will forever completely release and discharge the Released Parties from the Released Class Claims for the Class Period.

50. Each Participating Class Member will be deemed to have made the foregoing Release as if by manually signing it.

51. Class Representative, on behalf of herself and the Class, acknowledges and agrees that the claims for unpaid wages and untimely payment of wages in the Action are disputed, and that the payments set forth herein constitute payment of all sums allegedly due to her. Class Representative, on behalf of herself and the Class, acknowledges and agrees that California Labor Code § 206.5 is not applicable to the Parties or Settlement. Labor Code § 206.5 provides in pertinent part as follows: "An employer shall not require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made."

**E. Release of PAGA Claims**

52. Upon entry of the Final Approval Order and Defendant's funding of the Settlement Amount and all employer payroll taxes owed on the wage portion of the Individual

1 Class Payments, Plaintiff – in her individual capacities and on behalf of the State of California  
2 and LWDA – shall completely release and discharge the Released Parties from the Released  
3 PAGA Claims for the PAGA Period.

4 53. Regardless of submitting a valid Request for Exclusion, neither Plaintiff nor any  
5 Aggrieved Employee shall have the right to opt-out or otherwise exclude themselves from  
6 releasing the Released PAGA Claims.

7 54. It is the intent of the Parties that the Final Approval Order shall have full  
8 equitable and collateral estoppel and res judicata effect to the fullest extent permitted by law.

9 **F. Interim Stay of Proceedings**

10 55. Pending completion of all prerequisites necessary to effectuate this Settlement,  
11 the Parties agree, subject to Court approval, to a stay of all proceedings in the Action except such  
12 as are necessary to effectuate the Settlement.

13 **G. Notice Process**

14 56. Appointment of Settlement Administrator. The Parties have agreed to the  
15 appointment of the Settlement Administrator to perform the duties of a settlement administrator,  
16 including mailing the Notice Packet, using standard devices to obtain forwarding addresses,  
17 independently reviewing and verifying documentation associated with any claims or opt-out  
18 requests, resolving any disputes regarding the calculation or application of the formula for  
19 determining the Individual Class Payments and Individual PAGA Payments, drafting and  
20 mailing the settlement checks to Participating Class Members and Aggrieved Employees, issuing  
21 all necessary tax forms, and performing such other tasks as set forth herein or as the Parties  
22 mutually agree or that the Court orders.

23 57. Disputes Regarding Settlement Administration. Any and all disputes relating to  
24 administration of the Settlement by the Settlement Administrator (except for disputes regarding  
25 Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction  
26 over the terms and conditions of this Agreement, until Plaintiff and Defendant notify the Court  
27 that all payments and obligations contemplated by this Agreement have been fully carried out.  
28 Prior to presenting any issue to the Court, counsel for the Parties will confer in good faith to

1 resolve the dispute without the necessity of Court intervention. The Settlement Administrator  
2 shall also be responsible for issuing to Plaintiff, Participating Class Members, and Aggrieved  
3 Employees, and Class Counsel any Tax Forms as may be required by law for all amounts paid  
4 pursuant to this Agreement.

5 58. Class Data. Within thirty (30) days after entry of the Preliminary Approval  
6 Order, Defendant shall provide the Class Data to the Settlement Administrator. The Settlement  
7 Administrator will run a check of the Class Members' addresses against those on file with the  
8 U.S. Postal Service's National Change of Address List. The Class Data provided to the  
9 Settlement Administrator will remain confidential and will not be used or disclosed to anyone,  
10 except as required by applicable tax authorities, pursuant to Defendant's express written consent,  
11 or by order of the Court. Although Class Counsel will not be provided with the list of Class Data,  
12 nothing herein shall prevent Class Counsel from communicating with Class Members regarding  
13 the Action and Settlement.

14 59. Total Workweeks. Within 5 days of receiving the Class Data, the Settlement  
15 Administrator shall provide a spreadsheet to Class Counsel and Defense Counsel containing a  
16 preliminary calculation of all payments to be paid from the Settlement Amount, including the  
17 estimated Individual Class Payments to each Class Member and Individual PAGA Payments to  
18 each Aggrieved Employee (a person's name shall be redacted and a control number used in place  
19 of the name). In the event that the total Workweeks worked by all Class Members exceed  
20 41,800, Defendant shall have fifteen (15) calendar days to make its election to either increase the  
21 Settlement Amount or change the end date for the Class Period to a date through which there are  
22 no more than 41,800 Workweeks. If Defendant fails to make an election within the required  
23 fifteen-day period, it shall be treated as a waiver of the right to shorten the Class Period, and the  
24 Settlement Amount shall be increased in accordance with the Escalator Clause. In either event,  
25 the Settlement Administrator shall notify the Parties of the increased Settlement Amount (if  
26 applicable), and related increased payments from the Settlement Amount (if applicable),  
27 including increased Attorneys' Fees and Costs and any increased Settlement Administration  
28 Costs, all of which shall be subject to Court approval, and shall update Notice accordingly

(including modifying the end date of the Class Period if Defendant elects that option).

60. Notice. The Notice, as approved by the Court, shall be sent by the Settlement Administrator to the Class Members, by first class mail, in English, within twenty-five (25) calendar days following the Settlement Administrator's receipt of the Class Data. The Settlement Administrator shall use standard devices, including a skip trace, to obtain forwarding addresses of Class Members if any envelopes are returned.

61. Returned Notices. The Settlement Administrator will take steps to ensure that the Notice is received by all Class Members, including utilization of the National Change of Address Database maintained by the United States Postal Service to review the accuracy of and, if possible, update a mailing address. Notices will be re-mailed to any Class Member for whom an updated address is located within ten (10) calendar days following both the Settlement Administrator learning of the failed mailing and its receipt of the updated address. The Notice shall be identical to the original Notice, except that it shall notify the Class Member that the exclusion (opt-out) request or objection must be returned by the later of the Response Deadline or fifteen (15) days after the remailing of the Notice.

62. Presumption Regarding Receipt of Notice. It will be conclusively presumed that if an envelope has not been returned to Settlement Administrator by the Response Deadline that the Class Member received the Notice.

63. Disputes Regarding Class Data. Class Members are deemed to participate in the Settlement unless they opt-out, and Aggrieved Employees may not opt out of the Released PAGA Claims. The Notice will inform Class Members of their estimated Individual Class Payment and Individual PAGA Payment, as well as the number of Weeks Worked during the Class Period and the PAGA Period. Class Members may dispute their Weeks Worked by timely submitting evidence to the Settlement Administrator. Defendant's records will be presumed determinative absent reliable evidence to rebut Defendant's records, but the Settlement Administrator will evaluate the evidence submitted by the Class Member and provide the evidence submitted to Class Counsel and Defense Counsel who agree to meet and confer in good faith about the evidence to determine the Class Member's actual number of Work Weeks, and

1 estimated Individual Class and PAGA Payments. If Class Counsel and Defense Counsel are  
2 unable to agree, they agree to submit the dispute to the Court to render a final decision. Class  
3 Members and Aggrieved Employees will have until the Response Deadline to dispute Weeks  
4 Worked, object or opt out, unless extended by the Court.

5 64. Declaration of Due Diligence. The Settlement Administrator shall provide  
6 counsel for the Parties, at least five (5) days after the initial Response Deadline, a declaration of  
7 due diligence and proof of mailing with regard to the mailing of the Notice.

8 65. Class Members' Rights. Each Class Member will be fully advised of the  
9 Settlement, the ability to object to the settlement, and the ability to opt-out or request exclusion  
10 from the Class Claims portion of the Settlement. The Notice will inform the Class Members of  
11 the Court-established deadlines for filing objections or requesting exclusion from the Settlement  
12 in accordance with the following guidelines:

13 (a) Requests for Exclusion from Class. Any Class Member, other than  
14 Plaintiff, may request to be excluded from the Class by submitting a "Request for Exclusion" to  
15 the Administrator, postmarked on or before the Response Deadline. The Request for Exclusion  
16 should state:

17  
18 "I WISH TO BE EXCLUDED FROM THE CLASS IN THE SF  
19 HEALTH CARE & REHAB LAWSUIT. I UNDERSTAND THAT  
20 IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT  
21 CLASS, I WILL NOT RECEIVE MY INDIVIDUAL CLASS  
22 PAYMENT FROM THIS LAWSUIT."

23 To be valid, any Request for Exclusion must include the full name, address, telephone  
24 number, last four digits of the social security number or date of birth, and signature of the Class  
25 Member requesting exclusion. The Request for Exclusion must be returned by mail to the  
26 Administrator at the specified address set forth in the Notice. Any such Request must be made in  
27 accordance with the terms set forth in the Notice. A Request for Exclusion will be timely only if  
28 postmarked by the Response Deadline, unless the Parties otherwise agree in writing. Any Class  
Member who timely requests exclusion in compliance with these requirements: (i) will not have

any rights under this Agreement, including the right to object, appeal or comment on the Settlement; (ii) will not be entitled to receive the Individual Class Payment under this Agreement; and (iii) will not be bound by this Agreement, or the Judgment. Any Class Member who is an Aggrieved Employee who requests timely exclusion will still be subject to the Released PAGA Claims to the fullest extent permitted by law and will receive an Individual PAGA Payment. All Parties and their counsel, including Defendant and their agents, shall not encourage or solicit opt-outs or objections, directly or indirectly, through any means.

(b) Binding Effect on Participating Class Members. All Participating Class Members will: (i) be bound by the terms and conditions of this Agreement, the Judgment, and the releases set forth herein; and (ii) except as otherwise provided herein, will be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the Settlement.

(c) Objections to Settlement. Any Class Member, other than Plaintiff, who does not submit a valid and timely Request for Exclusion may object to the terms of this Agreement. To object, a Class Member shall inform the Administrator, in writing, of his or her objection which must be postmarked by the Response Deadline at the address set forth in the Notice. Such objection shall include the Objecting Class Member's full name, address, telephone number, last four digits of the social security number or date of birth, signature, and relevant dates of employment, in addition to the case name and number, the basis for the objection, including any legal support and each specific reason in support of the objection, as well as any documentation or evidence in support thereof, and, if the Objecting Class Member is represented by counsel, the name and address of his or her counsel. The Administrator shall provide objections, if any, to Class Counsel and Defense Counsel within three (3) calendar days of receipt, and the Administrator shall attach the same to its declaration of due diligence and file with the Court prior to the Final Approval Hearing. An Objecting Class Member remains eligible to receive monetary compensation from the Settlement. Plaintiff and Defendant shall not be responsible for any fees, costs, or expenses incurred by an Objecting Class Member and/or his or her counsel related to any objections to the Settlement. Submitting an objection does not

1 preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by  
2 becoming a party of record by timely and properly intervening or filing a motion to vacate the  
3 judgment under Code of Civil Procedure § 663. Notwithstanding any provisions to the contrary,  
4 a Class Member that wishes to object to the Settlement may appear at the Final Approval  
5 Hearing without needing to provide a written objection or provide any prior notice.

6 (d) Failure to Object. Any Class Member who does not timely and properly  
7 become a party of record by intervening or filing a motion to vacate the judgment waives any  
8 and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding  
9 and appellate proceeding, such as a motion to vacate judgment, motion for new trial, a motion  
10 under California Code of Civil Procedure § 473, and extraordinary writs.

11 (e) Responses to Objections. Counsel for the Parties may file a response to  
12 any objections submitted by Objecting Class Members at least five (5) court days before the date  
13 of the Final Approval Hearing.

14 (f) Class Members will have until the Response Deadline to object or submit  
15 a Request for Exclusion to the Settlement Administrator by U.S. Mail. The Settlement  
16 Administrator shall disclose jointly to Class Counsel and Defense Counsel what objections or  
17 Requests for Exclusion were timely submitted on a weekly basis, and upon the request of Class  
18 Counsel or Defense Counsel.

19 66. Funding of the Settlement Amount. Defendant shall deposit the Settlement  
20 Amount, plus Defendant's share of payroll taxes, with the Settlement Administrator within thirty  
21 (30) days after the Effective Date.

22 67. Distribution of Funds. No later than ten (10) calendar days after the deposit of the  
23 Settlement Amount by Defendant, the Settlement Administrator shall mail the Individual Class  
24 Payments to the Participating Class Members, the Individual PAGA Payments to the Aggrieved  
25 Employees, the payment to Class Counsel for the Attorneys' Fees and Costs Award, any Service  
26 Payments to the Class Representative, the payment to the LWDA for PAGA Penalties, and will  
27 pay itself the Settlement Administration Costs. To comply with California Rules of Court, rule  
28 3.771, settlement checks shall include the following language on the check: "A Court has

1 approved settlement of the class action and PAGA representative actions and entered judgment  
2 for claims asserted in *Johnson, et al. v. San Francisco Health Care and Rehab, Inc.*, San  
3 Francisco County Superior Court, Case No. CGC-22-597785.

4 68. Deadline for Cashing Settlement Checks. Participating Class Members and  
5 Aggrieved Employees shall have 180 calendar days after mailing by the Settlement  
6 Administrator to cash their settlement checks. The release will be binding upon all Participating  
7 Class Members who do not cash their checks within the 180-day period. In the event that any  
8 settlement check is returned to the Settlement Administrator within 180 days of mailing, the  
9 Settlement Administrator will, within five (5) business days of receipt of the returned settlement  
10 check, perform a skip trace to locate the individual, and notify Defense Counsel and Class  
11 Counsel of the results. If a new address is located by these means, the Administrator will have  
12 ten (10) business days to re-issue the check. Neither Defendant, Defense Counsel, Class  
13 Counsel, Plaintiff, nor the Settlement Administrator will have any liability for lost or stolen  
14 settlement checks, forged signatures on settlement checks, or unauthorized negotiation of  
15 settlement checks. Without limiting the foregoing, in the event a Participating Class Member  
16 and/or Aggrieved Employee notifies the Settlement Administrator that he or she believes that a  
17 settlement check has been lost or stolen, the Settlement Administrator shall immediately stop  
18 payment on such check. If the check in question has not been negotiated prior to the stop  
19 payment order, the Settlement Administrator will issue a replacement check.

20 a. If any Participating Class Member's check is not cashed within the time  
21 periods noted above, the check will be void and a stop-payment will be issued, and the  
22 Settlement Administrator shall issue the unclaimed funds to the California State Controller's  
23 Office in the name of the Class Member.

24 b. If any Aggrieved Employee's check is not cashed within the time periods  
25 noted above, the check will be void and a stop-payment will be issued, and the Settlement  
26 Administrator shall issue the unclaimed funds to the California State Controller's Office in the  
27 name of the Aggrieved Employee.  
28

1 **H. Duties of the Parties Prior to the Court's Approval**

2 69. Promptly after execution of this Agreement, Plaintiff will move the Court for  
3 Preliminary Approval of this Settlement and entry of the Preliminary Approval Order  
4 accomplishing the following:

- 5 (a) Approving as to form and content the proposed Notice;  
6 (b) Directing the mailing of the Notice by first class mail to the Class  
7 Members;  
8 (c) Preliminarily approving this Settlement;  
9 (d) Preliminarily certifying the class for purposes of this Settlement;  
10 (e) Advising the LWDA of the proposed Settlement; and  
11 (f) Scheduling the Final Approval Hearing on the issue of whether this  
12 Settlement should be finally approved as fair, reasonable and adequate as to the Class Members  
13 and a hearing on fees, costs and the Service Payments.

14 **I. Duties of the Parties Following Court's Final Approval**

15 70. In connection with the Final Approval Hearing provided for in this Agreement,  
16 Class Counsel shall submit a proposed Final Approval Order:

- 17 (a) Approving the Settlement, adjudging the terms thereof to be fair,  
18 reasonable and adequate, and directing consummation of its terms and provisions;  
19 (b) Approving Class Counsel's application for an award of attorneys' fees and  
20 reimbursement of litigation costs and expenses, the Service Payment to the Class Representative,  
21 and the payment to the Settlement Administrator for costs of administering the settlement; and  
22 (c) Entering judgment approving settlement.

23 **J. Voiding the Agreement**

24 71. If the Court fails or refuses to issue the Final Approval Order or fails to approve  
25 any material condition of this Agreement which effects a fundamental change of the Settlement,  
26 the entire Agreement shall be rendered voidable and unenforceable as to all Parties herein at the  
27 option of either Party.  
28

72. If the Settlement is voided or fails for any reason, Plaintiff and Defendant will have no further obligations under the Settlement, including any obligation by Defendant to pay the Settlement Amount, or any amounts that otherwise would have been owed under this Settlement.

73. If the Settlement is voided or fails for any reason, any costs incurred by the Settlement Administrator shall be borne equally by Defendant and Plaintiff, unless otherwise specified in this Agreement.

**K. Other Terms**

74. Waiver. The waiver by one Party of any breach of this Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

75. Parties' Authority. The signatories hereto represent that they are fully authorized to enter into this Agreement and bind the Parties hereto to the terms and conditions hereof.

76. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to accomplish the terms of this Agreement, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Agreement and the terms set forth herein. As soon as practicable after execution of this Agreement, Class Counsel shall, with the assistance and cooperation of Defendant and Defense Counsel, take all necessary steps to secure the Court's preliminary and final approval of the settlement, and the final entry of judgment.

77. No Prior Assignments. The Parties hereto represent, covenant, and warrant that they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights released and discharged by this Agreement.

78. No Admission. Defendant denies any and all liability to Plaintiff and/or any Class Member and/or Aggrieved Employee in this Action, as to any and all causes of action that were asserted or that might have been asserted in this Action. Nonetheless, Defendant wishes to settle

1 and compromise the matters at issue in the Complaint to avoid further substantial expense and  
2 the inconvenience and distraction of protracted and burdensome litigation. Defendant has taken  
3 into account the uncertainty and risks inherent in litigation, and without conceding any infirmity  
4 in the defenses that they have asserted or could assert against Plaintiff, have determined that it is  
5 desirable and beneficial that Plaintiff's claims be settled in the manner and upon the terms and  
6 conditions set forth in this Agreement.

7 79. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval  
8 Order, nothing contained herein, nor the consummation of this Agreement, is to be construed or  
9 deemed an admission of liability, culpability, negligence, or wrongdoing on the part of  
10 Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this  
11 Agreement with the intention of avoiding further disputes and litigation with the attendant  
12 inconvenience and expenses. This Agreement is a settlement document, and it, along with all  
13 related documents such as the notices, and motions for preliminary and final approval, shall,  
14 pursuant to California Evidence Code § 1152 and/or Federal Rule of Evidence 408, be  
15 inadmissible in evidence in any proceeding, except an action or proceeding to approve the  
16 settlement, and/or interpret or enforce this Agreement. The stipulation for class certification as  
17 part of this Agreement is for settlement purposes only and if, for any reason the settlement is not  
18 approved, the stipulation will be of no force or effect.

19 80. No Publicity. Plaintiff and her counsel agree not to put information about this  
20 lawsuit or the settlement on their websites, their social media or other public forums. This  
21 provision does not apply to prevent any necessary disclosure to the Court to seek approval of the  
22 settlement, any court filings or notices of settlement to be sent to Class Members by the  
23 Settlement Administrator, or the posting of the final judgment of this settlement on the  
24 Settlement Administrator's website if, and only if, required by the Court in connection with  
25 approval of the settlement. Nothing herein shall be construed to prevent Class Counsel from the  
26 public filing of motions or other case materials in the Action related to seeking and obtaining  
27 Court approval of this Settlement and the related awards of attorneys' fees and costs, or to  
28 communications with Class Members or their representatives about this Settlement, or to prevent

1 the Parties or their representatives from communicating with financial or legal advisors regarding  
2 the Settlement.

3 81. Notices. Unless otherwise specifically provided herein, all notices, demands or  
4 other communications given hereunder shall be in writing and shall be deemed to have been duly  
5 given as of the third business day after mailing by United States registered or certified mail,  
6 return receipt requested, addressed:

7 *To the Class:*

8 Brian J. Mankin  
9 *brian@lmlfirm.com*  
10 Lauby, Mankin & Lauby LLP  
11 5198 Arlington Ave, PMB 513  
12 Riverside, CA 92504  
13 Tel: (951) 320-1444 | Fax: (951) 320-1445

14 *To Defendant:*

15 Susan Bishop  
16 *susan.bishop@berliner.com*  
17 BERLINER COHEN, LLP  
18 10 Almaden Blvd., Floor 11  
19 San Jose, CA 95113  
20 Tel: (408) 286-5800 | Fax: (408) 998-5388

21 82. Construction. The Parties hereto agree that the terms and conditions of this  
22 Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and  
23 that this Agreement shall not be construed in favor of or against any Party by reason of the extent  
24 to which any Party or his or its counsel participated in the drafting of this Agreement. Plaintiff  
25 and Defendant expressly waive the common-law and statutory rule of construction that  
26 ambiguities should be construed against the drafter of an agreement and further agree, covenant,  
27 and represent that the language in all parts of this Agreement shall be in all cases construed as a  
28 whole, according to its fair meaning.

83. Captions and Interpretations. Paragraph titles or captions contained herein are  
inserted as a matter of convenience and for reference, and in no way define, limit, extend, or  
describe the scope of this Agreement or any provision hereof. Each term of this Agreement is  
contractual and not merely a recital.

1           84.    Modification. This Agreement may not be changed, altered, or modified, except  
2 in writing and signed by the Parties hereto, and approved by the Court. This Settlement  
3 Agreement may not be discharged except by performance in accordance with its terms or by a  
4 writing signed by all of the Parties hereto.

5           85.    Dispute Resolution. Prior to instituting legal action to enforce the provisions of  
6 this Agreement or to declare rights and/or obligations under this Agreement, a Party shall  
7 provide written notice to the other Party and allow an opportunity to cure the alleged  
8 deficiencies, and Plaintiff and Defendant may agree to seek the help of the Mediator to resolve  
9 any dispute they are unable to resolve informally. During this period, the Parties shall bear their  
10 own attorneys' fees and costs. This provision shall not apply to any legal action or other  
11 proceeding instituted by any person or entity other than Plaintiff or Defendant.

12           86.    Choice of Law. This Settlement Agreement shall be governed by and construed,  
13 enforced and administered in accordance with the laws of the State of California, without regard  
14 to its conflicts-of-law rules.

15           87.    Integration Clause. This Settlement Agreement replaces the Memorandum of  
16 Understanding referenced in Paragraph 45 and contains the entire agreement between the Parties  
17 relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous  
18 agreements, understandings, representations, and statements, whether oral or written and whether  
19 by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived  
20 except in writing.

21           88.    Binding On Assigns. This Agreement shall be binding upon and inure to the  
22 benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,  
23 successors and assigns.

24           89.    Signatures of All Class Members Unnecessary to be Binding. It is agreed that,  
25 because the members of the Class are numerous, it is impossible or impractical to have each  
26 Class Member execute this Agreement. The Notice Packet will advise all Class Members of the  
27 binding nature of the release provided herein and such shall have the same force and effect as if  
28 this Agreement were executed by each Class Member.

90. Counterparts. This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully signed Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

Dated: Mar 14, 2025

**PLAINTIFF AND CLASS REPRESENTATIVE**

  
JAMIE JOHNSON (Mar 14, 2025 16:03 PDT)

Jamie Johnson

Dated: \_\_\_\_\_

**DEFENDANT SAN FRANCISCO HEALTH CARE  
AND REHAB, INC.**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

Dated: March 14, 2025

**CLASS COUNSEL**  
LAUBY, MANKIN & LAUBY LLP

  
Brian J. Mankin  
Attorneys for Plaintiff

Dated: \_\_\_\_\_

**DEFENSE COUNSEL**  
BERLINER COHEN, LLP

Susan Bishop  
Attorneys for Defendant

Dated: \_\_\_\_\_

**DEFENSE COUNSEL**  
THE LAW OFFICES OF JONATHAN VAN EE

Jonathan Van Ee  
Attorneys for Defendant

1        90.     Counterparts. This Agreement may be executed in counterparts, and when each  
2     Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an  
3     original, and, when taken together with other signed counterparts, shall constitute one fully  
4     signed Agreement, which shall be binding upon and effective as to all Parties. Electronic  
5     signatures shall have the same force and effect as an original.

6     Dated: \_\_\_\_\_ **PLAINTIFF AND CLASS REPRESENTATIVE**

7  
8     \_\_\_\_\_  
9     Jamie Johnson

10     Dated: 03/26/2025 **DEFENDANT SAN FRANCISCO HEALTH CARE  
11     AND REHAB, INC.**

12     \_\_\_\_\_  
13     By: Lana Steker

14     Title: CEO

15     **APPROVED AS TO FORM:**

16     Dated: \_\_\_\_\_

17     **CLASS COUNSEL**  
18     LAUBY, MANKIN & LAUBY LLP

19     \_\_\_\_\_  
20     Brian J. Mankin  
21     Attorneys for Plaintiff

22     Dated: March 26, 2025

23     **DEFENSE COUNSEL**  
24     BERLINER COHEN, LLP

25     \_\_\_\_\_  
26     Susan Bishop  
27     Attorneys for Defendant

28     Dated: March 14, 2025

29     **DEFENSE COUNSEL**  
30     THE LAW OFFICES OF JONATHAN VAN EE

31     \_\_\_\_\_  
32     Jonathan Van Ee  
33     Attorneys for Defendant

EXHIBIT “2”

# COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT

## **Johnson v. San Francisco Health Care and Rehab Inc.**

(San Francisco County Superior Court, Case No. CGC-22-597785)

***The San Francisco County Superior Court authorized this Notice. Read it carefully!  
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

**You may be eligible to receive money** from an employee class action lawsuit (“Action”) against Defendant San Francisco Health Care and Rehab Inc. (“SFHCR” or “Defendant”) for alleged violations of the California Labor Code.

The Action was filed by Jamie Johnson (“Plaintiff” or “Class Representative”) and seeks payment of (1) unpaid wages, statutory damages and penalties, interest and attorneys’ fees on behalf of a class of nonexempt employees employed by Defendant in California (the “Class Members”) during the Class Period (January 24, 2018, through September 6, 2024); and (2) penalties under the California Private Attorneys General Act (“PAGA”) for all nonexempt employees employed by Defendant in California during the PAGA Period (January 24, 2021, through September 6, 2024) (the “Aggrieved Employees”). (Plaintiff and Defendant shall be collectively referred to as the “Parties.”)

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments to Class Members, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments to Aggrieved Employees and pay penalties to the California Labor and Workforce Development Agency (“LWDA”). Based on Defendant’s records, and the Parties’ current assumptions, your Individual Class and PAGA Payments are shown in the charts below, along with the applicable data points from which these estimates are derived.

[**CLASS MEMBER NAME**] [**ID/CONTROL NUMBER**]

| <b><i>Calculations and Data Points for Estimated Individual Class Payment</i></b> |                                                  |
|-----------------------------------------------------------------------------------|--------------------------------------------------|
| <b>Weeks Worked during Class Period</b>                                           | <b><i>Estimated Individual Class Payment</i></b> |
| <b>INSERT</b>                                                                     | <b>\$INSERT</b>                                  |

| <b><i>Calculations and Data Points for Estimated Individual PAGA Payment</i></b> |                                                 |
|----------------------------------------------------------------------------------|-------------------------------------------------|
| <b>Weeks Worked during PAGA Period</b>                                           | <b><i>Estimated Individual PAGA Payment</i></b> |
| <b>INSERT</b>                                                                    | <b>\$INSERT</b>                                 |

Please note that the actual amount you receive may be different from the above and will depend on several factors. (If no amount is stated for your Individual PAGA Payment then, according to Defendant’s records, you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.) If you believe that you worked more time during the periods discussed above, you can submit a challenge by **DATE, 2025** (“**Response Deadline**”). See **Section 4** of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have a few options as shown in the Chart below:

| YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DO NOTHING AND RECEIVE A SETTLEMENT PAYMENT</b> | If you want to receive your full settlement payment, then no further action is required on your part. You will automatically receive a settlement payment if the Settlement receives final approval by the Court. You will be bound by the terms of the Settlement Agreement and will give up your right to sue on the Released Class Claims described in <b>Section 3</b> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>EXCLUDE YOURSELF</b>                            | If you do not wish to participate in the settlement of the Class Claims, you may “opt-out” of the settlement of the Class Claims. If you choose to opt-out, you must submit a Request for Exclusion by [REDACTED], 2025 (see <b>Section 6</b> for more details on how to opt-out). If you opt-out, you will no longer be a Class Member, and you will (1) <u>not</u> receive an Individual Class Payment, but you will preserve your right to pursue the Released Class Claims described below subject to applicable statutes of limitations, and (2) be barred from filing an objection to the settlement. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released PAGA Claims. See <b>Section 6</b> of this Notice. |
| <b>OBJECT</b>                                      | If you decide to object to the settlement with respect to the Class Claims because you find it unfair or unreasonable, you may submit an Objection stating why you object to the settlement by [REDACTED], 2025 (see <b>Section 7</b> for more details on how to object). Alternatively, you do not need to submit a written objection and may appear at the Final Approval Hearing to object without providing any advance notice.                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>DISPUTE THE NUMBER OF WEEKS WORKED</b>          | If you believe the number of workweeks that you were credited with working in the chart above is incorrect, you may submit a written dispute to the Administrator (see <b>Section 4</b> for more details on how to submit a Dispute Form). Defendant’s records will be presumed correct, but you may provide evidence to the Administrator showing how many Work Weeks you believe you should be credited.                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| YOU MAY ATTEND THE FINAL APPROVAL HEARING, BUT IT’S NOT REQUIRED |                                                                                                                                                                                                                                                                                                                                                 |
|------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE:</b> DATE, 2025<br><b>TIME:</b> 9:00 A.M.                | At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. See <b>Section 8</b> of this Notice. |

## 1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of SFHCR. The Action accuses Defendant of violating California labor laws by failing to pay minimum and overtime wages, failure to provide meal and rest breaks, failure to timely pay wages each period and upon separation of employment, and failure to provide accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under PAGA.

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

Both Parties are represented by attorneys in the Action. See Section 9 below for their contact information.

## 2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendant or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating to settle the case rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”), Plaintiff and Defendant have negotiated a proposed

Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

### 3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendant Will Pay \$760,000 as the “Settlement Amount.” Defendant has agreed to pay a total Settlement Amount of \$760,000, and will deposit the Settlement Amount into an account controlled by the Administrator. The Administrator will use the Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s Costs, and PAGA Penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendant will fund the Settlement Amount approximately 30 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to 30% of the Settlement Amount (\$228,000.00) to Class Counsel for attorneys' fees and up to \$30,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$3,000 to the Class Representative as a Service Payment for litigating the Action, working with Class Counsel, and representing the Class.

C. \$10,000 to the Settlement Administrator for services administering the Settlement.

D. Up to \$40,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their share of Weeks Worked during the PAGA Period.

E. Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the remainder (the “Net Settlement Amount”) by making Individual Class Payments to Participating Class Members based on their pro rata share of Weeks Worked during the Class Period.

4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of one-third (33.33%) of each Individual Class Payment to taxable wages (“Wage Portion”) and two-thirds (66.67%) to penalties and interest (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. **Need to Promptly Cash Payment Checks.** The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller's Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Settlement, unless you opt-out of the Settlement, not later than the Response Deadline. See Section 6 of this Notice for details on how to Opt-Out.

7. The Proposed Settlement Will be Void If the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void; Defendant will not pay any money and Class Members will not release any claims against Defendant.

8. Settlement Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Settlement Administrator will also decide any Disputes over weeks worked, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Settlement Administrator’s contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final and Defendant has fully funded the Settlement Amount and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or related entities for wages based on the facts alleged in the Action for the duration of the Class Period and PAGA Period, which are resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective representatives, agents, heirs, and assigns, release the “Released Parties” (which includes Defendant and its parents, subsidiaries, directors, owners, shareholders, officers, agents, attorneys, insurers, servants, joint employers and employees, past and present, and each of them and anyone acting in concert with foregoing) from all claims that were alleged in the Complaint, or that reasonably could have been alleged based upon the facts stated in the Complaint, including: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to timely pay final wages, (6) failure to provide accurate itemized wage statements, and (7) unfair and unlawful competition. This includes all statutory penalties, damages, fees, costs, and interest recoverable under these claims. (the “Released Class Claims”). The operative release period for the Released Class Claims is the Class Period. Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

10. Release of Released PAGA Claims. After the Court's judgment is final, and Defendant has paid the Settlement Amount (and separately paid the employer-side payroll taxes), Plaintiff on behalf of herself, the State of California and the LWDA shall release the Released Parties of the PAGA claims alleged in the Complaint, or that reasonably could have been based on the facts stated in the Complaint and in the relevant LWDA notice letter, including all PAGA claims seeking civil penalties premised upon: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to timely pay wages each period, (6) failure to timely pay wages upon separation of employment, (7) failure to provide accurate itemized wage statements, and (8) all other claims for civil penalties recoverable under the Private Attorneys General Act, Labor Code §§ 2698 et seq. based on the

facts or claims alleged in the LWDA notice letter and Complaint. (“Released PAGA Claims.”) The time period governing the Released PAGA Claims shall be any time during the PAGA Period.

#### 4. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Weeks Worked for all Participating Class Members during the Class Period, and (b) multiplying the result by the number of Share Points credited to each individual Participating Class Member during the Class Period.

2. Individual PAGA Payments. The Settlement Administrator will calculate Individual PAGA Payments by (a) dividing \$10,000 by the total number of weeks worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by the number of Weeks Worked by each individual Aggrieved Employee during the PAGA Period.

3. Disputing Weeks Worked. The number of weeks you worked during the Class Period and n PAGA Period, as recorded in Defendant’s records, are stated in the tables on page 2 of this Notice. You have until **INSERT DATE** (“Response Deadline”) to dispute the number of Workweeks credited to you by submitting evidence to the Administrator. Section 9 of this Notice has the Administrator’s contact information.

You need to support your dispute by sending copies of pay stubs or other records. The Administrator will accept Defendant’s calculation of weeks worked based on Defendant’s records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve challenges based on your submission and on input from Class Counsel and Defendant’s Counsel. The Administrator’s decision is final. You can’t appeal or otherwise challenge its final decision.

#### 5. HOW WILL I GET PAID?

1. Participating Class Members and Aggrieved Employees. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (which includes every Class Member who doesn’t opt-out) and Aggrieved Employee. The single check will combine the Individual Class Payment and the Individual PAGA Payment.

2. Aggrieved Employees Only. If you opted out of the Class settlement, but qualify as an Aggrieved Employee, then the Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee, including those who opt out of the Class Settlement.

**Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Settlement Administrator’s contact information.**

#### 6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

You will be treated as a Participating Class Member, participating fully in the Settlement, unless you opt-out of the Settlement, not later than the Response Deadline.

If you **do not** wish to take part in the release of the Class Claims in the Settlement, you may exclude yourself by sending to the Administrator a “Request for Exclusion” letter/card postmarked no later than , 2024 with your full name, address, telephone number, last four digits of your social security number or your date of birth, and signature. The Request for Exclusion should state:

“I WISH TO BE EXCLUDED FROM THE CLASS IN THE SF HEALTH CARE & REHAB LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE MY INDIVIDUAL CLASS PAYMENT FROM THIS LAWSUIT.”

Any person who submits a timely Request for Exclusion from the Class Claims (1) will not have any rights under

this Settlement, including the right to object, appeal or comment on the Settlement; (2) will not be entitled to receive an Individual Class Payment; (3) will preserve the right to pursue the Released Class Claims, and (4) will not be bound by this Settlement, or the Judgment.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Claims remain eligible to receive an Individual PAGA Payment.

If you do not want to participate in the Settlement, the Administrator will exclude you based on timely receipt of a writing communicating your request to be excluded. Be sure to personally sign your request, identify the Action as Johnson v. San Francisco Health Care and Rehab, Inc., and include your identifying information (full name, address, telephone number, approximate dates of employment, and last four digits of social security number or your date of birth for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **Send your request to be excluded to the Administrator by [REDACTED], 2025 (the “Response Deadline”), or it will be invalid.** Section 9 of the Notice has the Administrator’s contact information.

## 7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. A Participating Class Member who disagrees with any aspect of the Settlement may wish to object. There are two ways to object: (1) by submitting a written objection; or (2) appearing at the Final Approval Hearing to object without providing any advance notice or submitting a written objection. These options are discussed in further detail below.

**Written Objection:** If you wish to submit a written objection, the objection must include your full name, address, telephone number, last four digits of the social security number or date of birth, signature, and dates of employment with Defendant, in addition to the case name and number (Johnson v. San Francisco Health Care and Rehab, Inc., Case No. CGC-22-597785), the basis for the objection, including any legal support and each specific reason in support of the objection, as well as any documentation or evidence in support thereof. Additionally, if you are represented by an attorney, the objection must include the name and address of your attorney. This objection and all supporting information must be sent to the Administrator at the address listed in Section 9, **postmarked** on or before [REDACTED], 2025.

**Object at the Final Approval Hearing:** Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

If you do not comply with either these procedures, the Court may not consider your objection at the Final Approval Hearing, and you may lose the right to contest the approval of the Settlement. You are still eligible to receive a settlement payment should the settlement become Final even if you object to the settlement. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment before entry of judgment.

## 8. WHEN IS THE FINAL APPROVAL HEARING?

On [REDACTED], 2025, at \_\_\_\_\_ a.m./p.m., the Court will hold a public hearing in Department 606 of the Superior Court for the State of California, County of San Francisco, 400 McAllister Street, San Francisco, CA 94102, for the purposes of determining whether the proposed Settlement is fair, adequate and reasonable and should be approved, whether to approve Class Counsel’s applications for attorneys’ fees and costs, whether to approve the payments to the LWDA, and whether to approve Plaintiff’s request for the service award. This hearing may be continued or rescheduled by the Court. Objectors to the proposed settlement will be provided notice in the event that the Final Approval Hearing is continued to a later date. Class Members who support the proposed Settlement do not need to appear at the hearing and do not need to take any other action to indicate their approval. Class Members who object to the proposed Settlement are not required to attend the Final Approval Hearing.

## 9. HOW CAN I GET MORE INFORMATION?

If you have questions about this Notice, the process to Opt-Out or Object, or the Settlement, or if you did not receive this Notice in the mail and you believe that you are or may be a member of the Class, you may contact the Administrator for more information or to request that a copy of this Notice be sent to you in the mail. And you may also contact Class Counsel. Contact information for both the Administrator and Class Counsel is provided here:

| Settlement Administrator                    | Class Counsel                                                                                                                                                                                            |
|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Name<br>Mailing Address<br>Telephone Number | Brian Mankin, Esq.<br><i>brian@LMLfirm.com</i><br>Peter Carlson, Esq.<br><i>peter@LMLfirm.com</i><br>Lauby Mankin Lauby LLP<br>5198 Arlington Ave, PMB 513<br>Riverside, CA 92504<br>Tel: (951) 320-1444 |

You may also seek advice and guidance from your own private attorney at your own expense, if you so desire.

This Notice is only a summary. For more detailed information, you may review the entire court docket for **free**, including the Settlement Agreement that contains the complete terms of the proposed Settlement, which is on file with the Court and attached to the Declaration of Brian J. Mankin in Support of Motion for Preliminary Approval of Class Action Settlement filed on May 9, 2025. These records are available to be inspected **for free** at any time during regular business hours at the Office of the Clerk, San Francisco County Superior Court, located at 400 McAllister Street, San Francisco, CA 94102. You may also review the entire case docket **for free** by going to San Francisco Superior Court's "Case Information" page online, found at <https://sf.courts.ca.gov/online-services/case-information>. You should then click on "Access Now" for "Civil Case Query" and follow the prompts (including completing the "I'm not a robot" reCAPTCHA verification). Once you reach a page entitled "Civil Case Information Search," you should enter the case number (CGC-22-597785) where requested and click "Search." This will give you free access to the full case docket, referred to as the "Register of Actions."

## DO NOT TELEPHONE THE COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT CLASS MEMBERS SHOULD NOT CONTACT EITHER THE JUDGE OR THE CLERK

## 10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

## 11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT “3”



LAUBY, MANKIN & LAUBY LLP

January 21, 2022

Submitted Via Online Filing to the LWDA

California LWDA  
Attn: PAGA Administrator  
455 Golden Gate Ave., 9<sup>th</sup> Fl.  
San Francisco, CA 94102

Sent Via U.S. Mail and Certified Mail

San Francisco Health Care and Rehab Inc  
1477 Grove Street  
San Francisco, CA 94117

Svetlana Stukov  
25 Via Delizia  
Hillsborough, CA 94010

Stan Stukov  
1455 Buckingham Way  
Hillsborough, CA 94010

Re: PAGA Civil Penalty Claim  
*Jamie Johnson v. San Francisco Health Care and Rehab Inc, et al.*

To the Labor and Workforce Development Agency, San Francisco Health Care and Rehab Inc, Svetlana Stukov, and Stan Stukov:

Pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2699, *et seq.*, this letter shall serve as notification of the PAGA civil penalty claim of aggrieved employee Jamie Johnson (“Claimant”), on behalf of the State of California and all Aggrieved Employees, against her former employer(s), San Francisco Health Care and Rehab Inc and/or any affiliated entities, as well as its owners Svetlana Stukov, Stan Stukov, and others (the “Owners”) (collectively, the “Company”), for violations of Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, among possibly other sections inadvertently omitted, and/or sections of the applicable IWC Wage Order(s).

### **FACTUAL BACKGROUND**

Claimant was employed by the Company from approximately April through September 2021. Claimant alleges that, at all relevant times, she and all other non-exempt employees employed by the Company in California (the “Aggrieved Employees”) were subjected to the same policies, working conditions, and corresponding wage and hour violations that Claimant was subjected during her employment.

For instance, at all relevant times, Claimant and the Aggrieved Employees were not provided proper minimum and overtime wages due to the Company’s failure to accurately record and compensate for all hours worked. As one such example, the Company required Claimant and the Aggrieved Employees to undergo mandatory temperature checks and screenings prior to clocking in for payroll purposes. However,



4590 Allstate Drive, Riverside, CA 92501  
Toll Free 888.959.8508

because this time was spent under the Company's control but before being allowed to clock in, it was uncompensated in violation of California law and led to minimum and overtime wage violations. See *Troester v. Starbucks Corporation* (2018) 5 Cal.5th 829 (California law "do[es] not allow employers to require employees to routinely work for minutes off the clock without compensation"); See also *Frlekin v. Apple Inc.* (2020) 8 Cal.5th 1038 (tasks are compensable when employee is under company's control and where the tasks served the employer's interests).

Additionally, Claimant and the Aggrieved Employees were frequently denied compliant meal periods, and the Company's timekeeping system does not reflect any meal period taken. Yet, despite that Claimant and the Aggrieved Employees did not take such meal periods, and no meal periods were recorded, the Company automatically deducted 30 minutes of time from every shift without making any inquiry into whether a compliant meal period occurred. To illustrate, Claimant often worked 9.5 hours without a meal period, and no meal period was recorded in the Company's timekeeping system. Yet, on these and similar occasions, the Company only paid for 9 hours of work despite that no meal period was taken or recorded, and without making any inquiry into whether a compliant meal period occurred. This resulted in a failure to pay minimum/regular wages (since Claimant was not paid at all for those 30 minutes), as well as a failure to pay overtime wages (since those 30 minutes were in excess of 8 hours and had to be paid at the proper overtime rate). Thus, the Company failed to pay proper minimum, regular, and overtime wages every time it applied its auto-deduct practice.

Also, at all relevant times, Claimant was compensated on an hourly basis plus was entitled to and did receive additional nondiscretionary compensation (such as shift differentials). However, on the occasions when Claimant worked in excess of 8 and/or 12 hours per day and/or 40 hours per week and received additional earned compensation during the workweek, the Company failed to properly include these amounts in the calculations for Claimant's regular rate of pay. Therefore, the Company failed to pay proper overtime wages for the hours worked in excess of 8 and/or 12 per day and/or 40 per week.

Claimant was also not provided 30-minute off-duty meal periods, as mandated by California law, during employment with the Company. As a result of the Company's policies and practices, as well as the hectic and demanding workload, Claimant was subjected to meal period violations when she was: (1) unable to take a meal period due to workload, (2) forced to take an on-duty meal period while under the control of the Company, (3) forced to take a shortened meal period, (4) forced to take a meal period after the 5<sup>th</sup> hour of work, and (5) not provided a mandated second meal period for shifts in excess of 10 hours.

The Company also failed to provide Claimant with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. The Company did not schedule Claimant's rest breaks, Claimant was unable to leave the premises for breaks, and Claimant was often not authorized and/or permitted to take mandated rest breaks due to the lack of adequate staffing and coverage and being overwhelmed by the hectic workload. Furthermore, on occasions when Claimant worked in excess of 10 hours in a shift, the Company failed to authorize and/or permit a third mandated rest break.

The Company also failed to comply with the mandates of Labor Code §§ 204 and 210 regarding the timing of the payment of wages to its employees each period, including minimum and overtime wages, as well as meal and rest period premiums. Also, the Company failed to comply with the mandates of Labor Code §§ 201–203 regarding timing of payment of final wages and failed to pay all wages due and owing upon separation of employment including minimum wages, overtime, and vacation wages. Finally, during



her employment with the Company, Claimant received inaccurate and incomplete wage statements that failed to accurately state all necessary items required under Labor Code § 226(a).

Claimant alleges that she worked under the joint direction and control of the entities listed herein and their Owners and is informed and believes that each of them acted in all respects pertinent to this action as the agent of the others, carried out a joint scheme, business plan or policy in all respect pertinent hereto, and the acts of each are legally attributable to the others. On information and belief, a unity of interest and ownership between each exists such that the entities listed herein and the Owners acted as a single employer of Claimant and the Aggrieved Employees. Furthermore, on information and belief, the entities listed herein and their Owners are an integrated enterprise and should be treated as a single employer because the entities and their Owners share an interrelation of operations, with common human resources and personnel policies and shared common offices and facilities. Upon information and belief, the entities listed herein and their Owners share common management, a centralized control of labor operations, and common ownership or financial control.

Furthermore, Claimant alleges that the Owners are now and at all relevant times were the owners of the entities listed herein and were Claimant's and the Aggrieved Employees' actual employer or, in the alternative, were individuals employed by the Company as managerial and/or supervisory employees and/or agents. In addition, Claimant alleges that at all relevant times the Owners had the authority, in the interest of the entities listed herein to exercise independent judgment to hire, transfer, promote, discharge, assign, discipline, or take other similar actions against Claimant and the Aggrieved Employees, and were in Claimant's chain of command at the time of and direct participants in the wrongful conduct which constitutes the basis of Claimant's complaint herein. Claimant also alleges that the entities listed herein and the Owners are the agents, servants, employees, partners, affiliates, and/or representatives of each other, and were, at all times herein mentioned, acting within the course, scope, and purpose of such relationship(s) and with the knowledge, consent and/or ratification of each other. Furthermore, in conducting themselves in the manner described herein, the entities listed herein and the Owners were acting in active concert with on another such that the acts of each were fully attributable to the other in all material respects.

Claimant also alleges the entities listed herein and the Owners were merely the alter-ego of the others in that there existed a unity of interest and ownership such that any separateness between them ceased to exist and each exercised undue dominance, control, influence, and management over the others. Claimant further alleges that, at all relevant times, the entities listed herein have been inadequately capitalized to conduct business, have failed to follow appropriate corporate formalities, and have simply been a shell and instrumentality through which the Owners have conducted their personal affairs. Adherence to the fiction of the separate existence of the entities listed herein would permit abuse of the corporate privilege, thereby sanctioning fraud and promoting injustice. Accordingly, the corporate veil should be pierced, and any liability attached to the entities listed herein should be imposed jointly and severally against the Owners.

Finally, in an additional separate, but not necessarily mutually exclusive, alternative theory of liability, the Owners are liable for PAGA civil penalties under Labor Code § 558 as "other person(s)" who caused the violations regarding minimum wage among other claims. See *Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 820 ("if there is evidence and a finding that a party other than the employer 'violates, or causes to be violated' the overtime laws (§ 558(a)) or 'pays or causes to be paid to any employee' less than minimum wage (§ 1197.1(a)), then that party is liable for certain civil penalties regardless of the identity or business structure of the employer"); *Moua v. IBM* (N.D. Cal. 2019) 2019 U.S.Dist.LEXIS 40851 (same)



As a result of these violations, and others described below, Claimant alleges that she and other Aggrieved Employees were denied specific rights to which they are/were entitled under California law and the rules promulgated by the IWC Wage Orders, including the following:

**PAGA ASSESSMENT FOR FAILURE TO  
PAY ALL MINIMUM, REGULAR, AND OVERTIME WAGES**

(Labor Code §§ 204, 210, 221-223, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198; IWC Wage Order §§ 3, 4(B))

As discussed above, the Company failed to pay all required minimum, regular, and overtime wages to Claimant and the Aggrieved Employees due to the Company's failure to accurately record and compensate for all hours worked, the failure to compensate for time spent in mandated temperature checks, and the failure to pay overtime and/or properly calculate the regular rate of pay for Claimant and other Aggrieved Employees. This resulted in earned, but unpaid, wages due and owing to Claimant and the Aggrieved Employees. Therefore, Claimants and the Aggrieved Employees performed work for the Company without receiving proper payment of the requisite minimum, overtime, and/or doubletime wages.

Accordingly, Labor Code §§ 210, 558, 1194.2, 1197.1, and 2699, among possibly others, impose various penalties upon the Company for each employee and each pay period in which it failed to pay all wages including, but not limited to, minimum, regular, and overtime wages in violation of the Labor Code and/or the IWC Wage Orders.

**PAGA ASSESSMENT FOR DENIAL OF MEAL PERIODS,  
REST BREAKS, AND WAGE PREMIUMS**

(Labor Code §§ 226.7(b) & (c), 512, 558; Cal. Admin. Code, Title 8, § 11090)

Labor Code § 226.7(b) states that “[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ...” Labor Code § 512(a) states in pertinent part: “[A]n employer may not employ an employee for a work period of more than 5 hours per day without providing the employee with an uninterrupted meal period of not less than 30 minutes [...] [a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.”

Section 12 of applicable IWC Wage Order states in pertinent part: “Every 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.”

Here, Claimant and other Aggrieved Employees were regularly not provided compliant mandatory meal periods and paid rest breaks due to the Company's policies described above. Although the Company was required to pay Claimant and all Aggrieved Employees premium wages equal to an additional hour of pay at the employee's regular rate of pay for each violation under Labor Code § 226.7(c), the Company did not pay the mandatory one-hour wage premiums and did not do so at the proper rate. Labor Code § 558 imposes a penalty for each violation, plus an amount sufficient to recover the underpaid wages. Additionally, the civil assessment set forth in Labor Code § 2699 applies to these violations.



**FAILURE TO PAY VESTED VACATION UPON SEPARATION OF EMPLOYMENT**

(Labor Code § 227.3)

Pursuant to Labor Code § 227.3, an employer that has implemented a paid vacation, paid time off, or compensated time off policy must, upon an employee's separation from employment, pay to the employee all vested but unused vacation and/or paid time off at her final rate of pay. However, as alleged herein, the Company failed to pay all accrued and unused vacation upon termination. And the Company also only paid vested vacation upon separation at the base rate of pay rather than at the required final rate, leading to a violation on each such occasion. As a result of these violations, penalties may be assessed pursuant to Labor Code § 2699.

**PAGA ASSESSMENT FOR FAILURE TO PAY ALL WAGES DUE AND OWING  
EACH PAYROLL PERIOD WITHIN THE TIME REQUIRED BY LAW**

(Labor Code §§ 204, 204.1, 208, 210, 256 and 2699)

Labor Code § 204(a) states that all wages earned by a person are due and payable twice during each calendar month, and further states that wages earned during the first through fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that wages earned between the sixteenth and last day of the month must be paid by the tenth day of the following month. Labor Code § 204(d) states "[t]he requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period."

As a result of the Company's failure to pay Claimant and the Aggrieved Employees all compensation to which they were entitled, the Company had a pattern and practice of failing to pay all wages due and owing to Claimant and the Aggrieved Employees within the time mandated by Labor Code § 204. As a result of these violations, penalties may be assessed pursuant to Labor Code §§ 203, 210, 256, and/or 2699.

**PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES**

(Labor Code §§ 201, 202, 203, 256 and 2699)

Labor Code § 201(a) provides in pertinent part: "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code § 202(a) states in pertinent part "If 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, unless the employee has given 72 hours' previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting." Labor Code § 203(a) states "If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, 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."

The Company did not pay the Aggrieved Employees all wages that were due and owing within the required time following the end of their employment in accordance with Labor Code §§ 201-202. As a result, all such Aggrieved Employees are entitled to 30 days of wages as a "waiting time penalty." (Labor Code § 203.) Labor Code § 2699 also imposes a penalty.



**PAGA ASSESSMENT FOR FAILURE TO PROVIDE ACCURATE,  
ITEMIZED WAGE STATEMENTS**  
(Labor Code §§ 226, 226.3, and 1174)

Labor Code § 226(a) requires an employer to provide its employees with itemized wage statements accurately stating gross wages earned, total hours worked, all deductions, net wages earned, the inclusive dates of the pay period, the employee's name and the last four digits of his or her Social Security number (or employee identification number), the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

At all times pertinent hereto, the Company failed to provide accurate itemized wage statements to Claimants and all Aggrieved Employees due to violations including: failure to accurately state total hours worked (the wage statements failed to accurately reflect total compensable hours due to the illegal temperature check policy and the auto-deduct practice); failure to accurately state gross wages earned; failure to accurately state all deductions; failure to accurately state net wages earned; failure to state the applicable hourly rates; and failure to accurately state the corresponding number of hours worked at each hourly rate. Accordingly, Claimants are entitled to damages under Labor Code § 226(e), including reasonable attorneys' fees. Labor Code §§ 226.3 and 2699 also impose a civil penalty and/or assessment for these violations.

**PAGA ASSESSMENT FOR VIOLATIONS OF LABOR CODE § 1199**  
(Labor Code § 1199)

An employer violates Labor Code § 1199 if said employer: (a) requires or causes an employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission; (b) pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission; or, (c) violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission. Labor Code § 2699.5 specifically enumerates Labor Code § 1199 as a section to which the civil penalties under the PAGA apply. Therefore, as a result of the Company's violations described herein, the Company is subject to civil penalties in accordance with Labor Code § 2699.

**ATTORNEYS' FEES, INTEREST, AND PENALTIES**  
(Labor Code §§ 2699(f)(2), 2699(g)(1), 2699.5)

Labor Code § 2699(g)(1), give employees the right to recover in a civil action the unpaid balance of the full amount of wages, including interest thereon, penalties and other damages, as applicable, reasonable attorneys' fees, and costs of suit. Additionally, Claimants seek the assessment of penalties, including civil penalties, under Labor Code §§ 203, 210, 225.5, 226.3, 1174.5, 1197.1, 2699, and/or § 20 of the IWC Wage Orders, among possibly other provisions inadvertently omitted herein. Furthermore, Claimants is entitled to bring a wage/hour claim on behalf of all current and former similarly situated employees of the Company. Thus, the Company is exposed to these same penalties for violations involving all Aggrieved Employees. Additionally, Claimant seeks attorney's fees pursuant to C.C.P. § 1021.5. Please construe this correspondence as Claimants' notification of alleged wrongdoing and attempted resolution in accordance with C.C.P. § 1021.5 and *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553.

**CONCLUSION**



Re: Johnson v. San Francisco Health Care and Rehab Inc

January 21, 2022

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Based on the foregoing, the Company may be liable for civil penalties related to the foregoing claims and remedies. If Claimant becomes aware of any additional claims for Labor Code violations related to her employment and/or other employees of the Company, she reserves the right to add new claims by supplementing this notice letter. Should you have any questions, please feel free to give me a call. In the meantime, I look forward to your response.

Very Truly Yours,



By: Peter J. Carlson, Esq.

E-mail: [peter@lmlfirm.com](mailto:peter@lmlfirm.com)



EXHIBIT “4”



# PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

April 23, 2024

## CASE ASSUMPTIONS

|                       |             |
|-----------------------|-------------|
| Class Members         | 750         |
| Opt Out Rate          | 1%          |
| Opt Outs Received     | 12          |
| Total Class Claimants | 738         |
| Subtotal Admin Only   | \$10,235.80 |

**Flat Fee Total \$10,000.00**

**For 750 Class Members**

Pricing Good for Scope of Estimate Only

All Aspects of Escheating to the State of CA Included

## Case: Johnson vs. SFHCR, Opt-Out & PAGA Administration

Phoenix Contact: Michael E. Moore  
Contact Number: 949.331.0131  
Email: mike@phoenixclassaction.com

Requesting Attorney: Brian J. Mankin  
Firm: Lauby, Mankin & Lauby, LLP  
Contact Number: (951) 320-1444  
Email: brian@lmfirm.com

Assumptions and Estimate are based on information provided by counsel. If class size changes, PHX will need to adjust this Estimate accordingly.  
Estimate is based on **750** Class Members. Class data **Must** be sent in Microsoft Excel or uploaded in the same format. Class Data Must be sent in one spreadsheet, with no additional programming needed. A rate of \$150 per hour will be charged for any additional analysis or programming. Pricing good for 90 day

### Case & Database Setup / Toll Free Setup & Call Center / NCOA (USPS)

| Administrative Tasks:        | Rate     | Hours/Units | Line Item | Estimate        |
|------------------------------|----------|-------------|-----------|-----------------|
| Programming Manager          | \$100.00 | 2           |           | \$200.00        |
| Programming Database & Setup | \$100.00 | 2           |           | \$200.00        |
| Toll Free Setup*             | \$100.00 | 1           |           | \$100.00        |
| Call Center & Long Distance  | \$2.00   | 79          |           | \$158.00        |
| NCOA (USPS)                  | \$150.00 | 1           |           | \$150.00        |
| Total                        |          |             |           | <b>\$808.00</b> |

\* Up to 120 days after disbursement

### Data Merger & Scrub / Notice Packet, Opt-Out Form & Postage / Website

| Project Action                   | Rate     | Hours/Units | Line Item | Estimate          |
|----------------------------------|----------|-------------|-----------|-------------------|
| Notice Packet Formatting         | \$100.00 | 2           |           | \$200.00          |
| Data Merge & Duplication Scrub   | \$0.10   | 750         |           | \$75.00           |
| Notice Packet & Opt-Out Form     | \$1.30   | 750         |           | \$975.00          |
| Estimated Postage (up to 2 oz.)* | \$0.62   | 750         |           | \$465.00          |
| Static Website                   | \$200.00 | 1           |           | \$200.00          |
| Total                            |          |             |           | <b>\$1,915.00</b> |

\* Prices good for 90 days. Subject to change with the USPS Rate or change in Notice pages or Translation, if any.



# PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

## Skip Tracing & Remailing Notice Packets / Tracking & Programming Undeliverables

| Project Action:             | Rate    | Hours/Units | Line Item    | Estimate        |
|-----------------------------|---------|-------------|--------------|-----------------|
| Case Associate              | \$55.00 | 2           |              | \$110.00        |
| Skip Tracing Undeliverables | \$1.00  | 113         |              | \$112.50        |
| Remail Notice Packets       | \$1.00  | 110         |              | \$109.50        |
| Estimated Postage           | \$0.64  | 110         |              | \$70.08         |
| Programming Undeliverables  | \$50.00 | 2           |              | \$100.00        |
|                             |         |             | <b>Total</b> | <b>\$502.08</b> |

## Database Programming / Processing Opt-Outs, Deficiencies or Disputes

| Project Action:              | Rate     | Hours/Units | Line Item    | Estimate        |
|------------------------------|----------|-------------|--------------|-----------------|
| Programming Database         | \$150.00 | 1           |              | \$150.00        |
| Non Opt-Out Processing       | \$200.00 | 1           |              | \$200.00        |
| Case Associate               | \$55.00  | 5           |              | \$275.00        |
| Deficiency & Dispute Letters | \$10.00  | 9           |              | \$90.00         |
| Case Manager                 | \$85.00  | 3           |              | \$255.00        |
|                              |          |             | <b>Total</b> | <b>\$970.00</b> |

## Calculation & Disbursement Programming/ Create & Manage QSF/ Mail Checks

| Project Action:            | Rate     | Hours/Units | Line Item    | Estimate          |
|----------------------------|----------|-------------|--------------|-------------------|
| Programming Calculations   | \$135.00 | 1           |              | \$135.00          |
| Disbursement Review        | \$135.00 | 2           |              | \$270.00          |
| Programming Manager        | \$95.00  | 3           |              | \$285.00          |
| QSF Bank Account & EIN     | \$135.00 | 1           |              | \$135.00          |
| Check Run Setup & Printing | \$135.00 | 7           |              | \$945.00          |
| Mail Class Checks *        | \$0.80   | 738         |              | \$590.40          |
| Estimated Postage          | \$0.64   | 738         |              | \$472.32          |
|                            |          |             | <b>Total</b> | <b>\$2,832.72</b> |

\* Checks are printed on 8.5 x 11 in. sheets with W2/1099 Tax Filing & Instructions for downloading tax forms from PHX secure portal



# PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

| Tax Reporting & Reconciliation / Re-Issuance of Checks / Conclusion Reports and Declarations            |            |             |           |            |
|---------------------------------------------------------------------------------------------------------|------------|-------------|-----------|------------|
| Project Action:                                                                                         | Rate       | Hours/Units | Line Item | Estimate   |
| Case Supervisor                                                                                         | \$115.00   | 2           |           | \$230.00   |
| Remail Checks<br>(Postage Included)                                                                     | \$2.00     | 129         |           | \$258.00   |
| Case Associate                                                                                          | \$55.00    | 3           |           | \$165.00   |
| Reconcile Uncashed Checks                                                                               | \$85.00    | 5           |           | \$425.00   |
| Conclusion Reports                                                                                      | \$115.00   | 2           |           | \$230.00   |
| Case Manager Conclusion                                                                                 | \$85.00    | 3           |           | \$255.00   |
| Final Reporting & Declarations                                                                          | \$115.00   | 3           |           | \$345.00   |
| IRS & QSF Annual Tax Reporting *<br>(1 State Tax Reporting & Escheating to<br>the State of CA Included) | \$1,300.00 | 1           |           | \$1,300.00 |
| Total                                                                                                   |            |             |           | \$3,208.00 |

\* All applicable California State & Federal taxes, which include SUI, ETT, and SDI, and FUTA filings. Additional taxes are Defendant's responsibility.

**Estimate Total: \$10,235.80**



# PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

## **TERMS AND CONDITIONS**

**Provisions:** The case estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make any provision for any services or class size not delineated in the request for proposal or stipulations. Proposal rates and amounts are subject to change upon further review, with Counsel/Client, of the Settlement Agreement. Only pre-approved changes will be charged when applicable. No modifications may be made to this estimate without the approval of PSA (Phoenix Settlement Administrators). All notifications are mailed in English language only unless otherwise specified. Additional costs will apply if translation into other language(s) is required. Rates to prepare and file taxes are for Federal and California State taxes only. Additional charges will apply if multiple state tax filing(s) is required. **Pricing is good for ninety (90) days.**

**Data Conversion and Mailing:** The proposal assumes that data provided will be in ready-to-use condition and that all data is provided in a single, comprehensive Excel spreadsheet. PSA cannot be liable for any errors or omissions arising due to additional work required for analyzing and processing the original database. A minimum of two (2) business days is required for processing prior to the anticipated mailing date with an additional two (2) business days for a National Change of Address (NCOA) update. Additional time may be required depending on the class size, necessary translation of the documents, or other factors. PSA will keep counsel apprised of the estimated mailing date.

**Claims:** PSA's general policy is to not accept claims via facsimile. However, in the event that facsimile filing of claims must be accepted, PSA will not be held responsible for any issues and/or errors arising out of said filing. Furthermore, PSA will require disclaimer language regarding facsimile transmissions. PSA will not be responsible for any acts or omissions caused by the USPS. PSA shall not make payments to any claimants without verified, valid Social Security Numbers. All responses and class member information are held in strict confidentiality. Additional class members are \$10.00 per opt-out.

**Payment Terms:** All postage charges and 50% of the final administration charges are due at the commencement of the case and will be billed immediately upon receipt of the data and/or notice documents. PSA bills are due upon receipt unless otherwise negotiated and agreed to with PSA by Counsel/Client. In the event the settlement terms provide that PSA is to be paid out of the settlement fund, PSA will request that Counsel/Client endeavor to make alternate payment arrangements for PSA charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the settlement account is funded by Defendant, or no later than the time of disbursement. Amounts not paid within thirty (30) days are subject to a service charge of 1.5% per month or the highest rate permitted by law.

### **Tax Reporting Requirements**

PSA will file the necessary tax returns under the EIN of the QSF, including federal and state returns. Payroll tax returns will be filed if necessary. Under the California Employment Development Department, all taxes are to be reported under the EIN of the QSF with the exception of the following taxes: Unemployment Insurance (UI) and Employment Training Tax (ETT), employer-side taxes, and State Disability Insurance (SDI), an employee-side tax. These are reported under Defendant's EIN. Therefore, to comply with the EDD payroll tax filing requirements we will need the following information:

1. Defendant's California State ID and Federal EIN.
2. Defendant's current State Unemployment Insurance (UI) rate and Employment Training Tax (ETT) rate. This information can be found in the current year DE 2088, Notice of Contribution Rates, issued by the EDD.
3. Termination dates of the class members, or identification of current employee class members, so we can account for the periods that the wages relate to for each class member.
4. An executed Power of Attorney (Form DE 48) from Defendant. This form is needed so that we may report the UI, SDI, and ETT taxes under Defendant's EIN on their behalf. If this form is not provided we will work with the EDD auditors to transfer the tax payments to Defendant's EIN.
5. Defendant is responsible for reporting the SDI portion of the settlement payments on the class member's W-2. PSA will file these forms on Defendant's behalf for an additional fee and will issue an additional W-2 for each class member under Defendant's EIN, as SDI is reported under Defendant's EIN rather than the EIN of the QSF. The Power of Attorney (Form DE 48) will be needed in order for PSA to report SDI payments.

EXHIBIT “5”