

JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE

Subject to final approval by the Court, this Joint Stipulation of Class Action Settlement and Release Agreement (“Agreement”) is between Toy Sanchez (“Plaintiff”) on behalf of herself and those similarly situated, and Air Methods Corporation (“Defendant”). Plaintiff and Defendant are collectively referred to in this Agreement as the “Parties.”

I. DEFINITIONS

In addition to the other terms defined in this Agreement, the terms below have the following meaning:

1. “Action” means the lawsuit currently titled *Toy Sanchez v. Air Methods Corporation, et al.*, currently pending in San Bernardino Superior Court, Case No. CIVSB2208677.

2. “Administrative Costs” means all costs incurred by a Settlement Administrator to administer the settlement in the Action.

3. “Agreement”, “Settlement Agreement” and “Settlement” mean this Joint Stipulation of Settlement and Release.

4. “Application for Fees and Expenses” means the application/motion that will be filed by Class Counsel seeking fees and expenses in conjunction with the Motion for Order Granting Final Approval of Class Action Settlement and Entering of Judgment.

5. “Class”, “Class Members”, and “Noticed Class Members” mean:

All current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time from May 17, 2018, through January 31, 2024.

6. “Class Counsel” are David Myers, Jason Hatcher, and Andriana N. Bravo of the Myers Law Group, APC.

7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amount awarded to Class Counsel to compensate them for their fees and expenses, including their pre-filing investigation, their filing of the Action, and all related litigation activities, this Settlement, and all post-Settlement compliance procedures. Subject to Court approval, the Class Counsel Fees Payment shall be an amount not to exceed One Hundred Eighty-Three Thousand, Three Hundred and Thirty-Three Dollars and Thirty-Three Cents \$183,333.33 (one-third of the Gross Settlement Amount). Subject to Court approval, the Class Counsel Litigation Expenses Payment shall be an amount not to exceed Fifteen Thousand Dollars (\$15,000) and will consist of reasonable litigation costs actually incurred by Class Counsel related to the Action and the settlement of the action as approved by the Court.

8. “Counsel for Defendant” or “Defense Counsel” means:

Lonnie D. Giamela, Esq.
FISHER & PHILLIPS LLP

444 South Flower Street, Suite 1500
Los Angeles, CA 90071
Tel: 213-330-4500
Fax: 213-330-4501

9. “Class List” means the list of Class Members that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator only. The Class List will include the following for each Class Member: full name, last known address and telephone number (to the extent available in Defendant’s business records); social security number; the number of Workweeks during the Class Period (or data from which a class administrator may calculate the number of Workweeks), and any other information the Parties agree is necessary to calculate each Class Member’s Settlement Share.

10. “Class Notice” or “Notice” or “Class Notice Packet” or “Notice Packet” means the Notice of Class Action Settlement, substantially similar to the form attached as **Exhibit “A”**. This Notice to be sent to the Class Members is mutually agreed upon by the Parties and will be presented to the Court for the Court’s approval with the Motion for Preliminary Approval.

11. “Class Period” means the period of time from May 17, 2018 through January 31, 2024.

12. “Class Representative” and “Plaintiff” means the Plaintiff named in the original Complaint, First Amended Complaint, and Second Amended Complaint – Toy Sanchez.

13. “Class Representative Payment” means the enhancement award made to the Class Representative, in an amount not to exceed \$10,000, in exchange for her general release of claims and to compensate her for initiating the Action, performing work in support of the Action, and undertaking the risk of liability for attorneys’ fees and expenses in the event they were unsuccessful in the prosecution of the Action. These payments will be made out of the Gross Settlement Amount, at no additional cost to Defendant, and are subject to the Court’s approval. Any amount not approved shall revert to the Net Settlement Amount.

14. “Class Released Claims” means any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, restitution and other equitable relief, liquidated damages or penalties; actions or causes of action reasonably arising out of the allegations and claims asserted in the Second Amended Complaint, excluding the PAGA cause of action, including without limitation to, any and all claims for alleged unpaid wages, including overtime and double time wages, for the alleged failure to provide rest periods, alleged unpaid meal and rest period premiums, itemized wage statement penalties, waiting time penalties, arising under the California Labor Code (excluding PAGA) and/or Business & Professions Code, (including Section 17200 *et seq.*); and any other benefit claimed on account of the allegations asserted in the Second Amended Complaint; including alleged violations for California Labor Code sections 201, 202, 203, 218, 203, 226, 226.7, 510, 512, 1194, 1194.2 and 1197. This release shall apply to all claims arising at any point during the Class Period.

15. “Complaints” means all complaints filed in this Action, which include the initial complaint and the operative Second Amended Complaint.

16. “Defendant” means the named Defendant Air Methods Corporation.

17. “Effective Date” means the date when all of the following events have occurred: If no objections to the settlement have been filed, or if there were objections filed but withdrawn before the Final Approval Hearing, then the date the Court enters judgment granting Final Approval; If an objection to the settlement has been filed, then the date on which time expires to

file an appeal of the Court's grant of Final Approval of settlement; or If an objection was filed and a Notice of Appeal of the Court's grant of Final Approval of settlement was timely filed, then the date the appeal is finally resolved, with the Final Approval unaffected. Notwithstanding the foregoing, any proceeding, order, or appeal pertaining solely to the payment of attorneys' fees or costs will not, by itself, in any way delay or preclude the Effective Date.

18. "Employer Taxes" means Defendant's share of any employer payroll taxes to be paid in connection with the Settlement (i.e. FICA, FUTA, payroll taxes, and/or any similar tax or charge) shall be paid from the Gross Settlement Amount.

19. "Final Approval Hearing" means the hearing by the Court to determine whether to give final approval to and implement the terms of this Agreement.

20. "Gross Settlement Amount" or "GSA" means the non-reversionary maximum amount of Five Hundred Fifty-Five Thousand Dollars and No Cents (\$550,000.00), exclusive of any and all Employer Taxes that may become due on any amount of this settlement that is classified as wages, subject to the Escalator Clause.

21. "Individual PAGA Payment" means the amount payable to each PAGA Employee.

22. "Net Settlement Amount" or "NSA" means the portion of the Gross Settlement Amount, distributable to Participating Class Members after the deduction of (i) the court-approved Class Representative Payment; (ii) the court-approved Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment; (iii) the court-approved Administrative Costs; and (iv) the PAGA Payment to the LWDA. The Parties agree the Settlement is not subject to California Code of Civil Procedure section 384. If any checks remain uncashed after the 180-day expiration date, the Settlement Administrator will submit the unclaimed funds to the State of California's State Controller's Unclaimed Property Fund in the Class Member's name.

23. "Opt-Out Period" refers to a forty-five (45) day period following the date the Settlement Administrator mails the Class Notice to Class Members within which any Class Member may request to be excluded from/opt out of the Settlement per the Opt-Out Procedure described *infra*.

24. "Opt-Out Procedure" refers to the process by which Class Members must undertake to not participate in, and to not be bound by, the Settlement Agreement or object to the Settlement as described *infra*.

25. "PAGA Employees" means all non-exempt, hourly, employees in the state of California for Defendants who provide and/or who provided patient advocate/collections services in California during the PAGA Period.

26. "PAGA Payment" means Twenty Thousand Dollars (\$20,000.00) of the Gross Settlement Amount allocated to satisfy any claim for penalties that may be owed under PAGA and the operative complaint's PAGA claims. Seventy-five percent (75%), or Fifteen Thousand Dollars (\$15,000), of the PAGA Payment shall be paid to the California Labor & Workforce Development Agency ("LWDA") and twenty-five percent (25%), or Five Thousand Dollars (\$5,000), shall be part of the Net Settlement Amount distributed to the PAGA Employees.

27. "PAGA Period" means May 17, 2021 to January 31, 2024.

28. "PAGA Released Claims" means any and all claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*, that were asserted in Plaintiff Sanchez's May 17, 2022 LWDA letter reporting violations of California

Labor Code §§ 200, 201, 202 *et seq.*, 203, 218, 218.5, 226, 226.7, 510, 1194, 1194.2, and 1197, California Business and Professions Code § 17200, *et seq.*, and IWC Wage Order No. 4-2001 for the PAGA Employees for the PAGA Period.

29. “Parties” means Plaintiff Toy Sanchez and Defendant Air Methods Corporation.

30. “Participating Class Members” means any Class Member who does not timely opt-out of the Settlement.

31. “Preliminary Approval of the Settlement” means the Court’s preliminary approval of the Settlement.

32. “Preliminary Approval Order” means an order evidencing the Court’s preliminary approval of the Settlement.

33. “Released Parties” means Air Methods Corporation, and all its past, present or future parent, subsidiary, affiliate, predecessor or successor, and all agents, employees, owners, shareholders, insurers, reinsurers, assigns, officers, directors and attorneys.

34. “Settlement Administrator” means Phoenix Settlement Administrators (PSA) a third-party administrator agreed upon by the Parties to administer the Settlement.

35. “Settlement Share” means the amount payable to each Participating Class Member under the terms of this Settlement Agreement.

36. “Workweeks” means the total number of workweeks worked by a Class Member for Defendant during the Class Period. The Settlement Administrator will calculate the number of workweeks worked by the Class Members during the Class Period, the Workweek Value, and the individual Settlement Shares to eligible Class Members. The number of Workweeks will be calculated by the Settlement Administrator for each Class Member based upon Defendant’s records. Defendant’s data will be presumed to be correct, unless a Class Member proves otherwise to the Settlement Administrator by credible evidence. All disputes will be resolved and decided by the Settlement Administrator and the Settlement Administrator’s decision on all disputes will be final and non-appealable. The estimated number of total Workweeks for the Class is 40,506 for the Class Period for an estimated 359 Class Members.

37. “Workweek Value” means the final Net Settlement Amount divided by the number of Workweeks worked by all Class Members during the Class Period (with adjustments reflecting the resolution of all disputes regarding number of Paychecks received).

II. RECITALS

38. On May 17, 2022, Plaintiff Toy Sanchez filed a class action complaint against Air Methods Corporation in San Bernardino Superior Court, Case No. CIVSB2208677 and was assigned for all purposes to Department S26. The Complaint alleged causes of action for: (a) failure to pay all overtime wages; (b) failure to provide rest periods; (c) failure to pay meal and rest period premiums at the regular rate of pay; (d) failure to provide accurate wage statements; and (e) unfair competition. On the same day, Plaintiff filed a PAGA Notice with the Labor and Workforce Development Agency and mailed Defendant the same.

39. Defendant filed a Notice of Appearance on June 21, 2022

40. Defendant filed an Answer on July 15, 2022.

41. On September 1, 2022, Plaintiff Toy Sanchez filed a First Amended class action complaint adding a cause of action for a violation of Labor Code §§ 2698, *et seq.* Private Attorneys General Act (PAGA).

42. On November 15, 2022, Defendant filed an answer to Plaintiff's First Amended Complaint.

43. Prior to mediation, Defendant provided Plaintiff with data to assist in evaluating the case for mediation, including the total number of Class Members (former and current Class Members), total number of aggrieved employees, and the total number of workweeks.

44. On May 16, 2023, the Parties attended an all-day mediation with mediator Mariam Zadeh, Esq., which resulted in continuous post-mediation negotiations as the matter did not resolve at the mediation. After mediation, Defendant provided Plaintiff with additional Class Member data.

45. During the mediation, and throughout the continuous post-mediation negotiations, each side, represented by its respective counsel, recognized the substantial risk of an adverse result that led to the subsequent settlement in principle. At all times, the Parties' settlement negotiations have been non-collusive, adversarial, and at arm's length. This Settlement Agreement represents a compromise and settlement of highly disputed claims and defenses, as Plaintiff believes her claims have merit and Defendant believes its defenses have merit. Nothing in this Agreement shall be construed as an admission by Defendant or any of the Released Parties that the asserted claims have merit or as an admission by Plaintiff that the defenses asserted by Defendant have merit.

46. Plaintiff and Class Counsel believe the total consideration and payment set forth in this Settlement Agreement is adequate in light of the uncertainties surrounding the risk of further litigation, and possible defenses that Defendant has asserted and could assert. Class Counsel recognize the substantial monetary benefit to the Class and the expenses and length of continued proceedings necessary to prosecute the Action against the Defendant through class certification, trial and the appeal. Class Counsel have also considered the uncertain outcome and risk of further litigation, especially in complex actions such as class actions, as well as the difficulties and delay inherent in such litigation. Therefore, Class Counsel have determined that the settlement set forth in this Settlement Agreement is in the best interest of the Class and is fair and reasonable.

47. Defendant and its counsel have similarly concluded that it is desirable that the Action be settled in a manner and upon such terms and conditions set forth herein in order to avoid further risk and expense of litigation and the inconvenience and distraction of further legal proceedings. Therefore, Defendant has determined that it is desirable and beneficial to put to rest the claims in the Action.

48. Because the settled action is a putative class action and PAGA action settlement, this Settlement Agreement must receive preliminary and final approval by the LWDA and the Court. Accordingly, Plaintiff and Defendant enter into this Settlement Agreement on a conditional basis. Should the Court decline to approve all material aspects of the Settlement Agreement or make rulings substantially altering the material terms of the Settlement Agreement, except for the awards of the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment or the Class Representative Payments, the Defendant will have no obligation to make any payment, including any portion of the Gross Settlement Amount. If the Effective Date does not occur, this Settlement Agreement will be deemed null and void *ab initio* and will be of no force or effect whatsoever, and will not be referred to or utilized for any purpose. Defendant denies all of Plaintiff's claims as to liability and damages as well as Plaintiff's class allegations. Defendant expressly reserves all rights to challenge any and all such claims and allegations upon all

procedural and factual grounds, including the assertion of all defenses, if the Effective Date does not occur.

49. This Agreement replaces and supersedes any prior settlement term sheets, memorandums of understanding, or related documents that may have been agreed to by the Parties.

Based on the above Recitals, the Parties agree as follows:

III. SETTLEMENT TERMS AND CONDITIONS

50. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Gross Settlement Amount that Defendant is obligated to pay under this Settlement Agreement is Five Hundred Fifty-Five Thousand Dollars and Zero Cents (\$550,000.00) exclusive of Employer Taxes that shall be paid by Defendant in addition to the Gross Settlement Amount. If the actual total number of Workweeks for the Class Members for the Class Period exceeds 40,506 by 3% or more the Gross Settlement Amount will be increased by the same percentage without offset. For example, if the actual total number of Workweeks for the Class Members for the Class Period is 41,762 (3.1% more than 40,506), the Gross Settlement Amount will be increased by 3.1%. Conversely, if the actual total number of Workweeks for the Class Members for the Class Period is 41,681 (2.9% more than 40,506), the Gross Settlement Amount will not be increased. Other than provided herein, Defendant will not be obligated to pay more than the Gross Settlement Amount, except that Defendant will be and is responsible for its own attorney's fees and costs of litigation in this Action.

51. **Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay a Settlement Share from the Net Settlement Amount to each Participating Class Member.

51.1. **Calculation.** The Net Settlement Amount will be divided into two funds. Fund 1 represents 55% of the Net Settlement Amount. Fund 1 is allocated to Workweeks worked by Participating Class Members in the Billing Department. Fund 2 represents 45% of the Net Settlement Amount and is allocated to Workweeks worked by Participating Class Members not in the Billing Department.

51.2. **Participating Class Member Settlement Share Calculation.** All Participating Class Members will automatically receive their proportionate share of the NSA. The NSA shall be distributed to the individual Participating Class Members based on their Workweeks worked in the Billing Department and/or Non-Billing Department. The Settlement Share for each individual Participating Class Member will be the sum of the proportionate share of Fund 1 and Fund 2.

51.3. **Billing Department Settlement Share Calculation.** All Participating Class Members with Workweeks in the Billing Department will have a proportionate share derived from Fund 1 by dividing Fund 1 by the total number of Workweeks worked in the Billing Department by Participating Class Members and then multiplying that Workweek value by the individual Participating Class Member's total Workweeks worked in the Billing Department.

51.4. **Non-Billing Department Settlement Share Calculation.** All Participating Class Members with Workweeks in the Non-Billing Department will have a proportionate share derived from Fund 2 by dividing Fund 2 by the total

number Workweeks worked in Department other than the Billing Department by Participating Class Members and then multiplying that Workweek value by the individual Participating Class Member's total Workweeks worked in Departments other than the Billing Department.

- 51.5. **Withholding for Participating Class Members.** Twenty percent (20%) of each Settlement Share is intended to settle each Participating Class Member's claims for unpaid wages (the "Wage Portion"). The Wage Portion will be reduced by applicable payroll tax withholdings and deductions; the Settlement Administrator will issue an IRS Form W-2 with respect to the Wage Portion withheld from each Participating Class Member. Eighty percent (80%) of the Settlement Share is intended to settle each Participating Class Member's non-wage claims without limitation, claims for interest and penalties. This portion will not be subject to payroll tax withholding and deductions. The Settlement Administrator will issue each Participating Class Member an IRS Form 1099 with respect to this portion of his/her Settlement Share.

52. **PAGA Employees Share of PAGA Payment.** The Settlement Administrator shall determine the amounts of all Individual PAGA Payments for the PAGA Employees for the PAGA Claim. The Individual PAGA Payment for the individual PAGA Employees shall be calculated by (a) dividing \$5,000 by the total number of Workweeks worked by all PAGA Employees during the PAGA Period and (b) multiplying the result by the number of Workweeks the individual PAGA Employee worked during the PAGA Period.

53. **Settlement Payments.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will make payments as follows:

- 53.1. **To Named Plaintiff Toy Sanchez:** In addition to her Settlement Share, and subject to the Court's approval, Plaintiff Toy Sanchez will receive up to \$10,000.00 as a Class Representative Payment. Defendant will not oppose the reasonableness of this request. The Settlement Administrator will pay the Class Representative Payment in the amount approved by the Court out of the Gross Settlement Amount. Payroll tax withholding and deductions will not be taken from the Class Representative Payments. An IRS Form 1099 will be issued to Toy Sanchez with respect to the Class Representative Payments. In the event the Court does not approve the entirety of the application for the Class Representative Payments, the Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Plaintiff, the difference shall become part of the NSA and be available for distribution to Participating Class Members. Should the Court award less than the requested amounts for the Class Representative Payment, Class Counsel retains the right to appeal the Court's order of the lesser amounts.
- 53.2. **To Class Counsel:** Class Counsel will apply to the Court for a total award of not more than \$183,333.33 (one-third of the Gross Settlement Amount) for the Class Counsel Fees Payment and a total award of not more than \$15,000 for the Class Counsel Litigation Expenses Payment. Defendant will not oppose Class Counsel's request for these fees and costs. The Settlement Administrator will pay the court-approved amounts for Class Counsel Fees and Litigation Expenses Payments out of the Gross Settlement Amount.

Payroll tax withholding and deductions will not be taken from the Class Counsel Fees Payment or the Class Counsel Litigation Expenses Payment. IRS Forms 1099 will be issued to Class Counsel with respect to these payments. In the event the Court does not approve the entirety of the Class Counsel Fees Payment and/or Litigation Expenses Payments, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Class Counsel for fees and/or costs, the difference shall become part of the Net Settlement Amount and be available for distribution to Participating Class Members. Should the Court award less than the requested amounts for the Class Counsel Fees Payment and/or the Class Counsel Litigation Expenses Payment, Class Counsel retains the right to appeal the Court's order of the lesser amounts.

- 53.3. **To the Settlement Administrator.** The Settlement Administrator will pay to itself reasonable fees and expenses approved by the Court. The fees and expenses are estimated to not exceed \$7,500.00. This will be paid out of the Gross Settlement Amount. If the amount awarded for the Settlement Administrator's costs is less than the \$7,500.00 allocation, the difference shall become part of the Net Settlement Amount to be distributed to the Participating Class Members.
- 53.4. **To the LWDA.** The Settlement Administrator will allocate \$20,000.00 for PAGA penalties (75% or \$15,000.00 will be paid to the LWDA, with the remaining 25% or \$5,000.00 allocated to the PAGA Employees on a pro rata workweek basis) in satisfaction of the PAGA Payment.
- 53.5. **To the Participating Class Members.** The Settlement Administrator will pay the Participating Class Members according to the Settlement Share calculations set forth above. All payments to Participating Class Members shall be made from the Net Settlement Amount.
- 53.6. **To the PAGA Employees.** The Settlement Administrator will pay the PAGA Employees according to the Individual PAGA Payment calculations for the PAGA Employees set forth above. All payments to PAGA Employees shall be made from 25% of the PAGA Payment.

54. **Class Certification.** The Parties agree and hereby stipulate to class certification for settlement purposes only. If the Court does not grant Preliminary and Final Approval of the Settlement, Defendant does not stipulate to class certification and any prior stipulation will become null and void.

55. **Tax Treatment.** The Class Representative and Participating Class Members shall be exclusively liable for any and all of their respective tax liability, if any. The Class Representative and Participating Class Members should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement Agreement. The settlement payments received by Participating Class Members will be reported as required to the state and federal taxing authorities on IRS forms 1099 and W-2 or similar forms. Each Participating Class Member will be responsible for paying all applicable state, local, and federal income taxes on all amounts the Participating Class Member receives pursuant to this Agreement. Participating Class Members shall cooperate with Defendant and provide documentation as requested to demonstrate such payment should any taxing authority challenge the allocation of settlement

payments. The Individual PAGA Payments made to PAGA Employees shall be allocated 100% as 1099 payments for civil penalties. The Parties, and the Parties' attorneys, make no representations as to the tax treatment or legal effect of the payments called for hereunder, and Participating Settlement Class Members and PAGA Employees are not relying on any statement or representation by the Parties or the Parties' attorneys in this regard.

56. Appointment of Settlement Administrator. The Parties will ask the Court to appoint Phoenix Class Action Administration Solutions as the Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. The Settlement Administrator's duties will include preparing, printing, and mailing the Class Notice Packets to all Class Members; conducting a National Change of Address search on any Class Notice Packet returned by the U.S. Postal Service as non-deliverable, and re-mailing the Class Notice Packet to the Class Member's new address; setting up a toll-free telephone number to receive calls from Class Members; receiving exclusion requests/opt outs, objections, and Change of Address updates; providing the Parties with weekly status reports informing Class Counsel and Counsel for Defendant of the number of Notice Packets mailed, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed, and the number of opt out/exclusion requests and objections received; calculating individual Settlement Shares and Individual PAGA Payments; issuing the checks to effectuate the payments due under this Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Settlement Administrator will have the final authority to resolve all disputes concerning the calculation of a Participating Class Member's Settlement Share subject to the terms set forth in this Agreement. The Settlement Administrator also shall be responsible for establishing a Qualified Settlement Fund within the meaning of the Internal Revenue Code, issuing Settlement Shares and the Class Representative Payments from the Qualified Settlement Fund. The Settlement Administrator's reasonable fees and expenses, including the cost of printing and mailing the Class Notice Packet, will be paid out of the Gross Settlement Amount, as set forth in this Agreement. The Settlement Administrator will also send out a reminder postcard ninety (90) days after checks are mailed to Participating Class Members, advising them to cash their checks before the 180-day expiration date. If any checks remain uncashed after the 180-day expiration date, the Settlement Administrator will submit the unclaimed funds to the State of California's State Controller's Unclaimed Property Fund in the Class Member's name.

IV. PROCEDURE FOR APPROVING SETTLEMENT.

57. Stipulation to Filing a Second Amended Complaint. The Parties agree to enter into a joint stipulation such that Plaintiff will file a Second Amended Complaint to effectuate this agreement. The Second Amended Complaint will be filed with the Motion for Preliminary Approval and is attached hereto as **Exhibit "B"**. The Motion for Preliminary Approval will request that the Court deem the Second Amended Complaint filed and answered by Defendant's Answer to Plaintiff's First Amended Complaint.

58. Motion for Conditional Certification and Preliminary Approval. Plaintiff will move for an order conditionally certifying the Class for settlement purposes only, giving Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice.

58.1. Plaintiff will file with the Court a mutually agreed upon proposed order granting Preliminary Approval at the time Plaintiff files the Motion for Preliminary Approval. Counsel for Defendant will have an opportunity to review the memorandums in support of Preliminary Approval before it is filed.

- 58.2. The Parties will jointly appear, support the granting of the motion, and submit a proposed order granting conditional certification of the Class and preliminary approval of the Settlement; appointing Class Representatives, Class Counsel, and Settlement Administrator; and approving the Class Notice.
- 58.3. Should the Court decline to conditionally certify the Settlement Class or to preliminarily approve all material aspects of the Settlement, the Settlement will be null and void and the Parties will have no further obligations under it. Provided, however, that the Court's approval or denial of any amount requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Administrative Costs, and Class Representative Payments are not material aspects of the Settlement. Any order or proceeding relating to an application for the Class Counsel Fees Payment, Class Counsel Litigation Expense Payment, Administrative Costs, and Class Representative Payments shall not operate to terminate or cancel this Settlement Agreement. Nothing in this Agreement shall limit Plaintiff's or Class Counsel's ability to appeal any decision by the Court to award less than the requested Class Counsel Fees Payment, Class Counsel Litigation Expense Payment, Administrative Costs and Class Representative Payments.

59. **Notice to Class Members.** After the Court enters its order granting Preliminary Approval of the Settlement, every Class Member will be provided with the Class Notice Packets in accordance with the following procedure:

- 59.1. Within Ten (10) calendar days after entry of an order granting Preliminary Approval of the Settlement, Defendant shall deliver to the Settlement Administrator a Class List for Class Members. Defendant will provide the Settlement Administrator with the following information for each Class Member: his or her name; last known mailing address and telephone number; social security number (which the Settlement Administrator shall maintain as confidential); and the number of Workweeks worked for the Class Member during the Class Period with distinction between Billing Department and Non-Billing Department for each Class Member. If any or all of this information is unavailable to Defendant, Defendant will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon how to deal with the unavailable information. The Settlement Administrator shall treat this information as confidential.
- 59.2. Within twenty (20) days after entry of an order granting Preliminary Approval of the Settlement, the Settlement Administrator will perform a National Change of Address check and will mail the Class Notice Packets to all identified Class Members via first-class regular U.S. Mail using the mailing address information provided by Defendant, unless modified by any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement.
- 59.3. If a Class Notice Packet is returned because of an incorrect address, within ten (10) days from receipt of the returned packet, the Settlement Administrator will search for a more current address for the Class Member and re-mail the Class Notice Packet to the Class Member. The Settlement Administrator will use the National Change of Address Database and skip

traces to attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Class Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Class Notice Packet is re-mailed, the Settlement Administrator will note for its own records the date and address of each such re-mailing.

- 59.4. The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Counsel for Defendant of the number of Notice Packets mailed, the number of Notice Packets returned as undeliverable, the number of Notice Packets re-mailed, the number of opt out/exclusion requests and objections received.
- 59.5. No later than seven (7) calendar days after the end of the Opt-Out Period, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration from the Settlement Administrator shall also be filed with the Court by Class Counsel in conjunction with the Motion for Final Approval. Before the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

60. **No Claim Settlement.** This is a non-reversionary, all-in settlement that does not require Participating Class Member to make a claim to receive their proportionate Settlement Shares. The Class Notice mailed to each Class Member shall explain that Participating Class Members will automatically receive a Settlement Share if they do not exclude themselves from the Settlement. The Class Notice will also include the individual Class Members workweeks based on information provided by Defendant. Under no circumstances will any portion of the Gross Settlement Amount revert to Defendant.

61. **Requests to Opt-Out of the Settlement.** Class Members who wish to “opt-out” of and be excluded from the Settlement must submit a written opt-out from the Settlement bearing a post-mark from a date within the Opt-Out Period (45 days from the date of mailing). If a Class Member submits a deficient opt-out (i.e. a submission that is not signed by the Class Member or cannot be interpreted or verified by the Settlement Administrator as authentic), the Settlement Administrator shall notify the Class Member of the deficiency within five (5) business days of receipt. The Class Member shall have until the end of the Opt-Out Period to cure any deficiencies, at which point his or her opt-out will be rejected if not received. Class Members submitting an opt-out after the end of the Opt-Out Period or a deficient opt-out shall be bound by the Settlement and release. Any Class Member who submits a signed and timely opt-out will no longer be a member of the Class, will be barred from participating in this Settlement, will be barred from objecting to this Settlement and will receive no benefit from this Settlement. The Settlement Administrator will notify Class Counsel and Counsel for Defendant of the total number of timely opt-outs seven (7) days after the Opt-Out Period ends.

62. **No PAGA Opt-Out.** No PAGA Employee may opt out of or be excluded from participating in the PAGA settlement. All PAGA Employees shall: (a) be bound by the judgment entered herein for the PAGA settlement and will have released the PAGA Released Claims, for the PAGA Period, as of the Effective Date if/when the Court grants final approval of this Settlement; and (b) be mailed his/her respective portion of the PAGA Amount.

63. **Right to Rescission:** In the event that more than 5% of the class members opt-out of the Settlement, Defendant has the right to rescind the Settlement. The Parties agree that if Defendant exercises its option to rescind the Settlement, it will be responsible for the Settlement Administrator fees. Otherwise, if the Settlement is not finally approved by the Court, the Parties will be responsible for the Settlement Administrator's fees on a 50/50 basis.

64. **Objections to Settlement.** The Class Notice will provide that Class Members who wish to object to the Settlement must do so in writing, and (a) mail the objection to the Settlement Administrator, postmarked by no later than the close of the Opt-Out Period (45 days from the date of mailing) and (b) file the objection with the Court in which the action is pending, and (c) serve the objection upon all counsel of record. Both (b) and (c) must occur by no later than the close of the Opt-Out Period. The timeframe to file, mail, and serve an objection will not be increased for returned mailings or any argument regarding non-receipt of the notice.

64.1. **Format and Contents.** Any Objections shall: (a) state the objecting person's full name, address, and telephone number; (b) include the words "Notice of Objection" or "Formal Objection"; (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at the Final Approval Hearing; and (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval Hearing. The objection will not be valid if it objects only to the appropriateness of the Action or the merits thereof.

64.2. **Notice of Intention to Appear.** Class Members who timely file, mail, and serve valid objections to the Settlement may appear at the Final Approval Hearing either in person or through the objector's own counsel. Anyone who fails to file, mail, and serve timely written objections in this manner shall be deemed to have waived any objections and shall be foreclosed from making any objection to the Settlement and filing any appeal from any final approval order issued by the Court, unless otherwise ordered by the Court.

64.3. **Response to Objections.** Plaintiff and/or Defendant may file a response to objections to the Settlement no later five court days before the Final Approval Hearing.

65. **Dispute Resolution Procedure.** If a Class Member disputes the number of Workweeks shown in the Class Notice, the Class Member must — in writing mailed and postmarked no later than forty-five (45) days after the Settlement Administrator first mails the Notice Packet — notify the Settlement Administrator of the dispute and provide a statement of the number of total Paychecks the Class Member received while employed with Defendant during the Class Period, supported by written documentation. The timeframe to submit a dispute will not be increased for returned mailings. In the event of a dispute, Defendant's records regarding the number of Workweeks worked by the Class Member shall be presumed to be correct and the Class Member will bear the burden of proof (i.e. a Class Member who fails to provide written proof will have his or her challenge denied). The Settlement Administrator shall investigate the challenge, requesting information from Defendant as necessary and make the final determination of whether any additional amount is owed. In no case will a challenge to employment data result in a payment by Defendant in excess of the Gross Settlement Amount.

66. **No Solicitation of Objection.** Neither the Parties nor their respective counsel will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement or appeal from the Judgment.

67. **Additional Briefing and Final Approval.** Class Counsel will file unopposed motions and memorandums in support thereof for Final Approval of the Settlement and the following payments in accord with the terms of the Settlement: (1) the Class Counsel Fees Payment, (2) the Class Counsel Litigation Expenses Payment, (3) the Administrative Costs, (4) the Class Representative Payment, and (5) the PAGA Payment no less than 16 court days before the Final Approval Hearing. Counsel for Defendant will have an opportunity to review the memorandums in support of Final Approval.

68. If the Court does not grant Final Approval of the Settlement or if the Court's Final Approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will become null and void; if that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement, and the Settlement Administrator will immediately return to Defendant, without further authorization from Plaintiff or Class Counsel, 100% of any funds paid by Defendant to the Settlement Administrator pursuant to this Agreement.

69. Upon Final Approval of the Settlement by the Court, the Parties shall present to the Court a mutually agreed upon proposed Final Approval Order, approving the Settlement and entering Judgment in accordance therewith. The Final Approval Order will, among other things: (1) grant Final Approval to the Settlement as fair, reasonable, adequate, in good faith and in the best interests of the Class as a whole, and order the Parties to carry out the provisions of this Agreement; (2) adjudge that the Participating Class Members are conclusively deemed to have released Defendant and the Released Parties from the Class Released Claims; (3) adjudge that the PAGA Employees are conclusively deemed to have released Defendant and the Released Parties from the PAGA Released Claims; (3) prohibit and permanently enjoin each Participating Class Member from pursuing in any fashion against Defendant or the Released Parties any and all of the Class Released Claims; and (4) reserve continuing jurisdiction as provided herein.

70. After entry of the Judgment, the Court shall have continuing jurisdiction over the Action for purposes of (i) enforcing this Settlement Agreement, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under Court rules or applicable law.

71. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, if Participating Class Members do not timely object to the Settlement, then the Parties and their respective counsel waive any and all rights to appeal from the Judgment, including, but not limited to, all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set aside judgment, and any extraordinary writ, and the Judgment will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any invalid appeal, appellate proceedings or post-judgment proceedings. This paragraph does not preclude Plaintiff or Class Counsel from appealing from a refusal by the Court to award the full Class Representative Payments, the Class Counsel Fees Payment, the Administrative Costs, or the Class Counsel Litigation Expenses Payment sought by them. Class Counsel retains the right to appeal from an order of the Court, awarding sums less than the requested amounts for the Class Representative Payments, the Class Counsel Fees Payment, the Administrative Costs, or the Class Counsel Litigation Expenses Payment. If an appeal is taken from the Judgment, the time for consummation of the Settlement (including making payments under the Settlement) will be suspended until such time as the appeal is finally resolved or withdrawn and the Judgment becomes final.

72. **Vacating, Reversing, or Modifying Judgment on Appeal.** If, after a notice of appeal, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material

modification to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then this Settlement will become null and void at the Parties election and the Parties will have no further obligations under it, and the Settlement Administrator will immediately return to Defendant, without further authorization from Plaintiff or Class Counsel, 100% of any funds paid by Defendant to the Settlement Administrator pursuant to this Agreement. An order to vacate, reverse, or modify the court awarded Class Representative Payments, Administrative Costs, or the Class Counsel Fees and Litigation Expenses Payments will not constitute a vacation, reversal, or material modification of the Judgment within the meaning of this paragraph. A material modification would include, but is not necessarily limited to, any alteration of the Gross Settlement Amount, an alteration in the calculation of the Net Settlement Amount, any change to the calculation of the Settlement Amount and any change to the Released Claims and Released Parties.

73. Funding and Disbursement of Settlement Shares and Payments.

- 73.1. **Final Calculations.** Within seven (7) days after the Effective Date, the Settlement Administrator will provide Defendant with the final total calculation of all funds necessary to make the payments required under this Agreement, including all payments from the Gross Settlement Amount (the Court-awarded Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Administrative Costs, Class Representative Payments, and the portion of the PAGA payment due to the LWDA) and all payments to Participating Class Members from the Net Settlement Amount.\
- 73.2. **Funding of Gross Settlement Amount.** No later than twenty-one (21) days after the Effective Date, Defendant shall deposit with the Settlement Administrator the Gross Settlement Amount.
- 73.3. **Disbursement of Settlement Funds.** Within ten (10) calendar days after the receipt of all funds from Defendant under subsection (b), the Settlement Administrator will pay the following:
- to Plaintiff Toy Sanchez the Court-awarded Class Representative Payment;
 - to Class Counsel, the Court-awarded Class Counsel Fees Payment and the Court-awarded Class Counsel Litigation Expense Payment;
 - to the responsible tax authorities, the employee share of payroll taxes resulting from this Settlement;
 - to the Settlement Administrator, its reasonable fees and expenses as approved by the Court;
 - to the LWDA and the PAGA Employees their respective shares of the PAGA Payment; and
 - to Participating Class Members, their respective Settlement Shares.
- 73.4. **Uncashed Settlement Share Checks.** Participating Class Members must cash or deposit their Settlement Share checks within one hundred eighty (180) days after the checks are mailed to them. If any checks are not

redeemed or deposited within ninety (90) days after mailing, the Settlement Administrator will send a postcard indicating that unless the check is redeemed or deposited in the next ninety (90) days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced. If any checks remain uncashed or not deposited by the expiration of the ninety (90) day period after the mailing of the reminder notice, the Settlement Administrator will pay the funds represented by such unredeemed checks, including any interests thereon, to the State of California's State Controller's Unclaimed Property Fund on behalf of the particular Class Member who did not cash his or her settlement check, to be held pursuant to California's Unclaimed Property Law for the benefit of those Class members who did not cash their checks until such time that they claim their property. The Parties agree that this disposition results in no "unpaid residue" under California CCP §384, as the entire Net Settlement Amount will be paid out to the Settlement Class Members, whether or not they all cash their Settlement Share Checks.

- 73.5. **Final Report by Settlement Administrator.** Within fourteen (14) days after the disbursement of all funds as set forth in this Agreement, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds.

V. RELEASE OF CLAIMS

74. **Release of Class Claims.** Providing there is Final Approval of this Agreement, then as of the Effective Date, each Participating Class Member, individually and on behalf of all their respective successors, assigns, agents, attorneys, executors, heirs and personal representatives, ("Releasees") shall fully and finally release and discharge Defendant and the Released Parties, and each of them, from the Class Released Claims for the Class Period.

75. **Release by Plaintiff Toy Sanchez.** Upon the date the Court grants Final Approval of the Settlement, Plaintiff Toy Sanchez, for herself, her successors, assigns, agents, executors, heirs and personal representatives, spouse and attorneys, and any and all of them (collectively, the "Plaintiff Releaser"), voluntarily, will waive and release any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against Defendant and any of the Released Parties of whatever kind and nature, character, and description, whether in law or equity, whether sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, constitution, common law, or other source of law or contract, whether known or unknown, and whether anticipated or unanticipated, including all claims arising from or relating to any and all acts, events and omissions occurring prior to the date Plaintiff signs this Agreement including, but not limited to, all claims which relate in any way to Plaintiff's employment with or termination of employment from Defendant or any of the other Released Parties. Plaintiff further releases all unknown claims against Defendant and any of the Released Parties, covered by California Civil Code Section 1542, which states: "A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that if known by him or her, would have materially affected his or her settlement with the debtor or released party." No Party releases any claims that cannot be released as a matter of law.

76. **PAGA Released Claims.** Providing there is Final Approval of this Agreement, then as of the Effective Date, the PAGA Employees and the LWDA shall fully and finally release and discharge Defendant and the Released Parties, and each of them, from the PAGA Released Claims for the PAGA Period.

VI. MISCELLANEOUS TERMS.

77. **No Admission of Liability or Class Certification for Other Purposes.** Defendant and the Released Parties deny that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Action, or that, but for the Settlement, a class could be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant or the Released Parties of liability or wrongdoing, or an admission by Plaintiff that any of her claims were non-meritorious or any defenses to her claims were meritorious. This Settlement and the fact that Plaintiff and Defendant were willing to settle the Action will have no bearing on, and will not be admissible in any litigation (other than solely in connection with the Settlement).

78. The Parties have agreed to class certification for the sole purpose of effectuating this Settlement. Should the Settlement not be approved by the Court, or should the judgment regarding the settlement not become final, the fact that the Parties were willing to stipulate to class certification as part of the Settlement will have no bearing on, and will not be admissible in connection with, the issue of whether a class should be certified in a non-settlement context in the Action, or any other action, and in any of those events Defendant and the Released Parties expressly reserve the right to oppose class certification.

79. Whether or not the settlement set forth in this Agreement becomes final, neither the Settlement, this Agreement, any document, statement, proceeding or conduct related to the settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendant or any of the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, in any further proceeding in the Action, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement.

80. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may be admitted in evidence and otherwise used in any and all proceedings to enforce any or all terms of this Agreement or in defense of any claims released or barred by this Agreement.

81. **No Inducements.** Plaintiff and Defendant acknowledge that they are entering into this Settlement Agreement as a free and voluntary act without duress or undue pressure or influence of any kind or nature whatsoever, and that neither Plaintiff nor Defendant have relied on any promises, representations or warranties regarding the subject matter hereof other than as set forth in this Settlement Agreement.

82. **Waiver of Right to Object.** By signing this Settlement Agreement, Plaintiff, on behalf of the Class and herself, agrees to be bound by its terms. Plaintiff further agrees not to request to be excluded from the Settlement and agrees not to object to any of the terms of the Settlement Agreement. Any request for exclusion from the Settlement Agreement by Plaintiff or any objection by Plaintiff will be void and of no force and effect. Likewise, Defendant agrees to be bound by the terms of the Settlement and agrees not to object to any of the terms of the Settlement Agreement.

83. **No Impact on Benefit Plans.** It is expressly understood and agreed that the receipt

of a Settlement Share will not entitle any Participating Class Member to additional compensation or benefits under any company bonus, contract, incentive plan, contest or other compensation or benefit plan or agreement in place during the Class Period, nor will it entitle any Settlement Class Member to any increased retirement, 401(k) or matching benefits, or deferred compensation benefits. Plaintiff and Defendant agree that any payments made to Participating Class Members under the terms of this Agreement do not represent any modification of previously credited length of service or other eligibility criteria under any bonus plan, incentive plan, contract, employee pension benefit plan or employee welfare plan sponsored by any of the Released Parties or to which any of the Released Parties are required to make contributions. All individual Settlement Shares shall be deemed to be paid to Participating Class Members solely in the year in which such payments actually are received by Participating Class Members. Further, any payments made under this Agreement shall not be considered compensation in any year for purposes of determining eligibility for, or benefit accrual within, any employee pension benefit plan or employee welfare benefit plan sponsored by any of the Released Parties or to which any of the Released Parties are required to make contributions. It is the Parties' intent that the Settlement Shares provided for in the Agreement are the sole payments to be made by Defendant to the Participating Class Members, and that the Participating Class Members are not entitled to any new or additional compensation or benefits as a result of having received the individual Settlement Shares (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the Class Period).

84. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any party concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits. This Agreement will supersede and replace the Memorandum of Understanding by and among the parties dated January 11, 2021.

85. **Attorney Authorization.** Class Counsel and Counsel for Defendant warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement except that Plaintiff and Defendant must sign this Agreement and any document modifying the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases all such documents, supplemental provisions and assistance of the Court will be consistent with this Agreement.

86. **Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their successors-in-interest.

87. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

88. **No Prior Assignment.** Plaintiff hereby represents, covenants, and warrants that she has not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.

89. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will

be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.

90. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting. The Parties further agree to cooperate fully with each other to accomplish the terms of the Settlement by using any efforts that may become necessary by order of the Court, or otherwise, to effectuate the Settlement.

91. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.

92. **No Tax or Legal Advice.** The Parties understand and agree that Defendant is neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement, and that Class Members will assume any such tax obligations or consequences that may arise from this Agreement, and that Class Members shall not seek any indemnification from Defendant or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are due from any Class Member, such Class Member assumes all responsibility for the payment of any such taxes.

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

94. **Enforcement Action.** The Court shall retain jurisdiction with respect to the implementation and enforcement of the terms of the Settlement Agreement, and all Parties hereto, including Participating Class Members, for purposes of implementing and enforcing the Settlement Agreement embodied in the Settlement Agreement. To the extent that any Party, including any Participating Class Member, institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement, to declare rights and/or obligations under this Settlement Agreement, or to enjoin any proceedings in violation of this Settlement Agreement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs incurred in connection with any enforcement action.

95. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiff and the Class:

David P. Myers, Esq.
Jason Hatcher, Esq.
Andriana N. Bravo, Esq.
THE MYERS LAW GROUP, A.P.C.
9327 Fairway View Place, Suite 100
Rancho Cucamonga, CA 91730
Telephone: (909) 919-2027
Facsimile: (888) 375-2102

To Defendant:

Lonnie D. Giamela, Esq.
FISHER & PHILLIPS LLP
444 South Flower Street, Suite 1500
Los Angeles, CA 90071
Telephone: (213) 330-4500
Facsimile: (213) 330-4501

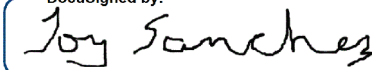
96. **Execution in Counterpart.** This Agreement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile or PDF or DocuSign signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

VII. EXECUTION BY PARTIES AND COUNSEL

IN WITNESS WHEREOF, the Parties and their counsel have executed this Stipulation on the date below their signatures or the signature of their representatives. The date of the Stipulation shall be the date of the latest signature.

Dated: August 5, 2024, 2024

TOY SANCHEZ, Plaintiff

DocuSigned by:

65E566CAB76C482...

Dated: _____, 2024

AIR METHODS CORPORATION

By: _____

Name: _____

Title: _____

Approved as to form and content:

Dated: _____, 2024

FISHER & PHILLIPS LLP

By: _____

Lonnie D. Giamela, Esq.
Attorneys for Defendant, Air Methods Corporation

Lonnie D. Giamela, Esq.
FISHER & PHILLIPS LLP
444 South Flower Street, Suite 1500
Los Angeles, CA 90071
Telephone: (213) 330-4500
Facsimile: (213) 330-4501

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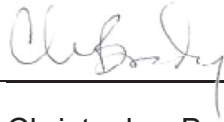
IN WITNESS WHEREOF, the Parties and their counsel have executed this Stipulation on the date below their signatures or the signature of their representatives. The date of the Stipulation shall be the date of the latest signature.

Dated: _____, 2024

TOY SANCHEZ, Plaintiff

Dated: August 1, 2024

AIR METHODS CORPORATION

By: 

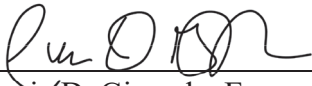
Name: Christopher Brady

Title: General Counsel & Corporate Secretary

Approved as to form and content:

Dated: August 3, 2024

FISHER & PHILLIPS LLP

By: 

Lonnie D. Giamela, Esq.

Attorneys for Defendant, Air Methods Corporation

Lonnie D. Giamela, Esq.
FISHER & PHILLIPS LLP
444 South Flower Street, Suite 1500
Los Angeles, CA 90071
Telephone: (213) 330-4500
Facsimile: (213) 330-4501

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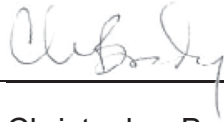
IN WITNESS WHEREOF, the Parties and their counsel have executed this Stipulation on the date below their signatures or the signature of their representatives. The date of the Stipulation shall be the date of the latest signature.

Dated: _____, 2024

TOY SANCHEZ, Plaintiff

Dated: August 1, 2024

AIR METHODS CORPORATION

By: 

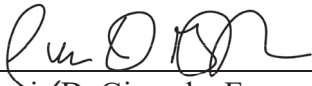
Name: Christopher Brady

Title: General Counsel & Corporate Secretary

Approved as to form and content:

Dated: August 3, 2024

FISHER & PHILLIPS LLP

By: 

Lonnie D. Giamela, Esq.

Attorneys for Defendant, Air Methods Corporation

Dated: August 6, 2024

THE MYERS LAW GROUP, A.P.C.

By: _____

David P. Myers, Esq.

Jason Hatcher, Esq.

Andriana N. Bravo, Esq.

Attorneys for Plaintiff on behalf of herself and all
others similarly situated

Exhibit A

NOTICE OF CLASS ACTION SETTLEMENT

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO
Toy Sanchez v. Air Methods Corporation, et al.
Case No. CIVSB2208677

*A court authorized this notice. This is not a solicitation from a lawyer.
This is not a lawsuit against you. You are not being sued. However, your legal rights are affected
by whether you act or do not act.*

TO: All current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time from May 17, 2018, through January 31, 2024. (“The Class”).

Based on information in Defendant’s records, you may be a Class Member whose legal rights will be affected by this Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY. IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

INFORMATION CONTAINED IN THIS NOTICE:

1. Why Have I Received This Notice?	Page 1
2. What Is This Case About?.....	Page 2
3. Your Estimated Payment under this Settlement.....	Page 2
4. Am I a Class Member?	Page 2
5. How Does This Class Action Settlement Work?.....	Page 2
6. Who Are the Attorneys Representing the Parties?	Page 3
7. What Are My Options?	Page 3
8. How Do I Opt Out or Exclude Myself From This Settlement?.....	Page 4
9. How Do I Object to the Settlement?	Page 4
10. How Does This Settlement Affect My Rights?	Page 5
11. How Much Can I Expect to Receive From The Class Settlement and PAGA Settlement?	Page 6
12. How Much Can I Expect to Receive From The PAGA Settlement?.....	Page 7
13. How Will the Attorneys for the Settlement Class and the Class Representative Be Paid?	Page 8

Air Methods Corporation will not retaliate against you regarding this settlement, whether you do nothing, ask to be excluded, or file an objection.

1. Why Have I Received This Notice?

You are receiving this notice because Air Methods Corporation’s records indicate that you are a current or former hourly non-exempt office-based, employee of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California who worked at any time from May 17, 2018, through January 31, 2024. (the “Class Period”).

A Preliminary Approval Hearing was held on [DATE], in the Superior Court of California, County of San Bernardino. The Court conditionally certified the Class for settlement purposes only and

directed that you receive this Notice.

The Court will hold a Final Approval Hearing concerning the proposed settlement on [DATE], at [TIME], in Department S26-SBJC of the Superior Court of California, for the County of San Bernardino, located at 247 W. Third Street, San Bernardino, CA 92415.

2. What Is This Case About?

This case involves claims against Defendant Air Methods Corporation (“Defendant”), for alleged violations of wage and hour laws. Plaintiff Toy Sanchez (“Plaintiff”), on behalf of herself and all current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time from May 17, 2018, through January 31, 2024, filed an action against Defendant in the Superior Court for the State of California, County of San Bernardino, Case Number CIVSB22086772 on May 17, 2022 (the “Action”).

The Action alleges that, with regard to Defendant’s current and former hourly non-exempt office-based, employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time from May 17, 2018, through January 31, 2024, Defendant failed to pay all overtime and double time wages, failed to provide rest periods, failed to pay meal and rest period premiums at the regular rate of pay, and failed to provide accurate wage statements. The Action also alleges that Defendant violated California’s Unfair Competition Law (Bus. & Prof. Code § 17200, *et seq.*) and is liable for civil penalties under the Private Attorneys General Act (Lab. Code § 2698, *et seq.*) (“PAGA”) for these claims.

After engaging in investigations related to these claims and participating in private mediation before an experienced mediator, Plaintiff and Defendant agreed on a class settlement to resolve this Action in its entirety. Plaintiff and Defendant agreed to a settlement to be paid according to the terms set forth below.

3. Your Estimated Payment Under this Settlement?

Your total estimated payment under this Settlement is \$ ____.

This total estimated payment is the sum of any Participating Class Member Settlement Share and Individual PAGA Payment, if applicable, as outlined below.

4. Am I a Class Member?

You are a Class Member if you worked as a office-based, billing department and/or non-billing department, hourly non-exempt employee for Defendant at any time during the Class Period.

5. How Does This Class Action Settlement Work?

In this Action, Plaintiff sued on behalf of herself and all current and former hourly non-exempt office-based, employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time during the Class Period. For purposes of this settlement, Plaintiff and these other office-based hourly non-exempt employees comprise a “Class” and are “Class Members”. The settlement of this Action resolves the wage and hour claims of all Class Members, except for those who exclude themselves from the Class by requesting to be excluded

in the manner set forth below.

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong.

By agreeing to resolve the lawsuit, all parties avoid the risks and cost of a trial. Plaintiff and the attorneys believe the settlement is fair and reasonable. Defendant expressly denies the allegations of wrongdoing and violations of law alleged and further denies any liability whatsoever to Plaintiff or to the Class. Defendant is settling the lawsuit as a compromise of these claims.

The Court file has the settlement documents, which explain the settlement in greater detail. The Court must review the terms of the settlement and determine if it is fair and reasonable to the Class.

6. Who Are the Attorneys Representing the Parties?

Attorneys for Plaintiff and the Class	Attorneys for Defendant Air Methods Corporation
THE MYERS LAW GROUP, A.P.C. David P. Myers, Esq. Jason Hatcher, Esq. Andriana N. Bravo, Esq. 9327 Fairway View Place, Suite 100 Rancho Cucamonga, CA 91730 Tel: 909-919-2027 Fax: 888-375-2102	FISHER & PHILLIPS LLP Lonnie D. Giamela, Esq. 444 South Flower Street, Suite 1500 Los Angeles, CA 90071 Tel: 213-330-4500 Fax: 213-330-4501

The Court has decided that The Myers Law Group, A.P.C. is qualified to represent you and all other Class Members simultaneously, and that Plaintiff will serve as the Class Representative.

You do not need to hire your own attorney because Class Counsel is working on your behalf. However, if you want your own attorney, you may hire one at your own expense.

7. What Are My Options?

The purpose of this Notice is to inform you of the proposed settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

Important Note: Air Methods Corporation will not retaliate against you in any way for either participating or not participating in this Settlement.

- DO NOTHING:** If you do nothing and the Court grants final approval of the settlement, you become part of this lawsuit for all claims asserted in this case and will automatically receive a payment from the settlement. You will be bound by the Final Judgment and you will give up your right to pursue

the Released Claims (defined below) against Air Methods Corporation or any of the Released Parties.

- **OPT OUT:** If you do not want to participate as a Class Member, you may “opt out”, which will remove you from the Class and this Action. If the Court grants final approval of the settlement, you will not receive any money and you will not give up the right to sue Air Methods Corporation or any of the Released Parties for the Released Claims. You must timely send a written opt-out request (details below) to the Settlement Administrator if you choose to opt out. Opting out does not allow you to opt out of the Private Attorneys General Act portion of the settlement.
- **OBJECT:** You may file a legal objection to the proposed settlement with the Settlement Administrator, which will be provided to the Court. If the Court overrules your objection, you will be part of the settlement and will receive a payment from the settlement. If you would like to object, you must not opt out of this case.

The procedures for opting out and objecting are set forth below in the sections entitled, “How Do I Opt Out or Exclude Myself from this Settlement?” and “How Do I Object to the Settlement?”

8. *How Do I Opt Out or Exclude Myself from this Settlement?*

If you do not want to take part in the settlement, you must sign and mail a written request for exclusion to the Settlement Administrator. The written request must: (a) state your name, address, telephone number and the last four digits of your social security or tax identification number; (b) state “I understand that I am requesting to be excluded from the Settlement and that I will receive no money from the Settlement. I understand that, if I opt-out of the Settlement, I may bring a separate action, but I might lose my separate action or win and recover nothing or less than what I would have recovered under the Settlement provisions in this case.”; (c) be addressed to the Settlement Administrator at [Phoenix Settlement Administrators, ****Address for Settlement Administrator ****]; (d) be signed by you or your lawful representative; and (e) be postmarked on or before 45 days after notice is mailed out.

If you submit a valid and timely request to opt out of the settlement in compliance with the procedure above, you will no longer be a member of the Class, and you will not receive a settlement payment. By opting out of the Class, you will retain whatever rights or claims you may have against Air Methods Corporation for the Released Claims as defined in Section No. 9 below, and any monies to which you would have been entitled under the settlement will be proportionately distributed to the rest of the participating Class Members, i.e., those who have not excluded themselves from the settlement (**except for the Private Attorneys General Act portion of the settlement, which is not subject to the opt out option**).

If the Court approves the settlement and enters Final Judgment, the Final Judgment will bind all Class Members who do not request exclusion from the settlement.

9. *How Do I Object to the Settlement?*

If you are a Class Member who does not opt out of the settlement, you may object to the settlement, personally or through an attorney, by (1) mailing your written objection to the Settlement Administrator at [Phoenix Settlement Administrators, ****Address for Settlement Administrator****] postmarked on or before [DATE] [45 days after notice packet mailed out]; (2) filing the objection with the Court at the address listed above; and (3) serving the objection upon all counsel listed in Section 5 with a copy of your objection. In order for your objection to be valid and effective, it must be filed and served on all counsel by [DATE] [45 days after notice packet mailed out].

Your objection must reference the name of the case and case number: “*Toy Sanchez v. Air Methods Corporation, et al.*, Case No. CIVSB2208677.” Your objection must (a) state your full name, address, and telephone number; (b) include the words “Notice of Objection”; (c) describe in clear and concise terms the legal and factual arguments supporting the objection; (d) list identifying witness(es) you may call to testify at the Final Approval Hearing; and (e) provide true and correct copies of any exhibit(s) you intend to offer at the Final Approval Hearing. The objection must also be signed by you or your lawful representative and clearly state the basis for your objection.

An objector who wants to appear at the Final Approval Hearing must state his or her intention to do so at the time he or she submits his or her written objection(s) by mailing a notice of intention to appear to the Settlement Administrator at the above address.

Again, to be valid and effective, any objections must be mailed to the Settlement Administrator postmarked on or before [DATE] [45 days after notice packet mailed out] and must be filed with the Court and served on all counsel by [DATE] [45 days after notice packet mailed out]. Late objections will not be considered.

If the Court rejects your objection, you will receive a settlement payment and will be bound by the terms of the settlement.

10. *How Does this Settlement Affect My Rights? What Are the Released Claims?*

If the proposed settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not submit a timely and valid request to be excluded from the settlement will be bound by the Court’s Final Judgment and will release Air Methods Corporation, and all its past, present or future parent, subsidiary, affiliate, predecessor or successor, and all agents, employees, owners, shareholders, insurers, reinsurers, assigns, officers, directors and attorneys (“Released Parties”) from the Class Released Claims.

The Class Released Claims are as follows: any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, restitution and other equitable relief, liquidated damages or penalties; actions or causes of action reasonably arising out of the allegations and claims asserted in the Second Amended Complaint, excluding the PAGA cause of action, including without limitation to, any and all claims for alleged unpaid wages, including overtime and double time wages, for the alleged failure to provide rest periods, alleged unpaid

meal and rest period premiums, itemized wage statement penalties, waiting time penalties, arising under the California Labor Code (excluding PAGA) and/or Business & Professions Code, (including Section 17200 *et seq.*); and any other benefit claimed on account of the allegations asserted in the Second Amended Complaint; including alleged violations for California Labor Code sections 201, 202, 203, 218, 226, 226.7, 510, 512, 1194, 1194.2 and 1197. This release shall apply to all claims arising at any point during the Class Period.

11. How Much Can I Expect To Receive From The Class Settlement?

Air Methods Corporation will pay, subject to Court approval, a Gross Settlement Amount of \$550,000 to cover: (1) the Class Service Payment to Plaintiff in an amount up to \$10,000.00 for prosecution of the Action and a general release of all claims; (2) Administrative Costs to the Settlement Administrator, Phoenix Settlement Administrators up to \$7,500; (3) Class Counsel Fees Payment in an amount up to \$183,333.00 (one-third of the Gross Settlement Amount) for the services of Class Counsel on behalf of the Class; (4) Class Counsel Litigation Expenses Payment estimated not to exceed \$15,000.00 for Class Counsel’s litigation costs; and (6) a PAGA Payment of \$30,000.00 (75% of the \$20,000.00 will be paid to the California Labor and Workforce Development Agency, and the remaining 25% will be distributed to Participating Class Members).

After deducting the above-referenced items, the remaining sum estimated at **\$304,166.67** (“Net Settlement Amount” or “NSA”), shall be distributed to all Class Members who have not opted out of the settlement. The amount allocated for each individual Participating Class Member will be determined based on their individual number of Workweeks allocated to Fund 1 and Fund 2. The Settlement Share for each individual Participating Class Member will be the sum of the proportionate share of Fund 1 and Fund 2. Fund 1 represents 55% of the Net Settlement Amount. Fund 1 is allocated to Billing Department Class Members. Fund 2 represents 45% of the Net Settlement Amount and is allocated to the Non-Billing Department Class Members. This distribution takes into account disputed overtime and double time claims based on bonuses that employees in the Billing Department may have been eligible for.

Billing Department Settlement Share Calculation. All Participating Class Members with Workweeks in the Billing Department will have a proportionate share derived from Fund 1 by dividing Fund 1 by the total number of Workweeks worked in the Billing Department by Participating Class Members and then multiplying that Workweek value by the individual Participating Class Member’s total Workweeks worked in the Billing Department.

Non-Billing Department Settlement Share Calculation. All Participating Class Members with Workweeks in the Non-Billing Department will have a proportionate share derived from Fund 2 by dividing Fund 2 by the total number Workweeks worked in Department other than the Billing Department by Participating Class Members and then multiplying that Workweek value by the individual Participating Class Member’s total Workweeks worked in Departments other than the Billing Department.

Air Methods Corporation’s records indicate your individual Workweeks as follows:

- Billing Department Workweeks:



- Non-Billing Department Workweeks: [REDACTED]

Based upon Air Methods Corporation's records, your estimated Participating Class Member Settlement Share is \$ [REDACTED], less taxes. Of each Individual Settlement Share, 20% will be allocated as wages, and 80% shall be allocated as interest and penalties. Applicable payroll taxes will be withheld from the wage portion of your Settlement Share only. Exclusive of the Gross Settlement Amount, Air Methods Corporation is responsible for payment of Air Methods Corporation's share of any employer payroll taxes to be paid in connection with the settlement.

Depending on rulings from the Court that might affect the Gross Settlement Amount, as well as the number of Class Members who may opt out of the settlement, the actual amount you will receive if the Court grants Final Approval of the settlement may vary from the above estimated amount.

It is strongly recommended that, upon receipt of your Settlement Payment check, you immediately cash it or cash it before 180 days. If any checks remain uncashed or not deposited by the expiration of the 180-day void date, the Settlement Administrator will pay the funds represented by such unredeemed checks to the California State Controller's Office, Unclaimed Property Division to be held in your name under California's escheatment laws.

If you believe the amount of compensation that you received during the Class Period is wrong, or the calculation of your share of the Settlement Payment is wrong, you must submit an explanation in writing describing why you believe the information is wrong, along with any supporting information and/or documentation. Your written dispute must: (a) state the case name and number, (b) state your name, address, telephone number, and the last four digits of your social security or tax identification number; (c) clearly state your dispute; (d) be signed by you or your lawful representative; and (e) be postmarked no later than thirty (30) calendar days after [DATE] [45 days after notice packet mailed out].

12. How Much Can I Expect To Receive From The PAGA Settlement?

The PAGA Employees are defined as all non-exempt, hourly, employees in the state of California for Defendants who provide and/or who provided patient advocate/collections services in California during the PAGA Period. The PAGA Period is May 17, 2021 to January 31, 2024.

The PAGA Released Claims are any and all claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*, that were asserted in Plaintiff Sanchez's May 17, 2022 LWDA letter reporting violations of California Labor Code §§ 200, 201, 202 *et seq.*, 203, 218, 218.5, 226, 226.7, 510, 1194, 1194.2, and 1197, California Business and Professions Code § 17200, *et seq.*, and IWC Wage Order No. 4-2001 for the PAGA Employees for the PAGA Period.

The PAGA Payment equals Twenty Thousand Dollars (\$20,000.00) of the Gross Settlement Amount allocated to satisfy any claim for penalties that may be owed under PAGA and the operative complaint's PAGA claims.

Pursuant to Labor Code § 2699, *et seq.*, Seventy-five percent (75%), or Fifteen Thousand Dollars (\$15,000), of the PAGA Payment shall be paid to the California Labor & Workforce Development

Agency ("LWDA") and twenty-five percent (25%), or Five Thousand Dollars (\$5,000), shall be part of the Net Settlement Amount distributed to the PAGA Employees.

The Individual PAGA Payment for the individual PAGA Employees shall be calculated by (a) dividing \$5,000 by the total number of Workweeks worked by all PAGA Employees during the PAGA Period and (b) multiplying the result by the number of Workweeks the individual PAGA Employee worked during the PAGA Period.

Air Methods Corporation's records indicate your individual PAGA Workweeks as follows:

- PAGA Workweeks: [REDACTED]

Based upon Air Methods Corporation's records, your estimated Individual PAGA Payment is \$[REDACTED]. 100% of the Individual PAGA Payment will be allocated as interest and penalties.

The Individual PAGA Payment is in addition to the Participating Class Member Settlement Share.

13. How Will the Attorneys for the Settlement Class and the Plaintiff Be Paid?

The attorneys for Plaintiff and the Class will be paid from the Gross Settlement Amount. Subject to Court approval, the attorneys for Plaintiff and the Class shall be paid an amount not to exceed one-third of the Gross Settlement Amount equate to One Hundred Eighty-Three Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$183,333.33) and actual litigation costs not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00).

The Plaintiff will also be paid, subject to Court approval, an amount not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00), as a service payment for the initiation of and prosecution of this case and a general release of all claims.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact any of the attorneys listed above, counsel of your choice, or may contact Phoenix Settlement Administrators, the Settlement Administrator, by mail, facsimile or at the telephone number listed below, toll free. If you move after receipt of this Notice but before receipt of your settlement payment, please provide the Settlement Administrator with your new address.

Phoenix Settlement Administrators

[ADDRESS]

[PHONE]

[FAX]

This Notice is only a summary of the Action and the settlement. For a more detailed statement of the matters involved in the Action and the settlement, you may refer to the pleadings, the Joint Stipulation of Settlement and Release, and other papers filed in this Action, which may be inspected at the Court located at 247 W. Third Street, San Bernardino, CA 92415 during regular business hours of each court day.

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT.

Exhibit B

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Attorneys for TOY SANCHEZ and
all others similarly situated.

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

TOY SANCHEZ, on behalf of herself and all
others similarly situated,

Plaintiff,

vs.

AIR METHODS CORPORATION, a
Delaware Corporation; and DOES 1
THROUGH 100, inclusive

Defendants.

Case No. CIVSB2208677

CLASS ACTION

**SECOND AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES**

1. **Failure to Pay All Overtime Wages**
2. **Failure to Provide Rest Periods**
3. **Violations of Labor Code §§226.7, 512,
and IWC Wage Order No. 4-2001**
4. **Failure to Provide Accurate Wage
Statements**
5. **Unfair Competition**
6. **Private Attorneys General Act**
7. **Failure to Pay All Wages Due At
Separation**

DEMAND FOR JURY TRIAL

I. INTRODUCTION

This is an action brought by Plaintiff TOY SANCHEZ (“Plaintiff”), on behalf of herself and all others similarly situated, against AIR METHODS CORPORATION and other as of yet unnamed Defendants (hereinafter collectively “Defendants” or “AMC”) alleging, among other things violations of the California Labor Code and Unfair Competition Law. Plaintiff seeks damages, attorneys’ fees and costs of suit. Plaintiff is informed and believes, and on that basis alleges, as follows:

II. GENERAL ALLEGATIONS

1. This is a California state-wide class action for wage and hour violations arising out of, among other things, Defendants’ failure to compensate their California hourly non-exempt patient advocate and/or collections employees in compliance with California law. As more fully described herein, Defendants failed and continue to fail compensate Plaintiff and class members overtime premiums based on the correct regular rate of pay, provide legally compliant non-captive paid rest breaks, provide premium pay remedies at the regular rate of compensation, and engage in other Labor Code violations.

2. Plaintiff seeks among other things, all wages, restitutionary disgorgement, and statutory penalties. Plaintiff seeks to represent the following Class:

All current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time from May 17, 2018, through January 31, 2024. (“the Class”).

3. This Court is the proper court and this action is properly filed in the County of San Bernardino and in this judicial district because Defendants do business in the County of San Bernardino and because Defendants’ obligations and liability arise therein.

4. Plaintiff is a current non-exempt Patient Advocate for Defendants and a resident of the County of San Bernardino, State of California. During the relevant time period, Plaintiff performed collections-related services for Defendants in the State of California.

5. Plaintiff is informed and believes, and thereon alleges that Defendant Air Method Corporation is a Delaware Corporation that is headquartered in Greenwood Village, Colorado.

6. The true names and capacities, whether individual, corporate, associate, or otherwise, of DOES 1 through 100 are unknown to Plaintiff, who therefore sues the DOE Defendants by fictitious names. Plaintiff will amend this Complaint to show their true names and capacities when they have been ascertained.

7. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein were performed by, and/or are attributable to, all Defendants, each acting as agents and/or employees, and/or under the direction and control of each of the other Defendants, and that said acts and failures to act were within the course and scope of said agency, employment and/or direction and control. Plaintiff is informed and believes, and thereon alleges, that at all times material hereto Defendants were and are the agents of each other.

8. Plaintiff is informed and believes, and thereon alleges, that Defendant DOES 1 through 100 are the partners, owners, shareholders, or managers of Defendant Employers, and were acting on behalf of Defendant Employers in the payment of wages to Plaintiff.

9. At all relevant times alleged herein Plaintiff was employed by Defendants, and Plaintiff held a position with Defendants in the County of San Bernardino, State of California.

I. FACTS COMMON TO MORE THAN ONE CAUSE OF ACTION

10. Plaintiff and the Class worked as hourly non-exempt patient advocate/collections employees for Defendants in the state of California and received bonuses.

11. Throughout the Class Period, Plaintiff and all Class members were and are employees of Defendants, entitled to all of the protections afforded to employees under the Labor Code and applicable IWC Wage Orders.

12. Defendants' primary business is providing helicopter-based air medical transport services. In providing these air medical transport services, Defendants charge fees to patients, insurance providers, and other financially responsible parties. Defendants collect these fees and issue bills via patient advocate/collections services, which is performed in part by Plaintiff and the Class members. As a Patient Advocate, Plaintiff is responsible for patient collections and ensuring reimbursement to Defendants from responsible parties. In providing collections services, Plaintiff is responsible for issuing billing statements, determining collectability, communicating with insurance

companies, and additional responsibilities in the service of collecting monies for the medical-related air transport services provided by Defendants.

13. At all times during the liability period, Defendants failed to pay Plaintiff and Class members overtime wages based on their regular rate of pay. Plaintiff and the Class members received non-discretionary bonuses that were not included in the regular rate of pay for calculating overtime premium pay.

14. When Class members worked shifts over eight (8) hours per day, or over forty (40) hours per week, Defendants did not pay them overtime time in accordance with the California Labor Code and applicable Wage Order.

15. Defendants failed to pay Plaintiff and the Class members overtime wages by failing to include all remuneration when calculating the regular rate of pay for overtime by omitting non-discretionary bonus payments.

16. Defendants' conduct, as alleged herein, has caused Plaintiff and Class members damages including, but not limited to, loss of wages and compensation.

17. Defendants are liable to Plaintiff and the Class for failing to pay all earned overtime wages, failing to provide legally compliant paid rest periods, failing to pay all meal and/or rest period premium pay remedies at the correct regular rate of compensation, failing to provide accurate wage statements, and unfair competition.

18. Plaintiff is a member of and seeks to be the representative for the Class of similarly situated employees who all have been exposed to, have suffered, and/or were permitted to work under, Defendants' unlawful employment practices as alleged herein.

19. Plaintiff and the Class were suffered and/or permitted to and worked in excess of eight (8) hours in a day and/or forty (40) hours in a week without receiving all earned overtime pay for all overtime hours worked. Despite knowing that Plaintiff and the Class were working overtime hours, Defendants refused to pay the full amount of overtime premiums for all overtime hours worked.

20. Plaintiff is informed, believes and on that basis alleges that throughout the relevant time period, Defendants failed to authorize and provide 10-minute paid rest periods compliant with the provisions of the California Labor Code and applicable Wage Order. Plaintiff and Class members

were assigned to and required to work shifts lasting over four (4) hours and were not provided nor allowed to take a non-captive paid ten-minute uninterrupted rest break during each four (4) hour work period, or major fraction thereof, at the direction of Defendants and/or with Defendants knowledge and acquiescence.

21. Plaintiff is informed, believes, and on that basis alleges that throughout the relevant time period, Defendants failed to pay meal and/or rest period premium pay remedies at the correct regular rate of compensation as required by the California Labor Code and applicable Wage Order. *See Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal. 5th 858 (2021).

22. The wage statements provided by Defendants failed to provide accurate information as to the hourly rate for all hours worked, the net wages earned, and the gross wages earned per pay period.

23. The underpayment of wages to Plaintiff and the Class are a consequence of Defendants' unlawful policies and practices which were centrally devised, implemented, communicated, and applied to Plaintiff and the Class.

24. Because of Defendants' unlawful conduct, Plaintiff and the Class have been and continue to be systematically deprived of their earned wages to which they are entitled by law and deprived of other benefits of the Labor Code, and applicable IWC Wage Orders, to the detriment of herself and the public at large.

CLASS DEFINITION AND CLASS ALLEGATIONS

25. Plaintiff brings this action on her own behalf and on behalf of all others similarly situated, pursuant to California Code of Civil Procedure §382, and as a member of the Class defined as follows:

All current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service ("PBS") facility in San Bernardino, California at any time from May 17, 2018, through January 31, 2024.

Sub-Class 1

All current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service ("PBS") facility in San Bernardino, California at any time from May 17, 2018, through January 31, 2024 and received bonus payments and worked more than eight (8) hours in a workday or forty (40) hours in a

workweek. (“Regular Rate” Sub-Class).

Sub-Class 2

All current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time from May 17, 2018, through January 31, 2024 and worked one (1) shift of four (4) hours or more in a workday. (“Rest Period” Sub-Class).

Sub-Class 3

All current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time from May 17, 2018, through January 31, 2024 and worked one (1) shift of six (6) hours or more in a workday. (“Meal Period” Sub-Class).

Sub-Class 4

All current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time from May 17, 2021, through January 31, 2024 and received a wage statement and is a member of Sub-Class 1, 2 and/or 3. (“Wage Statement” Sub-Class).

Sub-Class 5

All current and former hourly non-exempt office-based employees of Defendant at its Patient Business Service (“PBS”) facility in San Bernardino, California at any time from May 17, 2019, through January 31, 2024 who are members of Sub-Class 1, 2 and/or 3. (“WTP” Sub-Class).

26. Plaintiff reserves the right to amend or otherwise alter the class definition presented to the Court at the appropriate time, or to alter, propose or eliminate sub-classes, in response to facts learned through discovery, legal arguments advanced by Defendants or otherwise.

27. Further, this action is brought for the benefit of the public, who are entitled to restitution of those funds improperly withheld by Defendants.

28. This action has been brought and may be properly maintained as a class action pursuant to the provisions of the Code of Civil Procedure §382 and other applicable law.

29. **Numerosity:** Members of the Class are so numerous that their individual joinder is impracticable. The precise number of Class members and their addresses are known to Plaintiff or will be known to Plaintiff through discovery. Class members may be notified of the pendency of this

action by mail, electronic mail, the internet, or published notice.

30. **Typicality:** Plaintiff's claims are typical of the claims of members of the proposed classes. Defendants employed Plaintiff during the statutory period, and Plaintiff has been subjected to Defendants' unlawful employment practices, as alleged in this Complaint.

31. **Adequacy of Class Representative:** Plaintiff will fairly and adequately protect the interests of the classes. Plaintiff's interests do not conflict with Class members' interests, and Plaintiff has retained competent and experienced counsel. The interests of Class members will be fairly and adequately protected by Plaintiff and her counsel.

32. **Common Questions of Law and Fact:** Common questions of law and fact exist as to all Class members and predominate over any questions affecting solely individual members of the proposed Class:

- a. Whether Defendants engaged in a pattern or practice of failing to pay Plaintiff and the members of the Class the full amount of overtime wages, based on the correct regular rate of pay, for each hour in excess of eight (8) per day, or forty (40) per week, worked in violation of the applicable Labor Code provisions including §§510 and 1194;
- b. Whether Defendants engaged in a pattern or practice of failing to provide Plaintiff and the members of the Class paid rest periods in violation of IWC Wage Order No. 4-2001 and Labor Code §226.7 by requiring Plaintiff and Class members to remain on Defendant's property during the rest breaks;
- c. Whether Defendants engaged in a pattern or practice of failing to provide Plaintiff and the members of the Class premium pay remedies for meal and/or rest period violations at the regular rate of compensation in violation of IWC Wage Order No. 4-2001 and Labor Code §226.7;
- d. Whether Defendants engaged in unfair practice and violated California Business and Professions Code §17200 by failing to compensate Plaintiff and the members of the Class their full amount of overtime wages;
- e. Whether Defendants failed to provide accurate wage statements to Plaintiff and the

members of the Class; and

f. The nature and extent of class-wide injury and measure of damages for the injury.

33. **Superiority and Substantial Benefit:** A class action is the superior method for the fair and efficient adjudication of this controversy. Defendants implemented illegal schemes that are generally applicable to the members of the proposed plaintiff class and sub-classes. Damages suffered by each Class member may be relatively small given the burden and expense of individual prosecution of the complex and expensive litigation necessitated by Defendants' conduct. Further, it would be virtually impossible for the Class members to redress the wrongs done to them on an individual basis. Even if Class members could afford such individual litigation, the court system could not. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of a single adjudication, economies of scale, and comprehensive supervision by a single court.

34. Plaintiff knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action. Plaintiff is informed and believes, and on that basis alleges, that the amount of money due each Class member as economic damages is ascertainable from Defendants' records or may readily be determined by other means.

35. The Classes should also be certified because:

- a. The prosecution of separate actions by individual Class members would create a risk of inconsistent or varying adjudications with respect to individual Class members, which would establish incompatible standards of conduct for Defendants;
- b. The prosecution of separate actions by individual Class members creates the risk of adjudication with respect to them, which would, as a practical matter, be dispositive of the interests of the other Class members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests; and
- c. Defendants have acted or refused to act on grounds generally applicable to the Class, and/or general public, thereby making appropriate final and injunctive relief with respect to the Classes as a whole.

///

FIRST CAUSE OF ACTION

Failure to Pay All Overtime and Double Time Wages

Violation of Labor Code §§510 and 1194; IWC Wage Order No. 4-2001

(Against all Defendants)

36. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 35 of this Complaint.

37. Labor Code §510 mandates: “Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.” The California overtime requirement and wage requirement are non-waivable rights pursuant to LC §219.

38. Section 3(a)(1) of Wage Order No. 4-2001 (“WO 4-01”) mandates that employers pay one and one-half times the employees’ regular rate of pay for employees who work more than eight hours in a day or forty hours in a week and two times their regular rate of pay for any work in excess of twelve hours in one day.

39. Labor Code §1194(a) states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

40. Pursuant to Labor Code §§218 and 1194(a), Plaintiff may bring a civil action for overtime wages directly against the employer without first filing a claim with the Division of Labor

Standards Enforcement (“DLSE”) and may recover such wages, together with interest thereon, penalties, attorneys’ fees and costs. Further, pursuant to Labor Code §1198, it is unlawful to employ person for longer than the hours set by the IWC or under conditions prohibited by the applicable IWC Wage Orders. WO 4-01, as amended, applies to Plaintiff.

41. However, Defendants have failed and refused to pay Plaintiff and the class members overtime compensation for all overtime hours worked in excess of eight (8) hours per day and forty (40) hours per week as required by LC §§510, 1194 and the applicable Wage Orders. Plaintiff is informed and believes and based thereon alleges that the obligations and responsibilities of the class employees are irrelevant because Plaintiff and all other similarly situated employees were subjected to Defendants’ unlawful pay plans and its failure to pay overtime based on the regular rate of pay for all overtime hours worked by Plaintiff and the class members.

42. Defendants, and each of them, consistently administered a corporate policy which required Plaintiff and the Class members to work overtime without proper premium overtime pay at the regular rate of pay. Accordingly, Plaintiff and the Class members were and are entitled to overtime compensation, under California law, at the appropriate regular rate of pay. Defendants have failed to properly include items of remuneration when determining Plaintiff’s and the Class Members’ regular rate, this includes but is not limited to the failure to include bonus payments to Plaintiff and the Class members.

43. Plaintiff and the class members have been deprived of rightfully earned overtime compensation as a direct and proximate result of Defendants’ common policies, practices, and refusal to pay the full amount of compensation earned for all overtime hours worked.

44. Plaintiff, and the class, are entitled to and seek the full amount of all earned unpaid overtime pay based on the correct regular rate of pay, attorneys’ fees and costs, and interest pursuant to LC §1194 in an amount to be determined at trial.

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SECOND CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS

Violation of Labor Code §§226.7, 512, & IWC Wage Order No. 4-2001

(Against all Defendants)

45. Plaintiff restates and incorporates by reference each and every allegation contained in paragraphs 1 through 35, inclusive, as though fully set forth herein.

46. Labor Code §226.7(b) provides that “An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.”

47. Labor Code §516 provides that the Industrial Welfare Commission “may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers.”

48. Section §12 of the IWC Wage Order No. 4-2001 states: “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.”

49. Labor Code §226.7(b) and Section 12(B) of the Wage Order require an employer to pay one additional hour of compensation, at the regular rate of pay, per day for each rest period the employer failed to provide pursuant to the Labor Code and/or applicable Wage Order.

50. Plaintiff and the Class members worked over four (4) hours per shift and/or over six (6) hours per shift.

51. Plaintiff and the Class members were entitled to a duty-free and non-captive paid rest period of not less than ten (10) minutes for every four hours worked or major fraction thereof.

52. During the relevant time period, Defendants failed to provide legally compliant net ten

(10) minute paid rest periods to Plaintiff and the Class member by requiring the rest periods to be taken on Defendants' property.

53. As such, Plaintiff and the Class members were not allowed to leave Defendants' premises for their rest breaks in violation of *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257 as Defendants failed to relinquish control over how Plaintiff and the Class members spent their rest breaks.

54. As such, as a matter of Defendants' established company policy and/or practice, Defendants failed to authorize and permit all required paid rest periods established by Labor Code §§226.7 and 516 and Section 12 of the applicable Wage Order.

55. As a result of the unlawful acts of Defendants, Plaintiff and the Class members have been deprived of legally compliant paid rest breaks and are entitled to recover damages under Labor Code §226.7(b) and §12 of IWC Wage Order No. 4-2001 in the amount of one additional hour of compensation at their regular rate of pay for each day a paid rest break was not provided.

56. Pursuant to Labor Code §218.6 and Civil Code §3287, Plaintiff and the Class Members seek recover of pre-judgment interest on all amounts recovered herein.

THIRD CAUSE OF ACTION

VIOLATION OF LABOR CODE §§226.7, 512, and IWC Wage Order No. 4

(Against all Defendants)

57. Plaintiff restates and incorporates by reference each and every allegation contained in paragraphs 1 through 35, inclusive, as though fully set forth herein.

58. Labor Code §226.7(c) provides in relevant part that "If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission . . . the employer shall pay the employee one additional hour of pay at the *employee's regular rate of compensation* for each workday that the meal or rest or recovery period is not provided." (Emphasis added).

59. The "regular rate of compensation" as set forth in Labor Code §226.7 has the same meaning as "regular rate of pay" as used in Labor Code §510 for overtime and "encompasses all

non-discretionary payments, not just hourly wages”. *Ferra v. Loews Hollywood Hotel, LLC*, 11 Cal.5th 858, 863.

60. Labor Code §516 provides that the Industrial Welfare Commission “may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers.”

61. Section §11(B) of the IWC Wage Order No. 4-2001 states: “If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the ***employee’s regular rate of compensation*** for each workday that the meal period is not provided.” (Emphasis added).

62. Defendants’ uniform policy and practice failed to provide Plaintiff and the Class members, who incurred meal and/or rest period violations, the full amount of paid meal and/or rest period premium payments, at the regular rate of compensation, for noncompliant meal and/or rest periods. Defendants’ uniform policy and practice was to underpay meal and/or rest period premiums with payment at a rate significantly less than the employee’s regular rate of compensation.

63. Plaintiff incurred meal and/or rest period violations and received premium payments that were paid at a rate less than the regular rate of compensation, this includes but is not limited to the exclusion of non-discretionary bonuses from the regular rate of pay.

64. As such, as a matter of Defendants’ established company policy, Defendants failed to provide meal and/or rest periods and then failed to provide meal and/or rest period premium payments at the regular rate of compensation in violation of Labor Code §§226.7(b), 516, and Section 11(B) of Wage Order 4-2001.

65. As a result of the unlawful acts of Defendants, Plaintiff and the Class members have been deprived of legally compliant meal and/or rest breaks and the full amount of meal and/or period premium payments at the regular rate of compensation and are entitled to recover damages under Labor Code §226.7(b) and §12 of IWC Wage Order No. 4-2001 in the full amount of one additional hour of compensation at their regular rate of pay for each day a compliant meal and/or rest break was not provided.

66. Pursuant to Labor Code §218.6 and Civil Code §3287, Plaintiff and the Class members

seek recovery of pre-judgment interest on all amounts recovered herein.

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS

Violation of Labor Code §226

(Against all Defendants)

67. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 35 of this Complaint.

68. California Labor Code §226 provides:

(a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

69. Section 7(A) of the Wage Order requires accurate information pertaining to total wages paid each payroll period, total hours worked in the payroll period and applicable rates of pay, and incentive plan formula provided to the employees.

70. Labor Code §226(e) provides that an employee is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation of §226 occurs and one hundred dollars (\$100) for each subsequent pay period not to exceed an aggregate penalty of four thousand dollars (\$4,000), as well as an award of costs and reasonable attorneys' fees, for all pay periods in which the employer knowingly and intentionally failed to provide timely and accurate itemized statements to the employees.

71. At all material times, Defendants knowingly and intentionally failed to provide Plaintiff and the Class members with wage statements reflecting the gross wages earned, net wages earned, the applicable hourly rates at the corresponding hours worked, and/or list the rest period premium payment on the wage statement.

72. Plaintiff and the Class members suffered injury as a result of Defendants' knowing and intentional failure to provide accurate itemized wage statements as Plaintiff and the Class member were owed but not paid premium compensation for all premium hours worked, premium payments for rest period violations which were not reflected on the wage statements, and premium payments for meal and/or rest period violations at the regular rate of compensation. Plaintiff and the Class members suffered injury as a reasonable person could not promptly and easily determine from the wage statements alone the accurate amount of gross wages, applicable hourly rates at the corresponding hours worked, the net wages earned for the pay period and/or the number of rest period premium payments on the wage statements.

73. Plaintiff and the Class members are entitled to damages of statutory penalties pursuant to Labor Code §226(e) for these violations, in an amount to be determined at trial.

74. Plaintiff and the Class members are entitled to and seek costs and reasonable attorneys' fees pursuant to Labor Code §226(e).

75. Plaintiff further seeks injunctive relief and reasonable attorneys' fees and costs pursuant to Labor Code §226(h).

FIFTH CAUSE OF ACTION

UNFAIR COMPETITION

Violation of Business and Professions Code §§17200, *et seq.*

(Against all Defendants)

76. Plaintiff re-alleges and incorporates by reference each and every one of the allegations contained in the preceding and foregoing paragraphs of this Complaint as if fully set forth herein.

77. Beginning on an exact date unknown to Plaintiff but believed to have occurred at least since four (4) years before the filing of this action, Defendants have engaged in a pattern and practice of acts of unfair competition in violation of B&PC §17200, including the practices alleged herein.

78. Defendants, and each of them, are “persons” as defined by Business and Professions Code §17201.

79. Plaintiff seeks to enforce important rights affecting the public interest. Plaintiff sues on her own behalf and on behalf of the current, former, and future employees of the Defendants that were required to work overtime hours without receiving the full amount of overtime compensation, required to work shifts without legally compliant rest periods, provided meal and/or rest period premium pay at a rate not equal to the regular rate of compensation, and as parties harmed by Defendants unfair business practices.

80. Plaintiff and the Class members suffered injuries-in-fact and have lost money as a result of the Defendants’ unfair competition alleged herein.

81. Defendants previously or continue to engage in unlawful, unfair, and/or fraudulent business practices, as alleged in this Complaint, in violation of California’s B&PC §17200 *et seq.* by:

- a. Failing and refusing to pay Plaintiff and the Class members the full amount of overtime compensation in violation of Labor Code §§510, 1194, &1197 and IWC Wage Order No. 4-2001; and
- b. Failing and refusing to provide Plaintiff and the Class members legally compliant rest breaks or premium payments, at the regular rate of pay, in lieu thereof in violation of Labor Code §§226.7, 512 and IWC Wage Order No. 4-2001; and
- c. Failing and refusing to provide Plaintiff and the Class members meal and/or rest period premium payments, at the regular rate of pay, in lieu thereof in violation of Labor Code §§226.7, 512 and IWC Wage Order No. 4-2001.

82. All of these allegations constitute unfair business practices and/or unlawful business practices in violation of California B&PC §17200, *et seq.*

83. Defendants have avoided payment of wages, overtime wages and other benefits as required by the California Labor Code, the California Code of Regulations and applicable IWC Wage Orders. As a result of Defendants’ unfair business practices, Defendants have reaped unfair benefits and illegal profits at the expense of Plaintiff, the Class members, and others similarly

1 situated, and the members of the public. Defendants should be made to disgorge their ill-gotten
2 gains and to restore them to the Class, including Plaintiff.

3 84. Plaintiff and the Class members seek full restitution of said monies, as necessary and
4 according to proof, to restore any and all monies withheld and/or acquired by Defendants by means
5 of the unfair, unlawful, and fraudulent business practices complained of herein. Plaintiff seeks, on
6 behalf of all current and former employees of Defendants, restitution of monies retained by
7 Defendants. Plaintiff further seeks, on behalf of themselves and the Class members, the appointment
8 of a receiver, as necessary, to establish the total restitutionary relief from Defendants. The restitution
9 includes all wages withheld by Defendants as a result of the unfair, unlawful, and/or fraudulent
10 business practices; including interest thereon. Absent a statutory provision specifically governing
11 the type of claim at issue, the prejudgment interest rate is 10 percent. The acts complained of herein
12 occurred, at least in part, within the last four (4) years preceding the filing of the Complaint.

13 85. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned,
14 Defendants have engaged in unlawful, deceptive, and unfair business practices prohibited by
15 California B&PC §17200, thereby depriving their employees and the Class members, the minimum
16 working condition, standards and conditions due to them under the California labor laws and
17 Industrial Welfare commission wage orders as specifically described herein. Plaintiff further seeks
18 an order requiring Defendants to identify by full name, telephone number, and last known address
19 employees who worked or still work for Defendants for the Class members from four (4) years
20 preceding the filing of the original Complaint through the date of class certification. Plaintiff further
21 seeks an order requiring Defendants to timely pay restitution to all current and former employees,
22 including back wages, and interest.

23 86. By and through its unfair, unlawful, and/or fraudulent business practices and acts
24 described herein, Defendants have obtained valuable services from Plaintiff and all persons similarly
25 situated, and has deprived Plaintiff and all persons similarly situated of valuable rights and benefits
26 guaranteed by law, all to their detriment.

27 87. Plaintiff, and all persons similarly situated, and all persons in interest, are entitled to and
28 do seek such relief as may be necessary to restore to them the money and property which Defendants

have acquired, or of which Plaintiffs and class members have been deprived by mean of the herein described unfair, unlawful, and/or fraudulent business practices.

88. Plaintiff, and all persons similarly situated, and all persons in interest, are further entitled to and do seek a declaration that the above-described business practices are unfair, unlawful, and/or fraudulent, and declaratory relief of Defendants engaging in any of the herein described unfair, unlawful, and/or fraudulent business practices.

89. Plaintiff and the Class members request attorney's fees and costs pursuant to Code of Civil Procedure §1021.5 since this action is brought to vindicate important rights of a large class and the public.

SIXTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

Violation of Labor Code §§2698, *et seq.*

(Against all Defendants)

90. Plaintiff on behalf of herself and on behalf of all other aggrieved employees herein re-alleges and incorporates each and every one of the allegations contained in the preceding paragraphs as if fully set forth herein.

91. Labor Code §§2698-2699, the Labor Code Private Attorney General Act of 2004, provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (LWDA), or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the Labor Code, may be recovered through a civil action by an aggrieved employee on behalf of himself or herself, and collectively on behalf of all other current or former employees.

92. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies or employees, has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions to assess a civil penalty.

93. Plaintiff and Defendants' non-exempt hourly employees who provided patient advocate and/or collections services for Defendants are "aggrieved employees" as defined by Labor Code §2699, in that they are all current or former employees of Defendants, and one or more of the alleged

violations was committed against them.

94. Plaintiff gave written notice electronically to the LWDA, and by certified mail to Defendants of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violations as required by Labor Code §2699.3. More than 65 days has lapsed since notice to the LWDA and the LWDA has not responded to Plaintiff's notice. Accordingly, Plaintiff may commence a civil action to recover civil penalties for herself and other current and former employees under Labor Code §2699 pursuant to §2699.3.

95. Plaintiff asserts all of the claims in this Complaint against Defendants, individually and on behalf of the aggrieved employee class in her capacity as a private attorney general and seeks all applicable civil penalties available under the Labor Code for these alleged violations.

96. Pursuant to Labor Code §2699, Plaintiff, individually and on behalf of the aggrieved employee class, requests and seeks to recover from the Defendants; unpaid overtime and double time wages at the regular rate of pay, rest period premiums, meal and/or rest period premium payments at the regular rate of pay, waiting time penalties, wage statement violations and penalties according to proof. Plaintiff is further entitled to attorneys' fees and costs pursuant to Labor Code §2699(g)(1), as well as all civil penalties, including, but not limited to:

- 1) Penalties under Code of Regulations, Title 8 §11090 in the amount of \$50 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;
- 2) Penalties under Labor Code §256, in addition to and entirely independent and apart from other penalties provided in the Labor Code, including Labor Code §203, for any aggrieved employee who was discharged or quit, and was not paid all earned wages at termination in accordance with Labor Code §§201, 201.1, 201.5, 202, and 205.5, in the amount of a civil penalty of one day of pay for each day that the aggrieved employee was paid late, until payment was/is made, up to a maximum of thirty (30) days;
- 3) Penalties under Labor Code §558, in addition to and entirely independent and apart from other penalties provided under the Labor Code, in the amount of

\$50 for each underpaid aggrieved employee for each pay period the aggrieved employee was underpaid in addition to an amount sufficient to recover underpaid wages, and \$100 for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages, with all wages recovered pursuant to Labor Code §558 provided to the affected employees;

4) Penalties under Labor Code §226.3, in addition to and entirely independent and apart from other penalties provided in the Labor Code, in the amount of \$250 for each aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for each subsequent violation;

5) Penalties under Labor Code §1197.1, in addition to and entirely independent and apart from other penalties provided in the Labor Code, as follows:

i. For any initial violation that is intentionally committed, \$100 for each underpaid employee for each pay period for which the employee is underpaid;

ii. For each subsequent violation for the same specific offense, \$200 for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed; and

iii. Any and all wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to Labor Code §1197.1 to be paid to the affected employee;

6) Penalties under Labor Code §2699(f), in addition to and entirely independent and apart from other penalties provided in the Labor Code and for Labor Code violations without a specific civil penalty, in the amount of \$100 for each aggrieved employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;

97. Any and all additional civil penalties and sums as provided by the Labor Code and/or other statutes.

98. Plaintiff seeks and is entitled to have 75% of all penalties obtained be allocated to the LWDA and 25% to aggrieved employees.

99. Further, Plaintiff is entitled to seek and recover reasonable attorney's fees and costs pursuant to Labor Code §§2699(g)(1).

SEVENTH CAUSE OF ACTION

FAILURE TO PAY ALL WAGES DUE AT SEPARATION

Violation of Labor Code §§201, 203

(Against Defendants)

100. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, paragraphs 1 through 35 of this Complaint.

101. Plaintiff and the Class Members whose employment ended with Defendants during the relevant time period were entitled to be promptly paid all earned and unpaid wages at the time of termination, as required pursuant to Labor Code §§201 and 202, *et seq.* Defendants refused and/or intentionally failed to promptly compensate Plaintiff and the Class Members all earned rest period premium pay and/or meal period premium pay and/or overtime/double time wages timely upon separation. Based on this Plaintiff and the Class Members seek and are entitled to damages in the form of statutory waiting time penalties pursuant to LC §203.

102. Plaintiff and the Class Members whose employment terminated during the relevant time period were employees of Defendants covered by Labor Code §203 whose employment ended with Defendants.

103. Accordingly, pursuant to Labor Code §203, Plaintiff and the Class Members are entitled to waiting time penalties at an amount to be proven at trial.

III. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment as follows:

1. An order that the action be certified as a class action;
2. An order that Plaintiff be appointed class representatives;

3. An order that counsel for Plaintiff be appointed class counsel;
4. An order requiring Defendants to identify, by name, address and telephone number: All current and former hourly non-exempt employees for Defendants in California who at any time from four years preceding the filing of the original complaint through the date of class certification who provided patient advocate and/or collections services and received bonus;
5. For all unpaid wages due to Plaintiff and each Class member in amounts to be proven at trial;
6. For all unpaid overtime and double time wages due Plaintiff and each Class member;
7. For restitution of all unpaid wages due Plaintiff and each Class member;
8. For all applicable statutory penalties, in amounts to be proven at trial;
9. For general damages including compensatory damages according to proof;
10. For pre-judgment interest as allowed by Labor Code §§218.6 and 1194(a) as well as Cal. Civil Code §3287 and to the extent permitted by law, the California Constitution, and/or deemed equitable by the Court;
11. For all applicable interest on damages, wages, expenses, and penalties due;
12. For injunctive relief to prevent further violations of the California Labor Code;
13. For declaratory relief that Defendants engaged in unfair practices;
14. For declaratory relief that Defendants violated Labor Code §§226, 226.7, 510, 512, 1194, and 1197;
15. For restitution of all moneys due to Plaintiff and Class members, and disgorged profits from the unlawful and/or unfair business practices of Defendants, pursuant to California Business & Professions Code §17200;
16. For one (1) hour of pay at each of the employees' regular rate of compensation for each workday that a legally compliant rest break was not provided;
17. For one (1) hour of pay at each of the employees' regular rate of compensation for each workday that a legally compliant rest break was not provided;
18. For waiting time penalties pursuant to Labor Code §203;

19. For costs of suit, expenses and attorneys' fees pursuant to Labor Code §§226(e) and (h), 1194(a), 2699(g)(1), Code of Civil Procedure §1021.5, and all other applicable law;

20. On behalf of Plaintiff and all other aggrieved employees and the LWDA, for all civil penalties authorized by LC §2699, including but not limited to:

- a) For civil penalties per LC §226.3 in the amount of \$250 for each aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for each subsequent violation;
- b) For civil penalties per LC §256 in the amount of one day of pay, at the same rate, for each day that an aggrieved employee was paid late, at the time of termination, until payment was/is made, up to a maximum of thirty (30) days;
- c) For civil penalties pursuant to LC §558 as follows:
 - 1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
 - 2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages;
- d) For civil penalties per Code of Regulations, Title 8 §11090 in the amount of \$50 for each aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;
- e) For civil penalties per Labor Code §1197.1, in the amount of:
 - i. \$100 for each underpaid employee for each initial pay period for which the employee was intentionally underpaid;
 - ii. \$200 for each underpaid employee for each subsequent pay period for which the employee is underpaid regardless of whether the initial

violation is intentionally committed; and

iii. Any and all wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to Labor Code §1197.1 to be paid to the affected employee;

f) For civil penalties under LC §2699(f), in addition to and entirely independent and apart from other penalties provided in the Labor Code and for Labor Code violations without a specific civil penalty, in the amount of \$100 for each aggrieved employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for each subsequent violation, and;

21. For all such other and further relief that the Court may deem just and proper.

Dated:

THE MYERS LAW GROUP, A.P.C.

By: _____
David P. Myers,
Jason Hatcher,
Andriana N. Bravo,
Attorneys for Plaintiff TOY SANCHEZ