

Justin F. Marquez (SBN 262417)
justin@wilshirelawfirm.com

Benjamin H. Haber (SBN 315664)
benjamin@wilshirelawfirm.com

Maxim Gorbunov (SBN 343128)
mgorbunov@wilshirelawfirm.com

WILSHIRE LAW FIRM

3055 Wilshire Blvd., 12th Floor

Los Angeles, California 90010

Telephone: (213) 381-9988

Facsimile: (213) 381-9989

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

CAPRICE JUSTICE WILLIAMS, on behalf of
the State of California and other aggrieved
persons,

Plaintiff,

v.

TOTAL LONGTERM CARE, INC., a
corporation; INNOVAGE CALIFORNIA
PACE-INLAND EMPIRE, LLC, a limited
liability company; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: CIVSB2213347

CLASS ACTION

*[Assigned for all purposes to: Hon. Jessica
Morgan, Dept. S-26]*

**DECLARATION OF JUSTIN F.
MARQUEZ IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

*[Filed concurrently with: Plaintiff's Notice of
Motion and Motion for Preliminary Approval
of Class Action Settlement, Memorandum of
Points and Authorities; Declaration of
Plaintiff; and [Proposed] Order Granting
Motion]*

PRELIMINARY APPROVAL HEARING

Date: December 6, 2023

Time: 8:30 a.m.

Dept: S-26

Complaint filed: June 23, 2022

Trial date: Not set

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

1. I am admitted, in good standing, to practice as an attorney in the State of California, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Southern, Eastern, and Northern Districts of California. I am a Senior Partner at Wilshire Law Firm, PLC, counsel of record for Plaintiff Caprice Justice Williams (collectively, “Plaintiff”). I have personal knowledge of the facts set forth in this declaration and could and would competently testify to them under oath if called as a witness. This Declaration is submitted in support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

2. This is a wage and hour class and Private Attorneys General Act (“PAGA”) (Cal. Lab. Code §§ 2699, *et seq.*) representative action. Plaintiff and putative class members worked in California as hourly-paid or non-exempt employees for Defendant during the class period. Defendants offer all-inclusive healthcare services to seniors throughout the United States, including California.

4. On March 30, 2022, Plaintiff Caprice Justice Williams filed a separate putative wage-and-hour class action in San Bernardino Superior Court, Case No. CIVSB2206499 (removed on July 8, 2022 to the District Court for the Central District of California, Case No. 5:22-cv-01180-SSS-SP) against Defendant for: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify employees for expenditures;

1 and (8) violation of California’s Unfair Competition Law, California Business and Professions
2 Code §§17200, et seq. On June 23, 2022, Plaintiff filed this action against Defendant alleging
3 claims for civil penalties under Private Attorneys General Act (“PAGA”) (Labor Code § 2698 et
4 seq.) based on similar claims. Plaintiff sent a notice to Defendant and the California Labor &
5 Workforce Development Agency (“LWDA”) alleging similar wage and hour violations pursuant
6 to the PAGA (Cal. Lab. Code §§ 2699, *et seq.*) on April 11, 2022. Attached as **Exhibit 1** is a true
7 and correct copy of the PAGA notice sent to Defendant and the LWDA on April 11, 2022.

8 5. On October 5, 2023, Plaintiff filed a stipulation for leave to file a First Amended
9 Class and Representative Complaint adding her class claims to this action for purposes of
10 settlement approval.

11 DISCOVERY AND INVESTIGATION

12 6. Following the filing of the Complaint, the Parties exchanged documents and
13 information before mediating this action. Defendant produced a sample of time and pay records
14 for class members. Defendant also provided documents of its wage and hour policies and practices
15 during the class period, and information regarding the total number of current and former
16 employees in its informal discovery responses.

17 7. After reviewing documents regarding Defendant’s wage and hour policies and
18 practices, and analyzing Defendant’s timekeeping and payroll records, Class Counsel was able to
19 evaluate the probability of class certification, success on the merits, and Defendant’s maximum
20 monetary exposure for all claims. Class Counsel also investigated the applicable law regarding
21 the claims and defenses asserted in the Litigation. Class Counsel reviewed these records and
22 utilized an expert to prepare a damages analysis prior to mediation.

23 SETTLEMENT NEGOTIATIONS

24 8. On January 26, 2023, the Parties participated in private mediation with experienced
25 class action mediator, Honorable Daniel Buckley (Ret.). The mediation was conducted in-person
26 in Los Angeles, California. The settlement negotiations were at arm’s length and, although
27 conducted in a professional manner, were adversarial. The Parties went into the mediation willing
28 to explore the potential for a settlement of the dispute, but each side was also prepared to litigate

1 their position through trial and appeal if a settlement had not been reached. The Parties then
2 tentatively agreed to a settlement following a mediator's proposal in February 2023.

3 9. After extensive negotiations and discussions regarding the strengths and
4 weaknesses of Plaintiff's claims and Defendant's defenses, including subsequent negotiations after
5 the mediator's proposal was accepted, the Parties were able to reach a resolution, the material terms
6 of which are encompassed within the Settlement Agreement as signed in November 2023.
7 Attached as **Exhibit 2** is a true and correct copy of the Joint Stipulation Re: Class Action and
8 Representative Action Settlement ("Settlement Agreement").

9 10. Class Counsel submitted the proposed Settlement to the LWDA before filing the
10 Motion for Preliminary Approval.

11 11. I requested several bids from experienced class action settlement administrators to
12 handle the responsibilities of the Settlement Administrator under this Settlement. The Parties
13 accepted the bid of Phoenix Settlement Administrators. Phoenix has multiple years of experience
14 in the field of Class Action Administration, particularly in the wage-and-hour arena. In its bid,
15 Phoenix agreed to cap its costs at \$11,000 if there are 500 class members. Phoenix's bid also
16 accounts for Notice in English and Spanish. A true and correct copy of the bid is attached hereto
17 as **Exhibit 3**.

18 12. Plaintiff does not have any interest, financial or otherwise, in the proposed third-
19 party administrator, Phoenix.

20 13. No one at Wilshire Law Firm, PLC (meaning the law firm itself and anyone
21 employed at the law firm) has any interest, financial or otherwise, in the proposed third-party
22 administrator, Phoenix.

23 14. Wilshire Law Firm, PLC has no fee-splitting agreement with any other counsel in
24 this case.

25 15. Class Counsel is not aware of any other pending matter or action asserting claims
26 that will be extinguished or affected by the Settlement.

27 THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE

28 16. Class Counsel has conducted a thorough investigation into the facts of this case.

1 Based on the foregoing discovery and their own independent investigation and evaluation, Class
2 Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best
3 interests of the Settlement Class Members in light of all known facts and circumstances, the risk
4 of significant delay, the defenses that could be asserted by Defendant both to certification and on
5 the merits, trial risk, and appellate risk.

6 17. Based on an analysis of the facts and legal contentions in this case, documents and
7 information from Defendant, I evaluated Defendant's maximum exposure. I took into account the
8 risk of not having the claims certified and the risk of not prevailing at trial, even if the claims are
9 certified. After using the data Defendant provided, including class member timekeeping and
10 payroll records, as well as class member demographics (i.e., the number of class members,
11 workweeks, and average total compensation of the class), with the assistance of a statistics expert,
12 I created a damages model to evaluate the realistic range of potential recovery for the class. The
13 damages model is based on the following benchmarks:

14	Total Class Members: 433
15	Terminated Class Members during 3-year statute: 173
16	Total Workweeks: 49,960
17	Total Shifts Worked by the Class: 226,530
18	PAGA Pay Periods: 15,692
19	PAGA Eligible Employees: 335
20	Avg. Hourly Rate: \$27.37

21 18. Based on Plaintiff's discovery and investigation, Class Counsel reached the
22 conclusion that Defendant failed to pay class members for all hours worked, including overtime
23 wages, Defendant had a policy and practice of not providing its employees with California
24 compliant meal and rest periods which it did not pay appropriate premiums for, failed to reimburse
25 its employees for business expenditures, failed to include non-discretionary remunerations in
26 overtime payments, and required its employees to work "off-the-clock" prior to clocking in for the
27 workday, during meal periods, and after clocking out for the workday, time for which it did not
28 pay. Defendant denied these claims.

1 19. Plaintiff alleges that Defendant failed to pay for all hours worked, including
2 minimum wages, straight time wages, and overtime wages, by requiring class members to work
3 off-the-clock, unpaid. For purposes of calculating Defendant's liability based on a best-case
4 scenario for Plaintiff and the Class, I estimate that Defendant's maximum potential exposure by
5 assuming that all unpaid work time should have been paid at the overtime rate, and I assumed that
6 Defendant is liable for 1 hour of unpaid worktime per week. This results in an estimate of \$
7 \$2,051,107.80 (49,960 weeks * 41.05 hourly overtime rate * 1 hour of unpaid work per week), but
8 I discounted this figure by 80% to account for the difficulty of prevailing on a motion for class
9 certification and a trial on the merits because liability depends on whether Defendant knew or
10 should have known that class members were working off-the-clock, yielding a realistic damage
11 estimate of \$410,221.56.¹

12 20. Plaintiff also alleges that Defendants engaged in an unlawful rounding practice that
13 resulted in unpaid wages. For purposes of calculating Defendants' liability based on its rounding
14 scheme, I estimate that Defendants' maximum potential exposure by assuming, as based on the
15 records analyzed, that Defendants underpaid class members approximately 1.2 minutes (0.02
16 hours), on average, per workday. This results in an estimate of \$186,003.78 (226,530 workdays *
17 41.05 hourly overtime rate * 0.02 hours each workday), but I discounted this figure by 50% to
18 account for the difficulty of prevailing on a motion for class certification and a trial on the merits
19 because liability depends on whether the rounding practices and policies are facially neutral and
20 whether they significantly undercompensated Plaintiff and other class members, yielding a realistic
21 damage estimate of \$93,001.89.

22 21. Plaintiff further alleges that Defendant failed to properly pay all overtime wages to
23 them and other class members by failing to include non-discretionary renumeration when
24 calculating the overtime rate. Based on the analysis of Defendant's data by Plaintiff's expert, class
25

26 ¹ An 80% discount for risk at certification and trial is reasonable because the Judicial
27 Council of California found that only 21.4% of all class actions were certified either as part of a
28 settlement *or* as part of a contested certification motion. See Findings of the Study of California
Class Action Litigation, 2000-2006, available at [http:// www.courts.ca.gov/documents/class-
action-lit-study.pdf](http://www.courts.ca.gov/documents/class-action-lit-study.pdf).

1 members were underpaid an estimated \$6,216.00. However, I discounted this figure by 50% to
2 account for the difficulty of prevailing on at trial on the merits because liability depends on proving
3 that the remunerations were non-discretionary, yielding a realistic damage estimate of \$3,108.00.

4 22. With respect to the meal period claim, Plaintiff alleges that Defendant required them
5 and similarly situated class members to either work in lieu of taking meal periods, or their meal
6 periods were untimely or interrupted. Based on our investigation, we assumed that 50% of all
7 shifts had a meal period violation. Potential liability for the meal period claim is \$3,100,063.05
8 ($226,530 * \$27.37 * 50\%$). However, I discounted this figure by 80% to account for the difficulty
9 of certifying and proving meal period claims, as well as Defendant's contention that the claim lacks
10 merit, yielding a realistic damage estimate of \$620,012.61.

11 23. With respect to the rest period claim, Plaintiff alleges that Defendant required them
12 and similarly situated class members to work in lieu of taking rest periods, or their rest periods
13 were untimely or interrupted. Assuming a 25% violation rate for the class period based on
14 Plaintiff's and other class members' experience working for Defendant, Defendant's potential
15 liability for the rest period claim is \$1,550,031.53 ($226,530 * 25\% * \$27.37$); however, I discounted
16 this figure by 80% to account for the difficulty of certifying and proving rest period claims,
17 particularly because rest periods do not have to be recorded, and to account for the possibility of
18 class members voluntarily choosing to forego a rest period, yielding a realistic damage estimate of
19 \$310,006.31.

20 24. With respect to the business expense claim, Plaintiff alleges that Defendants
21 required them and similarly situated class members to incur costs for business expenses such as
22 cell phone which were used to communicate with supervisors and manager. Based on Plaintiff's
23 and other class members' experience working for Defendants, Class Counsel assumed a maximum
24 potential of \$5 per workweek, which would result in Defendant's potential liability for the business
25 expense claim being \$249,800.00 ($\$5 * 49,960$ workweeks); however, I discounted this figure by
26 90% to account for the difficulty of certifying and proving the reimbursement claims, yielding a
27 realistic damage estimate of \$24,980.00.

28 25. In sum, I estimated that Plaintiff's maximum recovery for the off-the-clock claim,

meal period violations, and rest period violations is \$7,143,222.16, but, after factoring in the risk and uncertainty of prevailing at certification and trial, I estimate that Plaintiff's realistic estimated recovery for the non-penalty claims is \$1,461,330.37.

26. With respect to Plaintiff's derivative claims for statutory and civil penalties, Plaintiff estimated that Defendant's realistic potential liability is \$381,005.24. While Defendant's maximum potential liability for waiting time penalties is \$1,136,402.40 based on approximately 173 terminated class members during the 3-year statute ($173 * 27.37 * 8 \text{ hours} * 30 \text{ days}$), 1,104,450.00 for inaccurate wage statements based on approximately 335 class members who worked 15,692 pay periods within the 1-year statute, and \$1,569,200.00 for PAGA violations based on the Court assessing a \$100 penalty for initial violations for all 15,692 pay periods within the 1-year statute, I believe that it would be unrealistic to expect the Court to award the full \$3,810,052.40 in penalties given Defendant's defenses, the contested nature of Plaintiff's claims, and the discretionary nature of penalties. Considering that the underlying claims are realistically estimated to be \$1,461,330.37, such a disproportionate award would also raise due process concerns. Weighing these factors and applying a discount of 90% to account for the risk and uncertainty of prevailing at trial, I arrived at \$381,005.24 for statutory and civil penalties.

27. Using these estimated figures, Plaintiff predicted that the realistic maximum recovery for all claims, including penalties, would be \$1,842,335.61. This means that the \$1,300,000.00 settlement figure represents 71% of the realistic maximum recovery ($\$1,300,000.00 / \$1,842,335.61 = 71\%$). Considering the risk and uncertainty of prevailing at class certification and at trial, this is an excellent result for the Class.² Indeed, because of the proposed Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment.

² See, e.g., *Wise v. Ulta Salon, Cosmetics & Fragrance, Inc.* (E.D. Cal. Aug. 21, 2019) 2019 WL 3943859 at *8 (granting preliminary approval where the proposed allocation to settle class claims was between 9.53 percent of Plaintiffs' maximum recovery); *Bravo v. Gale Triangle, Inc.* (C.D. Cal. Feb 16, 2017) 2017 WL 708766 at * 10 (finding that "a settlement for fourteen percent recovery of Plaintiffs' maximum recovery is reasonable"); *In re Omnivision Techs., Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036, 1042 (approving settlement amount that "is just over 9% of the maximum potential recovery asserted by either party.").

1 28. While Plaintiff is confident in the merits of their claims, a legitimate controversy
2 exists as to each cause of action. Plaintiff also recognizes that proving the amount of wages due
3 to each Class Member would be an expensive, time-consuming, and uncertain proposition.

4 29. This Settlement avoids the risks and the accompanying expense of further litigation.
5 Although the Parties had engaged in a significant amount of investigation, informal discovery and
6 class-wide data analysis, the Parties had not yet completed formal written discovery. Plaintiff
7 intended to depose corporate officers and managers of Defendant. Moreover, preparation for class
8 certification and a trial remained for the Parties as well as the prospect of appeals in the wake of a
9 disputed class certification ruling for Plaintiff and/or adverse summary judgment ruling. Had the
10 Court certified any claims, Defendant could move to decertify the claims. As a result, the Parties
11 would incur considerably more attorneys' fees and costs through trial.

12 30. The Net Settlement Amount available for Class Member settlement payments is
13 estimated to be \$759,166.67, for a class of 433 persons.³ As a result, each Settlement Class
14 Member is eligible to receive an average net benefit of approximately \$1,753.27.

15 31. The proposed Settlement of \$1,300,000.00, therefore, represents a substantial
16 recovery when compared to Plaintiff's reasonably forecasted recovery. When considering the risks
17 of litigation, the uncertainties involved in achieving class certification, the burdens of proof
18 necessary to establish liability, the probability of appeal of a favorable judgment, it is clear that the
19 settlement amount of \$1,300,000.00 is within the "ballpark" of reasonableness, and preliminary
20 settlement approval is appropriate.

21 ENHANCEMENT AWARD FOR PLAINTIFF IS REASONABLE

22 32. Class Counsel represent that Plaintiff devoted a great deal of time and work assisting
23 counsel in the case, communicated with counsel very frequently for litigation and to prepare for
24 mediation, and was frequently in contact with Class Counsel during the mediation. Plaintiff's
25 requested enhancement award is reasonable particularly in light of the substantial benefits Plaintiff

26
27 ³ The Net Settlement Amount is: \$1,300,000.00 minus \$433,333.33 for Class Counsel's
28 attorneys' fees, minus \$25,000.00 for Class Counsel's litigation expenses, minus \$20,000.00 in
administration costs, minus \$50,000.00 for the PAGA payment, and minus \$12,500.00 for the
class representative service award to Plaintiff.

1 generated for all class members.

2 33. Throughout this Litigation, Plaintiff, who is a former employee of Defendant, has
3 cooperated immensely with my office and has taken many actions to protect the interests of the
4 class. Plaintiff provided valuable information regarding the off-the-clock, meal period, and rest
5 period claims. Plaintiff also informed my office of developments and information relevant to this
6 action, participated in decisions concerning this action, made herself available to answer questions
7 during the mediation, and provided my office with the names and contact information of potential
8 witnesses in this action. Before we filed this case, Plaintiff provided my office with documents
9 regarding the claims alleged in this action. The information and documentation provided by
10 Plaintiff was instrumental in establishing the wage and hour violations alleged in this action, and
11 the recovery provided for in the Settlement Agreement would have been impossible to obtain
12 without Plaintiff's participation.

13 34. At the same time, Plaintiff faced many risks in adding herself as the class
14 representative in this matter. Plaintiff faced actual risks with her future employment, as putting
15 herself on public record in an employment lawsuit could also very well affect their likelihood for
16 future employment. Furthermore, as part of this Settlement, Plaintiff is executing a general release
17 of all claims against Defendant.

18 35. In turn, class members will now have the opportunity to participate in a settlement,
19 reimbursing them for alleged wage violations they may have never known about on their own or
20 been willing to pursue on their own. If these class members would have each tried to pursue their
21 legal remedies on their own, that would have resulted in each having to expend a significant amount
22 of their own monetary resources and time, which were obviated by Plaintiff putting herself on the
23 line on behalf of these other class members.

24 36. In the final analysis, this class action would not have been possible without the aid
25 of Plaintiff, who put her own time and effort into this Litigation, sacrificed the value of her own
26 individual claims, and placed herself at risk for the sake of the class members. The requested
27 enhancement award for Plaintiff for her service as the class representative and for her general
28 release of all individual claims is a relatively small amount of money when the time and effort put

1 into the Litigation are considered and compared to enhancements granted in other class actions. In
2 fact, the \$12,500 enhancement award accounts for less than 1% of the total settlement amount.
3 The requested incentive award is therefore reasonable to compensate Plaintiff for her active
4 participation in this lawsuit. Indeed, in *Karl Adams, III, et al. v. MarketStar Corporation*, et al.,
5 No. 2:14-cv-02509-TLN-DB, a wage and hour class action alleging that class members were
6 misclassified as exempt outside salespersons, I was co-lead Class Counsel and helped negotiate a
7 \$2.5 million class action settlement for 339 class members, and the court approved a \$25,000.00
8 class representative incentive award for each named Plaintiff.

9 THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

10 37. The Settlement provides for attorney's fees payable to Class Counsel in an amount
11 up to one-third (33 1/3%) of the Settlement Amount, for a maximum fees award of \$433,333.33,
12 plus actual costs and expenses not to exceed \$25,000.00. The proposed award of attorneys' fees
13 to Class Counsel in this case can be justified under either method – lodestar or percentage recovery.
14 Class Counsel, however, intend to base the proposed award of fees, costs and expenses on the
15 percentage method as many of the entries in the time records will have to be redacted to preserve
16 attorney-client and attorney work product privileges.

17 38. I am informed and believe that the fee and costs provision is reasonable. The fee
18 percentage requested is less than that charged by my office for most employment cases. My office
19 invested significant time and resources into the case, with payment deferred to the end of the case,
20 and then, of course, contingent on the outcome.

21 39. It is further estimated that my office will need to expend at least another 50 to 100
22 hours to monitor the process leading up to the final approval and payments made to the class. My
23 office also bears the risk of taking whatever actions are necessary if Defendant fails to pay.

24 40. The risk to my office has been very significant, particularly if we would not be
25 successful in pursuing this class action. In that case, we would have been left with no compensation
26 for all the time taken in litigating this case. Indeed, I have taken on a number of class action cases
27 that have resulted in thousands of attorney hours being expended and ultimately having
28 certification denied or the defendant company going bankrupt. The contingent risk in these types

1 of cases is very real and they do occur regularly. Furthermore, we were precluded from focusing
2 on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain.

3 41. Because most individuals cannot afford to pay for representation in litigation on an
4 hourly basis, Wilshire Law Firm, PLC represents virtually all of its employment law clients on a
5 contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless
6 we prevail at trial or successfully settle our clients' cases. Because Wilshire Law Firm, PLC is
7 taking the risk that we will not be reimbursed for our time unless our client settles or wins his or
8 her case, we cannot afford to represent an individual employee on a contingency basis if, at the
9 end of our representation, all we are to receive is our regular hourly rate for services. It is essential
10 that we recover more than our regular hourly rate when we win if we are to remain in practice so
11 as to be able to continue representing other individuals in civil rights employment disputes.

12 MY EXPERIENCE AND QUALIFICATIONS

13 42. Wilshire Law Firm, PLC was selected by Best Lawyers and U.S. News & World
14 Report as one of the nation's Best Law Firms since 2020 and is comprised of over 60 attorneys
15 and over 500 employees. Wilshire Law Firm, PLC is actively and continuously practicing in
16 employment litigation, representing employees in both individual and class actions in both state
17 and federal courts throughout California.

18 43. Wilshire Law Firm, PLC is qualified to handle this Litigation because its attorneys
19 are experienced in litigating Labor Code violations in both individual, class action, and
20 representative action cases. Wilshire Law Firm, PLC has handled, and is currently handling,
21 numerous wage and hour class action lawsuits, as well as class actions involving consumer rights
22 and data privacy litigation.

23 44. I graduated from the University of California, Los Angeles's College Honors
24 Program in 2004 with Bachelor of Arts degrees in History and Japanese, *magna cum laude* and *Phi*
25 *Beta Kappa*. As an undergraduate, I also received a scholarship to study abroad for one year at
26 Tokyo University in Tokyo, Japan. I received my Juris Doctor from Notre Dame Law School in
27 2008.

28 45. My practice is focused on advocating for the rights of consumers and employees in

1 class action litigation and appellate litigation. I am currently the primary attorney in charge of
2 litigating several class action cases in state and federal courts across the United States.

3 46. I have received numerous awards for my legal work. From 2017 to 2020, Super
4 Lawyers selected me as a “Southern California Rising Star,” and in 2022 and 2023, I was selected
5 as a “Southern California Super Lawyer.” I was selected as one of the “Best Lawyers in America”
6 in 2023 and 2024. In 2016 and 2017, the National Trial Lawyers selected me as a “Top 40 Under
7 40” attorney. I am also rated 10.0 (“Superb”) by Avvo.com.

8 47. I am on the California Employment Lawyers Association (“CELA”)’s Wage and
9 Hour Committee and Mentor Committee, and I was selected to speak at CELA’s 2019 Advanced
10 Wage & Hour Seminar on the topic of manageability of class actions. Since 2013, I have actively
11 mentored young attorneys through CELA’s mentorship program.

12 48. I am also a past member of the Consumer Attorneys of California (“CAOC”). In
13 2020, I was selected for a position on CAOC’s Board of Directors. I am also a past member of
14 CAOC’s Diversity Committee, and I helped assist the CAOC in defeating bills that harm
15 employees. Indeed, I recently helped assist Jacqueline Serna, Esq., Legislative Counsel for CAOC,
16 in defeating AB 443, which proposed legislation that sought to limit the enforceability of California
17 Labor Code § 226.

18 49. As the attorney responsible for day-to-day management of this matter at the
19 Wilshire Law Firm, PLC, I have over thirteen years of experience with litigating wage and hour
20 class actions. Over the last thirteen years, I have managed and assisted with the litigation and
21 settlement of several wage and hour class actions. In those class actions, I performed similar tasks
22 as those performed in the course of prosecuting this action. My litigation experience includes:

23 a. I served as lead or co-lead in negotiating class action settlements worth over \$10
24 million in gross recovery to class members for each year since 2020, including over
25 \$37.5 million in 2022 and over \$70 million in 2023.

26 b. I was part of the team of attorneys that prevailed in *Moore v. Centrelake Medical*
27 *Group, Inc.* (2022) 83 Cal.App.5th 515, the first California appellate decision in a
28 data breach class action holding that consumer plaintiffs adequately alleged injury

in fact under the benefit of the bargain theory and monitoring-costs theory.

- c. In 2022, Top Verdict recognized Wilshire Law Firm and myself for having one case in the Top 20 Labor & Employment Settlements in 2021 (including number 19 for the \$1.6 million settlement in *Moreno v. Pretium Packaging, L.L.C*) and four additional cases in the Top 50 Labor & Employment Settlements (numbers 27, 30, 33, and 37).
- d. To my knowledge, I am the only attorney to appear on each of the following Top Verdict lists for 2018 in California: Top 20 Civil Rights Violation Verdicts, Top 20 Labor & Employment Settlements, and Top 50 Class Action Settlements.
- e. As lead counsel, on April 29, 2021, I prevailed against CVS Pharmacy, Inc. by winning class certification on behalf of hundreds of thousands of consumers for misleading advertising claims in *Joseph Mier v. CVS Pharmacy, Inc.*, U.S. Dist. Ct. C.D. Cal. no. SA CV 20-1979-DOC-(ADSx).
- f. As lead counsel, I prevailed against Bank of America by: winning class certification on behalf of thousands of employees for California Labor Code violations; defeating appellate review of the court's order certifying the class; defeating summary judgment; and defeating a motion to dismiss. (*Frausto v. Bank of America, N.A.* (N.D. Cal. 2019) 334 F.R.D. 192, 2020 WL 1290302 (9th Cir. Feb. 27, 2020), 2019 WL 5626640 (N.D. Cal. Oct. 31, 2019), 2018 W.L. 3659251 (N.D. Cal. Aug. 2, 2018).). The decision certifying the class in *Frausto* is also discussed in Class Certification Under Fed. R. Civ. P. 23 in Action by Information Technology or Call Center Employees for Violation of State Law Wage and Hour Rules, 35 A.L.R. Fed. 3d Art. 8.
- g. I was the primary author of the class certification and expert briefs in *ABM Industries Overtime Cases* (2017) 19 Cal.App.5th 277, a wage and hour class action for over 40,000 class members for off-the-clock, meal period, split shift, and reimbursement claims. *ABM Industries Overtime Cases* is the first published California appellate authority to hold that an employer's "auto-deduct policy for

meal breaks in light of the recordkeeping requirements for California employers is also an issue amenable to classwide resolution.” (*Id.* at p. 310.)⁴ Notably, the Court of Appeal also held that expert analysis of timekeeping records can also support the predominance requirement for class certification. (*Id.* at p. 310-11.) In 2021, the case settled for \$140 million, making it one of the largest ever wage and hour class action settlements for hourly-paid employees in California.

h. I briefed, argued, and won *Yocupicio v. PAE Group, LLC* (9th Cir. 2015) 795 F.3d 1057. The Ninth Circuit ruled in my client’s favor and held that non-class claims under California’s Private Attorney Generals Act (“PAGA”) cannot be used to calculate the amount in controversy under the Class Action Fairness Act (“CAFA”). This case is cited in several leading treatises such as Wright & Miller’s Federal Practice & Procedure, and Newberg on Class Actions. In October 2016, the U.S. Supreme Court denied review of a case that primarily concerned *Yocupicio*. That effort was led by Theodore J. Boutrous, who brought the cert petition, with amicus support from a brief authored by Andrew J. Pincus.⁵ Considering that leading Supreme Court practitioners from the class action defense bar were very motivated in undermining *Yocupicio* case, but failed, this demonstrates the national importance of the *Yocupicio* decision.

i. On December 13, 2018, the United States District Court granted final approval of the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global Services, LLC* (C.D. Cal. Dec. 13, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 in which I served as lead counsel. In doing so, the Court found: “Class Counsel’s declarations show that the attorneys are experienced and successful litigators.” (*Id.* at p. *10.)

⁴ As a California district court observed before the *ABM Industries Overtime* decision, “[t]he case law regarding certification of auto-deduct classes is mixed.” (*Wilson v. TE Connectivity Networks, Inc.* (N.D. Cal. Feb. 9, 2017) No. 14-CV-04872-EDL, 2017 WL 1758048, *7.)

⁵ <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>.

- 1 j. *Gasio v. Target Corp.* (C.D. Cal. Sep. 12, 2014) 2014 U.S. Dist. LEXIS 129852, a
2 reported decision permitting class-wide discovery even though the employer has a
3 lawful policy because “[t]he fact that a company has a policy of not violating the
4 law does not mean that the employees follow it, which is the issue here.” The court
5 also ordered defendant to pay for the cost of *Belaire-West* notice.
- 6 k. In 2013, I represented a whistleblower that reported that his former employer was
7 defrauding the State of California with the help of bribes to public employees. The
8 case, a false claims (qui tam) action, resulted in the arrest and criminal prosecution
9 of State of California employees by the California Attorney General’s Office.
- 10 l. In 2013, I was part of a team of attorneys that obtained conditional certification for
11 over 2,000,000 class members in a federal labor law case for misclassification of
12 independent contractors that did crowdsourced work on the Internet, *Otey v.*
13 *CrowdFlower, Inc.*, N.D. Cal. Case No. 12-cv-05524-JST (MEJ), resulting in the
14 following pro-plaintiff reported decisions:
- 15 i. 2013 U.S. Dist. LEXIS 151846 (N.D. Cal. Oct. 22, 2013) (holding that an
16 unaccepted Rule 68 offer doesn’t moot plaintiff’s claims, and granting
17 plaintiff’s motion to strike defendant’s affirmative defenses based on
18 *Twombly/Iqbal*).
- 19 ii. 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013) (order granting
20 conditional collective certification).
- 21 iii. 2013 U.S. Dist. LEXIS 95687 (N.D. Cal. July 8, 2013) (affirming the
22 magistrate judge’s discovery ruling which held that “evidence of other
23 sources of income is irrelevant to the question of whether a plaintiff is an
24 employee within the meaning of the FLSA”).
- 25 iv. 2013 U.S. Dist. LEXIS 91771 (N.D. Cal. June 20, 2013) (granting broad
26 discovery because “an FLSA plaintiff is entitled to discovery from locations
27 where he never worked if he can provide some evidence to indicate
28 company-wide violations”).

1 m. From 2012 to 2013, I was part of a team of attorneys that obtained class certification
2 for over 60,000 class members for off-the-clock claims, *Linares v. Securitas*
3 *Security Services USA, Inc.*, Los Angeles Superior Court No. BC416555. We also
4 successfully opposed subsequent appeals to the California Court of Appeal and
5 California Supreme Court.

6 50. My current contingent billing rate of \$1,500.00 per hour is consistent with my actual
7 billing rate for paid legal industry consulting services, my practice area, lead appellate experience
8 in the Ninth Circuit Court of Appeals, numerous awards received, legal market and accepted hourly
9 rates:

- 10 a. I have been paid for legal industry consulting services at \$1,500 per hour by
11 Gerson Lehrman Group (GLG), a company that provides financial information
12 and advises investors and consultants with business clients seeking expert advice.
13 GLG is one of the largest companies that provides expert consulting services.
14 GLG's clients include corporations, hedge funds, private equity firms, and
15 consulting firms. I have worked with GLG on numerous occasions at a rate of
16 \$1,500 per hour, including on three recent occasions in October and November of
17 2023.
- 18 b. On May 6, 2022 the Hon. Jay A. Garcia-Gregory of the United States District Court
19 in Puerto Rico approved my \$850 hourly rate when he granted final approval of the
20 class action settlement in *Serrano v. Inmediata Corp.*, No. 3:19-cv-01811-JAG, Dkt.
21 57 (U.S. Dist. Ct. P.R. May 6, 2022).
- 22 c. On September 9, 2021, the Hon. Peter Wilson of the Orange County Superior Court
23 approved my \$800 hourly rate when he granted final approval of the class action
24 settlement in *Ricardo Campos Hernandez v. Adams Iron Co., Inc.*, No. 30-2019-
25 01066522-CU-OE-CXC.
- 26 d. On August 6, 2021, the Hon. Stanley Blumenfeld, Jr. of the United States District
27 Court granted final approval of the \$1,600,000 class action settlement in *Carlos*
28 *Moreno v. Pretium Packaging, Inc.* (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-

1 SB-DFM, 2021 WL 3673845 in which I served as lead counsel. In doing so, the
2 Court approved my then \$750 hourly rate after finding it was “reasonable, given the
3 qualifications of the attorneys who worked on this matter.” (*Id.* at p. *3.)

4 e. On January 19, 2021, the Hon. Elihu M. Berle of the Los Angeles County Superior
5 Court approved my \$750 hourly rate when he granted final approval of the class
6 action settlement in *Faye Zhang v. Richemont North America, Inc.*, Case No.
7 19STCV32396.

8 51. Benjamin H. Haber is a seventh-year Associate Attorney at Wilshire Law Firm. He
9 graduated from the University of California, Los Angeles, with a Bachelor of Arts in Political
10 Science, and received his Juris Doctor from the University of California, Hastings College of the
11 Law in 2016. During law school, he was a member of the executive board for the Hastings Law
12 Journal and student mediator at the San Francisco Superior Court, Small Claims Division. He was
13 admitted to practice law in the State of California in 2017. Since graduating from law school, he
14 has focused his legal work primarily on wage-and-hour litigation and has helped obtain dozens of
15 settlements on behalf of tens of thousands of workers in California.

16 52. Arrash T. Fattahi is a third-year Associate Attorney at Wilshire Law Firm, PLC. He
17 was admitted to practice law in the State of California and the Central and Southern Districts of
18 California in January 2021. Arrash graduated from the University of California, Los Angeles, with
19 a Bachelor of Arts in Political Science, summa cum laude. He received his Juris Doctor from The
20 George Washington University Law School. During law school, he was a member of the student
21 editorial board for the Federal Circuit Bar Journal. Since January 2021, his practice has mainly
22 been focused on wage and hour class action litigation.

23 53. Maxim Gorbunov is a second-year Associate Attorney at Wilshire Law Firm,
24 PLC. He was admitted to practice law in the State of California in 2021, the Northern and
25 Central Districts of California in 2022, and Southern and Eastern Districts of California in 2023.
26 He graduated from the University of California, Irvine, with a Bachelor of Arts in Cognitive
27 Sciences, completing the Psychology Honors Program. He received his Juris Doctor from the
28 University of California, Hastings College of the Law in 2021. During law school, he was a

1 Board Member, competitor, and student coach of the Hastings Moot Court Team, being awarded
2 the Student Coach of the Year award. Since November 2021, his practice has mainly been
3 focused on employment and wage and hour class action litigation.

4 I declare under penalty of perjury under the laws of the State of California and the United
5 States that the foregoing is true and correct.

6 Executed on November 13, 2023, at Los Angeles, California.

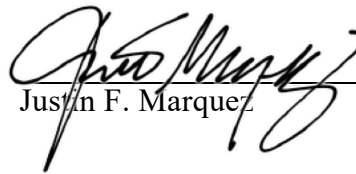
7
8 
9 Justin F. Marquez

Exhibit 1

WILSHIRE LAW FIRM, PLC

3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010
Tel: (213) 381-9988
Fax: (213) 381-9989
www.wilshirelawfirm.com



Bobby Saadian, Esq. JD/MBA

Colin M. Jones, Esq.	Tae Kim, Esq.
A. Ilyas Akbari, Esq.	Hazel Chang, Esq.
Justin F. Marquez, Esq.	Daniel DeSantis, Esq.
Jon Teller, Esq.	Nicol Hajjar, Esq.
Johnny Ogata, Esq.	Thiago Coelho, Esq.
Gail Richardson, Esq.	Benjamin Haber, Esq.
Christina Le, Esq.	Rachel Vinson, Esq.
Robert Dart, Esq.	Ronghua Guan, Esq.
Daniel B. Miller, Esq.	Arrash Fattahi, Esq.

April 11, 2022

LWDA

Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

Innovage California Pace-Inland Empire, LLC
410 Parkcenter Circle North
San Bernardino, CA 92408
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6372 2056 43

Total Longterm Care, Inc.
8950 E. Lowry Blvd.
Denver, CO 80230
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6372 2056 29

CSC – Lawyers Incorporating Service
Agent for Service of Process for:
Total Longterm Care, Inc.
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6372 2056 36

Re: ***Caprice Justice Williams v. Total Longterm Care, Inc., et al.***
Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Caprice Justice Williams (“Plaintiff”) to pursue a Labor Code Private Attorneys General Act (“PAGA”) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against her former employers Total LongTerm Care, Inc. and Innovage California Pace-Inland Empire, LLC (“Defendants”). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendants engaged in with respect to Plaintiff and all of Defendants’ Aggrieved Employees.

Plaintiff wishes to pursue this action on behalf of herself as an aggrieved employee, on behalf of the State of California, as well as on behalf of all other persons who worked for Defendants in California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Plaintiff and the Aggrieved Employees suffered the Labor Code violations described below.

Plaintiff's Employment with Defendants

Defendants own/owned and operate/operated an industry, business, and establishment within the State of California, including San Bernardino County. As such, and based upon all the facts and circumstances incident to Defendants' business in California, Defendant is subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

Plaintiff Caprice Justice Williams is a resident of San Bernardino County, California who worked for Defendants in the San Bernadino County, California as an hourly-paid, non-exempt employee from approximately April 2021 to approximately November 2021. During Plaintiff's employment for Defendants, Defendants paid Plaintiff an hourly wage and classified her as non-exempt from overtime. Defendants typically scheduled Plaintiff to work at least five days in a workweek and at least eight hours per day, but Plaintiff regularly worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Throughout Plaintiff's employment, Defendants failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Plaintiff with legally compliant meal periods, failed to authorize and permit Plaintiff to take rest periods, failed to timely pay all final wages to Plaintiff when Defendants terminated her employment, failed to furnish accurate wage statements to Plaintiff, and failed to indemnify Plaintiff for expenditures. As discussed below, Plaintiff's experience working for Defendants was typical and illustrative.

Defendants Failed to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

Throughout Plaintiff's employment, Defendants failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Plaintiff with legally compliant meal periods, failed to authorize and permit Plaintiff to take rest periods, failed to timely pay all

final wages to Plaintiff when Defendants terminated her employment, failed to furnish accurate wage statements to Plaintiff, and failed to indemnify Plaintiff for expenditures. As discussed below, Plaintiff's experience working for Defendants was typical and illustrative.

Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiff and the Aggrieved Employees for all hours worked, including minimum, straight time, and overtime wages. Defendants required Plaintiff and the Aggrieved Employees to work "off-the-clock", uncompensated, by, for example, requiring Plaintiff and the Aggrieved Employees to continue working during unpaid meal periods and after they had clocked out for the workday. Some of this unpaid work should have been paid at the overtime rate. In failing to pay for all hours worked, Defendants also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendants wrongfully failed to provide Plaintiff and the Aggrieved Employees with their legally mandated 30-minute, uninterrupted, and duty-free meal period. Defendants regularly, but not always, required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Instead, Defendants continued to assert control over Plaintiff and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Plaintiff and the Aggrieved Employees permission to take a meal period. Defendants also never informed Plaintiff of her right to, nor permitted her to take, a second meal period when Plaintiff worked at least ten hours of work in a workday. Accordingly, Defendants' policy and practice was not to provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendants,

however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Throughout the statutory period, Defendants have wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take legally compliant rest periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendants authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Instead, Defendants continued to assert control over Plaintiff and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Plaintiff and the Aggrieved Employees permission to take a rest period.

Accordingly, Defendants' policy and practice was to not authorize and permit Plaintiff and the Aggrieved Employees to take rest periods in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendants also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month.

Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, during all such times, Defendants systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods not authorized and permitted by Defendants, and all wages for all hours worked. As a result, Defendants owe employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendants, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendants' failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendants' knowing failure to comply with the California Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages

earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours 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.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Defendants failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages.

Defendants' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendants their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Throughout the statutory period, Defendants failed to furnish Plaintiff and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Because Defendants violated Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendants the greater of their actual damages caused by Defendants’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify his or her employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Defendants wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants. Plaintiff and the Aggrieved Employees regularly paid out-of-pocket for necessary employment-related expenses, in the form of work attire and use of personal cell phones. Plaintiff and the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for Defendants, but Defendants failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Plaintiff and the Aggrieved Employees for necessary business expenditures.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendants violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

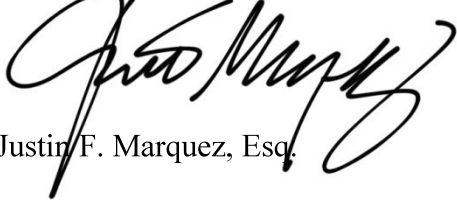
1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 204 by failing to pay all earned wages two times per month;
5. California Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
6. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
7. Labor Code § 226 by failing to provide accurate itemized wage statements; and
8. Labor Code § 2802 by failing to indemnify for necessary expenditures.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699(f)(2).

Plaintiff has placed Defendants on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM



Justin F. Marquez, Esq.

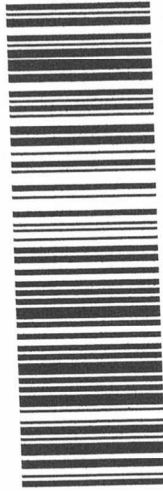


WILSHIRE LAW FIRM, PLC
3055 WILSHIRE BLVD., 12TH FLOOR
LOS ANGELES, CA 90010

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

UNITED STATES
POSTAL SERVICE®

CERTIFIED MAIL®



9489 0090 0027 6372 2056 43

Label 890-PB, Oct. 2015
Pitney Bowes

Innovage California Pace-Inland Empire, LLC
410 Parkcenter Circle North
San Bernardino, CA 92408

219081



WILSHIRE LAW FIRM, PLC.
3055 WILSHIRE BLVD., 12TH FLOOR
LOS ANGELES, CA 90010

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE



CERTIFIED MAIL®



9489 0090 0027 6372 2056 29

Label 890-PB, Oct. 2015
Pitney Bowes

Total Longterm Care, Inc.
8950 E. Lowry Blvd.
Denver, CO 80230

219081



WILSHIRE LAW FIRM, PLC
3055 WILSHIRE BLVD., 12TH FLOOR
LOS ANGELES, CA 90010

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE



CERTIFIED MAIL®



9489 0090 0027 6372 2056 36

CSC – Lawyers Incorporating Service
Agent for Service of Process for:
Total Longterm Care, Inc.
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

219081

From: [DIR PAGA Unit](#)
To: [Rebeca Ramos](#)
Subject: Thank you for your Court Complaint Submission.
Date: Monday, November 6, 2023 12:09:54 PM

11/06/2023 12:09:38 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Court Complaint

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

Exhibit 2

Justin F. Marquez (SBN 262417)
justin@wilshirelawfirm.com
Benjamin H. Haber (SBN 315664)
benjamin@wilshirelawfirm.com
Arrash T. Fattahi (SBN 333676)
afattahi@wilshirelawfirm.com
WILSHIRE LAW FIRM
3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiff, CAPRICE JUSTICE WILLIAMS and
on behalf of himself and all others similarly situated and aggrieved

Adam Y. Siegel (SBN 238568)
Ikedi O. Onyemaobim (SBN 311221)
JACKSON LEWIS P.C.
725 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5408
Tel: (213) 689-0404
Fax: (213) 689-0430
Adam.Siegel@jacksonlewis.com
Ikedi.Onyemaobim@jacksonlewis.com

Attorneys for Defendants
TOTAL LONGTERM CARE, INC. and INNOVAGE CALIFORNIA PACE-INLAND
EMPIRE, LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

CAPRICE JUSTICE WILLIAMS, on behalf
of the State of California and other aggrieved
persons,

Plaintiff,

v.

TOTAL LONGTERM CARE, INC., a
corporation; INNOVAGE CALIFORNIA
PACE-INLAND EMPIRE, LLC, a limited
liability company; and DOES 1 through 10,
inclusive,

Defendants.

CASE NO.: CIVSB2213347

PAGA REPRESENTATIVE ACTION

[Assigned for all purposes to: Hon. Jessica
Morgan, Dept. S-26]

**JOINT STIPULATION RE: CLASS
ACTION AND REPRESENTATIVE
ACTION SETTLEMENT**

Action Filed: June 23, 2022
Trial Date: None set

This Joint Stipulation re: Class Action and Representative Action Settlement
("Settlement" or "Agreement" or "Settlement Agreement") is made by and between plaintiff
CAPRICE JUSTICE WILLIAMS ("Plaintiff") individually and on behalf of the Settlement
Class, on the one hand, and defendant TOTAL LONGTERM CARE, INC. ("Defendant"), on the
other hand, in the lawsuits entitled *Caprice Justice Williams v. Total Longterm Care, Inc., et al.*,

1 filed in United States District Court, Central District of California, Case No. 5:22-cv-01180-SSS-
2 SP and San Bernardino County Superior Court, Case No. CIVSB2213347 (collectively referred
3 to herein as the “Class Action Complaint and PAGA Complaint” or “Action”). Plaintiff and
4 Defendant shall be, at times, collectively referred to as the “Parties”. This Agreement is intended
5 by the Parties to fully, finally, and forever resolve the claims as set forth herein, based upon and
6 subject to the terms and conditions of this Agreement.

7 **1. DEFINITIONS**

8 Unless otherwise defined herein, the following terms used in this Agreement shall have
9 the meanings ascribed to them as set forth below:

10 **A. “Action”** means *Caprice Justice Williams v. Total Longterm Care, Inc., and*
11 *InnovAge California Pace-Inland Empire, LLC.; and DOES 1 through 10, inclusive*, removed on
12 July 8, 2022 to the United States District Court, Central District of California, Case No. 5:22-cv-
13 01180-SSS-SP and filed on July 23, 2022 in the San Bernardino County Superior Court, Case
14 No. CIVSB2213347.

15 **B. “Agreement”** means this Joint Stipulation of Settlement, including the attached
16 Exhibit(s).

17 **C. “Aggrieved Employee(s)”** means Class Members working for Defendant during
18 the PAGA Period as non-exempt employees in California.

19 **D. “Class Counsel”** means: Justin F. Marquez, Benjamin H. Haber, and Arrash T.
20 Fattahi of Wilshire Law Firm, PLC. The term “Class Counsel” shall be used synonymously with
21 the term “Plaintiff’s Counsel.”

22 **E. “Class List”** means a list based on Defendant’s business records that identifies
23 each Class Member’s name, last known home or mailing address, Social Security number or, as
24 applicable, other taxpayer identification number, and dates of employment.

25 **F. “Class Period”** means the period from March 30, 2018 through October 31, 2023,
26 unless Defendant elects to shorten the Class Period pursuant to Paragraph 17 of this Agreement.

27 **G. “Class Notice”** means and refers to the notice sent to Class Members after
28 preliminary approval of the Settlement in the manner described in Paragraph 9(A) of this

1 Agreement.

2 **H. “Court”** means the Superior Court of the State of California for the County of
3 San Bernardino where the Parties intend to seek approval of this Settlement Agreement.

4 **I. “Effective Date”** means the later of: (1) sixty-five (65) days after the Final Order;
5 or (2) if an appeal or other judicial review is taken from the Court’s overruling of objections to
6 the Settlement Agreement, ten (10) days after the appeal is withdrawn or after an appellate
7 decision affirming the Final Order becomes final.

8 **J. “Defendant”** means, collectively, Defendant Total Longterm Care, Inc.

9 **K. “Defense Counsel”** means counsel for Defendant:

10 Adam Y. Siegel (SBN 238568)

11 Ikedi O. Onyemaobim (SBN 311221)

12 JACKSON LEWIS P.C.

13 725 South Figueroa Street, Suite 2500

14 Los Angeles, California 90017-5408

15 Tel: (213) 689-0404

16 Fax: (213) 689-0430

17 **L. “Disposition”** means the method by which the Court approves the terms of the
18 Settlement and retains jurisdiction over its enforcement, implementation, construction,
19 administration, and interpretation.

20 **M. “Employer Taxes”** means employer-funded taxes and contributions imposed on
21 the wage portions of the Individual Settlement Payments under the Federal Insurance
22 Contributions Act, the Federal Unemployment Tax Act, and any similar state and federal taxes
23 and contributions required of employers, such as for unemployment insurance.

24 **N. “Final Order Approving Settlement” or “Final Order”** means the final formal
25 court order signed by the Court following the Final Fairness and Approval Hearing in accordance
26 with the terms herein, approving this Agreement.

27 **O. “General Release”** means the broader release of claims by Plaintiff, which is in
28 addition to Plaintiff’s limited release of claims as a Participating Class Member.

1 **P. “Gross Settlement Amount”** means a non-reversionary fund in the sum of One
2 Million, Three Hundred Thousand Dollars and Zero Cents (\$1,300,000.00),¹ which shall be paid
3 by Defendant, from which all payments for the Individual Settlement Payments to Participating
4 Class Members, the Court-approved amounts for attorneys’ fees and reimbursement of litigation
5 costs and expenses to Class Counsel, Settlement Administration Costs, the Service Award, the
6 PAGA Payment, and the LWDA Payment shall be paid. It expressly excludes Employer Taxes,
7 which shall be paid by Defendant in addition to the Gross Settlement Amount.

8 **Q. “Individual PAGA Payment(s)”** means a payment made to an Aggrieved
9 Employee for his or her share of the PAGA Payment, which may be in addition to his or her
10 Individual Settlement Share if he or she is also a Participating Class Member.

11 **R. “Individual Settlement Payment(s)”** means a payment to a Participating Class
12 Member of his or her net share of the Net Settlement Amount.

13 **S. “Individual Settlement Share”** means the gross amount of the Net Settlement
14 Amount that a Participating Class Member is projected to receive based on the number of
15 Workweeks that he or she worked as a Settlement Class Member during the Class Period, which
16 shall be reflected in his or her Class Notice.

17 **T. “LWDA”** means the State of California Labor and Workforce Development
18 Agency.

19 **U. “LWDA Payment”** means the payment to the LWDA for its seventy-five percent
20 (75%) share of the total amount allocated toward penalties under the PAGA all of which is to be
21 paid from the Gross Settlement Amount. The Parties have agreed that Fifty Thousand Dollars
22 and Zero Cents (\$50,000.00) shall be allocated toward PAGA penalties, of which Thirty-Seven
23 Thousand and Five Hundred Dollars and Zero Cents (\$37,500.00) will be paid to the LWDA
24 (*i.e.*, the LWDA Payment) and Twelve Thousand, Five Hundred Dollars and Zero Cents
25 (\$12,500.00) will be paid to Aggrieved Employees on a *pro rata* basis based on the Workweeks
26 worked for Defendant as a non-exempt employee in California in the PAGA Period (*i.e.* the
27 PAGA Payment).

28 _____
¹ The same may be increased in accordance with Paragraph 17, below.

1 **V. “Motion for Final Approval”** means Plaintiff’s submission of a written motion,
2 including any evidence as may be required for the Court to conduct an inquiry into the fairness
3 of the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval
4 Hearing, and to enter a Final Order in this Action.

5 **W. “Motion for Preliminary Approval”** means Plaintiff’s submission of a written
6 motion, including any evidence as may be required for the Court to grant preliminary approval
7 of the Settlement as required by Rule 3.769 of the California Rules of Court.

8 **X. “Net Settlement Amount”** means the portion of the Gross Settlement Amount
9 that is available for distribution to the Participating Class Members after deductions for the Court-
10 approved allocations for Settlement Administration Costs, a Service Award to Plaintiffs, an
11 award of attorneys’ fees, reimbursement of litigation costs and expenses to Class Counsel, the
12 LWDA Payment, and the PAGA Payment.

13 **Y. “Non-Participating Class Member(s)”** means any Class Member(s) who submit
14 to the Settlement Administrator a valid and timely written request to be excluded from the Class
15 pursuant to Paragraph 9(C) below. Non-Participating Class Member(s) shall still receive their
16 pro rata share of the PAGA Settlement Amount, if applicable.

17 **Z. “PAGA”** means the California Private Attorneys General Act of 2004, which is
18 codified in California Labor Code §§ 2698 *et seq.*

19 **AA. “PAGA Payment”** is the 25% portion of the Fifty Thousand Dollars and Zero
20 Cents (\$50,000.00) that is allocated toward PAGA penalties (Twelve Thousand Five Hundred
21 Dollars and Zero Cents (\$12,500.00)) that will be paid to Aggrieved Employees on a *pro rata*
22 basis based on the Workweeks worked as non-exempt employees in California in the PAGA
23 Period, which would be in addition to their Individual Settlement Payment if they are
24 Participating Class Members, as well. Aggrieved Employees are not permitted to exclude
25 themselves from receiving their pro rata share of the PAGA Payment.

26 **BB. “PAGA Period”** means the period from June 23, 2021 through the end of the
27 Class Period.

28 **CC. “Participating Class Member(s)”** means all Settlement Class Members who do

1 not submit a timely and valid Request for Exclusion and will therefore receive his or her share
2 of the Net Settlement Amount automatically without the need to return a claim form. Each
3 Participating Class Member will be paid his/her Participating Individual Settlement Share. Class
4 Members may not exclude themselves from receiving their pro rata share of the PAGA
5 Settlement Amount, if applicable.

6 **DD. “Participating Individual Settlement Share”** means the gross amount of the Net
7 Settlement Amount that a Participating Class Member is eligible to receive based on the number
8 of Workweeks that he or she worked as a Settlement Class Member during the Class Period once
9 all opt-outs have been factored in, excluding any Individual PAGA Payment to which he or she
10 may be entitled if he or she is also an Aggrieved Employee.

11 **EE. “Plaintiff”, “Named Plaintiff” or “Class Representative”** shall refer to
12 Plaintiff Caprice Justice Williams.

13 **FF. “Preliminary Approval Date”** means the date on which the Court enters an
14 Order granting preliminary approval of the Settlement embodied in this Agreement.

15 **GG. “Qualified Settlement Fund” or “QSF”** means a fund within the meaning of
16 Treasury Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement
17 Administrator for the benefit of Participating Class Members.

18 **HH. “Released Parties”** shall mean a) Defendant and each and all past or present
19 owners, partners, parent companies, subsidiaries, divisions, related or affiliated companies
20 (regardless of whether such partners, parent companies, subsidiaries, divisions, related or
21 affiliated companies are individuals, corporations, partnerships, limited partnerships, limited
22 liability companies, or other forms of entity) of Defendant; (b) each and all of the predecessor or
23 successor entities of any of those entities identified in subparagraph (a); (c) any other individuals
24 or entities of any kind including, but not limited to, any payroll companies, which have been or
25 could be alleged to be in any manner responsible (whether on an alter ego, joint employer,
26 integrated enterprise, or any other theory) for any violations described in Paragraph 7 below and
27 occurring as a result of employment with Defendant, including Defense Counsel of record in the
28 Action; and (d) all past and present directors, officers, representatives, insurers, agents,

1 shareholders, partners, members, lawyers, successors and assigns, and employees of any of the
2 individuals or entities identified in subparagraphs (a), (b), or (c).

3 **II. “Response Deadline”** means the deadline for Settlement Class Members to
4 postmark or fax any Requests for Exclusion, Objections, or Workweek Disputes to the Settlement
5 Administrator. The Response Deadline is forty-five (45) calendar days from the date that the
6 Class Notice is first mailed by the Settlement Administrator, unless a Class Member’s notice is
7 re-mailed. In such an instance, the Response Deadline shall be fifteen (15) calendar days from
8 the date of re-mailing, or forty-five (45) calendar days from the date of the initial mailing,
9 whichever is later, in which to postmark a Request for Exclusion, Workweek Dispute or
10 Objection. The date of the postmark shall be the exclusive means for determining whether a
11 Request for Exclusion, Objection, or Workweek Dispute was submitted by the applicable
12 Response Deadline.

13 **JJ. “Request for Exclusion”** means a written request to be excluded from the
14 Settlement Class pursuant to Paragraph 9(C) below.

15 **KK. “Service Award”** means monetary amounts to be paid to Named Plaintiff of up
16 to Twelve Thousand and Five Hundred Dollars and Zero Cents (\$12,500.00), which subject to
17 Court approval, will be paid out of the Gross Settlement Amount.

18 **LL. “Settlement Administration Costs”** means all costs incurred by the Settlement
19 Administrator in administration of the Settlement, including, but not limited to, translating the
20 Class Notice to Spanish, the distribution of the Class Notice to the Settlement Class in English
21 and Spanish, calculating Individual Settlement Shares, Individual Settlement Payments,
22 Individual PAGA Payments, and Participating Individual Settlement Shares, as well as associated
23 taxes and withholdings, providing declarations, generating Individual Settlement Payment
24 checks and related tax reporting forms, doing administrative work related to unclaimed checks,
25 transmitting payment to Class Counsel for the Court-approved amounts for attorneys’ fees and
26 reimbursement of litigation costs and expenses, to Plaintiffs for their Service Award, and to the
27 LWDA for the LWDA Payment, providing weekly reports of opt-outs, objections and related
28 information, and any other actions of the Settlement Administrator as set forth in this Agreement,

all pursuant to the terms of this Agreement. The Settlement Administration Costs are estimated not to exceed \$20,000.00. If the actual amount of the Settlement Administration Costs is less than \$20,000.00, the difference between \$20,000.00 and the actual Settlement Administration Costs shall be a part of the Net Settlement Amount. If the Settlement Administration Costs exceed \$20,000.00 then such excess will be paid solely from the Gross Settlement Amount and Defendant will not be responsible for paying any additional funds in order to pay these additional costs.

MM. “Settlement Administrator” means the Third-Party Administrator mutually agreed upon by the Parties that will be responsible for the administration of the Settlement including, without limitation, translating the Class Notice in Spanish, the distribution of the Individual Settlement Payments to be made by Defendant from the Gross Settlement Amount and related matters under this Agreement.

NN. “Settlement Class”, “Settlement Class Member(s)”, “Class”, or “Class Member(s)” means all current and former non-exempt employees who worked in California for Defendant at any time during the Class Period.

OO. “Workweeks” means the number of weeks that a Settlement Class Member was employed by and worked for the Defendant as a non-exempt employee during the Class Period in California, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

2. BACKGROUND

A. On April 11, 2022, Plaintiff filed with the LWDA and served on Defendant a notice under Labor Code section 2699.3 stating Plaintiff intended to serve as a proxy of the LWDA to recover civil penalties on behalf of Aggrieved Employees for various Labor Code violations (“PAGA Notice”).

B. On June 10, 2022, Plaintiff filed a putative wage-and-hour class action alleging that, during the Class Period, Defendant, as it pertains to Class Members: (1) failed to pay minimum and straight time wages; (2) failed to pay overtime wages; (3) failed to provide meal periods or compensation in lieu thereof; (4)) failed to provide rest periods or compensation in

1 lieu thereof; (5) failed to all wages due upon separation from employment; (6) failed to issue
2 accurate and compliant wage statements; (7) failed to indemnify necessary expenditures or
3 losses; and (8) engaged in unfair business practices (“Class Action Complaint”).

4 **C.** On July 8, 2022, Defendant filed a Notice of Removal in the United States District
5 Court for the Central District of California, pursuant to the Class Action Fairness Act of 2005.

6 **D.** On June 23, 2022, Plaintiff filed a lawsuit in San Bernardino County Superior
7 Court alleging a single cause of action for Civil Penalties under the Private Attorney General Act
8 (“PAGA”). Plaintiff’s PAGA complaint alleged that, during the PAGA Period, Defendant, as it
9 pertains to Class Members: (1) failed to pay minimum and straight time wages; (2) failed to pay
10 overtime wages; (3) failed to provide meal periods or compensation in lieu thereof; (4)) failed
11 to provide rest periods or compensation in lieu thereof; (5) failed to all wages due upon separation
12 from employment; (6) failed to issue accurate and compliant wage statements; and (7) failed to
13 indemnify necessary expenditures or losses (“PAGA Complaint”).

14 **E.** On September 12, 2022, Defendant timely filed an Answer to Plaintiff’s PAGA
15 Complaint.

16 **F.** Shortly thereafter, the Parties agreed to exchange informal discovery and attend
17 an early mediation, in which Plaintiff was provided with, among other things: (1) all records
18 pertaining to Plaintiff; (2) data points for Class Members, including the total number of currently
19 employed Class Members, the total number of formerly employed Class Members, and the total
20 number of formerly employed Class Members during the PAGA Period; (3) Defendant’s
21 employee handbooks; (4) Defendant’s wage and hour policies and procedures; (5) a 20%
22 sampling of the total amount paid by Defendant to Class Members for meal period premium
23 wages since October 3, 2017; and (6) a 20% sampling of the total amount paid by Defendant to
24 Class members for rest period premium wages since October 3, 2017.

25 **G.** On January 26, 2023, the Parties participated in a full-day mediation before the
26 Honorable Daniel Buckley (Ret.), a well-regarded mediator experienced in mediating complex
27 labor and employment matters. With the aid of the mediator’s evaluation, and months of further
28 negotiations, the Parties reached the Settlement to resolve the Action.

1 **H.** Class Counsel has conducted significant investigation of the law and facts relating
2 to the claims asserted in the Class Action, and the PAGA Notice, and have concluded that the
3 Settlement set forth herein is fair, reasonable, adequate, and in the best interests of the Settlement
4 Class, taking into account the sharply contested issues involved, the expense and time necessary
5 to litigate the Action through trial and any appeals, the risks and costs of further litigation of the
6 Action, the risk of an adverse outcome, the uncertainties of complex litigation, the information
7 learned through informal discovery regarding Plaintiff's allegations, and the substantial benefits
8 to be received by Settlement Class Members.

9 **I.** Defendant has concluded that, because of the substantial expense of defending
10 against the Action, the length of time necessary to resolve the issues presented herein, the
11 inconvenience involved, and the concomitant disruption to its business operations, it is in its best
12 interest to accept the terms of this Agreement. Defendant denies each of the allegations and
13 claims asserted against it in the Action and the PAGA Notice. However, Defendant nevertheless
14 desires to settle the Action for the purpose of avoiding the burden, expense and uncertainty of
15 continuing litigation and for the purpose of putting to rest the controversies engendered by the
16 Action.

17 **J.** This Agreement is intended to and does effectuate the full, final, and complete
18 resolution of all Class Released Claims of Plaintiff and Participating Class Members, and all
19 PAGA Released Claims of Plaintiffs and, to the extent permitted by law, of the State of California
20 and Aggrieved Employees.

21 **3. JURISDICTION**

22 The Court has jurisdiction over the Parties and the subject matter of the Action. The
23 Action includes claims that, if proven, would authorize the Court to grant relief pursuant to the
24 applicable statutes. After the Court has granted the Final Order Approving Settlement and
25 entered judgment, the Court shall retain jurisdiction over the Parties to enforce the terms of the
26 judgment pursuant to California Rule of Court, rule 3.769, subdivision (h).

27 **4. STIPULATION OF CLASS CERTIFICATION**

28 The Parties stipulate to the certification of the Settlement Class under this Agreement for

1 purposes of settlement only. Should the Court not enter preliminary or final approval of the
2 settlement, stipulation to certification shall be null and void.

3 **5. MOTIONS FOR APPROVAL OF SETTLEMENT**

4 After full execution of this Agreement, Plaintiff will move for an order granting
5 preliminary approval of the Settlement, approving and directing the mailing of the proposed
6 Notice of Class Action Settlement (“Class Notice”) attached hereto as **Exhibit “A,”** conditionally
7 certifying the Settlement Class for settlement purposes only, and approving the deadlines
8 proposed by the Parties for the submission of Requests for Exclusion, Workweek Disputes, and
9 Objections. If and when the Court preliminarily approves the Settlement, and after
10 administration of the Class Notice in a manner consistent with the Court’s Preliminary Approval
11 Order, Plaintiff will move for an order finally approving the Settlement and seek entry of a
12 Judgment consistent with this Settlement. The Parties may both respond to any Objections
13 lodged to final approval of the Settlement up to five (5) court days before the Final Fairness and
14 Approval Hearing.

15 **6. NO ADMISSION**

16 In entering into this Agreement, Defendant does not admit, and specifically denies, the
17 allegations in the Action, that it violated any federal, state, or local law; violated any regulations
18 or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or
19 legal requirements; breached any contract; violated or breached any duty; engaged in any
20 misrepresentation or deception; or engaged in any other unlawful conduct with respect to its
21 employees. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations
22 connected with it, will be construed as an admission or concession by Defendant of any such
23 violations or failures to comply with any applicable law.

24 **7. RELEASE OF CLAIMS**

25 **A. Release by All Participating Class Members**

26 Upon the date Defendant transfers the Gross Settlement Amount and Employer Taxes
27 necessary to effectuate the Settlement, entry of an Order granting Final Approval of the
28 Settlement, and entry of Judgment, Plaintiff and Participating Class Members release the

Released Parties from any and all claims alleged or that could have been alleged in Plaintiff's Operative Complaint based on the facts alleged therein, which arose during the Class Period, including but not limited to (1) all claims for failure to pay minimum and straight time wages, pursuant to Labor Code sections 204, 1194, 1194.2, 1197 and 1197.1; (2) all claims for failure to pay overtime wages, including the first 8 hours of work on the seventh day worked of any one workweek, pursuant to Labor Code sections 510, 551, 552, 1194 and 1198; (3) all claims for failure to provide meal periods or compensation in lieu thereof, pursuant to Labor Code sections 226.7 and 512; (4) all claims for failure to provide rest periods or compensation in lieu thereof, pursuant to Labor Code sections 226.7 and 512; (5) all claims for failure to pay all wages due upon separation from employment, pursuant to Labor Code sections 201, 202 and 203; (6) all claims for failure to issue accurate and compliant wage statements, pursuant to Labor Code section 226; (7) all claims for failure to indemnify necessary expenditures or losses, pursuant to Labor Code 2800 and 2802; and (8) all claims asserted through California Business & Professions Code section 17200, *et seq.* arising out of the Labor Code violations referenced in the Complaint (the "Class Released Claims").

B. Release by All Aggrieved Employees

Upon the date Defendant transfers the Gross Settlement Amount and Employer Taxes necessary to effectuate the Settlement, entry of an Order granting Final Approval of the Settlement, and entry of Judgment, the State of California and Aggrieved Employees release the Released Parties from all claims exhausted in Plaintiff's notice(s) sent to the LWDA and alleged in the Operative Complaint and/or based on the Released Claims, which arose during the PAGA Period, regardless of whether Aggrieved Employees opt out of the Settlement Class ("PAGA Released Claims"). The Class Released Claims and PAGA Released Claims shall be referred to herein as the "Released Claims."

C. Claims Not Released

The releases above expressly exclude all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and any other claims outside of the Class Released Claims of Participating Class

Members arising during the Class Period and the PAGA Released Claims of Aggrieved Employees (and, to the extent permitted by law, the State of California) arising outside of the PAGA Period.

D. Plaintiff's General Release of All Known and Unknown Claims

Upon the date of funding of the Gross Settlement Amount, in addition to the claims being released by all Participating Class Members, the named Plaintiff will release and forever discharge the Released Parties, to the fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and not asserted, which the Named Plaintiff has or may have against the Released Parties as of the date of execution of this Agreement ("Named Plaintiff's Released Claims"). The Named Plaintiff's Released Claims include, but are not limited to, all of the Released Claims, the PAGA Released Claims and any other claims arising under the California Labor Code; any claim arising out of the California common law of contract; the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, and federal common law; all claims for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or local laws for discrimination, harassment, and wrongful termination, including but not limited to, 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the California Fair Employment and Housing Act, the California Labor Code, and the law of contract and tort. This release excludes the release of claims not permitted by law.

The Named Plaintiff's Released Claims include all claims, whether known or unknown. Even if the Named Plaintiff discovers facts in addition to or different from those that he now knows or believes to be true with respect to the subject matter of the Named Plaintiff's Released Claims, those claims will remain released and forever barred. To effectuate a full and complete general release as described above, the Named Plaintiff expressly waives any and all rights and benefits conferred upon him by the provisions of Section 1542 of the California Civil Code or similar provisions of applicable law which are as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT

1 TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
2 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
3 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
4 DEBTOR OR RELEASED PARTY.

5 Thus, notwithstanding the provisions of section 1542, and to implement a full and complete
6 release and discharge of the Released Parties, the Named Plaintiff expressly acknowledges this
7 Agreement is intended to include in its effect, without limitation, all claims the Named Plaintiff
8 does not know or suspect to exist in the Named Plaintiff's favor at the time of signing this
9 Agreement, and that this Agreement contemplates the extinguishment of any such claims. The
10 Named Plaintiff warrants that the Named Plaintiff has read this Settlement, including this waiver
11 of California Civil Code section 1542, and that the Named Plaintiff has consulted with or had the
12 opportunity to consult with counsel of the Named Plaintiff's choosing about this Agreement and
13 specifically about the waiver of section 1542, and that the Named Plaintiff understands this
14 Agreement and the section 1542 waiver, and so the Named Plaintiff freely and knowingly enter
15 into this Agreement. The Named Plaintiff further acknowledges that the Named Plaintiff later may
16 discover facts different from or in addition to those the Named Plaintiff now knows or believes to
17 be true regarding the matters released or described in this Agreement, and even so the Named
18 Plaintiff agrees that the releases and agreements contained in this Agreement shall remain effective
19 in all respects notwithstanding any later discovery of any different or additional facts. The Named
20 Plaintiff expressly assumes any and all risk of any mistake in connection with the true facts
21 involved in the matters, disputes, or controversies released or described in this Agreement or with
22 regard to any facts now unknown to the Named Plaintiff relating thereto.

23 **8. SETTLEMENT ADMINISTRATOR**

24 Plaintiff and Defendant, through their respective counsel, have selected Phoenix
25 Settlement Administrators to administer the Settlement, which includes but is not limited to
26 translating the Class Notice to Spanish, distributing and responding to inquiries about the Class
27 Notice and calculating all amounts to be paid from the Gross Settlement Amount. Charges and
28 expenses of the Settlement Administrator, currently estimated to be \$20,000.00 will be paid from

the Gross Settlement Amount. If the actual amount of the Settlement Administration Costs is less than \$20,000.00, the difference between \$20,000.00 and the actual Settlement Administration Costs shall be a part of the Net Settlement Amount. If the Settlement Administration Costs exceed \$20,000.00, then such excess will be paid solely from the Gross Settlement Amount and Defendant will not be responsible for paying any additional funds in order to pay these additional costs.

9. NOTICE, WORKWEEK DISPUTE, OBJECTION, AND EXCLUSION PROCESS

A. Notice to the Settlement Class Members

Within ten (10) calendar days after the Preliminary Approval Date, Defense Counsel shall provide the Settlement Administrator with information with respect to each Settlement Class Member, including his or her: (1) name; (2) last known address(es) currently in Defendant's possession, custody, or control; (3) last known Social Security Number(s) in Defendant's possession, custody, or control; and (4) the dates of employment (*i.e.*, hire dates, and, if applicable, re-hire date(s) and/or separation date(s)) for each Settlement Class Member ("Class List"), which shall be made available to Class Counsel upon request for the purpose of effectuating the Settlement. The Settlement Administrator shall perform an address search using the United States Postal Service National Change of Address ("NCOA") database and update the addresses contained on the Class List with the newly-found addresses, if any. Within ten (10) calendar days, or soon thereafter, of receiving the Class List from Defendant, the Settlement Administrator shall mail the Class Notice in English and Spanish to the Settlement Class Members via first-class regular U.S. Mail using the most current mailing address information available. The Settlement Administrator shall maintain the Class List and digital copies of all the Settlement Administrator's records evidencing the giving of notice to any Settlement Class Member, for at least four (4) years from the Effective Date.

The Class Notice will set forth the following:

- (1) the Settlement Class Member's estimated Individual Settlement Payment and Individual PAGA Payment, and the basis for each;
- (2) the information required by California Rule of Court, rule 3.766,

subdivision (d);

(3) the material terms of the Settlement;

(4) the proposed Settlement Administration Costs;

(5) the definition of the Settlement Class;

(6) a statement that the Court has preliminarily approved the Settlement;

(7) how the Settlement Class Member can obtain additional information, including contact information for Class Counsel;

(8) information regarding opt-out and objection procedures;

(9) the date and location of the Final Fairness and Approval Hearing; and

(10) that the Settlement Class Member must notify the Settlement Administrator no later than the Response Deadline if the Settlement Class Member disputes the accuracy of the number of Workweeks as set forth on his or her Class Notice (“Workweek Dispute”). If a Settlement Class Member fails to timely dispute the number of Workweeks attributed to him or her in conformity with the instructions in the Class Notice, then he or she shall be deemed to have waived any objection to its accuracy and any claim to any additional settlement payment based on different data.

If a Class Notice from the initial notice mailing is returned as undeliverable, the Settlement Administrator will attempt to obtain a current address for the Settlement Class Member to whom the returned Class Notice had been mailed, within five (5) calendar days of receipt of the returned Class Notice, by: (1) contacting the Settlement Class Member by phone, if possible, and (2) undertaking skip tracing. If the Settlement Administrator is successful in obtaining a new address, it will promptly re-mail the Class Notice to the Settlement Class Member. Further, any Class Notices that are returned to the Settlement Administrator with a forwarding address before the Response Deadline shall be promptly re-mailed to the forwarding address affixed thereto.

No later than seven (7) calendar days from the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a declaration attesting to the completion

1 of the notice process, including the number of attempts to obtain valid mailing addresses for and
2 re-sending of any returned Class Notices, as well as the identities, number of, and copies of all
3 Requests for Exclusion and Objections received by the Settlement Administrator.

4 **B. Objections**

5 Only Participating Class Members may object to the Settlement. In order for any
6 Settlement Class Member to object to this Settlement in writing, or any term of it, he or she must
7 do so by mailing a written objection to the Settlement Administrator at the address or phone
8 number provided on the Class Notice no later than the Response Deadline. The Settlement
9 Administrator shall email a copy of the Objection forthwith to Class Counsel and Defense
10 Counsel and attach copies of all Objections to the Declaration it provides Class Counsel, which
11 Class Counsel shall file in support of Plaintiff's Motion for Final Approval. The Objection
12 should set forth in writing: (1) the Objector's name; (2) the Objector's address; (3) the last four
13 digits of the Objector's Social Security Number; (4) the Objector's signature; (5) a statement of
14 whether the Objector plans to appear at the Final Fairness and Approval Hearing; and (6) the
15 reason(s) for the Objection, along with whatever legal authority, if any, the Objector asserts in
16 support of the Objection. If a Settlement Class Member objects to the Settlement, the Settlement
17 Class Member will remain a member of the Settlement Class and if the Court approves this
18 Agreement, the Settlement Class Member will be bound by the terms of the Settlement in the
19 same way and to the same extent as a Settlement Class Member who does not object. The date
20 of mailing of the Class Notice to the objecting Settlement Class Member shall be conclusively
21 determined according to the records of the Settlement Administrator. Settlement Class Members
22 need not object in writing to be heard at the Final Fairness and Approval Hearing; they may
23 object or comment in person at the hearing at their own expense. Class Counsel and Defense
24 Counsel may respond to any objection lodged with the Court up to five (5) court days before the
25 Final Fairness and Approval Hearing. Settlement Class Members who worked during the PAGA
26 Period are not permitted to object to the PAGA Released Claims or any portion of the Settlement
27 pertaining to the PAGA Released Claims.
28

1 **C. Requesting Exclusion**

2 Any Settlement Class Member may request exclusion from (*i.e.*, “opt out” of) the
3 Settlement by mailing a written request to be excluded from the Settlement (“Request for
4 Exclusion”) to the Settlement Administrator, postmarked on or before the Response Deadline.
5 To be valid, a Request for Exclusion must include: (1) the Class Member’s name; (2) the Class
6 Member’s Social Security Number; (3) the Class Member’s signature; and (4) the following
7 statement: “Please exclude me from the Settlement Class in the *Williams v. Total Longterm Care,*
8 *Inc., et al.* matter” or any statement of similar meaning standing for the proposition that the Class
9 Member does not wish to participate in the Settlement. The Settlement Administrator shall
10 immediately provide copies of all Requests for Exclusion to Class Counsel and Defense Counsel
11 and shall report the Requests for Exclusions that it receives, to the Court, in its declaration to be
12 provided in advance of the Final Fairness and Approval Hearing. Any Settlement Class Member
13 who requests exclusion using this procedure will not be entitled to receive any payment from the
14 Settlement and will not be bound by the Settlement Agreement or have any right to object to,
15 appeal, or comment on the Settlement. Any Settlement Class Member who does not opt out of
16 the Settlement by submitting a timely and valid Request for Exclusion will be bound by all terms
17 of the Settlement, including those pertaining to the Released Claims, as well as any Judgment
18 that may be entered by the Court if Final Order Approving Settlement is granted. A Settlement
19 Class Member cannot submit both a Request for Exclusion and an objection. If a Settlement
20 Class Member submits an Objection and a Request for Exclusion, the Request for Exclusion will
21 control and the Objection will be overruled. Settlement Class Members who worked during the
22 PAGA Period that submit a valid Request for Exclusion will still be deemed Aggrieved
23 Employees, will still receive their Individual PAGA Payments, and will be bound by the release
24 of the PAGA Released Claims.

25 **D. Disputes Regarding Settlement Class Members’ Workweek Data**

26 Each Settlement Class Member may dispute the number of Workweeks attributed to him
27 or her on his or her Class Notice (“Workweek Dispute”). Any such disputes must be mailed to
28 the Settlement Administrator by the Settlement Class Member, postmarked on or before the

Response Deadline. The Settlement Administrator shall immediately provide copies of all disputes to Class Counsel and counsel for Defendant and shall immediately attempt to resolve all such disputes directly with relevant Settlement Class Member(s) with the assistance of Defendant and Class Counsel. If the dispute cannot be resolved in this manner, the Court shall adjudicate the dispute.

10. INDIVIDUAL SETTLEMENT PAYMENTS AND INDIVIDUAL PAGA PAYMENTS

Individual Settlement Payments will be calculated and distributed to Participating Class Members from the Net Settlement Amount on a *pro rata* basis, based on the Participating Class Members' respective number of Workweeks during the Class Period. Individual PAGA Payments to Aggrieved Employees will be calculated and distributed to Aggrieved Employees from the PAGA Payment on a *pro rata* basis based on Aggrieved Employees' respective number of Workweeks during the PAGA Period. Specific calculations of the Individual Settlement Shares and Individual PAGA Payments to Aggrieved Employees will be made as follows:

A. The Settlement Administrator will determine the total number of Workweeks worked by each Settlement Class Member during the Class Period ("Class Member's Workweeks"), as well as the aggregate number of Workweeks worked by all Settlement Class Members during the Class Period ("Class Workweeks"). Additionally, the Settlement Administrator will determine the total number of Workweeks worked by each Aggrieved Employee during the PAGA Period ("Aggrieved Employee's Workweeks"), as well as the aggregate number of Workweeks worked by all Aggrieved Employees during the PAGA Period ("PAGA Workweeks").

B. To determine each Settlement Class Member's Individual Settlement Share, the Settlement Administrator will use the following formula: Individual Settlement Share = (Settlement Class Member's Workweeks ÷ Class Workweeks) × Net Settlement Amount.

C. To determine each Participating Class Member's Participating Individual Settlement Share, the Settlement Administrator will determine the aggregate number of

1 Workweeks worked by all Participating Class Members during the Class Period (“Participating
2 Class Workweeks”) and use the following formula: Individual Settlement Share =
3 (Participating Class Member’s Workweeks ÷ Participating Class Workweeks) × Net Settlement
4 Amount.

5 **D.** The net amount of the Participating Individual Settlement Share is to be paid out
6 to Participating Class Members by way of check and is referred to as “Individual Settlement
7 Payment(s)”.

8 **E.** To determine each Aggrieved Employee’s Individual PAGA Payment, the
9 Settlement Administrator will use the following formula: Aggrieved Employee’s Individual
10 PAGA Payment = (Aggrieved Employee’s Workweeks ÷ PAGA Workweeks) x \$12,500.00
11 (the PAGA Payment).

12 **F.** Individual Settlement Payments and Individual PAGA Payments shall be paid
13 to Participating Class Members and/or Aggrieved Employees by way of check. When a
14 Participating Class Member is also an Aggrieved Employee, one check may be issued that
15 aggregates both the Individual Settlement Payment and the Individual PAGA Payment.

16 **11. DISTRIBUTION OF PAYMENTS**

17 **A. Distribution of Individual Settlement Payments**

18 Participating Class Members will receive an Individual Settlement Payment and
19 Aggrieved Employees will receive an Individual PAGA Payment. Individual Settlement
20 Payment and Individual PAGA Payment checks shall remain valid and negotiable for one-
21 hundred and eighty (180) calendar days after the date of their issuance. Within seven (7)
22 calendar days after expiration of the 180-day period, checks for such payments shall be
23 canceled and funds associated with such checks shall be transmitted to the California
24 Controller’s Office, Unclaimed Property Fund, thereby leaving no “unpaid residue” subject to
25 the requirements of California Code of Civil Procedure Section 384. In the event a Participating
26 Class Member fails to cash/deposit his or her Individual Settlement Payment, the Participating
27 Class Member shall nevertheless remain bound by the Settlement.
28

1 **B. Funding of Settlement**

2 Defendant shall, within five (5) calendar days of the Effective Date, make payment of the
3 Gross Settlement Amount (as the same may be escalated pursuant to Paragraph 17 of this
4 Agreement) and Employer Taxes to the Settlement Administrator pursuant to Internal Revenue
5 Code section 1.468B-1 for deposit in an interest-bearing qualified settlement account (“QSA”)
6 with an FDIC insured banking institution, for distribution in accordance with this Agreement and
7 the Court’s Orders and subject to the conditions described herein.

8 **C. Time for Distribution**

9 Within seven (7) calendar days after payment of the Gross Settlement Amount and
10 Employer Taxes by Defendant, or as soon thereafter as practicable, the Settlement Administrator
11 shall distribute Payments from the QSA for: (1) the Service Award to Plaintiff as specified in
12 this Agreement and approved by the Court; (2) the Attorneys’ Fees and Cost Award to be paid
13 to Class Counsel, as specified in this Agreement and approved by the Court; (3) the Settlement
14 Administrator Costs, as specified in this Agreement and approved the Court; (4) the LWDA
15 Payment, as specified in this Agreement and approved by the Court; and (5) Individual PAGA
16 Payments as specified in this Agreement and approved by the Court. The balance remaining
17 shall constitute the Net Settlement Amount from which Individual Settlement Payments shall be
18 made to Participating Class Members, less applicable taxes and withholdings. All interest
19 accrued shall be for the benefit of the Class Members and distributed on a *pro rata* basis to
20 Participating Class Members based on the number of Workweeks worked by them in the Class
21 Period.

22 **D. Tax Liability and Circular 230 Disclaimer**

23 Named Plaintiff, Defendant, Class Counsel, and Defense Counsel make no
24 representation as to the tax treatment or legal effect of the payments called for hereunder. The
25 Named Plaintiff and Participating Class Members are not relying on any statement,
26 representation, or calculation by Defendant or by the Settlement Administrator in this regard.
27 Participating Class Members understand and agree that they shall be responsible for the payment
28 of all taxes and penalties assessed on the payments specified herein, and shall hold the Parties,

1 Class Counsel and Defense Counsel free and harmless from and against any claims resulting from
2 treatment of such payments as non-taxable, including the treatment of such payments as not subject
3 to withholding or deduction for payroll and employment taxes.

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

27 **12. ATTORNEYS’ FEES AND LITIGATION COSTS**

28 Class Counsel shall apply for, and Defendant shall not oppose, an award of attorneys’

1 fees of up to 33 1/3% of the Gross Settlement Amount, which, unless escalated pursuant to
2 Paragraph 17 of this Agreement, amounts to Four Hundred and Thirty-Three Thousand and Three
3 Hundred and Thirty-Three Dollars and Thirty-Three Cents (\$433,333.33). Class Counsel shall
4 further apply for, and Defendant shall not oppose, an application or motion by Class Counsel for
5 reimbursement of actual costs associated with Class Counsel's prosecution of this matter as set
6 forth by declaration testimony in an amount up to Twenty-Five Thousand Dollars and Zero Cents
7 (\$25,000.00). Awards of attorneys' fees and costs shall be paid out of the Gross Settlement
8 Amount, for all past and future attorneys' fees and costs necessary to prosecute, settle, and obtain
9 Final Order Approving Settlement in the Action. The "future" aspect of the amounts stated herein
10 includes, without limitation, all time and expenses expended by Class Counsel (including any
11 appeals therein). There will be no additional charge of any kind to either the Settlement Class
12 Members or request for additional consideration from Defendant for such work unless, Defendant
13 materially breaches this Agreement, including any term regarding funding, and further efforts
14 are necessary from Class Counsel to remedy said breach, including, without limitation, moving
15 the Court to enforce the Agreement. Should the Court approve attorneys' fees and/or litigation
16 costs and expenses in amounts that are less than the amounts provided for herein, then the
17 unapproved portion(s) shall be a part of the Net Settlement Amount.

18 Class Counsel shall be solely and legally responsible to pay all applicable taxes on the
19 award of attorneys' fees. Class Counsel shall provide the Settlement Administrator with properly
20 completed and signed copies of IRS Form W-9 in order for the Settlement Administrator to
21 process such fees approved by the Court. The Settlement Administrator shall issue an IRS
22 Form 1099 to Class Counsel for the Class Counsel Award.

23 **13. SERVICE AWARD TO PLAINTIFF**

24 Named Plaintiff Caprice Justice Williams shall seek, and Defendant shall not oppose, a
25 Service Award in an amount not to exceed Twelve Thousand and Five Hundred Dollars and Zero
26 Cents (\$12,500.00) to Plaintiff, for participation in and assistance with the Action. Any Service
27 Award awarded to Plaintiff shall be paid from the Gross Settlement Amount and shall be reported
28 on an IRS Form 1099. If the Court approves the Service Award to Plaintiff in less than the

1 amounts sought herein, then the unapproved portion(s) shall be a part of the Net Settlement
2 Amount.

3 The Named Plaintiff will be solely and legally responsible to pay any and all applicable
4 taxes on the Service Award and shall hold harmless Defendant, Class Counsel and Defense
5 Counsel from any claim or liability for taxes, penalties, or interest arising as a result of payment
6 of the Service Award. Any amount requested by the Named Plaintiff for the Service Award and
7 not awarded by the Court shall become part of the Net Settlement Amount and shall be distributed
8 to Participating Class Members as part of their Individual Settlement Payment.

9 **14. TAXATION AND ALLOCATION**

10 Each Individual Settlement Share shall be allocated as follows: 20% as wages (to be
11 reported on an IRS Form W-2); and 80% as interest and penalties (to be reported on an IRS Form
12 1099). Each Individual PAGA Payment shall be allocated entirely as penalties. The Parties agree
13 that the employees' share of taxes and withholdings with respect to the wage-portion of the
14 Individual Settlement Share will be withheld from the Individual Settlement Share in order to
15 yield the Individual Settlement Payment. The amount of federal income tax withholding will be
16 based upon a flat withholding rate for supplemental wage payments in accordance with Treasury
17 Regulation § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also
18 be made pursuant to applicable state and/or local withholding codes or regulations.

19 All monies received by Participating Class Members under the Settlement which are
20 attributable to wages shall constitute income to such Participating Class Members solely in the
21 year in which such monies actually are received by the Participating Class Members. It is the
22 intent of the Parties that Individual Settlement Payments provided for in this Agreement are the
23 sole payments to be made by Defendant to Participating Class Members in connection with this
24 Settlement, with the exception of the Named Plaintiff, and that the Participating Class Members
25 are not entitled to any new or additional compensation or benefits as a result of having received
26 the Individual Settlement Payments. Furthermore, the receipt of Individual Settlement Payments
27 by Participating Class Members shall not, and does not, by itself establish any general, special,
28 or joint employment relationship between and among the Participating Class Member(s) and

1 Defendant.

2 Forms W-2 and/or Forms 1099 will be distributed by the Settlement Administrator at
3 times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and
4 consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other
5 applicable tax law, is changed after the date of this Agreement, the processes set forth in this
6 Section may be modified in a manner to bring Defendant into compliance with any such changes.

7 All Employer Taxes shall be paid by Defendant separate, apart, and in addition to the
8 Gross Settlement Amount. Defendant shall remain liable to pay the employer's share of payroll
9 taxes as described above.

10 Neither Counsel for Plaintiff nor Defendant intend anything contained in this Agreement
11 to constitute advice regarding taxes or taxability, nor shall anything in this Agreement be relied
12 upon as such within the meaning of United States Treasury Department Circular 230 (31 C.F.R.
13 Part 10, as amended) or otherwise.

14 **15. PRIVATE ATTORNEYS' GENERAL ACT ALLOCATION**

15 The Parties agree to allocate Fifty Thousand Dollars and Zero Cents (\$50,000.00) of the
16 Gross Settlement Amount toward PAGA penalties. Pursuant to the PAGA, seventy-five percent
17 (75%) of the amount allocated toward PAGA (\$37,500.00) will be paid to the LWDA and twenty-
18 five percent (25%) (\$12,500.00) will be distributed to Aggrieved Employees on a *pro rata* basis
19 based upon their respective Workweeks worked as Aggrieved Employees during the PAGA
20 Period.

21 **16. COURT APPROVAL**

22 This Agreement is contingent upon an order by the Court granting Final Order Approving
23 Settlement, and that the LWDA does not intervene and object to the Settlement. In the event it
24 becomes impossible to secure approval of the Settlement by the Court and the LWDA, the Parties
25 shall be restored to their respective positions in the Action prior to entry of this Settlement. If
26 this Settlement Agreement is voided, not approved by the Court or approval is reversed on appeal,
27 it shall have no force or effect and no Party shall be bound by its terms except to the extent: (a)
28 the Court reserves any authority to issue any appropriate orders when denying approval; and/or

(b) there are any terms and conditions in this Settlement Agreement specifically stated to survive the Settlement Agreement being voided or not approved, and which control in such an event.

17. INCREASE IN WORKWEEKS

Defendant has estimated there are approximately 49,960 Workweeks at issue for the Class Members during the Class Period. If, as of the close of the Class Period, the actual number of Workweeks worked by Class Members during the Class Period is more than ten percent (10%) of this estimate (i.e., if there are 54,956 or more Workweeks worked by the Class Members during the Class Period), then either the Gross Settlement Amount will be increased by the same proportion above ten percent (10%) using the Workweek Value or Defendant, at their sole discretion, may elect to cut off the Class Period and PAGA Period as of the date the total Workweeks worked by Class Members during the Class Period exceeds 10% of estimated 49,960 Workweeks worked by Class Members during the Class Period. The Workweek Value shall be calculated by dividing the Gross Settlement Amount by the estimate of Workweeks at issue, meaning that the parties agree that the Workweek Value shall be \$26.02. (\$1,300,000 / 49,960 Workweeks.) Thus, for example, if the Workweeks worked by Class Members during the Class Period amount to 15% increase (57,454 Workweeks), Defendant may choose either that (i) the Gross Settlement Amount to be paid will be increased by \$64,998 (2,498 Workweeks x \$26.02); or (ii) the Class Period and the PAGA Period will end on the date on which 54,956 Workweeks are reached.

18. WITHDRAWAL FROM SETTLEMENT BASED ON REQUESTS FOR EXCLUSION

Defendant shall retain the option to nullify the Agreement in the event that more than 5% of Class Members submit timely and valid Requests for Exclusion. Defendant must provide written notice to Class Counsel of their withdrawal within thirty (30) calendar days of receiving sufficient information to determine that the opt out rate exceeds 5%. If Defendant exercises this right, it shall be solely responsible for the costs incurred for settlement administration up to the date of nullification.

19. NOTICE OF JUDGMENT

1 In addition to any duties set out herein, the Settlement Administrator shall provide
2 notice of the Final Judgment entered in the Action by posting the same on its website for a
3 period of no less than four (4) years.

4 **20. LIMITATIONS ON USE OF THIS SETTLEMENT**

5 **A. Non-Evidentiary Use**

6 Whether or not the Effective Date occurs, neither this Agreement, nor any of its terms,
7 nor the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received
8 as, or deemed to be evidence for any purpose adverse to Defendant or any other of the Released
9 Parties, including but not limited to, evidence of a presumption, concession, indication, or
10 admission by any of the Released Parties of any liability, fault, wrongdoing, omission,
11 concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the
12 Released Parties in any further proceeding in the Action, except for the purposes of effectuating
13 the Settlement pursuant to this Agreement, for Defendant to establish that a Class Member has
14 resolved any of his or her claims released through this Agreement, or any motion necessary to
15 enforce the terms of the Settlement.

16 **B. Nullification**

17 The Parties have agreed to the certification of the Class encompassing all claims alleged
18 in the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any
19 reason fail to certify this Class for settlement, or (b) the Court should for any reason fail to
20 approve this Settlement, or (c) the Court should for any reason fail to enter the Final Order, or
21 (d) the Final Order is reversed, or declared or rendered void, or (e) the Court should for any
22 reason fail to dispose of the Action in its entirety, then the Parties shall meet and confer to address
23 the Court's concerns and make necessary revisions to the Agreement. However, in the event the
24 Court requests revisions which would frustrate the purpose of this Settlement and the Parties are
25 unable to come to a resolution, then: (i) this Agreement shall be considered null and void;
26 (ii) neither this Agreement nor any of the related negotiations or proceedings shall be of any force
27 or effect; (iii) all Parties to this Agreement shall stand in the same position, without prejudice, as
28 if the Agreement had been neither entered into nor filed with the Court; and (iv) the fact that the

1 Parties were willing to stipulate to class certification of all causes of action pled in the Action as
2 part of the Settlement will have no bearing on, and will not be admissible in connection with, the
3 issue of whether the Class should be certified by the Court in a non-settlement context in this
4 Action or any other action, and in any of those events, Defendant expressly reserve the right to
5 oppose certification of the Class. The Parties will then take the appropriate steps to lift the stay
6 currently in place in the Federal Court Action.

7 Additionally, should the Settlement not become final for any reason, any Settlement
8 Administration Costs already incurred by the Settlement Administrator shall be split evenly
9 amongst the Parties. If Defendant elects to revoke the Settlement, as specified in Paragraph 18,
10 the Parties and any monies required to be paid under this Settlement shall be returned to their
11 respective statuses as of the date and time immediately prior to the execution of this Settlement,
12 and the Parties shall proceed in all respects as if this Settlement had not been executed, except
13 that any Settlement Administration Costs already incurred by the Settlement Administrator shall
14 be paid to the Settlement Administrator by Defendant.

15 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and
16 the Gross Settlement Amount shall not be distributed pending the completion of the appeal.

17 **21. MISCELLANEOUS PROVISIONS**

18 **A. Interpretation of the Agreement**

19 This Agreement constitutes the entire agreement between the Parties with respect to its
20 subject matter. Except as expressly provided herein, this Agreement has not been executed in
21 reliance upon any other written or oral representations or terms, and no such extrinsic oral or
22 written representations or terms shall modify, vary or contradict its terms. In entering into this
23 Agreement, the Parties agree that this Agreement is to be construed according to its terms and
24 may not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and
25 enforced under the laws of the State of California, both in its procedural and substantive aspects,
26 without regard to its conflict of law provisions. Any claim arising out of or relating to the
27 Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior
28 Court of the State of California for the County of San Bernardino, and Plaintiff and Defendant

1 hereby consent to the personal jurisdiction of the Court in the Action over it solely in connection
2 therewith. The foregoing is only limited to disputes concerning this Agreement. The Parties,
3 and each of them, participated in the negotiation and drafting of this Agreement and had available
4 to them the advice and assistance of independent counsel. As such, neither Plaintiff nor
5 Defendant may claim that any ambiguity in this Agreement should be construed against the other.
6 The Agreement may be modified only by a writing signed by counsel for the Parties and approved
7 by the Court.

8 **B. Further Cooperation**

9 The Parties and their respective attorneys shall proceed diligently to prepare and execute
10 all documents, to seek the necessary approvals from the Court, and to do all things reasonably
11 necessary to consummate the Settlement as expeditiously as possible. The Parties agree that they
12 will not take any action inconsistent with this Agreement, including, without limitation,
13 encouraging Class Members to opt out of the Settlement. In the event the Court finds that any
14 Party has taken actions inconsistent with the Settlement, including, without limitation,
15 encouraging Class Members to opt out of the Settlement, the Court may take any corrective
16 actions, including enjoining any Party from communicating regarding the Settlement on an *ex*
17 *parte* basis, issuing (a) corrective notice(s), awarding monetary, issue, evidentiary and/or
18 terminating sanctions against that Party, and/or enforcing this Agreement despite the presence of
19 opt-outs and/or objections.

20 **C. Counterparts**

21 The Agreement may be executed in one or more actual or non-original counterparts, all
22 of which will be considered one and the same instrument and all of which will be considered
23 duplicate originals.

24 **D. Authority**

25 Each individual signing below warrants that he or she has the authority to execute this
26 Agreement on behalf of the Party for whom or which that individual signs.

27 **E. No Third-Party Beneficiaries**

28 Plaintiff, Participating Class Members, Aggrieved Employees, the State of California,

1 Class Counsel, and Defendant are direct beneficiaries of this Agreement, but there are no third-
2 party beneficiaries.

3 **F. Deadlines Falling on Weekends or Holidays**

4 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday,
5 or legal holiday, that deadline shall be continued until the following business day.

6 **G. No Public Comment**

7 The Parties and their counsel agree that they will not issue any press releases, initiate any
8 contact with the press, respond to any press inquiry, or have any communication with the press
9 about the fact, amount or terms of the Agreement. Class Counsel further agrees not to use the
10 Agreement or any of its terms for any marketing or promotional purposes. Nothing herein will
11 restrict Class Counsel from including publicly available information regarding this settlement in
12 future judicial submissions regarding Class Counsel's qualifications and experience. Further,
13 Class Counsel will not include, reference or use the Agreement for any marketing or promotional
14 purposes, or for attempting to influence business relationships at Defendant's locations, either
15 before or after the Motion for Preliminary Approval is filed. However, nothing in this Agreement
16 shall prevent Class Counsel from communicating with Class Members who request Class
17 Counsel's assistance regarding this Settlement.

18 **H. Jurisdiction of the Court**

19 Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
20 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of
21 this Settlement Agreement and all orders and judgments entered in connection therewith, and the
22 Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of
23 interpreting, implementing, and enforcing the settlement embodied in this Settlement Agreement
24 and all orders and judgments entered in connection therewith.

25 **I. Severability**

26 In the event that one or more of the provisions contained in this Agreement shall for any
27 reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
28 unenforceability shall in no way effect any other provision if Defense Counsel and Class Counsel,

on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:

Dated: 11/8/2023, 2023

DocuSigned by:

BD39EE6E7090456...
CAPRICE JUSTICE WILLIAMS

Plaintiff and Class Representative

Dated: _____, 2023

TOTAL LONGTERM CARE, INC. and
INNOVAGE CALIFORNIA PACE-
INLAND EMPIRE, LLC

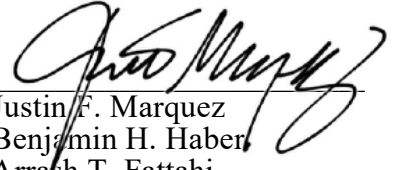
Defendants

By: _____

Its: _____

AGREED AS TO FORM:

Dated: November 8, 2023


Justin F. Marquez
Benjamin H. Haber
Arrash T. Fattahi

Attorneys for Plaintiff CAPRICE JUSTICE
WILLIAMS and the Class

Dated: _____, 2023

ADAM Y. SIEGEL
IKEDI O. ONYEMAOBIM

Attorneys for Defendants

on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:

Dated: _____, 2023

CAPRICE JUSTICE WILLIAMS

Plaintiff and Class Representative

Dated: November 13, 2023

TOTAL LONGTERM CARE, INC. and
INNOVAGE CALIFORNIA PACE-
INLAND EMPIRE, LLC

Defendants

By: *Patrick Blau*

Its: _____

AGREED AS TO FORM:

Dated: _____, 2023

Justin F. Marquez
Benjamin H. Haber
Arrash T. Fattahi

Attorneys for Plaintiff CAPRICE JUSTICE
WILLIAMS and the Class

Dated: 11/10/2023, 2023

Adam Siegel
ADAM Y. SIEGEL
IKEDI O. ONYEMAOBIM

Attorneys for Defendants

TOTAL LONGTERM CARE, INC. and
INNOVAGE CALIFORNIA PACE-
INLAND EMPIRE, LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit 3



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

CASE ASSUMPTIONS

Class Members	500
Opt Out Rate	1%
Opt Outs Received	5
Total Class Claimants	495
Subtotal Admin Only	\$11,000.00

Not-to-Exceed Total \$11,000.00

For 500 Members

Pricing Good for Scope of Estimate Only

March 7, 2023

Case: Williams v. Total Longterm CareOpt-Out wLanguage

Phoenix Contact: Jodey Lawrence

Contact Number: 949.566.1455

Email: Jodey@phoenixclassaction.com

Requesting Attorney: Justin Marquez

Firm: Wilshire Law Firm, PLC

Contact Number: (213) 381-9988, Ext. 345

Email: justin@wilshirelawfirm.com

Assumptions and Estimate are based on information provided by counsel. If class size changes, PSA will need to adjust this Estimate accordingly.

Estimate is based on 500 Class Members. PSA assumes class data will be sent in Microsoft Excel or other usable format with no or reasonable additional formatting needed. A rate of \$150 per hour will be charged for any additional analysis or programming.

0

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*	\$152.55	1	\$152.55
Call Center & Long Distance	\$2.00	16	\$32.00
NCOA (USPS)	\$155.00	1	\$155.00
Total			\$739.55

* Up to 120 days after disbursement

Data Merger & Scrub / Notice Packet, Opt-Out Form & Postage / Spanish Translation / Reporting

Project Action	Rate	Hours/Units	Line Item Estimate
Notice Packet Formatting	\$100.00	3	\$300.00
Data Merge & Duplication Scrub	\$0.35	500	\$175.00
Notice Packet & Opt-Out Form	\$1.50	500	\$750.00
Estimated Postage (up to 2 oz.)*	\$0.80	500	\$400.00
Static Website	\$200.00	1	\$200.00
Language Translation	\$1,000.00	1	\$1,000.00
Total			\$2,825.00

* 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	3	\$165.00
Skip Tracing Undeliverables	\$2.00	100	\$200.00
Remail Notice Packets	\$1.50	100	\$150.00
Estimated Postage	\$0.80	100	\$80.00
Programming Undeliverables	\$50.00	1	\$50.00
Total			\$645.00

Database Programming / Processing Opt-Outs, Deficiencies or Disputes

Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Claims Database	\$135.00	2	\$270.00
Non Opt-Out Processing	\$200.00	1	\$200.00
Case Associate	\$55.00	2	\$110.00
Opt-Outs/Deficiency/Dispute Letters	\$10.00	3	\$30.00
Case Manager	\$85.00	2	\$170.00
Total			\$780.00

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

Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Calculations	\$135.00	3	\$405.00
Disbursement Review	\$135.00	3	\$405.00
Programming Manager	\$95.00	3	\$285.00
QSF Bank Account & EIN	\$100.00	2	\$200.00
Check Run Setup & Printing	\$125.00	3	\$375.00
Mail Class Checks *	\$2.00	495	\$990.00
Estimated Postage	\$0.61	495	\$301.95
Total			\$2,961.95

* Checks are printed on 8.5 x 11 in. sheets with W2/1099 Tax Filing



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	\$135.00	3	\$405.00
Remail Undeliverable Checks (Postage Included)	\$1.50	99	\$148.50
Case Associate	\$50.00	3	\$150.00
Reconcile Uncashed Checks	\$75.00	4	\$300.00
Conclusion Reports	\$125.00	1	\$125.00
Case Manager Conclusion	\$85.00	2	\$170.00
Final Reporting & Declarations	\$125.00	2	\$250.00
IRS & QSF Annual Tax Reporting * (1 State Tax Reporting Included)	\$1,500.00	1	\$1,500.00
Total			\$3,048.50

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

Estimate Total: \$11,000.00



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.

PROOF OF SERVICE

Caprice Justice Williams, et al. v. Total Longterm Care, Inc, et al.
CIVSB2213347

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, Sandy S. Sespene, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is ssespene@wilshirelawfirm.com.

On **November 13, 2023**, I served the foregoing **DECLARATION OF JUSTIN F. MARQUEZ IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Adam Y. Siegel
Adam.Siegel@jacksonlewis.com
Ikedi O. Onyemaobim
Ikedi.Onyemaobim@jacksonlewis.com
JACKSON LEWIS P.C.
725 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5408
Tel: (213) 689-0404
Fax: (213) 689-0430
Attorneys for Defendant

(X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

(X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.

I declare under the penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on November 13, 2023, at Los Angeles, California.



Sandy S. Sespene