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Attorneys for Plaintiff Amanda Oliver, on behalf of herself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MERCED

AMANDA OLIVER, on behalf of herself and
all “aggrieved employees” pursuant to Labor
Code § 2698 *et seq.*,

Plaintiff,

v.

UNIVERSAL CARE, INC., a California
corporation, d/b/a BRAND NEW DAY,
BRIGHT HEALTH GROUP, INC., a
Delaware corporation, and DOES 1 through
10, inclusive,

Defendants.

CASE NO: 22CV-03842

*Assigned to the Hon. Brian L. McCabe,
Courtroom 8*

**DECLARATION OF DANIEL F. GAINES
IN SUPPORT OF STIPULATION AND
[PROPOSED] ORDER APPROVING
SETTLEMENT OF PRIVATE
ATTORNEYS GENERAL ACT CLAIMS,
AND DISMISSING ACTION WITH
PREJUDICE**

Complaint Filed: November 29, 2022

1 I, DANIEL F. GAINES, hereby declare and state as follows:

2 1. I am an attorney duly admitted to the practice of law in the State of California. I am
3 the managing shareholder of Gaines & Gaines, APLC, counsel for Plaintiff Amanda Oliver
4 (“Plaintiff”) in this Action. I have personal knowledge of the facts set forth herein and if called as a
5 witness to testify to them, I could and would do so competently.

6 2. I obtained my BS degree from the University California at Berkeley in 2003. I majored
7 in Business Administration at the Haas School of Business.

8 3. Thereafter, I attended the University of Virginia School of Law. At Virginia, I was a
9 member of the editorial board of the Virginia Tax Review. I was also the recipient of the Lacy Armour
10 Scholarship, awarded to recognize academic excellence. At Virginia, I focused my studies on tax and
11 real estate. I earned my JD and became a member of the California Bar in 2007.

12 4. Until his retirement, I practiced law with my partner/father, Kenneth, at Gaines &
13 Gaines, APLC. Our practice specializes in litigation, with an emphasis in employment disputes like
14 this one. Over 95% of my practice is devoted to complex employment litigation similar to the instant
15 Action.

16 5. My firm has represented employees in employment matters such as this one, with an
17 emphasis in wage and hour issues. I have participated in and have been certified as Court-approved
18 class counsel in dozens of class and representative action matters since my admission to the Bar. A
19 true and correct list of some of the cases in which I have been appointed as class counsel is attached
20 hereto as Exhibit “A”.

21 6. On July 1, 2022, my office, on behalf of Plaintiff, transmitted a letter to the California
22 Labor & Workforce Development Agency (“LWDA”) Defendants Universal Care, Inc., dba Brand
23 New Day and Bright Health Group, Inc. (collectively, “Defendants”) (hereinafter Plaintiff and
24 Defendants are collectively referred to as the “Parties”), setting forth the facts and theories of the
25 violations alleged against Defendants. A true and correct copy of the July 1, 2022 letter to the LWDA
26 is attached hereto as Exhibit “B.”

27 7. On November 29, 2022, Plaintiff filed her Representative Action Complaint seeking
28 penalties pursuant to Labor Code § 2699(f) for violations of Labor Code §§ 201, 202, 212, 226(a),

226.7, 246, 510, 512, 1194, and 2802 and penalties pursuant to Labor Code § 2699(a) for violations of Labor Code §§ 225.5, 226.3, and 558 (“the Action”).

8. During the course of the litigation, my office and Defendants’ Counsel engaged in informal discovery and fully shared the information necessary for all sides to conduct a legitimate investigation into the allegations of the action and potential defenses thereto. The Parties have reached this settlement only after discovery and investigation was performed.

9. My office obtained and reviewed multiple documents, including (i) Plaintiff’s employee file and time records, (ii) policy documents relating to the employment of Plaintiff and Aggrieved Employees, and (iii) data relating to the number of alleged violations and the value of the recoverable penalties, including time and payroll data.

10. Based on the information received, as well as through discussions with Defendants’ Counsel, my office was able to (i) determine the total number of distinct individuals falling within the definition of “Aggrieved Employees” for the relevant statutory period, and (ii) construct a damage model that calculated the maximum realistic amount of PAGA penalties that could be levied against Defendants within the PAGA Period. Defendants, however, disputed Plaintiff’s claims and disputed both the existence of and extent of liability as alleged by Plaintiff. Based on the information received, as well as through discussions with Defendants’ Counsel, my office was able to ascertain (i) the number of Aggrieved Employees, (ii) the number of affected pay periods at issue among them, and (iii) the strength of Plaintiff’s claims.

11. On September 13, 2023, after discovery and investigation, and being fully apprised of the value and strength of Plaintiff’s claims, the Parties successfully negotiated a settlement of Plaintiff’s claims asserted in the Action through arm’s-length negotiations assisted by respected mediator, Brandon Coen, Esq. The terms and conditions of the settlement are set forth in the Private Attorneys General Act Settlement Agreement and Release (“Settlement” or “Settlement Agreement”). The Settlement Agreement resolves all claims asserted in the Action and contemplates that the Action will be dismissed with prejudice in exchange for the consideration set out in the Settlement Agreement. Attached hereto as Exhibit “C” is a true and correct copy of the Parties’ Settlement Agreement.

1 12. Defendants deny and continue to deny any liability to Plaintiff or any other allegedly
2 aggrieved employee for any violations alleged in the Action. Defendants contend they acted within
3 the requirements of California law at all times as to all Aggrieved Employees. They further contend
4 that not every pay period, and indeed no pay period, at issue involved an alleged Labor Code violation
5 subject to civil penalties. Moreover, they maintain that even if the Court did award penalties, the
6 Court could and would substantially reduce the penalties awarded based on the discretionary factors
7 contained in Labor Code § 2699(e)(2).

8 13. My office and Defendants' Counsel considered the fact that the existence of numerous
9 disputes of fact in this case make the outcome uncertain. In the estimation of my office and
10 Defendants' Counsel, the delay, inconvenience, distraction, and uncertainty imposed by the litigation
11 demands would far outweigh the potential benefits of additional litigation.

12 14. Based on the information and documents obtained through informal discovery, these
13 disputes, which had the potential to completely eliminate Plaintiff's recovery, and the range of
14 realistic "litigation outcomes" on Plaintiff's PAGA claim, my office assessed the maximum value of
15 the PAGA claims (without stacking) to be approximately \$2,274,600 (at the rate of a \$100 penalty
16 for approximately 22,746 total pay periods at issue for approximately 483 aggrieved employees
17 during the applicable time frame).

18 15. As set forth in the Settlement Agreement, the amount of the Settlement is \$483,000
19 which represents over 21% of the maximum recoverable discretionary penalties and includes an
20 apportionment of attorneys' fees and costs and a General Release Payment to Plaintiff. As such, this
21 factor weighs very heavily in favor of resolution by way of the compromise set forth in the Settlement.

22 16. The Parties respectfully request that the Court enter the accompanying Order,
23 approving the Settlement, as permitted by Labor Code § 2699(l), and dismissing this Action with
24 prejudice.

25 17. The Parties further agree that, after entry of this Order and pursuant to California Code
26 of Civil Procedure § 664.6, the Court shall retain exclusive and continuing jurisdiction of this Action
27 to enforce the Settlement. *See* Exhibit "C" at ¶ 15(b).

18. On November 21, 2023, my office uploaded the proposed Settlement Agreement and these accompanying approval documents to the LWDA through the State of California, Department of Industrial Relations Website at <https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>. A true and correct copy of the submission confirmation email is attached hereto as Exhibit “D.”

I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed on November 21, 2023 at Westlake Village, California.


DANIEL F. GAINES

EXHIBIT A

Adams v. Newell Rubbermaid, USDC – Central District of California (Los Angeles), Case No. EDCV 08-1499 JTM (CTx)

Adams v. Sam's West, Inc., San Bernardino County Superior Court, Case No. CIVDS1403987

Agredano v. GS Brothers, Inc., Los Angeles County Superior Court, Case No. BC445561

Allen v. Toms Sierra Company, Nevada County Superior Court, Case No. CU18-082823

Allen v. Valley Inventory Service, Inc., Solano County Superior Court, Case No. FCS034682

Alvarez v. Pilot Travel Centers, LLC, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-4605

Alonzo v. Camblin Steel Service, Inc., Placer County Superior Court, Case No. SCV0034165

Amenhotep v. Google, Inc., Santa Clara County Superior Court, Case No. 17CV311528

Anaya v. Progressive Logistics Services, LLC, Riverside County Superior Court, Case No. RIC1308270

Andre v. Newell Rubbermaid, Inc., San Bernardino County Superior Court, Case No. CIVVS1200282

Anduha v. ABC Phones of North Carolina, Inc., Stanislaus County Superior Court, Case No. 2022729

Anslow v. Wellington Energy, Inc., USDC – Northern District of California (San Francisco), Case No. CV11-1596-JCS

Aranda, et al. v. Universal Lumpers of California, Inc., San Joaquin County Superior Court, Case No. STK-UOE-2017-7826

Armendariz v. Integrated Pain Management Medical Group, Inc., Kern County Superior Court, Case No. BCV-19-100267-SDS

Barrow, et al. v. Desmond Foods, L.P., Sacramento County Superior Court, Case No. 34-2015-00187227

Batmanghelich v. Sirius XM Radio Inc., USDC – Central District of California (Los Angeles), Case No. CV 09-9190 VBF (JCx)

Bosser v. Hooked on Solar, Yolo County Superior Court, Case No. CVCV-2016-876

Bourland v. Horizon Personnel Services, Inc., Sacramento County Superior Court, Case No. 34-2014-00161365-CU-OE-GDS

Bowen v. IMI Material Handling Logistics, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-0000192

Branson v. Mladen Buntich Construction, San Bernardino County Superior Court, Case No. CIVDS1609129

Brandt v. Sacramento Auto Insurance Center, Inc., San Joaquin County Superior Court, Case No. 39-2009-00202938-CU-OE-STK

Brown v. 22nd District Agricultural Association, United States District Court, Southern District of California, Case No. 15-cv-2578-DHB

Brown v. Sierra Central Credit Union, Sutter County Superior Court, Case No. CVCS18-0002161

Burgess v. Blue Cross and Blue Shield of South Carolina, San Joaquin County Superior Court, Case No. 39-2012-00277449-CU-BT-STK

Burgess v. Strategic Retail Solutions, LLC, Los Angeles County Superior Court, Case No. BC413791

Calhoun v. Celadon Trucking Services, Inc., USDC – Central District of California (Los Angeles), Case No. 5:16-cv-01351-PSG-FFM

Caporicci v. Owens & Minor Distribution, Inc., San Joaquin County Superior Court, Case No. 39-2013-00295662-CU-OE-STK

Carl v. Advanced Call Center Technologies, LLC, Sacramento County Superior Court, Case No. 34-2013-00148310

Carlisle, et al. v. Professional Technical Security Services, Inc., Case No. CGC18569791

Carrete v. Gamestop, Inc., Imperial County Superior Court, Case No. ECU08501

Carrillo v. Bimbo Bakeries, Inc., San Bernardino County Superior Court, Case No. CIVDS1606813

Caudillo v. Aegis Treatment Centers, LLC, Merced County Superior Court, Case No. 18CV-0744

Cerami v. Metlife, Inc., USDC – Central District of California (Orange County), Case No. 11-CV-00681-CJC (MLGx)

Charles v. Aaron's Inc., Los Angeles County Superior Court, Case No. BC431468

Charles v. Nursefinders, LLC, Imperial County Superior Court, Case No. ECU07422

Cheifer v. JetBlue Airways Corporation, Los Angeles County Superior Court, Case No. BC451887

Cheifer, et al. v. WHGM, Inc., Los Angeles County Superior Court, Case No. LC104900

Chong, et al. v. Crescent Northwoods Inn, Inc., Del Norte County Superior Court, Case No. CVUJ-2018-1133

Church v. GameStop, Inc., et. al., USDC – Central District of California (Los Angeles), Case No. 11-CV-00132-VAP-RZ

Clothier v. Spar Marketing Services, Inc., Alameda County Superior Court, Case No: RG12-639317

Coleman v. Wireless Lifestyle, Inc., USDC – Western District of Missouri, Case No. 4:12-cv-00855-ODS

Colombo-Beyeler, et al. v. Viking River Cruises, Inc., San Bernardino County Superior Court, Case No. CIVDS1611608

Conlee v. Clark Pacific Corporation, Yolo County Superior Court, Case No. CV14-1409

Contreras v. Osmose Utilities Services, Inc., San Bernardino County Superior Court, Case No. CIVDS1513998

Contreras v. West American Service Corporation, Kings County Superior Court, Case No. 14C0280

Corona v. Yosemite Meat & Locker Service, Inc., Stanislaus County Superior Court, Case No. 2006828

Cortellessa v. Dotnext, Inc., Alameda County Superior Court, Case No. RG09429971

County v. Ingram Mirco, Inc., San Bernardino Superior Court, Case No. CIVRS 1304445

Covarrubias, et al. v. Petersendean Builder Group, Inc., Kern County Superior Court, Case No. BCV-16-101122

Cowen, et al. v. Evergreen Alliance Golf Limited, L.P., d/b/a Arcis Golf, San Bernardino County Superior Court, Case No. CIVDS1719283

Cruz-Garcia v. Lemonade Restaurant Group, LLC, Los Angeles County Superior Court, Case No. BC478205

Cunningham v. Performance Contracting, Inc., Contra Costa County Superior Court, Case No. C16-02157

Dabney v. Coneybeare, LLC, et al., Orange County Superior Court, Case No. 30-2018-00999989-CU-OE-CXC

Dabney, et al. v. Panera, LLC., San Bernardino County Superior Court, Case No. CIVDS1516030

Diaz, et al. v. Seaworld Entertainment, Inc., Imperial County Superior Court, Case No. ECU10046

Diggs v. Western Waterproofing Company, Inc., San Francisco County Superior Court, Case No. CGC-14-539281

Dismuke v. Rhodes Retail Services, Inc., Sacramento County Superior Court, Case No. 34-2011-00105001

Dorsette v. TA Operating, LLC, USDC – Central District of California (Los Angeles), Case No. EDCV 09-1350 PA (RZx)

Duran v. The Image of California, Inc., Kern County Superior Court, Case No. S-1500-CV-284056 DRL

Edwards v. Trans World Entertainment Corp., San Diego County Superior Court, Case No. 37-2010-00095123-CU-OE CTL

Esakhani v. Central Valley Gaming, Stanislaus County Superior Court, Case No. 2020667

Escobar v. SMSSI of California, Inc., San Francisco Superior Court, JCCP No. 4776

Espinosa v. Taltech Construction, et al., Los Angeles County Superior Court, Case No. BC590176

Espinosa v. Bodycote Thermal Processing, Inc., Los Angeles County Superior Court, Case No. BC501617

Espinoza v. Pabco Building Products, LLC, Los Angeles County Superior Court, Case No. VC065660

Estrada v. Net Source Communications, Inc., Los Angeles County Superior Court, Case No. BC431169

Estrada v. OS Restaurant Services, LLC, Santa Clara County Superior Court, Case No. 16CV293249

Estupinan v. Global Development Strategies, Inc., Santa Clara County Superior Court, Case No. 110CV178898

Fadhl. v. Siemens Healthcare Diagnostics Inc., Sacramento County Superior Court, Case No. 34-2017-00209518

Fernandez v. The Regents of the University of California, Los Angeles County Superior Court, Case No. BC656256

Ferrer v. Dish Network Corporation, Los Angeles County Superior Court, Case No. BC441354

Findora v. Barry Callebaut USA LLC, Napa County Superior Court, Case No. 19CV000219

Flores v. Cintas Corporation, Los Angeles County Superior Court, Case No. BC400422

Friel v. Midwest Construction Services, Inc., San Joaquin County Superior Court, Case No. 39-2015-00329204-CU-OE-STK

Gagnon v. Banc of California, Contra Costa County Superior Court, Case No. C 15-00196

Galarza v. Bayou Well Services, LLC, Kern County Superior Court, Case No. S-1500-CV-279372 DRL

Galarza v. C & H Testing Service LLC, Kern County Superior Court, Case No. BCV-15-100008 SPC

Garcia v. Old Dominion Freight Line, Inc., San Bernardino County Superior Court, Case No. CIVDS1404636

Geer v. Applied Aerospace Structures Corp., San Joaquin County Superior Court, Case No. 39-2014-00313702-CU-OE-STK

Getz v. California Cinema Investments, Inc., Ventura County Superior Court, Case No. 56-2013-00437706-CU-MC-VTA

Gibbs v. M. Lehmann Enterprises, Orange County Superior Court, Case No. 30-2013-00678538-CU-OE-CXC

Gilles v. Schaefer Ambulance Service Inc., Imperial County Superior Court, Case No. ECU07970

Goldman, et al. v. Defender's, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-0009973

Gomez v. Low Desert Empire Pizza, Inc., San Bernardino County Superior Court, Case No. CIVVS900392

Gomez v. Pizza Hut of Southeast Kansas, Inc., San Bernardino County Superior Court, Case No. CIVVS900679

Gonzalez v. Harris Farms, Inc., USDC – Eastern District of California (Fresno), Case No. 1:14-cv-00038-LJO-SAB

Guerrero v. Main Electric Supply Company LLC, Ventura County Superior Court, Case No. 56-2019-00525427-CU-OE-VTA

Gutierrez v. Asset Management Specialists, Inc., Fresno County Superior Court, Case No. 12CECG03577

Gutierrez v. Linkus Enterprises, Inc., Madera County Superior Court, Case No. MCV065774

Gutierrez v. Shiekh, LLC, San Bernardino County Superior Court, Case Nos. CIVRS1206525, CIVRS1303408

Hairston v. Stanislaus Surgical Hospital, Stanislaus County Superior Court, Case No. CV-19-000651

Hindman v. Service Quick, Inc., San Bernardino County Superior Court, Case No. CIVDS1724229

Hogan v. iMobile of CA LLC, San Bernardino County Superior Court, Case No. CIVDS1409263

Hogan v. Wireless Evolution Inc., Riverside County Superior Court, Case No. MCC1300669

Hogan v. Wireless That's It! LLC, Riverside County Superior Court, Case No. RIC1201997

Holmes v. Bottling Group, LLC, Stanislaus County Superior Court, Case No. 2022584

Hooper, et al. v. URS Midwest, Inc., et al., San Bernardino Superior Court, Case No. CIVDS1607489

Humphrey v. Freedomroads, LLC, Shasta County Superior Court, Case No. 178228

Hurtado v. Rush Truck Centers of California, Inc., Los Angeles County Superior Court, Case No. BC427672

Hyde v. Dent Wizard International Corporation, Sacramento County Superior Court, Case No. 34-2015-00173882

Ibrihim v. Imperfect Foods, Inc., San Joaquin County Superior Court, Case No. STK-VI-UOE-2019-0000846

Id-deen v. Educational Services of America, Solano County Superior Court, Case No. FCS040803

Isherwood v. Mason Dixon Intermodal, Inc., San Joaquin County Superior Court, Case No. 39-2012-00279891-CU-OC-STK

Jahanbin v. Pacific Mercantile Bank, Orange County Superior Court, Case No. 30-2011-00480705CU-OE-CXC

Jenkins v. Sedgwick Claims Management Services, Inc., Los Angeles Superior Court, Case No. LC101648

Job v. California Security Services, Yuba County Superior Court, Case No. 14-0000820

Johnson v. The Goodyear Tire & Rubber Company, USDC – Northern District of California (San Francisco), Case No. 3:13-cv-01069-MMC

Jolin v. Bay Cities Recovery, Inc., El Dorado County Superior Court, Case No. PC20100458

Jordan v. Sutter Memorial Hospital, Stanislaus County Superior Court, Case No. 2023344

Keebaugh v. Mike Thompson Recreational Vehicles, San Bernardino County Superior Court, Case No. CIV-DS-1500718

Kelly v. Robin's Enviro Vac, Inc., Kern County Superior Court, Case No. S-1500-CV-282277
DRL

King v. Levy Premium Foodservice Limited Partnership, Alameda County Superior Court, Case No. HG15786353

Kunsman v. Punch Bowl Sacramento, LLC, et al., Sacramento County Superior Court, Case No. 34-2018-00243175

LaFear v. Encore Education Corporation, San Bernardino County Superior Court, Case No. CIVDS1802251

Lanzarin v. AWI Management Corporation, Solano County Superior Court, Case No. FCS041809

Lee, et al. v. Foster Dairy Farms, Stanislaus County Superior Court, Case Nos. 2006542, 2015679

Lemus, et al. v. Eastridge Workforce Technology, Inc., San Bernardino County Superior Court, Case No. CIV-DS-1611470

Lewis v. American Casino & Entertainment Properties LLC, San Bernardino County Superior Court, Case No. CIVDS1719094

Lemus v. On Assignment Staffing Services, San Bernardino County Superior Court, Case No. CIV-DS-1600497

Leon v. Piercey West Inc., Los Angeles County Superior Court, Case No. BC656874

Lopez v. Creative Communication Technologies, Inc., Imperial County Superior Court, Case No. ECU07851

Lopez v. Go Green Auto Spa Franchise, Inc., et al., Los Angeles County Superior Court, Case No. BC 562212

Lopez v. Truck Accessories Group, LLC, Yolo County Superior Court, Case No. CV13798

Ludlow v. Prince Telecom, LLC, Stanislaus County Superior Court, Case No. 684239

Luna v. Express Locations, LLC, Imperial County Superior Court, Case No. ECU09779

Macias v. American Tire Distributors, Inc., Kern County Superior Court, Case No. BCV-18-101586

Maldonado v. Hardwood Flooring Liquidators, Inc., Los Angeles County Superior Court, Case No. BC642170

Mansfield v. Cambridge Real Estate Services, Inc., Butte County Superior Court, Case No. 160175

Martinez v. DPI Specialty Foods West, San Joaquin County Superior Court, Case No. 39-2015-00327311-CU-OE-STK

Martinez v. Styles For Less, Inc., San Bernardino County Superior Court, Case No. CIVVS1203057

Mayne v. John Muir Behavioral Health, Contra Costa County Superior Court, Case No. C17-00998

Maze v. Bulldog Freightway, Inc., Imperial County Superior Court, Case No. ECU08716

McCormick v. G & O Body Shop, Inc., El Dorado Superior Court, Case No. PC20130291

McCrary v. Campbell Soup Supply Company, San Joaquin County Superior Court, Case No. 39-2013-00297698-CU-OE-STK

McDaniel v. Vancary, Inc., Tulare County Superior Court, Case No. 268036

Melgar-Farela v. Guardian Compliance, Inc., Los Angeles County Superior Court, Case No. BC481865

Mendiola v. Tyco Electronics Corporation, Riverside County Superior Court, Case No. RIC1400721

Mettler v. Les Schwab Tire Centers of California, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-476

Miller v. California Subshine, Inc., Los Angeles County Superior Court, Case No. BC637754

Miller v. Southwest Airlines Co., USDC – Northern District of California (San Francisco), Case No. 3:12-cv-05978-CRB

Mitchell v. Crossmark, Inc., USDC – Central District of California (Los Angeles), Case No. CV 11-2818-JAK (FMOx)

Moghrabi v. Vitaligent, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-1650

Molina v. Berkshire Hathaway Energy Company, et al., Imperial County Superior Court, Case No. ECU000522

Moore v. Horizon Solar Power, Inc., San Bernardino County Superior Court, Case No. CIVDS1410001

Murray v. Select Media Services, LLC, Los Angeles County Superior Court, Case No. BC424506

Myles v. Central Transport LLC, San Bernardino County Superior Court, Case No. CIVDS1401434

Navarro v. Mariana Packing Co., Inc., Solano County Superior Court, Case No. FCS045935

Nehrlich, et al. v. RPM Mortgage, Inc., Orange County Superior Court, Case No. 30-2013-00666783-CU-OE-CXC

Overton v. Hat World, Inc., USDC – Eastern District of California (Sacramento), Case No. 2:11-CV-01645-LKK-KJN

Perez v. Alcatel-Lucent USA Inc., Imperial County Superior Court, Case No. ECU07977

Perez v. Major Gloves and Safety, Inc., San Bernardino County Superior Court, Case No. CIVDS1710445

Perry v. Cardinal Health 200, LLC, Solano County Superior Court, Case No. FCS035303

Phraxayavong-Briones v. RSM, Inc., Sacramento County Superior Court, Case No. 34-2012-00117524

Pugh v. Wi Spa, LLC, Imperial County Superior Court, Case No. ECU07932

Quist v. Knight Transportation, Inc., San Bernardino Superior Court, Case No. CIVDS 1615414

Quitco v. Aviation Fuel Systems Repair, Inc., San Bernardino Superior Court, Case No. CIVRS1302311

Rambeau v. C.C.M. Corporation, et al., Sacramento County Court, Case No. 34-2018-00244842

Rankins v. Roman Empire Living Skills, Inc., Los Angeles County Superior Court, Case No. BC713399

Rees v. Advantel, Incorporated, Santa Clara County Superior Court, Case No. 16-CV-292219

Renfrow v. Janra Enterprises, Inc., Sacramento County Superior Court, Case No. 3402010-00080471

Reynolds v. Diamond Pet Food Processors of Ripon, San Joaquin County Superior Court, Case No. 39-2014-00310818

Richard v. A-Para Transit Corp., Alameda County Superior Court, Case No. HG17870373

Richardson v. TEC Equipment, Inc., et al., Los Angeles County Superior Court, Case No. VC065536

Robles v. North County Health Project Incorporated, San Diego Superior Court, Case No. 37-2014-00001751-CU-OE-NC

Rodas v. Monetary Management of California, Inc., USDC – Eastern District of California (Sacramento), Case No. 2:14 cv 01389 TLN AC

Rodriguez v. 20/20 Plumbing & Heating, Inc., San Bernardino County Superior Court, Case No. CIVDS1705362

Rodriguez v. Commerce Distribution Company, Los Angeles County Superior Court, Case No. BC656259

Rodriguez v. Valley Oak, San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-7980

Roden v. Service Champions, San Bernardino County Superior Court, Case No. CIVDS1613183

Russell v. Bradshaw International, Imperial County Superior Court, Case No. ECU00853

Rutledge, et al. v. Healthport Technologies, LLC, Alameda County Superior Court, Case No. RG16835813

Sabala v. Econtactlive, Inc., Stanislaus County Superior Court, Case No. 684981

Sabatier v. Picture Perfect Installation, Inc., Riverside County Superior Court, Case No. RIC10004953

Salameh v. Sonomaidence OPCO, LLC, Sonoma County Superior Court, Case No. SVC264228

Salazar v. Tag-3 Medical Investment Group, LLC, Los Angeles County Superior Court, Case No. BC527698

Salbeck v. Ingredion Incorporated, San Joaquin County Superior Court, Case No. STK-UOE-2017-0012622

Sampson v. Healthnet of California Inc., Sacramento County Superior Court, Case No. 34-2015-00183785-CU-OE-GDS

Sanchez v. Don Roberto Jewelers, Inc., Imperial County Superior Court, Case No. ECU06819

Sanders v. Lionakis, Sacramento County Superior Court, Case No. 34-2017-00223601

Santana v. United Staffing Associates, LLC, Tulare County Superior Court, Case No. 249338

Schrader v. Adidas Promotional Retail Operations, Inc., Los Angeles County Superior Court, Case No. BC414168

Sebrell v. Pomeroy IT Solutions, San Bernardino County Superior Court, Case No. CIVDS1721560

Seymour v. Quest Service Group, LLC, Sacramento County Superior Court, Case No. 34-2017-00206917

Silva v. Trical, San Benito County Superior Court, Case No. CU-16-00218

Simler v. Polly's Inc., Riverside County Superior Court, Case No. RIC 1117862

Sipin, Scott v. Salesforce.com, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2019-0004629

Skuro v. BMW of North America, LLC, USDC – Central District of California (Los Angeles), Case No.: CV 10-8672-GW (FFMx)

Smith v. Steelcase, Inc., San Bernardino County Superior Court, Case No. CIVDS1725850

Sohal v. Foster Poultry Farms, Stanislaus County Superior Court, Case No. 2026605

Solomon v. City of Los Angeles, Los Angeles County Superior Court, Case No. BC570345

Solano v. Vozzcom, Inc., Imperial County Superior Court, Case No. ECU09519

Smith, et al. v. Sente Development, Inc., Sacramento County Superior Court, Case No. 34-2016-00196614

Solorzano v. FDS Manufacturing Corporation, Los Angeles County Superior Court, Case No. BC542532

Solowitz v. BakeMark USA LLC, Los Angeles County Superior Court, Case No. BC467838

Spampinato v. Wind & Sea Restaurants, Inc., San Bernardino County Superior Court, Case No. CIVVS1205154

Spitzer, et al. v. FRHI Hotels & Resorts (Canada) Inc., San Bernardino County Superior Court, Case No. C IVDS1712220

Stephens v. C.S., Inc., Riverside County Superior Court, Case No. PSC1301224

Stevenson v. Harvest Management Sub LLC, Ventura County Superior Court, Case No. 56-2011-00397420-CU-OE-SIM

Thompson v. Continental Labor Resources, Inc. d/b/a Continental Labor & Staffing Resources, Kern County Superior Court, Case No. S-1500-CV-278751-DRL

Thompson v. Sidhu Truck Line, Inc., Kern County Superior Court, Case No. BCV-15-101308-DRL

Tigas v. Ajilon Communications, Los Angeles County Superior Court, Case No. BC409737

Torres v. Coastal Employment Inc., Los Angeles County Superior Court, Case No. BC529207

Tran v. CSP Fiber Services, San Bernardino County Superior Court, Case No. CIVDS172758

Tripp v. California Guest Services, Inc., Plumas County Superior Court, Case No. CV16-00036

Valdez v. Diamond Landscaping, Inc., Los Angeles County Superior Court, Case No. BC497097

Valencia v. American Team Managers, Inc., Orange County Superior Court, Case No. 30-2016-00857365-CU-CR-CXC

Van Son v. Rush Truck Centers of California, Inc., Los Angeles County Superior Court, Case No. BC494747

Vasquez v. Schurman Fine Papers, San Joaquin County Superior Court, Case No. STK-CV-LMC-2015-10035

Velasquez v. Modesto Ventures, LLC, Sacramento County Superior Court, Case No. 32-2012-00126159

Victoria v. Bali Limousines Inc., San Mateo County Superior Court, Case No. CIV507774

Victorian v. Vision X, Inc., Los Angeles County Superior Court, Case No. BC400333

Wade v. Frito Lay, Kern County Superior Court, Case No. BCV-17-102014

Walls v. E. & J. Gallo, Stanislaus County Superior Court, Case No. 2015874

Warner v. Waterdrops Express Car Wash, LLC, Tulare County Superior Court, Case No. 265708

Waybright v. EAH, Inc., Stanislaus County Superior Court, Case No. 2011677

Weiss v. C.A.R. Enterprises, Inc., Riverside County Superior Court, Case No. RIC1113165

White v. Sally Beauty Supply, LLC, Imperial County Superior Court, Case No. ECU08177

Williams v. Dennis Dillon RV, LLC, San Bernardino County Superior Court, Case No. CIVDS 16006879

Williams v. Closet World, Inc., Los Angeles County Superior Court, Case No. BC400178

Williams v. Progress Rail Services Corporation, Kern County Superior Court, Case No. S-1500-CV-280236 DRL

Wing v. Three Group, Inc., Los Angeles County Superior Court, Case No. BC643883

Wilson v. ALSCO, Inc., Imperial County Superior Court, Case No. ECU07406

Wilson v. Michael C. Stead, Inc., Contra Costa Superior Court, Case No. C1400135

Winningham v. Storer Transportation Service, San Joaquin County Superior Court, Case No. 39-2015-00324708-CU-STK

Woody v. WBN Home Design, San Bernardino County Superior Court, Case No. CIVDS1613367

Woods, et al. v. F&B Innovations, LLC, San Bernardino County Superior Court, Case No. CIVDS1717765

Woodyard v. Bellus ALC Acquisition, LLC, USDC – Central District of California (Los Angeles), Case No. 2:13-cv-05285 SJO AGRx

Wright v. Social Vocational Services, Inc., Kern County Superior Court, Case No. BCV-15-101264

Ybarra v. New Legend, Inc., Sutter County Superior Court, Case No. CVCS-16-2097

Zaragoza v. Center Automotive, Inc., Los Angeles Superior Court, Case No. BC505194

EXHIBIT B

GAINES & GAINES

A PROFESSIONAL LAW CORPORATION

WWW.GAINESLAWFIRM.COM

4550 EAST THOUSAND OAKS BOULEVARD, SUITE 100
WESTLAKE VILLAGE, CALIFORNIA 91362

PHONE (818) 703-8985
FAX (818) 703-8984

July 1, 2022

Via Certified Mail

Labor & Workforce Development Agency
By online submission

Bright Health Group, Inc.
8000 Norman Center Drive, Suite 1200
Minneapolis, MN 55437 Defendant mailed certified # 70220410000299335375

Universal Care, Inc.,
dba Brand New Day
5455 Garden Grove Blvd., Suite 500
Westminster, CA 92683 Defendant mailed certified # 70220410000299335382

Agent for Service of Process for Bright Health Group, Inc.
C T Corporation System
1209 N Orange Street
Wilmington, DE 19801 Agent mailed certified # 70220410000299335399

Agent for Service of Process for Universal Care, Inc.,
dba Brand New Day
C T Corporation System
330 N Brand Blvd., Suite 700
Glendale, CA 91203 Agent mailed certified # 70220410000299335368

Re: ***Labor Code Violations of Bright Health Group, Inc. and Universal Care, Inc., dba
Brand New Day – Compliance Letter of California Labor Code § 2698 - Private
Attorneys General Act***

Dear LWDA:

This office represents Amanda Oliver, a former non-exempt California employee of Bright Health Group, Inc. and/or Universal Care, Inc., dba Brand New Day (collectively, "Defendants"). The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.*

Our client was employed by Defendants in Central California. Herein we set forth the facts and theories of California Labor Code violations which we allege Defendants engaged in with respect to our client and other of its California employees ("Aggrieved Employees").

Our client alleges that Defendants failed to pay all minimum and overtime wages earned during the course of employment, in violation of Labor Code §§ 510, 558, 1194, and 1194.2. Our client and other non-exempt Aggrieved Employees worked off-the-clock, without compensation: they were not paid for (1) time spent to complete a daily COVID screening, and (2) time spent on pre-shift and post-shift activities, such as preparing for meetings. In addition, our client alleges that Defendants also maintain a policy and practice to round down the hours reflected on our client's and other non-exempt Aggrieved Employees' time records to pay fewer hours than were actually worked. On a weekly basis, this rounding deprived our client and other non-exempt Aggrieved Employees of significant hours worked. These failures to pay all minimum and overtime wages due constitute violations of Labor Code §§ 510, 558, and 1194.

Defendants failed to properly compute bonuses earned by our client and other non-exempt Aggrieved Employees into their regular rate of pay for purposes of paying them meal and rest period premiums, overtime wages, and sick pay at the correct rates, in violation of Labor Code §§ 246(d), 226.7, 510, 512, 558 and 1194 and IWC Wage Order No. 4-2001. Defendants failed to properly blend bonuses and instead paid our client and other non-exempt Aggrieved Employees meal period premiums, rest period premiums, overtime wages, and sick pay based *only* on the base hourly rate of pay, thus depriving our client and other non-exempt Aggrieved Employees of all meal and rest period premiums, overtime wages, and sick pay earned. This violates Labor Code §§ 246(d), 226.7, 510, 512, 558 and 1194 and IWC Wage Order No. 4-2001.

Defendants also failed to offer our client and other Aggrieved Employees a method for them to receive their bonus wages "in cash, on demand," in violation of Labor Code § 212. Our client and other Aggrieved Employees were paid bonuses via gift cards, not redeemable for cash, which violates the express requirements Labor Code § 212. Labor Code § 212 requires that "No person...shall issue in payment of wages due" of any "acknowledgment of indebtedness, unless it is negotiable and payable in cash, on demand." Labor Code § 225 provides for penalties resulting from Labor Code § 212 violations, stating "every person who unlawfully withholds wages due any employee in violation of Section 212." The gift cards issued to our client and other Aggrieved Employees violates the payment requirements of Labor Code §§ 212 and 225.5.

Defendants failed to pay correct premium wages at to our client and other non-exempt Aggrieved Employees who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order No. 4-2001. Our client and other non-exempt Aggrieved Employees were routinely unable to take a 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's pay for each missed rest period. Our client was simply denied and not authorized to take her legally entitled rest periods and was never paid premium wages at the proper rate of pay for missed rest periods. This violates Labor Code § 226.7 and IWC Wage Order No. 4-2001.

Defendants failed to pay correct premium wages to our client and other non-exempt Aggrieved Employees who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512, 558, and 1194 and IWC Wage Order 4-2001. Our client and other non-exempt Aggrieved Employees were routinely denied, and not authorized to take, a timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five hours, or a second timely, uninterrupted, 30-minute meal period for every shift worked that exceeded ten hours, but were not paid premium wages of one hour's pay at the proper rate of pay for each missed first or second meal period. Our client and non-exempt Aggrieved Employees would also clock out for her meal breaks and continue to work through them, off-the-clock, thereby depriving her of all wages due. This violates Labor Code §§ 226.7, 510, 512, 558, and 1194 and IWC Wage Order 4-2001.

Defendants failed to reimburse our client and other Aggrieved Employees for necessary business expenses incurred in direct consequence of the discharge of their duties, in violation of Labor Code § 2802, including, but not limited to, the use of their personal cell phones, as well as expenses incurred from work from home, including, but not limited to, internet, a printer, and ink. Labor Code § 2802 requires that an employer must indemnify its employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties, and Defendants' failure to do so has violated this section.

Our client further alleges that Defendants failed to provide her and other non-exempt Aggrieved Employees with wage statements that fully and accurately itemized the requirements set forth in Labor Code §§ 226(a) and 226.3. Our client and other non-exempt Aggrieved Employees were not paid all wages due, as stated above. As such, the wage statements provided by Defendants failed to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in violation of Labor Code §§ 226(a)(9) and 226.3.

Our client further alleges that Defendants failed to pay her all wages due at the separation of her employment based on the time frames required by Labor Code §§ 201 and 202. As stated above, our client and other non-exempt Aggrieved Employees were not paid all wages due during the course of their employment and, as a result of this failure, they were not timely paid all wages due at the separation of their employment. Furthermore, when our client was terminated, she was not issued her final wages on the day of her termination—instead, she was issued her final wages many days later. Our client alleges that Defendants maintain a policy to untimely pay final wages to its former employees. This violates Labor Code §§ 201-202 and is alleged on behalf of our client and certain Aggrieved Employees no longer employed by Defendants.

The \$75 PAGA filing fee has been submitted to the LWDA concurrently with the transmission of this letter.

Labor & Workforce Development Agency
Bright Health Group, Inc.
Universal Care, Inc., dba Brand New Day
C T Corporation System
July 1, 2022
Page 4

We invite Defendants or their attorneys to contact our office to discuss this matter, including whether an early resolution of the claims can be reached.

Our office awaits your response.

Very truly yours,

GAINES & GAINES
A Professional Law Corporation

By: 

EVAN S. GAINES

EXHIBIT C

**PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND
RELEASE**

This Private Attorneys General Act Settlement Agreement and Release (“Settlement Agreement” or “Settlement”) is entered into by and between Amanda Oliver (“Plaintiff”), for herself and as a representative of the State of California and the Aggrieved Employees (as defined in Section 3(a)(5) below) and Bright Health Group, Inc. and Universal Care, Inc. dba Brand New Day (collectively, “Defendants”), subject to approval by the Court. The term “Party” or “Parties” as used herein shall refer to Plaintiff, Defendants, or both, as may be appropriate.

1. **Recitals.** This Settlement Agreement is made with reference to the following facts:

(a) Plaintiff is a former employee of Defendants who worked as a licensed vocational nurse from July 6, 2020 to March 18, 2022, during the PAGA Period;

(b) On July 1, 2022, Gaines & Gaines, APLC (“Plaintiff’s Counsel”), submitted a letter to the California Labor and Workforce Development Agency (“LWDA”) on behalf of Plaintiff, to notify the LWDA pursuant to the Private Attorneys General Act of 2004, Labor Code section 2698, *et seq.* (“PAGA”) of Plaintiff’s intent to seek civil penalties under PAGA for Defendants’ alleged violations of the California Labor Code (the “PAGA Notice”);

(c) On November 29, 2022, Plaintiff filed her Complaint for Penalties Pursuant to the Private Attorneys General Act, California Labor Code § 2698, *et seq.* (“Operative Complaint”), commencing a representative action under PAGA against Defendants, entitled *Amanda Oliver v. Bright Health Group, Inc. et al.* in Merced County Superior Court, case number 22CV-03842 (the “Action”). The Operative Complaint asserts a single cause of action for civil penalties under PAGA, for violations of the California Labor Code and applicable Industrial Welfare Commission Wage Orders;

(e) On September 13, 2023, the Parties mediated the Action with Brandon Coen, Esq. and, with the aid of the mediator’s evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety;

(f) There has been no determination on the merits of the Action or the PAGA Notice but, in order to avoid additional cost and the uncertainty of litigation, the Parties desire to resolve the Released Claims (as defined in Section 8(a) and 8(b) below).

2. **Nonadmission of Wrongdoing.** The Parties agree that neither this Settlement Agreement nor the furnishing of the consideration for this Settlement Agreement shall be deemed or construed at any time for any purpose as an admission by the Released Parties of wrongdoing or evidence of any liability or unlawful conduct of any kind.

3. **Consideration.**

(a) In consideration for Plaintiff signing this Settlement Agreement and complying with its terms, Defendants shall jointly and severally pay the maximum gross sum of Four Hundred Eighty-Three Thousand Dollars and No Cents (\$483,000.00) (the “Total

Settlement Amount”) to resolve the Action and Released Claims (as defined herein), which will be paid as follows:

(1) Attorneys’ fees in the amount of thirty-five percent (35%) of the Total Settlement Amount, which is estimated to be One Hundred Sixty-Nine Thousand Fifty Dollars and No Cents (\$169,050.00), and reimbursement of litigation costs and expenses in the amount of up to Fifteen Thousand Dollars (\$15,000) (collectively, “Attorneys’ Fees and Costs”) to Plaintiff’s Counsel, subject to Court approval and which Defendants will not contest.

(2) A general release payment of up to the amount of Twenty-Five Thousand Dollars and No Cents (\$25,000.00) (“General Release Payment”) to Plaintiff, subject to Court approval and which Defendants will not contest.

(3) Costs and expenses of administration of the Settlement up to the amount of Fifteen Thousand Dollars (\$15,000.00) (“Settlement Administration Costs”) to Phoenix Settlement Administrators (the “PAGA Settlement Administrator”).

(4) The amounts stated in Paragraphs 3(a)(1) – (3) above, once approved by the Court, shall be paid from the Total Settlement Amount. The balance remaining after these deductions is referred to as the “Net Settlement Amount.”

(5) Seventy-five percent (75%) of the Net Settlement Amount will be distributed to the LWDA (“LWDA Payment”); and the remaining twenty-five percent (25%) will be distributed to the Aggrieved Employees, defined solely for purposes of this Settlement as all non-exempt California employees of Universal Care, Inc., d/b/a Brand New Day, and Bright Health Group, Inc. employed between July 1, 2021 and the earlier of (1) the date of approval of the Settlement or (2) October 31, 2023 (the “PAGA Period”). The 25% portion of the Net Settlement Amount payable to Aggrieved Employees is referred to as the “Employees’ Portion.”

(b) The Aggrieved Employees are estimated to consist of approximately 483 individuals who worked approximately 22,746 pay periods during the period between July 1, 2021, through the earlier of: (1) the Court’s approval of the PAGA Settlement, or (2) October 31, 2023. If the actual number of pay periods during the PAGA Period is more than ten percent (10%) above 22,746 pay periods (i.e., if the total number of pay periods exceeds 25,020), then either the Total Settlement Amount will be increased by the same proportion above one hundred ten percent (110%) or Defendants, at their sole discretion, may elect to cut off the PAGA Period as of the date the total pay periods worked by the Aggrieved Employees exceeds ten percent (110%) of the 22,746 pay periods estimate. For example, if the total pay periods worked by the Aggrieved Employees is twenty percent (20%) more than 22,746 (i.e., if the total number of pay periods exceeds 27,295 pay periods), Defendants may choose that either: (i) the Total Settlement Amount to be paid will increase by ten percent (10%); or (ii) the PAGA Period will end on the date in which the Aggrieved Employees collectively worked 25,021 pay periods.

(c) Because this is a settlement of PAGA claims for civil penalties only, no portion of the Settlement is allocated to unpaid wages. One Hundred Percent (100%) of the payments for Attorneys’ Fees and Costs, General Release Payment, and the Net Settlement Amount to be paid to the LWDA and Aggrieved Employees as described in Section 3(a) above will be treated and reported for tax purposes as non-wage payments and the PAGA Settlement Administrator will be responsible for issuing IRS Forms 1099 as required.

4. **Court Approval is Required.** Plaintiff understands and agrees that the State of California and Aggrieved Employees, including Plaintiff, would not receive the consideration specified in Section 3(a) above, except for Plaintiff's execution of this Settlement Agreement, and the fulfillment of the promises contained herein, as well as Court approval of the Settlement. If this Settlement Agreement is not approved by the Court, it shall be null and void. Plaintiff shall timely provide notice of this Settlement Agreement and the Court's Approval of this Settlement Agreement to the LWDA in accordance with Labor Code §§ 2698 *et seq.* If Plaintiff fails to timely provide notice of this Settlement Agreement and the Court's Approval of this Settlement Agreement to the LWDA in strict compliance with Labor Code §§ 2698 *et seq.*, the Settlement shall be voidable at Defendants' option.

5. **Disbursal of Settlement Funds.**

(a) Subject to Section 4 above, Defendants shall remit to the PAGA Settlement Administrator the sums described more fully in Section 3(a) above, by transmitting the required sums to a qualified settlement account established by the PAGA Settlement Administrator for administration of this Settlement within fifteen (15) business days after all of the following has occurred: (i) the Settlement Agreement is fully executed by all Parties and their counsel; (ii) Plaintiff has provided notice of the Settlement Agreement to the LWDA; (iii) the Court has entered and signed an order approving the Settlement Agreement; and (iv) Plaintiff has provided notice of the Court's approval to the LWDA; and (v) only if any objection has been made to Settlement approval, any time for which an appeal could be made to the Court's approval of the Settlement has passed (the "Effective Date"). If the date by which payment by Defendants is due falls on a Saturday, Sunday or legal holiday in the State of California, then the due date shall be extended the next following day which is not a Saturday, Sunday or legal holiday in the State of California.

(b) Upon complete distribution of the Total Settlement Amount by the PAGA Settlement Administrator in accordance with this Settlement Agreement, the PAGA Settlement Administrator will notify the Parties of distribution of the entire Total Settlement Amount.

6. **Approval and Implementation of the PAGA Settlement.**

(a) The Parties are aware that some courts have approved a PAGA settlement and entered an order approving the settlement and judgment and thereafter closed the case, while others have approved a PAGA settlement and entered only an order approving the settlement with later instructions to file a request for dismissal of the action. The Parties agree to cooperate and take any and all steps required by the Court in the Action to implement the settlement and terminate the Action pursuant to the settlement (i.e., to terminate the Action by way of judgment or dismissal).

(b) The Parties further agree to cooperate in the drafting and/or filing of any further documents and/or filings reasonably necessary to be prepared and/or filed, and to take all steps that may be requested by the Court in order to obtain approval and implementation of this Settlement Agreement, and the payments described in Section 3(a) above.

(c) The Parties shall seek to obtain Court approval of this Settlement Agreement by way of a Joint Stipulation and Order to be filed by Plaintiff's Counsel. Plaintiff's Counsel shall provide a draft of all documents to be submitted in connection with the stipulation

to approve this Settlement Agreement to Michael D. Thomas and Jonathan R. Stilz of Jackson Lewis P.C. (“Defendants’ Counsel”) for review and approval prior to filing.

(d) The Parties expressly acknowledge that the Court’s approval of the Settlement Agreement is a condition precedent to any payments described in this Settlement Agreement. Therefore, the Parties further acknowledge that, should the Court not grant approval of this Settlement Agreement and/or should the Court refuse to grant judgment or dismissal of the Action and close the Action based on the Settlement, the entirety of this Settlement Agreement shall be null and void.

7. Payment of PAGA Settlement Sum / Notice to Recipients.

(a) Each Aggrieved Employee will be entitled to a *pro rata* share of 25% of the Net Settlement Amount (i.e., the Employees’ Portion) based upon the number of pay periods they each worked during the PAGA Period (“Compensable Pay Periods”), based on Defendants’ payroll records. Specifically, to calculate each Aggrieved Employee’s share of the Employees’ Portion (“Individual Settlement Share”), the PAGA Settlement Administrator shall: (i) for each Aggrieved Employee, divide the number of Compensable Pay Periods he or she individually worked by the total aggregate number of Compensable Pay Periods worked by all Aggrieved Employees, and then (ii) multiply this amount by the Employees’ Portion to arrive at each Aggrieved Employee’s Individual Settlement Share.

(b) The PAGA Settlement Administrator shall distribute each Individual Settlement Share by way of check, along with a cover letter (“Cover Letter”) agreed to by the Parties and approved by the Court, in substantially the form attached hereto as “Exhibit A”, in the following manner:

(1) No later than fifteen (15) business days after the Effective Date, Defendants shall provide the PAGA Settlement Administrator with a list of all Aggrieved Employees (the “Aggrieved Employees List”), containing the following information for each Aggrieved Employee: (i) first and last name; (ii) last known address; (iii) social security number; and (iv) either the number of Compensable Pay Periods or the dates worked for Defendants as an employee in California during the PAGA Period.

(2) The PAGA Settlement Administrator shall conduct one (1) National Change of Address (“NCOA”) search for all individuals identified on the Aggrieved Employees List.

(3) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall mail the agreed-upon Cover Letter and Individual Settlement Share checks (together, the “PAGA Settlement Package”) to all Aggrieved Employees by first-class United States mail. For each PAGA Settlement Package that is returned undeliverable within thirty (30) calendar days of the initial mailing, the PAGA Settlement Administrator shall promptly attempt to locate an alternate, updated address for the Aggrieved Employee at issue, by using a skip-trace search and shall attempt one (1) re-mailing of the PAGA Settlement Package.

(4) The Individual Settlement Share checks issued to Aggrieved Employees shall remain valid for one hundred eighty (180) calendar days, and thereafter, shall be canceled. Funds associated with canceled checks shall be transmitted to the State Controller’s

Office Unclaimed Property Division in the name of the Aggrieved Employee(s) at issue and in the amount of his or her respective Individual Settlement Share(s).

(c) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the LWDA Payment to the LWDA.

(d) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the Attorneys' Fees and Costs to Plaintiff's Counsel, unless instructed otherwise by Plaintiff's Counsel.

(e) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the General Release Payment to Plaintiff.

(f) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the Settlement Administration Costs to itself, only after the PAGA Settlement Packages have been mailed to all Aggrieved Employees.

8. **Release of Claims**

(a) **Release of Claims by Plaintiff, Aggrieved Employees, and the State of California.** Upon the date the Court has entered an order approving the Settlement Agreement and full funding of the Total Settlement Amount, and except as to the rights and obligations created by this Settlement Agreement, Plaintiff and Aggrieved Employees, individually and on behalf of their heirs, executors, administrators, representatives, attorneys, successors and assigns, and the State of California with respect to Aggrieved Employees, will be deemed to have knowingly and voluntarily released and forever discharged Defendants, including Defendants' parent corporation(s), 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 (collectively, the "Released Parties"), to the full extent permitted by law, of and from the Action and from 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 and PAGA Notice, 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 upon termination, failure to provide compliant and accurate wage statements, failure to maintain complete and accurate payroll records, failure to reimburse necessary business-related expenses and costs, and for violations of Labor Code sections 201, 202, 203, 212, 226(a), 226.7, 510, 512(a), 1194, 1197, 1197.1, 1198, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia* Wage Order 4-2001 (the "Released Claims").

(b) **General Release of Claims by Plaintiff and Waiver of Rights under California Civil Code Section 1542.** In addition to releasing the Released Claims, as described in Section 8(a) above, and in exchange for the Release Payment described in Section 3(a)(2) above, upon the date the Court has entered an order approving the Settlement Agreement

and full funding of the Total Settlement Amount, and except as to the rights and obligations created by this Settlement Agreement, Plaintiff, individually and on behalf of her heirs, executors, administrators, representatives, attorneys, successors and assigns, will be deemed to have knowingly and voluntarily released and forever discharged Released Parties, to the full extent permitted by law, from any and all claims of every nature whatsoever, known or unknown, suspected or unsuspected, which Plaintiff has or may have as of the date the Court has entered and signed an order approving the Settlement Agreement. This broader release includes, but is not limited to, all claims arising directly or indirectly from Plaintiff's employment with Defendants and the termination of that employment, including without limitation claims arising under federal, state, or local laws and claims for unpaid wages, penalties, liquidated damages, breach of contract, breach of the implied covenant of good faith and fair dealing, infliction of emotional distress, wrongful or retaliatory discharge, harassment, discrimination, defamation, impairment of economic opportunity, and violations of public policy, the Fair Labor Standards Act, the California Labor Code, the California Fair Employment and Housing Act, the California Business and Professions Code, the California Constitution, the Civil Rights Act of 1866, Title VII of the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990. This broader release also includes, but is not limited to, all representative claims brought by Plaintiff against the Released Parties, and Plaintiff further waives her right to participate in any class or representative claims alleged against the Released Parties. With respect to those claims released by Plaintiff in an individual capacity, Plaintiff acknowledges and waives any and all rights and benefits available under California Civil Code Section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Plaintiff understands and agrees that claims or facts in addition to or different from those which are now known or believed by his to exist may hereafter be discovered. It is Plaintiff's intention to settle fully and release all claims she now has against the Released Parties, whether known or unknown, suspected or unsuspected. Notwithstanding the above, the general release by Plaintiff shall not extend to claims for workers' compensation benefits, claims for unemployment benefits, or other claims that may not be released by law.

9. **Collective/Class Dispute Waiver.** If any claim is not subject to release, to the extent permitted by law, Plaintiff waives any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective, or multi-party action or proceeding based on such a claim in which Defendants, or any of the other Released Parties is a party.

10. **Confidentiality Preceding Approval.** Prior to Plaintiff filing the Joint Stipulation and Order seeking approval of this settlement, the Parties and their attorneys will not issue any press or other media releases or have any communication with the press or media or anyone other than family members, financial advisors, retained experts, and vendors related to settlement administration, regarding the Settlement Agreement. Information regarding the Settlement Agreement may be disclosed to the Court, the LWDA or in response to information disclosed by Defendants. If, before the filing of the Joint Stipulation and Order seeking approval

of this settlement, Plaintiff or her attorneys disclose to any unauthorized party (a) that a settlement has been reached or (b) any of the terms of the Settlement Agreement, except as required by law or to effect the settlement, Defendants, at Defendants' option, may rescind the Settlement Agreement, rendering it null and void. Until the Settlement Agreement is approved by the Court, Plaintiff and her attorneys will not issue any press, media releases, or advertising related to this Settlement Agreement or Action, unless approved in advance by Defendants.

11. **Confidentiality Following Approval.** Following the Court's entry of an order granting the Parties' Joint Stipulation seeking approval of this settlement, Plaintiff and her attorneys will not issue any press, media releases, or advertising related to this Settlement Agreement or Action by identifying Defendants. Plaintiff's counsel may only advertise the Total Settlement Amount and general nature of Plaintiff's claims alleged in the Operative Complaint.

12. **Non-Disparagement.** Plaintiff agrees not to defame, disparage, or otherwise speak negatively about Defendants, or any of Defendants' officers or directors. However, nothing in this agreement prevents or prohibits Plaintiff from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination, or conduct she believes to be unlawful. In the event of inquiry by any prospective employer, Defendants shall only confirm Plaintiff's dates of employment and last job title.

13. **No Transfer/Assignment of Claims.** Plaintiff warrants and represents that Plaintiff has not assigned or transferred or purported to assign or transfer to any person or entity all or any part of or any interest in any claim released under this Settlement Agreement. Plaintiff is solely responsible for the satisfaction of any assignment or lien to any lien holder and will indemnify and hold the Released Parties harmless against any liens, damages, penalties, fines, fees, assessments, taxes or attorneys' fees that may be imposed against or incurred by any of the Released Parties as a result of the Action of any lien holder or any lien claimant or any court in relation to any interest which any third party may have in any claim which Plaintiff is releasing under this Settlement Agreement or any interest in any of the proceeds paid to Plaintiff or Plaintiff's Counsel under this Settlement Agreement.

14. **Liens and Attorneys' Fees/Indemnification.** Plaintiff is solely responsible for any liens made in connection with any services performed on Plaintiff's behalf by any attorney, consultants, or expert witnesses. Each Party solely is responsible for any fees and costs they or it has incurred including, but not limited to, fees for attorneys, consultants, and expert witnesses. Plaintiff acknowledges that none of the Released Parties are responsible for the payment of any fees incurred on behalf of Plaintiff in connection with the prosecution of the Action, except to the extent the Settlement Agreement provides for payment of attorneys' fees and costs.

15. **Governing Law and Interpretation.**

(a) This Settlement Agreement shall be governed and conformed in accordance with the laws of the State of California provided, however, that parol evidence shall not be admissible to alter, vary or supplement the term of this Settlement Agreement. Should any non-material provision of this Settlement Agreement be declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable such provision immediately shall become null and void, leaving the remainder of this Settlement Agreement in full force and effect.

(b) In the event of a breach of any provision of this Settlement Agreement, any Party reserves the right to institute an action specifically to enforce any term or terms of this Settlement Agreement or seek damages for breach. In an action to enforce any term or terms of this Settlement Agreement or to seek damages for breach of this Settlement Agreement, the prevailing Party in that action shall be entitled to recover reasonable attorney's fees and costs from the non-prevailing Party. The Court shall retain jurisdiction to enforce this Agreement, pursuant to C.C.P. § 664.6 and as otherwise allowed by law.

16. **Waiver of Right to Appeal.** Provided that the Court's approval of this settlement is consistent with the material terms of this Settlement Agreement, Plaintiff, Defendants, and their respective counsel hereby waive any and all rights to appeal the approval of the Settlement Agreement, and the Order therefore will become non-appealable at the time it is entered. If, for any reason an appeal is taken, the time for consummating the Settlement Agreement (including making payments required under the Settlement Agreement) will be suspended until such time as the appeal is finally resolved and the Effective Date is reached.

17. **Amendment.** This Settlement Agreement may not be modified, altered or changed except in writing and signed by both Parties' counsel, wherein specific reference is made to this Settlement Agreement, subject to approval by the Court.

18. **Miscellaneous.**

(a) The Parties agree to stay all proceedings in the Action, including with respect to California Code of Civil Procedure section 583.310, except such proceedings necessary to implement and complete the Settlement, pending approval of the Settlement.

(b) This Settlement Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, taken together shall constitute the same instrument. A signature made on a faxed or electronically transmitted copy of the Settlement Agreement, or a signature transmitted by facsimile or electronic mail shall have the same effect as the original signature.

(c) The section headings used in this Settlement Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify or otherwise be used in the interpretation of any of the provisions hereof.

(d) This Settlement Agreement was the result of negotiations between the Parties and their respective counsel under the auspices of mediator Brandon Coen, Esq. In the event of vagueness, ambiguity or uncertainty, this Settlement Agreement shall not be construed against the Party preparing it but shall be construed as if both Parties prepared it jointly, and the Parties may present their disputes to the mediator to resolve any vagueness, ambiguity, or uncertainty.

(e) If Plaintiff or Defendants fail to enforce this Settlement Agreement or to insist on performance of any term, that failure does not mean a waiver of that term or of the Settlement Agreement. The Settlement Agreement remains in full force and effect anyway.

(f) To the fullest extent permissible under applicable law, and solely for the purposes of this Settlement Agreement and not for any other purpose, Plaintiff's Counsel represents and warrants on behalf of themselves and all others acting on their behalf, that they have

not been retained by any other individuals with claims against Defendants. Nothing in the foregoing is intended to limit or restrict Plaintiff's Counsel's ability to practice law, or to otherwise violate California Rules of Professional Conduct, Rule 1-500. To the extent any portion of this paragraph is found to violate Rule 1-500, or any other Rule of Professional Conduct, such offending language will be deemed stricken and will be treated as if it is of no force and effect.

(g) The Parties believe there is no basis for objections to this Settlement Agreement or its approval by the Aggrieved Employees. The Parties further agree that there is no statutory right for any Aggrieved Employee to object, opt out, or otherwise exclude himself or herself from this settlement.

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES, AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFF AND DEFENDANTS, FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

Date: 10 / 23 / 2023, 2023

Amanda Oliver
Amanda Oliver
Individually and On Behalf of
the State of California and Aggrieved Employees

BRIGHT HEALTH GROUP, INC., and
UNIVERSAL CARE, INC., dba BRAND NEW
DAY

Date: _____, 2023

Name:
Title:

not been retained by any other individuals with claims against Defendants. Nothing in the foregoing is intended to limit or restrict Plaintiff's Counsel's ability to practice law, or to otherwise violate California Rules of Professional Conduct, Rule 1-500. To the extent any portion of this paragraph is found to violate Rule 1-500, or any other Rule of Professional Conduct, such offending language will be deemed stricken and will be treated as if it is of no force and effect.

(g) The Parties believe there is no basis for objections to this Settlement Agreement or its approval by the Aggrieved Employees. The Parties further agree that there is no statutory right for any Aggrieved Employee to object, opt out, or otherwise exclude himself or herself from this settlement.

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES, AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFF AND DEFENDANTS, FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

Date: _____, 2023

Amanda Oliver
Individually and On Behalf of
the State of California and Aggrieved Employees

BRIGHT HEALTH GROUP, INC., and
UNIVERSAL CARE, INC., dba BRAND NEW
DAY

Date: Nov 3, 2023, 2023

Jeff Craig

Name: Jeff Craig
Title: Secretary

Approved as to form and content and executed as to Section 18(f).

GAINES & GAINES, PC

Date: October 24, 2023

Evan S. Gaines

EVAN S. GAINES

Attorneys for Plaintiff Amanda Oliver

Approved as to form and content.

JACKSON LEWIS P.C.

Date: November 20, 2023

Michael D. Thomas

Michael D. Thomas

Jonathan R. Stilz

Attorneys for Defendants Bright Health Group, Inc.,
and Universal Care, Inc. dba Brand New Day

Exhibit A

<<Mailing Date>>

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

Re: Settlement Payment from *Amanda Oliver v. Bright Health Group, Inc. et al.*, Merced Superior Court Case No. 22CV-03842

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 *Amanda Oliver v. Bright Health Group, Inc. et al.*, Merced Superior Court Case No. 22CV-03842 (“Action”).

The lawsuit was filed on November 29, 2022 by Amanda Oliver (“Plaintiff”) against her former employer, Universal Care, Inc. dba Brand New Day and its parent company Bright Health Group, Inc. (collectively “Defendants”), 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 § 2698, *et seq.* (“PAGA”), for 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, amongst other claims. Prior to filing the lawsuit, on July 1, 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, 212, 226(a), 226.7, 510, 512(a), 1194, 1197, 1197.1, 1198, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia* Wage Order 4-2001 (the “PAGA Notice”).

Defendants deny all of Plaintiff’s allegations and deny any wrongdoing of any kind associated with Plaintiff’s allegations. Defendants also deny that this action could proceed on a representative basis.

A settlement was reached between Plaintiff and Defendants.

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 Defendants in the State of California during the PAGA Period (“Aggrieved Employees”). The period July 1, 2021, through _____, 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 Defendants 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 Defendants, including Defendants’ parent corporation(s), 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 and PAGA Notice, 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 upon termination, failure to provide compliant and accurate wage statements, failure to maintain complete and accurate payroll records, failure to reimburse necessary business-related expenses and costs, and for violations of Labor Code sections 201, 202, 203, 212, 226(a), 226.7, 510, 512(a), 1194, 1197, 1197.1, 1198, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia* Wage Order 4-2001.

The enclosed check is valid for 180 days from the original date of issuance and mailing, and if it is not cashed, deposited, or otherwise negotiated within the 180-day timeframe, it will be cancelled, and the funds associated with

the cancelled 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.

The Parties believe there is no basis for objections to this settlement or its approval by the Aggrieved Employees. The Parties further agree that there is no statutory right for any Aggrieved Employee to object, opt out, or otherwise exclude himself or herself from this settlement.

Do not call or write the Court, Office of the Clerk of the Court, Defendants, or Defendants' counsel to ask questions about the settlement or to ask tax-related questions. If you have any such questions, you may contact Phoenix Settlement Administrators at [toll-free phone number] or Gaines & Gaines, APLC, Counsel for Plaintiff, at 866-550-0855.

EXHIBIT D