

Arby Aiwazian (SBN 269827)
Joanna Ghosh (SBN 272479)
Tara Zabehi (SBN 314706)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO**

LUISA PEREZ, individually, and on behalf
of other aggrieved employees pursuant to
the California Private Attorneys General
Act;

Plaintiff,

vs.

FRESNO POSTACUTE CARE, LLC, a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: 22CECG02916

Honorable Kristi Culver Kapetan
Department 502

**[PROPOSED] ORDER AND JUDGMENT
GRANTING APPROVAL OF PRIVATE
ATTORNEYS GENERAL ACT (CAL. LABOR
CODE § 2698, ET SEQ.) SETTLEMENT
AGREEMENT AND AWARD OF
ATTORNEYS' FEES AND COSTS, GENERAL
RELEASE FEE, AND SETTLEMENT
ADMINISTRATION COSTS**

[Notice of Motion and Motion for Approval of
Private Attorneys General Act (Cal. Labor Code §
2698, *Et Seq.*) Settlement Agreement and Award of
Attorneys' Fees and Costs, General Release Fee, and
Settlement Administration Costs; Declaration of
Plaintiff's Counsel (Tara Zabehi); and Declaration of
Plaintiff (Luisa Perez) filed concurrently herewith]

Date: December 31, 2024
Time: 3:30 p.m.
Department: 502

Complaint Filed: September 15, 2022
Trial Date: None Set

1 This matter has come before the Honorable Kristi Culver Kapetan in Department 502 of the Superior
2 Court of the State of California, for the County of Fresno, on December 31, 2024, at 3:30 p.m., on Plain-
3 tiff Luisa Perez’s (“Plaintiff”) Motion for Approval of Private Attorneys General Act (Cal. Labor Code §
4 2698, *Et Seq.*) Settlement Agreement and Award of Attorneys’ Fees and Costs, General Release
5 Fee, and Settlement Administration Costs (“Motion for Approval of Settlement”). Lawyers *for* Justice,
6 PC appeared for Plaintiff and De Castro Law Group, P.C. appeared for Defendant Fresno
7 PostAcute Care, LLC (“Defendant”).

8 On or around May 29, 2024, Plaintiff and Defendant (together, the “Parties”) executed the Private
9 Attorneys General Act Settlement Agreement and Release (“Settlement,” “Settlement Agreement,” or
10 “Agreement”).

11 The Court has reviewed and considered (1) the Motion for Approval of Settlement, (2) the
12 Declarations of Plaintiff’s Counsel Tara Zabehi and Plaintiff Luisa Perez, and (3) the Settlement Agreement.

13 Having duly considered the Parties’ papers and oral argument, and good cause appearing,

14 **IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:**

- 15 1. The Motion for Approval of Settlement is granted.
- 16 2. All terms used herein shall have the same meaning defined in the Settlement Agreement.
- 17 3. The Court finds that Plaintiff has satisfied the prerequisites under the California Private
18 Attorneys General Act (Cal. Labor Code § 2698, *et seq.*) (“PAGA”), including, and not limited to, providing
19 the California Labor and Workforce Development Agency (“LWDA”) and Defendant with notice of the
20 specific provisions of the California Labor Code alleged to have been violated, including, and not limited
21 to, the facts and theories to support the alleged violations, in conformity with California Labor Code §
22 2699.3(a).
- 23 4. The Court also finds that the Settlement Agreement has been submitted to the LWDA in
24 conformity with California Labor Code § 2699(l)(2) and that the LWDA has not sought to intervene or
25 appear in the above-captioned action (“Action”).
- 26 5. The Aggrieved Employees covered under the Settlement consist of the following individuals:
27 All current and former hourly-paid or non-exempt employees who worked for Defendant in the
28 State of California during the PAGA Period.

1 6. The Court finds that the Parties reached the Settlement as a result of arm's-length
2 negotiations.

3 7. Pursuant to California Labor Code § 2699(1)(2), the Court has reviewed the sum allocated
4 for payment of penalties under PAGA ("Net Settlement Amount"), and determines that it is fair, just,
5 reasonable, and adequate. The Court hereby approves the Net Settlement Amount. The Net Settlement
6 Amount shall be the Total Settlement Amount (\$141,128.63) less the approved Attorneys' Fees and Costs
7 to Lawyers *for* Justice, PC ("Plaintiff's Counsel"), General Release Fee to Plaintiff, and Settlement
8 Administration Costs to Phoenix Class Action Administrators (the "PAGA Settlement Administrator").
9 Seventy-five percent (75%) of the Net Settlement Amount shall be distributed to the LWDA ("LWDA
10 Payment") and twenty-five percent (25%) of the Net Settlement Amount shall be distributed to the
11 Aggrieved Employees ("Employees' Portion") in accordance with this Order and Judgment and the
12 Settlement Agreement.

13 8. The Court has considered the Settlement, and the monetary allocations provided thereby, and
14 finds that they are fair, just, reasonable, and adequate. The Court hereby directs the PAGA Settlement
15 Administrator to administer the Settlement and to make the payments as provided for by, and consistent
16 with, this Order and Judgment and the Settlement Agreement.

17 9. The Court approves the payment of \$49,395.02 to Lawyers *for* Justice, PC for attorneys' fees.
18 This amount shall be paid from the Total Settlement Amount and shall be disbursed in accordance with this
19 Order and Judgment and the Settlement Agreement.

20 10. The Court approves the payment of \$15,362.10 to Lawyers *for* Justice, PC for reimbursement
21 of litigation costs and expenses incurred in the Action. This amount shall be paid from the Total Settlement
22 Amount and shall be disbursed in accordance with this Order and Judgment and the Settlement Agreement.

23 11. The Court approves payment in the amount of \$7,500.00 to Plaintiff Luisa Perez for her
24 General Release Fee. This amount shall be paid from the Total Settlement Amount and shall be disbursed
25 in accordance with this Order and Judgment and the Settlement Agreement.

26 12. The Court approves payment up to the amount of \$6,000.00 to ILYM Group, Inc. for the
27 Settlement Administration Costs. This amount shall be paid from the Total Settlement Amount and shall be
28 disbursed in accordance with this Order and Judgment and the Settlement Agreement.

1 13. The Parties are directed to perform in accordance with the terms set forth in this Order and
2 Judgment and the Settlement Agreement.

3 14. The Court further finds that notice of the Settlement need not be provided to the Aggrieved
4 Employees; however, the Court approves the Cover Letter, attached hereto as “**EXHIBIT 1**,” and the PAGA
5 Settlement Administrator shall distribute the Cover Letter to the Aggrieved Employees at the same time that
6 it distributes payments to Aggrieved Employees for their share of the Employees’ Portion (“Individual
7 Settlement Share”).

8 15. Subject to the Court’s order granting approval of the Settlement, payment shall be made by
9 Defendant by transmitting the required sums to a qualified settlement account established by the PAGA
10 Settlement Administrator for administration of this Settlement, in two equal installments, according to the
11 following payment plan: (1) The First Installment Payment is due within 4 months of the Court’s order
12 granting approval of this Settlement Agreement (“The First Installment Payment”); and (2) The Second
13 Installment Payment is due within 4 months after the First Installment Payment (“The Second Installment
14 Payment.

15 16. No later than seven (7) calendar days after the date of this Order and Judgment, Defendant
16 will provide the PAGA Settlement Administrator with the PAGA Employee List, in accordance with this
17 Order and Judgment and the Settlement Agreement.

18 17. No later than ten (10) calendar days after the PAGA Settlement Administrator receives the
19 Aggrieved Employees List and The First Installment Payment Amount, the PAGA Settlement Administrator
20 will mail the agreed-upon Cover Letter and Individual Settlement Share checks to all Aggrieved Employees.
21 The PAGA Settlement Administration shall also transmit the General Release Fee to Plaintiff no later than
22 ten (10) after The First Installment Payment Amount has been received.

23 18. The Individual Settlement Share checks issued to Aggrieved Employees shall remain valid
24 for ninety (90) calendar days, and thereafter, shall be cancelled. Funds associated with such cancelled
25 checks shall be transmitted by the PAGA Settlement Administrator to the California State Controller’s
26 Office Unclaimed Property Division, in the name of the Aggrieved Employee(s) at issue and in the amount
27 of his or her respective Individual Settlement Share(s).

28 19. No later than ten (10) calendar days after the PAGA Settlement Administrator receives The

1 Second Installment Payment, the PAGA Settlement Administrator shall transmit the LWDA Payment to the
2 LWDA.

3 20. No later than ten (10) calendar days after the PAGA Settlement Administrator receives The
4 Second Installment Payment, the PAGA Settlement Administrator shall transmit the Attorneys' Fees and
5 Costs to Plaintiff's Counsel, unless instructed otherwise by Plaintiff's Counsel.

6 21. No later than ten (10) calendar days after the PAGA Settlement Administrator receives The
7 Second Installment Payment, the PAGA Settlement Administrator shall transmit the Settlement
8 Administration Costs to itself, only after the PAGA Settlement Packages have been mailed to all Aggrieved
9 Employees.

10 22. Aggrieved Employees shall not have the right to opt out of or object to the Settlement. Upon
11 the entry of this Order and Judgment and full funding of the Total Settlement Amount, Plaintiff and the State
12 of California with respect to Aggrieved Employees, will be deemed to have knowingly and voluntarily
13 released and forever discharged the Released Parties from the Released Claims.

14 23. "Released Parties" means Defendant, including Defendant's parent corporation, affiliates,
15 subsidiaries, divisions, predecessors, insurers, successors and assigns, and their current and former
16 employees, attorneys, officers, directors and agents thereof, both individually and in their business
17 capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries and
18 insurers of such plans and programs.

19 24. "Released Claims" means any and all claims, arising during the PAGA Period, for civil
20 penalties under California Labor Code section 2698, *et seq.* ("PAGA") as well as any interest, fees, and
21 costs available under PAGA, based on the factual allegations in the Operative Complaint, including but not
22 limited to, for failure to pay minimum, regular, and overtime wages, failure to provide compliant meal
23 periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure
24 to timely pay wages during employment, failure to timely pay wages upon termination, failure to provide
25 compliant and accurate wage statements, failure to maintain complete and accurate payroll records, and
26 failure to reimburse necessary business-related expenses and costs, in violation of California Labor Code
27 sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198,
28

1 2800, and 2802 and Industrial Welfare Commission Wage Orders, including inter alia, Wage Orders 4-2001
2 and 5-2001.

3 25. "PAGA Period" means the period June 29, 2021 to January 15, 2024.

4 26. No individualized notice of this Order and Judgment is required to be provided to the
5 Aggrieved Employees. This Order and Judgment shall be submitted to the LWDA through the online system
6 established for the filing of notices and documents, in conformity with California Labor Code § 2699(1)(3).
7

8 Date: _____

Honorable Kristi Culver Kapetan
Judge of the Fresno County Superior Court

EXHIBIT 1

Exhibit A

<<Mailing Date>>

To: <<First Name>><<Last Name>>
<<Street Address>>
<<City>> <<State>> <<Zip>>

Re: Settlement Payment from *Luisa Perez v. Fresno PostAcute Care, LLC*, Fresno Superior Court Case No. 22CECG02916

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of <<amount of payment>> ("Individual Settlement Share"). This check is your payment from the settlement in the lawsuit entitled *Luisa Perez v. Fresno PostAcute Care, LLC*, Fresno Superior Court Case No. 22CECG02916. ("Action").

The lawsuit was filed on September 15, 2022 by Luisa Perez ("Plaintiff") against her former employer, on behalf of the State of California, with respect to herself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* ("PAGA"), for multiple alleged violations of the California Labor Code and Industrial Welfare Commission Wage Orders, including, *inter alia*, for failure to properly pay minimum and overtime wages, failure to provide compliant meal and rest periods and associated premiums, failure to pay wages during employment and upon termination, failure to provide compliant wage statements, failure to maintain requisite payroll records, and failure to reimburse business expenses. Prior to filing the lawsuit, on September 15, 2022, Plaintiff submitted a letter to the California Labor and Workforce Development Agency ("LWDA"), pursuant to PAGA, to provide notice of her intent to seek civil penalties under PAGA for Defendant's alleged violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 5-2001, thereby initiating LWDA Case Number LWDA-CM-892170-22 (the "PAGA Notice").

Defendant denies all of Plaintiff's allegations and denies any wrongdoing of any kind associated with Plaintiff's allegations.

A settlement was reached between Plaintiff and Defendant Fresno PostAcute Care, LLC ("Defendant").

On << Date>>, the settlement was approved by the Court, with a portion to be paid to the LWDA and a portion to be paid to all current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California during the period June 29, 2021, to January 15, 2024, ("Aggrieved Employees"). The period June 29, 2021 to January 15, 2024 is the "PAGA Period".

You are receiving a portion of the settlement (the enclosed Individual Settlement Share) because you have been identified as an Aggrieved Employee. Your Individual Settlement Share is based on the total number of pay periods that you worked for Defendant in California during the PAGA Period. The Individual Settlement Share is considered to be 100% penalties, which will be reported on an IRS Form 1099. You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

Under the settlement, as of <<date of entry of order by the Court approving the Settlement>>, the Released Parties were fully released and forever discharged from any and all Released Claims.

"Released Parties" means Defendant, including Defendant's parent corporation, affiliates, subsidiaries, divisions, predecessors, insurers, successors and assigns, and their current and former employees, attorneys, officers, directors and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries and insurers of such plans and programs.

"Released Claims" means any and all claims, arising during the PAGA Period, for civil penalties under California Labor Code section 2698, *et seq.* ("PAGA") as well as any interest, fees, and costs available under PAGA, based on the factual allegations in the Operative Complaint, including but not limited to, for failure to pay minimum, regular, and overtime wages, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to timely pay wages during employment, failure to timely pay wages upon termination, failure to provide compliant and accurate wage statements, failure to maintain complete and accurate payroll records, and failure to reimburse necessary business-related expenses and costs, in violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 5-2001

The enclosed check is valid for 90 days from the original date of issuance and mailing, and if it is not cashed, deposited, or otherwise negotiated within the 90-day timeframe, it will be canceled, and the funds associated with the canceled check will be transmitted to the State Controller's Office Unclaimed Property Division in your name and in the amount of your respective Individual Settlement Share.

Do not call or write the Court, Office of the Clerk of the Court, Defendant, or Defendant's counsel to ask questions about the settlement or to ask tax-related questions. If you have any such questions, you may contact [PAGA Settlement Administrator] at [toll-free phone number].