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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

STACEY SERNA and LOURDES DE
GUZMAN ANGEL, on behalf of the State
of California, as private attorneys general,

Plaintiffs,

vs.

GURNICK ACADEMY OF MEDICAL
ARTS, LLC, a California Limited Liability
Company,

Defendant.

Case No.: 22-CIV-01185

**[REVISED PROPOSED] ORDER AND
JUDGMENT APPROVING PAGA
SETTLEMENT**

Hearing Date: January 18, 2024

Hearing Time: 11:00 a.m.

Judge: Hon. Susan L. Greenberg

Dept.: 3

Courtroom: 2B

1 **ORDER AND JUDGMENT**

2 Plaintiffs Stacey Serna and Lourdes De Guzman Angel (“Plaintiffs”) move for approval of
3 the settlement of Plaintiffs’ claims under the California Labor Code Private Attorneys General Act
4 (“PAGA”), pursuant to California Labor Code § 2699(l), against Defendant Gurnick Academy of
5 Medical Arts, LLC (“Defendant”).

6 Plaintiffs exhausted all administrative remedies required to bring the PAGA claims asserted
7 in this action and are authorized to act as private attorneys general with respect to the PAGA claims
8 being released under the terms of the PAGA Settlement Agreement (“Settlement Agreement”),
9 which is attached hereto as Exhibit #1 and is incorporated by reference. The California Labor
10 Workforce Development Agency was provided with notice of the Settlement and the motion for
11 approval of the PAGA settlement via its online process and no objection has been received to the
12 settlement or the motion from the Labor Workforce Development Agency.

13 The Parties seek approval of the settlement of Plaintiffs’ PAGA claims and the PAGA
14 Payment to be paid as part of the settlement as set forth in the Settlement Agreement which was filed
15 with the Court. The settlement provides for a Gross PAGA Settlement Amount in the total sum of
16 \$545,000, which includes the PAGA Payment, the Administration Expenses Payment (not to exceed
17 \$15,000) for ILYM Group to administer the settlement, PAGA Counsel Fees Payment in the amount
18 of \$181,666 (one-third of the Gross Settlement Amount), and PAGA Counsel Litigation Expenses
19 Payment in the amount of \$20,000. The PAGA Payment, which is the amount remaining of the
20 Gross PAGA Settlement Amount after deduction of the Administration Expenses Payment, PAGA
21 Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, shall be allocated to Labor
22 Code 2699 penalties, including other civil penalties specified in the Labor Code, of which 75% of
23 the payment will be paid to the LWDA (no less than \$246,250.50) and 25% will be paid to the
24 Aggrieved Employees (no less than \$82,083.50).

25 The Court, having reviewed the evidence and papers submitted and argument of counsel,
26 pursuant to Labor Code section 2699(l)(2) hereby GRANTS the Plaintiffs’ motion and approves the
27 PAGA settlement as set forth in the Settlement Agreement and the PAGA Payment, which shall be
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1 allocated and paid out as set forth in the Settlement Agreement. The payments to the Aggrieved
2 Employees shall be accompanied by an explanatory notice in the form attached hereto as Exhibit #2.

3 The “Aggrieved Employees” are defined as all individuals who are or previously were
4 employed by Defendant in California and classified as a non-exempt employee at any time during
5 the PAGA Period and all current and former employees of Defendant in California who were
6 required to work remotely during the Remote PAGA Period. The PAGA Period is the time period
7 from August 23, 2020 to June 25, 2023. The Remote PAGA Period is the time period from March
8 18, 2020 to June 25, 2023.

9 Upon the Effective Date of this Order and Judgment, Defendant and the Released Parties (as
10 defined in the PAGA Settlement Agreement) shall be entitled to a release of the Released PAGA
11 Claims. The “Released PAGA Claims” are all claims for PAGA penalties and attorney’s fees and
12 costs of suit arising out of PAGA penalties that were alleged, or reasonably could have been alleged,
13 based on the facts stated in the Operative Complaint in either *Lourdes De Guzman Angel vs. Gurnick*
14 *Academy of Medical Arts, LLC*, or *Stacey Serna vs. Gurnick Academy of Medical Arts, LLC*,
15 respectively, and the respective PAGA Notices submitted by each Plaintiff to the LWDA, which
16 occurred during the PAGA Period and Remote PAGA Period. The Released PAGA Claims does not
17 include all other claims, including claims for vested benefits, wrongful termination, violation of the
18 Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’
19 compensation, and California class claims, and PAGA claims outside of the PAGA Period and
20 Remote PAGA Period. The Released PAGA Claims do not include any claims that cannot be
21 released as a matter of law. In no event shall the release of the Released PAGA Claims in this
22 Settlement Agreement release any individual claims of any individuals.

23 This settlement (including this Order) cannot be used, directly or indirectly, to introduce, use,
24 or admit in this case or in any other judicial, arbitral, administrative, investigative or other forum or
25 proceeding, as purported evidence of any violation of any federal, state, or local law, statute,
26 ordinance, regulation, rule or executive order (i.e., evidence of a “first” or “initial” violation), or any
27 liability, obligation, or duty at law or in equity, or for any other purpose. This settlement (including
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1 this Order) shall not be construed to be an admission by Defendant of any liability or wrongdoing as
2 to Plaintiffs, the Aggrieved Employees, or any other person, and Defendant specifically disclaims
3 any such liability or wrongdoing.

4 This claim asserted under PAGA in this action is dismissed with prejudice. In addition, the
5 PAGA claims of Aggrieved Employees during the PAGA Period and Remote PAGA Period are
6 dismissed with prejudice. After entry of this Order and Judgment, the Court shall, pursuant to Code
7 of Civil Procedure §664.6, retain jurisdiction pursuant to California Code of Civil Procedure § 664.6
8 to construe, interpret, implement, and enforce the Settlement Agreement, to hear and resolve any
9 contested challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute
10 arising from or in connection with the distribution of settlement benefits.

11 **IT IS SO ORDERED AND ADJUDGED. LET JUDGMENT BE FORTHWITH**
12 **ENTERED ACCORDINGLY.**

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14 DATED: _____

15 THE HONORABLE SUSAN L. GREENBERG
16 JUDGE OF THE SUPERIOR COURT
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EXHIBIT #1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Lourdes De Guzman Angel and Stacey Serna (“Plaintiffs”) and defendant Gurnick Academy of Medical Arts, LLC (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Actions” means the Plaintiffs’ lawsuits alleging wage and hour violations against Defendant captioned *Lourdes De Guzman Angel v. Gurnick Academy of Medical Arts, LLC* (Case No. C21-02232) initiated on October 27, 2021 and pending in the Superior Court of the State of California, County of Contra Costa (“Angel Action”) and *Stacey Serna v. Gurnick Academy of Medical Arts, LLC* (Case No. 22-CIV-01185) initiated on March 17, 2022 and pending in the Superior Court of the State of California, County of San Mateo (“Serna Action”).
- 1.2. “Administrator” means ILYM Group, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross PAGA Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4. “Aggrieved Employees” means all individuals who are or previously were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period and all current and former employees of Defendant in California who were required to work remotely during the Remote PAGA Period.
- 1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.

- 1.8. “Court” means the Superior Court of California, County of San Mateo
- 1.9. “Defendant” means named Defendant Gurnick Academy of Medical Arts, LLC.
- 1.10. “Defense Counsel” means Joseph R. Lordan, Vincent R. Fisher and Bo Kyung Kim of the law firm of O’Hagan Meyer PLLP.
- 1.11. “Effective Date” means the date on which the Court’s order approving the settlement and its entry of Judgment become Final and is thereupon served on Defendant, which shall mean the latest of the following as applicable: (i) if there is not appeal, the date that is 61 days after the Judgment; (ii) if there is an appeal of the Court’s judgment, the date the order and judgment approving the settlement are affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the California Supreme Court; or (iii) if a petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the order and judgment approving the settlement are affirmed pursuant to such petition.
- 1.12. “Gross PAGA Settlement Amount” means the total sum of \$545,000.00 which is the maximum amount Defendant agrees to pay under the Settlement, except as provided in paragraph 8 below. The Gross PAGA Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator Expenses.
- 1.13. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Payment calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.14. “Judgment” means the judgment entered by the Court based upon the Approval Order.
- 1.15. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.16. “LWDA PAGA Payment” means the 75% of the PAGA Payment paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.17. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.18. “PAGA Counsel” means Blumenthal Nordrehaug Bhowmik De Blouw LLP; and, HammondLaw, P.C., the attorneys representing the Plaintiffs in the Actions.

- 1.19. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.20. “PAGA Notices” mean Plaintiff De Guzman Angel’s July 9, 2021 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a), and Plaintiff Serna’s March 2, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.21. “PAGA Payment” means the Gross PAGA Settlement Amount, less the following payments in the amounts approved by the Court: Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and Administration Expenses Payment, which after these deductions is the total amount of PAGA civil penalties to be paid from the Gross PAGA Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to LWDA in settlement of PAGA claims.
- 1.22. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period and/or Remote PAGA Period.
- 1.23. “PAGA Period” means the period from August 23, 2020, to June 25, 2023.
- 1.24. “Plaintiffs” mean Lourdes De Guzman Angel and Stacey Serna, the named plaintiffs in the Actions.
- 1.25. “Released PAGA Claims” mean the claims being released by the Plaintiffs and PAGA Counsel and as described in Paragraph 5.2 below.
- 1.26. “Released Parties” means Defendant, any potential “joint employer”, and any and all of Defendant’s affiliated companies and its respective parent companies, subsidiaries, affiliates, shareholders, members, agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present, or future officers, directors, employees, or other person acting on Defendant’s behalf) predecessors, successors, and assigns. Nothing contained herein shall be deemed or construed to be a waiver or release by Defendant of any claims it might possess against its insurers.
- 1.27. “Remote PAGA Period” means the period from March 18, 2020, to June 25, 2023.

1.28. “Settlement” means the disposition of the Actions effected by this Agreement and the Judgment.

2. RECITALS

- 2.1. On October 27, 2021, Plaintiff Lourdes De Guzman Angel commenced the *Angel* Action by filing a Representative Action Complaint against Defendant alleging a single cause of action for recovery of civil penalties for Violation of the PAGA. Defendant denies the allegations in the *Angel* Action Complaint, denies any failure to comply with the laws identified in the *Angel* Action Complaint and denies any and all liability for the causes of action alleged.
- 2.2. On March 17, 2022, Plaintiff Stacey Serna commenced the *Serna* Action by filing a Class Action Complaint against Defendant alleging the following causes of action: (1) Sexual Harassment in Violation of FEHA (Cal. Gov. Code §§12900 *et seq.*); (2) Failure to Prevent Harassment in Violation of FEHA (Cal Gov. Code §12940); (3) Failure to Pay Wages for All Hours Worked; (4) Failure to Pay Overtime; (5) Failure to Provide Rest Periods and Pay Rest Period Premiums; (6) Failure to Provide Meal Periods and Pay Meal Period Premiums; (7) Failure to Issue Accurate Itemized Wage Statements; (8) Failure to Reimburse Business Expenses; and (9) Violations of Cal. Bus. & Prof. Code §§ 17200, *et. seq.*
- 2.3. On May 9, 2022, Plaintiff Serna filed a First Amended Class and Representative Action Complaint in the *Serna* Action adding a tenth cause of action for Civil Penalties under the PAGA. Defendant denies the allegations in the *Serna* Action Complaints, denies any failure to comply with the laws identified in the *Serna* Action Complaints and denies any and all liability for the causes of action alleged.
- 2.4. In addition to the Gross PAGA Settlement Amount, Defendant has agreed to separately settle Plaintiffs’ individual claims pursuant to separate confidential Individual Settlement Agreements (“Individual Settlement”). Plaintiffs’ individual claims were not at issue in the Actions and exist independent and apart from the PAGA claims at issue in the Actions. If the Court and/or the LWDA requires the Parties to submit the terms of Plaintiffs’ Individual Settlement Agreements to obtain approval of this settlement, the Parties agree that the terms of Plaintiffs’ respective Individual Settlement Agreements will only be submitted under seal or disclosed to the Court and/or LWDA in some other way, consistent with the confidential nature of the Individual Settlement.
- 2.5. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiffs gave timely written notice to Defendant and the LWDA by sending the PAGA Notices.
- 2.6. On April 25, 2023, the Parties participated in an all-day mediation presided over

by Lisa Klerman which led to this Agreement to settle the Actions.

- 2.7. Prior to mediation, Plaintiffs obtained, through informal discovery, documents relating to Defendant's policies, practices, and procedures regarding paying non-exempt employees for all hours worked, overtime, meal and rest period policies, payroll and operations policies, reimbursement policies, and more, as well as data reflecting a census of alleged aggrieved employees and a sample of their timekeeping and payroll data.
- 2.8. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.
- 2.9. The Parties have agreed to file via stipulation a Second Amended Complaint in the *Serna* Action which will incorporate the claims, allegations, and causes of action contained in the *Angel* Action and add Lourdes De Guzman Angel as a plaintiff. The Second Amended Complaint in the *Serna* Action will be the Operative Complaint and the Parties will seek approval of the Settlement in the *Serna* Action.

3. MONETARY TERMS.

- 3.1. Gross PAGA Settlement Amount. Except as provided in paragraph 8 below, Defendant promises to pay \$545,000.00 and no more as the Gross PAGA Settlement Amount. The Gross Settlement Amount includes the Individual PAGA Payments to the Aggrieved Employees, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. Defendant has no obligation to pay the Gross PAGA Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross PAGA Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. The Gross PAGA Settlement Amount shall be all-in and none of the Gross PAGA Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross PAGA Settlement Amount. The Administrator will make and deduct the following payments from the Gross PAGA Settlement Amount, in the amounts specified by the Court in the Approval Order:
 - 3.2.1 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one-third (1/3) of the Gross PAGA Settlement Amount which is currently estimated to be \$181,666 and PAGA Counsel Litigation Expenses Payment of not more than \$20,000. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel

Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the PAGA Payment. Released Parties shall have no liability to PAGA Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2 To the Administrator: An Administrator Expenses Payment not to exceed \$15,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$15,000, the Administrator will retain the remainder in the PAGA Payment.

3.2.3 To the LWDA and Aggrieved Employees: PAGA Payment in the amount of not less than \$328,334 to be paid from the Gross PAGA Settlement Amount, with 75% (no less than \$246,250.50) allocated to the LWDA PAGA Payment and 25% (no less than \$82,083.50) allocated to the Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Payment by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and Remote PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. If the Court approves the PAGA Payment of less than the amount requested, the Administrator will allocate the remainder to the PAGA Payment. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records through the mediation, Defendant estimated at the mediation there are 884 Aggrieved Employees who worked a total of 21,716 PAGA Pay Periods.

4.2. Aggrieved Employee Data. Within fifteen (15) days after service on Defendant of the Court's order approving this settlement, Defendant will provide the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data

only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement.

- 4.3. Funding of Gross PAGA Settlement Amount. Defendant shall fully fund the Gross PAGA Settlement Amount by transmitting the funds to the Administrator no later than thirty (30) days after the date on which the Court approves this settlement, enters final judgement thereon, and said order/s are served on Defendant.
- 4.4. Payments from the Gross PAGA Settlement Amount. Within five (5) days after the Effective Date, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.
 - 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the void date, which is 180 days after the date of mailing, when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
 - 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.
 - 4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the State Controller Unclaimed Property Fund in the name of the individual who failed to cash their check, subject to Court approval.
 - 4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the

Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

- 5. RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross PAGA Settlement Amount, Plaintiffs, Aggrieved Employees, the State of California and PAGA Counsel will release claims against Defendant and all Released Parties as follows:

- 5.1. Plaintiffs' Release. Plaintiffs and their respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the operative complaints in the Actions and the PAGA Notices ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, claims that cannot be released as a matter of law, or based on occurrences outside the PAGA Period and Remote PAGA Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

5.1.1 Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

- 5.2 Release by the State of California and Aggrieved Employees:

The State of California and all Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all "Released PAGA Claims". "Released PAGA Claims" means all claims for PAGA penalties and attorney's fees and costs of suit arising out of PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint in either *Lourdes De Guzman*

Angel vs. Gurnick Academy of Medical Arts, LLC, or *Stacey Serna vs. Gurnick Academy of Medical Arts, LLC*, respectively, and the respective PAGA Notices submitted by each Plaintiff to the LWDA, which occurred during the PAGA Period and Remote PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, and California class claims, and PAGA claims outside of the PAGA Period. Nothing contained in this release shall be deemed or construed to be a waiver of release by Defendant of any claims it might possess against its insurers. The Released PAGA Claims do not include any claims that cannot be released as a matter of law. In no event shall the release of the Released PAGA Claims in this Agreement release any individual claims of any individuals; however, to the extent individuals encompassed by this agreement have or can have "individual PAGA claims" such claims are released as set forth in this paragraph.

5.3 Release by PAGA Counsel:

PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for attorneys' fees and costs incurred in connection with the (1) Operative Complaint in either *Lourdes De Guzman Angel vs. Gurnick Academy of Medical Arts, LLC*, or *Stacey Serna vs. Gurnick Academy of Medical Arts, LLC*, respectively, (2) the facts alleged in the Operative Complaint in either *Lourdes De Guzman Angel vs. Gurnick Academy of Medical Arts, LLC*, or *Stacey Serna vs. Gurnick Academy of Medical Arts, LLC*, respectively, and (3) the PAGA Notices.

- 6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.** The Parties agree to jointly prepare and file an application or motion for approval of this Settlement in the *Serna* Action after the filing of the Second Amended Complaint in the *Serna* Action and corresponding dismissal of the *Angel* Action as set forth in paragraph 10.17 below.

- 6.1 Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA;

and the nature and extent of any financial relationship with Plaintiffs, PAGA Counsel or Defense Counsel; (iii) a signed declaration from the PAGA Counsel firms attesting to their timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); (iv) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (v) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiffs and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than sixty (60) days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have jointly selected ILYM Group to serve as the Administrator and verified that, as a condition of appointment, ILYM Group agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall have and use its own

Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.

7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR CLAUSE

Based on its records through mediation, Defendant estimated that, as of the date of mediation, (1) there were 884 Aggrieved Employees who worked 21,716 Pay Periods. If the actual number of PAGA Pay Periods during the PAGA Period is determined to be incorrect by more than 10%, then the Gross PAGA Settlement Amount will be increased proportionally. For example, if the number is 10% higher, the Gross PAGA Settlement Amount will be increased by 1%.

9. CONTINUING JURISDICTION OF THE COURT. The Parties agree that after entry of Judgment, the Court will retain jurisdiction over the Parties, the *Serna* Action, and the Settlement pursuant to C.C.P. Section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties’ obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the PAGA Payment.

10. ADDITIONAL PROVISIONS.

10.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaints in the Actions have merit or that Defendant has any liability for any claims

asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Actions have merit. The Parties agree that representative treatment is for purposes of this Settlement only. Defendant expressly denies all liability for any wrongdoing alleged by Plaintiffs. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Actions, and Plaintiffs reserve the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Actions or the PAGA Notices will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 10.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of the mediator, Lisa Klerman, for resolution.
- 10.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 10.6 No Tax Advice. Neither Plaintiffs, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

- 10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.11 Confidentiality. Other than information necessary to secure Court approval of this settlement, the Parties agree to keep confidential all matters relative to this Settlement, including the terms of the Settlement and the facts and circumstances leading up to it. If asked about the disputes between the Parties, the Parties shall provide no other statement than “the matter has been resolved” or “the matter has settled.” The Parties may, however, discuss the terms of this Settlement with their spouses, attorneys, financial advisors, tax advisors, and accountants, or upon a valid court order, at which time the individual receiving information about the terms of this Settlement shall be informed that the terms of this Settlement are confidential, and the individual may not reveal or disclose to any third party the terms of the Settlement. Neither Plaintiffs nor PAGA Counsel shall issue a press release, hold a press conference, publish information about the settlement on any website or social media, respond to any press inquiries, or otherwise publicize the settlement or communicate its terms in public or in private, provided, however, that Plaintiffs and PAGA Counsel may communicate with the Administrator and the State of California to carry out this agreement and insofar as required by PAGA’s statutory provisions. PAGA Counsel may reference this Settlement as evidence of their qualifications in a showing of adequacy to a court.
- 10.12 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute,

or rule of court. Not later than 30 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiffs shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data, in which case PAGA Counsel will return such data and confirm all data has been returned not later than five business days following Defendant's request for return of the data. If destroyed, PAGA Counsel shall confirm such destruction in writing to Defense Counsel no later than five business days following destruction.

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

10.14 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

10.15 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

Norman Blumenthal
norm@bamlawca.com
Kyle R. Nordrehaug
kyle@bamlawca.com
Aparajit Bhowmik
aj@bamlawca.com
Nicholas J. De Blouw
deblouw@bamlawca.com
Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, California 92037
Phone: (858) 551-1223
Facsimile: (858) 551-1232

Julian Hammond
jhammond@hammondlawpc.com
Polina Brandler
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Ari Cherniak

acherniak@hammondlawpc.com

HammondLaw, P.C.

1201 Pacific Ave., Suite 600

Tacoma, Washington 98402

Phone: (310) 601-6766

Facsimile: (310) 295-2385

To Defendant: Joseph R. Lordan
JLordan@ohaganmeyer.com
Vincent R. Fisher
VFisher@ohaganmeyer.com
Bo Kyung Kim
BKim@ohaganmeyer.com
O'Hagan Meyer PLLP
One Embarcadero Center, STE 2100
San Francisco, CA 94111

10.16 Execution in Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, this Agreement may be executed in one or more counterparts by facsimile, electronic signature, or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.17 Court Filings. The Parties agree not to object to any Court filings consistent with this Agreement. The Parties shall stipulate that Plaintiffs may file a Second Amended Complaint in *Stacey Serna vs. Gurnick Academy of Medical Arts, LLC*, incorporating the claims, allegations, and causes of action contained in the operative complaint in *Lourdes De Guzman Angel vs. Gurnick Academy of Medical Arts, LLC*, and adding Plaintiff De Guzman Angel. Once the Second Amended Complaint is filed in *Stacey Serna vs. Gurnick Academy of Medical Arts, LLC*, Plaintiff De Guzman Angel shall dismiss her complaint in *Lourdes De Guzman Angel vs. Gurnick Academy of Medical Arts, LLC*.

10.18 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process. In the event the settlement is not finally approved, or is terminated, cancelled or fails to become effective for any reason, the Parties shall revert back to their

respective positions as of before entering into the settlement. The Parties shall cooperate in good faith to secure a court order staying the *Serna* Action and all deadlines, pending implementation of the settlement. If the Court denies approval of the settlement, the Parties will resume litigation.

11. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

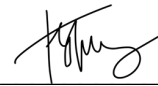
Dated: _____

Plaintiff Lourdes De Guzman Angel

Dated: _____

Plaintiff Stacey Serna

Dated: 08/28/2023



Signeasy - 0b8423...8da779 Konstantin Gourji [name]

For Defendant Gurnick Academy of Medical Arts, LLC

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

Dated: _____

Julian Hammond
HammondLaw, P.C.
Attorney for Plaintiffs

Dated: 08/28/2023



Vincent R. Fisher
O'Hagan Meyer PLLP
Attorney for Defendant

respective positions as of before entering into the settlement. The Parties shall cooperate in good faith to secure a court order staying the *Serna* Action and all deadlines, pending implementation of the settlement. If the Court denies approval of the settlement, the Parties will resume litigation.

11. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: Aug 24, 2023


Lourdes Angel (Aug 24, 2023 18:08 PDT)
Plaintiff Lourdes De Guzman Angel

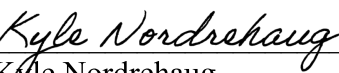
Dated: _____

Plaintiff Stacey Ser a

Dated: _____

[name]
For Defendant Gurnick Academy of Medical Arts, LLC

Dated: 8/25/23


Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

Dated: _____

Julian Hammond
HammondLaw, P.C.
Attorney for Plaintiffs

Dated: _____

Vincent R. Fisher
O'Hagan Meyer PLLP
Attorney for Defendant

respective positions as of before entering into the settlement. The Parties shall cooperate in good faith to secure a court order staying the *Serna* Action and all deadlines, pending implementation of the settlement. If the Court denies approval of the settlement, the Parties will resume litigation.

11. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: _____
Plaintiff Lourdes De Guzman Angel

Dated: 8/24/2023
Stacey Serna
Plaintiff Stacey Serna

Dated: _____

[name]
For Defendant Gurnick Academy of Medical Arts, LLC

Dated: _____
Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

Dated: 8/24/2023
Julian Hammond
HammondLaw, P.C.
Attorney for Plaintiffs

Dated: _____
Vincent R. Fisher
O'Hagan Meyer PLLP
Attorney for Defendant

EXHIBIT #2

NOTICE OF PAGA SETTLEMENT

Serna v. Gurnick Academy of Medical Arts, LLC,

Superior Court of the State of California, County of San Mateo Case No. 22-CIV-01185

ILYM Group

P.O. Box

Telephone:

«Barcode»

«BarcodeString»

SIMID «SIMID»

«FirstName» «LastName»

«Address1» «Address2»

«City» «State» «Zip»

You are receiving this notice as a result of lawsuits brought on a representative basis under the California Private Attorneys General Act, Labor Code § 2698 *et seq.* (“PAGA”) by Plaintiffs Lourdes De Guzman Angel and Stacey Serna (“Plaintiffs”) acting in their private attorney general capacity against Defendant Gurnick Academy of Medical Arts, LLC (“Defendant”) (the “Action”). Through the Action, Plaintiffs sought to recover civil penalties for purported violations of the California Labor Code on behalf of all individuals who are or previously were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period (August 23, 2020, to June 25, 2023) and all current and former employees of Defendant in California who were required to work remotely during the Remote PAGA Period (March 18, 2020, to June 25, 2023) (collectively the “Aggrieved Employees”).

Defendant denies all claims and allegations in the Action, denies that it owes any penalties to Plaintiffs and/or the Aggrieved Employees, and asserts that it has fully complied with all applicable Labor Code and all other provisions of law noted below. Nevertheless, to avoid further costs and time in defending the Action, Defendant settled the Action, and the Court has approved the settlement and release of all “Released PAGA Claims”. “Released PAGA Claims” means all claims for PAGA penalties and attorney’s fees and costs of suit arising out of PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint in either *Lourdes De Guzman Angel vs. Gurnick Academy of Medical Arts, LLC*, or *Stacey Serna vs. Gurnick Academy of Medical Arts, LLC*, respectively, and the respective PAGA Notices submitted by each Plaintiff to the LWDA, which occurred during the PAGA Period and Remote PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, and California class claims, and PAGA claims outside of the PAGA Period.

According to Defendant’s records, you are an Aggrieved Employee and are therefore entitled to an Individual PAGA Payment under the Court-approved allocation. The enclosed settlement check, which you are receiving in your capacity as an Aggrieved Employee, shall remain valid for 180 days after mailing.

Please Note: One hundred percent of your payment will be considered civil penalties; may be subject to local, state, and/or federal tax withholdings; and will be reported to the IRS and applicable state tax authorities. You should rely on your own tax advisors as to the tax consequences of your Individual PAGA Payment. Neither Plaintiffs nor Defendant have made or will make any representations or warranties regarding the taxation of your Individual PAGA Payment. Nothing within this notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).

Do not call or write the Court or Office of the Clerk to ask questions about the settlement or your Individual PAGA Payment. If you have any questions, you may call or write to ILYM Group (the Administrator) using the contact information at the top of this correspondence.