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10 Attorneys for Defendant

11 DEVELOPMENTAL CLIENT CARE INDUSTRIES, INC.

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13
14 FOR THE COUNTY OF RIVERSIDE

15 ASHLEY MCCORD, individually, and on
16 behalf of all similarly situated,

17 Plaintiffs,

18 vs.

19 DEVELOPMENTAL CLIENT CARE,
20 INDUSTRIES, INC., and DOES 1 through 100,
inclusive,

21 Defendants.

Case No.: RIC1612928

PAGA SETTLEMENT AGREEMENT

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1 Administrator on IRS Form 1099 to the respective Aggrieved Employee and applicable governmental
2 authorities. Of the portion paid to Aggrieved Employees, the amounts will be subject to the distribution
3 formula agreed upon by the Parties. Any leftover funds remaining after the reductions listed in this
4 paragraph, shall go the Net Settlement Fund and shall not revert back to Defendant. The portions of the
5 Net Settlement Fund to be distributed to the Aggrieved Employees, as described in this Paragraph
6 (“Aggrieved Employee Fund”), shall be paid according to the following formula: *Settlement Payment to*
7 *each Aggrieved Employee = (Aggrieved Employee Fund x Pay Periods Worked by Each Individual*
8 *Aggrieved Employee During Settlement Period) ÷ Total Pay Periods Worked by All Aggrieved*
9 *Employees during the Settlement Period.*

10 5. Attorneys’ Fees and Costs: In full satisfaction of all claims Plaintiff may have for
11 attorney’s fees, litigation costs, and expenses arising out of the Action, Defendant agrees to pay
12 Plaintiff’s counsel, Crosner Legal, P.C. (“Plaintiff’s Counsel”), a total of Fifty Thousand Three Hundred
13 Twenty Eight Dollars and Sixty Two Cents (\$50,328.62) in attorneys’ fees, as well as additional actual
14 litigation costs and expenses in an amount of Six Thousand Eight Hundred Thirty-One Dollars and
15 Twelve Cents (\$6,831.12). (“Attorneys’ Fees and Costs”), from the Maximum Settlement Amount.

16 6. Settlement Administration. The Parties will retain Simpluris Inc. (“Settlement
17 Administrator”) to administer this Settlement. The Settlement Administrator will be responsible for
18 establishing a qualified settlement fund (“QSF”) from the Maximum Settlement Amount paid by
19 Defendant, and issuing payments and appropriate tax forms to Aggrieved Employees, the LWDA,
20 Plaintiff, and Plaintiff’s counsel. The fees and costs of the Settlement Administrator shall be paid from
21 the QSF (“Settlement Administration Costs”) in an amount not to exceed Ten Thousand Dollars and
22 Zero Cents (\$10,000.00).

23 7. Plaintiff’s Service Award: In recognition of her effort and work in prosecuting the
24 Action for the benefit of the State of California and Aggrieved Employees, and for a general release of
25 all individual claims she may have against Defendant, as set forth in Paragraph 15, Defendant agrees to
26 pay Plaintiff Ten Thousand Dollars and Zero Cents (\$10,000.00) (“Plaintiff’s Service Award”) from the
27 Maximum Settlement Amount, subject to issuance of a Form 1099, in addition to her share of the
28 Aggrieved Employee Fund as determined under Paragraph 4. Plaintiff shall assume full responsibility

1 and liability for payment of taxes due on Plaintiff's Service Award.

2 8. Court Approval of the Settlement and Distribution of Settlement Payments. The Parties
3 will present this Settlement Agreement to the Court and will request that the Court issue an order
4 approving and incorporating by reference the terms and conditions of the Settlement Agreement (the
5 "Order"). Simultaneously, Plaintiff's counsel will submit a copy of the executed Settlement Agreement
6 to the LWDA. Upon approval of the Order, Plaintiff's counsel will submit a copy of the Order to the
7 LWDA.

8 9. Installment Funding of the Settlement. After the Court enters the Order, Defendant will
9 deposit Fifty Percent (50%) of the Maximum Settlement Amount into the QSF by no later than May 18,
10 2018 ("First Installment Payment"); Defendant will thereafter deposit the remaining Fifty Percent (50%)
11 of the Maximum Settlement Amount into the QSF by no later than July 18, 2018 ("Second Installment
12 Payment") (collectively referred to as the "Installment Payments"). Within fourteen (14) calendar days
13 of the First Installment Payment and of the Second Installment Payment, the Settlement Administrator
14 will issue payments to: (a) Aggrieved Employees; (b) the LWDA; (c) Plaintiff; (d) Plaintiff's counsel,
15 and (e) itself. The Settlement Administrator, and not Defendant, will issue the appropriate tax forms for
16 all payments issued under this Settlement.

17 10. Non-Installment Funding of the Settlement. The Parties agree that if two Installment
18 Payments by the Settlement Administrator cause the Settlement Administration Costs to exceed Ten
19 Thousand Dollars and Zero Cents (\$10,000.00), then the Settlement Administrator will not issue any
20 payments following Defendant's deposit of the First Installment Payment. The Settlement Administrator
21 will only issue payments to (a) Aggrieved Employees; (b) the LWDA; (c) Plaintiff; (d) Plaintiff's
22 counsel; and (e) itself, within fourteen (14) calendar days following Defendant's deposit of the Second
23 Installment Payment.

24 11. No Opt-Out or Objection to the Settlement. Because the requirements of class
25 certification do not apply to PAGA representation actions (*see Arias v. Super. Ct.*, 46 Cal. 4th 969
26 ([2009])), it is understood and agreed that the Aggrieved Employees shall not be afforded an opportunity
27 to opt out of, or object to, the Settlement.

28 12. Settlement Payments to Aggrieved Employees. The Settlement Administrator will issue

1 each Aggrieved Employees a check for his or her share of the Aggrieved Employee Fund, as calculated
2 under Paragraph 4, along with an explanatory letter which will be mutually approved by the parties,
3 explaining, *inter alia*, that the Settled Claims are barred by operation of the Settlement. Checks will
4 remain negotiable for 180 days. Any checks returned as non-deliverable on or before the check cashing
5 deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed
6 thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to
7 determine the correct address using a skip-trace, or other search using the name, address or Social
8 Security number of the Aggrieved Employees involved, and will then perform a single re-mailing.
9 Funds represented by settlement checks returned as undeliverable and those settlement checks remaining
10 un-cashed for more than 180 days after issuance will be tendered to the California Department of
11 Industrial Relations Unpaid Wage Fund (see Cal. Lab. Code § 96.6). All settlement payments to
12 Aggrieved Employees will be treated as miscellaneous income for which a 1099 will be issued. Plaintiff
13 and Aggrieved Employees, and not Defendant, shall assume full responsibility and liability for payment
14 of any taxes due on such settlement payments, if any.

15 13. Release as to the PAGA Representative Claims: Subject to approval by the Court, and
16 for good and valuable consideration set forth herein, the receipt and sufficient of which is hereby
17 acknowledged, Plaintiff Ashley McCord, individually and in her capacity as a private attorney general on
18 behalf of the LWDA, does hereby irrevocably release, acquit, and forever discharge Defendant of and
19 from any and all claims, rights, penalties, demands, damages, debts, accounts, duties, costs (other than
20 those costs required to be paid pursuant to this Settlement Agreement), liens, charges, complaints, causes
21 of action, obligations, or liability of any and every kind, arising out of the facts alleged in the operative
22 complaint, and that were asserted or reasonably could have been asserted in the operative complaint,
23 including but no limited to claims for DCCI's (i) failure to pay split shift premiums; (ii) failure to timely
24 pay wages after the close of each pay period; (iii) inaccurate wage statements, as a result of unpaid split
25 shift premiums; (iv) failure to pay all outstanding wages at separation, as a result of unpaid split shift
26 premiums; and (v) the alleged violation of, or claims for relief pursuant to, Labor Code sections 201,
27 202, 203, 204, 210, 226, 226.3, 512, 558, and 1174, as well as California Code of Regulations, Title 8,
28 section 11050(4)(C) and IWC Wage Order 5-2001, Section 4(C) ("Released Claims").

14. The time period governing these Released Claims shall be at any time from September 1, 2015, through the date of the Final Order approving this Settlement Agreement.

15. These Releases also include a release of all claims against Defendants for attorneys' fees and costs incurred by Plaintiff's Counsel in connection with this Action and the Settlement of this Action.

16. Release by Plaintiff: Plaintiff does for herself and for her respective spouses, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives, and assigns forever and completely release and discharge Defendant from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses (including back wages, statutory penalties, civil penalties, liquidated damages, exemplary damages', interest, attorneys' fees, and costs) of any nature whatsoever, from the beginning of time to the date she executes this Settlement Agreement, whether known or unknown, suspected or unsuspected, including but not limited to all claims arising out of, based upon, or relating to Plaintiff's employment with Defendant or the remuneration for or termination of such employment.

Without limiting the generality of the foregoing, Plaintiff expressly releases all claims or rights against Defendant arising out of or relating to alleged violations of any contracts, express or implied (including but not limited to any contract of employment); any contract or covenant of good faith and fair dealing (express or implied); any tort, including any claim for improper or unauthorized wage deductions, failure to pay the applicable wage, unpaid wages, unpaid vacation benefits, penalties, liquidated damages, other damages, alleged minimum wage and overtime under state law, including California Labor Code Sections 204 and 558, waiting time penalties pursuant to California Labor Section 203, damages or penalties pursuant to California Labor Code Section 226, meal period and rest break payments pursuant to California Labor Code Sections 226.7 and 512, failure to provide itemized wage statements pursuant to California Labor Code Section 226, statutory or civil penalties pursuant to California Labor Code Sections 210, unfair competition and unfair business practices pursuant to Business and Professions Code Section 17200 et seq., interest and costs pursuant to California Civil Code Section 3287 and California Labor Code Section 218.6, statutory or common law rights to attorneys' fees and costs, including those pursuant to California Labor Code Section 1194 et seq.; claims

1 under the Private Attorneys General Act of 2004, Labor Code section 2699 et seq., and the alleged
2 violation or breach of any other state or federal statute, rule and or regulation; including all applicable
3 Industrial Welfare Commission Wage Orders, and all similar causes of action, including but not limited
4 to, any claim for restitution, equitable relief, interest, penalties, costs or attorneys' fees in connection with
5 any of the foregoing, negligent infliction of emotional distress, intentional infliction of emotional distress,
6 and defamation; any "wrongful discharge," "constructive discharge," and "retaliation" claims; any
7 claims relating to any breach of public policy; any legal restrictions on Defendant's' right to discharge
8 employees; and any federal, state, or other governmental statute, regulation, or ordinance, including,
9 without limitation: (1) Title VII of the Civil Rights Act of 1964 (race, color, religion, sex, and national
10 origin discrimination or harassment, including retaliation for reporting discrimination or harassment); (2)
11 42 U.S.C. § 1981 (discrimination); (3) Equal Pay Act, 29 U.S.C. § 209(d) (1) (equal pay); (4)
12 Americans with Disabilities Act, 42 U.S.C. § 12100 et seq. (disability discrimination); (5) Family and
13 Medical Leave Act, 29 U.S.C. § 2601 et seq. (family/medical leave); (6) California Fair Employment
14 and Housing Act, Cal. Government Code § 12900 et seq. (discrimination or harassment in employment
15 and/or housing, including discrimination or harassment based on race, religious creed, color, national
16 origin, ancestry, disability, marital status, sex (including pregnancy), or age, including retaliation for
17 reporting discrimination or harassment); (7) California Family Rights Act, Cal. Government Code §
18 12945.1 et seq. (family/medical leave); (8) California Labor Code, including Section 1720 et seq., or any
19 Industrial Welfare Commission Wage Order; (9) Executive Order 11246 (race, color, religion, sex, and
20 national origin discrimination or harassment); (10) Executive Order 11141 (age discrimination); (11)
21 Sections 503 and 504 of the Rehabilitation Act of 1973 (handicap discrimination); (12) the Fair Labor
22 Standards Act; and (13) Employee Retirement Income Security Act, 29 U.S.C. § 1000 et seq. (employee
23 benefits).

24 Plaintiff expressly waives and relinquishes all rights and benefits afforded by Section 1542 of the
25 Civil Code of the State of California and do so understanding and acknowledging the significance of the
26 waiver of Section 1542. Section 1542 of the Civil Code of the State of California states:

27 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
28 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HER OR HER

1 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN
2 BY HER OR HER MUST HAVE MATERIALLY AFFECTED HER OR HER
3 SETTLEMENT WITH THE DEBTOR.

4 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and
5 complete release and discharge of all parties, Plaintiff and Plaintiff's Counsel expressly acknowledge that
6 this Settlement Agreement is intended to include in its effect, without limitation, all claims that Plaintiff
7 knows of, as well as all claims that they do not know or suspect to, exist in her favor against Defendant,
8 or any of them, for the time period from the beginning of time to the date of the entry of the Final Order
9 and that this Settlement Agreement contemplates the extinguishment of any such claims.

10 Plaintiff's general release shall become effective upon the date of entry of the Final Order. The
11 Parties agree that Plaintiff's general release shall not affect or limit Plaintiff's ability or standing to serve
12 as the representative/lead Plaintiff for the State of California in this Action and/or for this Settlement
13 Agreement.

14 17. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
15 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
16 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
17 action or right herein released and discharged.

18 18. Nullification of Settlement Agreement. In the event that: (i) the Court does not approve
19 the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then
20 this Settlement Agreement will be null and void, and the Parties will be returned to their original
21 respective positions pursuant to the terms of the Memorandum of Agreement entered into by the Parties
22 on October 18, 2017.

23 19. Order and Continued Jurisdiction. After entry of the Order, the Court will have
24 continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the
25 terms of the Settlement, (ii) settlement administration matters, and (iii) such other matters as may be
26 appropriate under court rules or as set forth in this Settlement.

27 20. Entire Agreement. This Settlement Agreement constitutes the entirety of the Parties'
28 settlement terms. Apart from the Memorandum of Agreement entered into by the Parties on October 17,

2017, no other prior or contemporaneous written or oral agreements may be deemed binding on the Parties.

21. Amendment or Modification. This Settlement Agreement may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all Parties.

22. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

23. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

24. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

25. Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

26. Acknowledgement that the Settlement is Fair and Reasonable. Defendant has produced and Plaintiff has received and reviewed data pertaining to the hours worked by and wages paid Aggrieved Employees, in addition to the applicable number of work weeks and shifts. The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations by experienced counsel. The Parties agree that

1 Plaintiff and her counsel have sufficient information to assess this matter for settlement and have
2 engaged in sufficient investigation and informal and formal discovery to assess the relative merits of
3 Plaintiff's claims and Defendant's defenses to them.

4 27. The Parties further acknowledge that they are each represented by competent counsel
5 and that they have had an opportunity to consult with their counsel regarding the fairness and
6 reasonableness of this Settlement.

7 28. Invalidity of Any Provision. Before declaring any provision of this Settlement
8 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
9 possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement
10 valid and enforceable.

11 29. Captions. The captions and section numbers in this Settlement Agreement are inserted
12 for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
13 provisions of this Settlement Agreement.

14 30. Waiver. No waiver of any condition or covenant contained in this Settlement
15 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to
16 imply or constitute a further waiver by such party of the same or any other condition, covenant, right or
17 remedy.

18 31. Enforcement Action. In the event that one or more of the Parties institutes any legal
19 action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement
20 or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
21 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including
22 expert witness fees incurred in connection with any enforcement actions.

23 32. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
24 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed
25 more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for
26 one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties,
27 all Parties have contributed to the preparation of this Settlement Agreement.
28

1 33. Representation By Counsel. The Parties acknowledge that they have been represented
2 by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and
3 that this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed
4 in full.

5 34. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
6 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
7 Settlement Agreement.

8 35. Binding Agreement. The Parties warrant that they understand and have full authority to
9 enter into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and
10 binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to
11 enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply
12 under federal or state law.

13 36. Denial of Liability. The Parties expressly recognize that the making of this agreement
14 does not in any way constitute an admission or concession of wrongdoing on the part of any of the
15 Defendant, and Defendant expressly denies any liability to Plaintiff and the Aggrieved Employees.
16 Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements,
17 discussions or communications, nor any materials prepared, exchanged, issued or used during the course
18 of this Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be
19 used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other
20 forum or proceeding, as evidence of any violation of any federal, state, or local law, statute, ordinance,
21 regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the
22 foregoing, this agreement may be used in any proceeding in the Court that has as its purpose the
23 interpretation, implementation, or enforcement of the Settlement or any orders or judgments of the Court
24 entered into in connection therewith.

25 **READ CAREFULLY BEFORE SIGNING**

26 **SIGNATURES FOLLOW ON NEXT PAGE**

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PLAINTIFF

Dated: _____

Plaintiff Ashley McCord

**DEFENDANT DEVELOPMENTAL CLIENT
CARE INDUSTRIES, INC.**

Dated: 11/21/18



CARL E. ROWE

Please Print Name of Authorized Signatory

APPROVED AS TO FORM

CROSNER LEGAL, P.C.

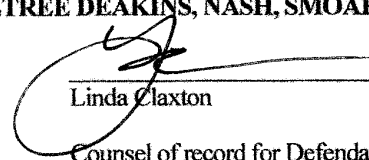
Dated: _____

Zachary Crosner, Esq.

Counsel of record for Plaintiff Ashley McCord

OGLTREE DEAKINS, NASH, SMOAK & STEWART, P.C.

Dated: 11/21/18



Linda Claxton

Counsel of record for Defendant Developmental
Client Care Industries, Inc.

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PLAINTIFF

Dated: 11/25/2018



Plaintiff Ashley McCord

**DEFENDANT DEVELOPMENTAL CLIENT
CARE INDUSTRIES, INC.**

Dated: _____

Please Print Name of Authorized Signatory

APPROVED AS TO FORM

CROSNER LEGAL, P.C.


Zachary Crosner, Esq.
Counsel of record for Plaintiff Ashley McCord

OGLTREE DEAKINS, NASH, SMOAK & STEWART, P.C.

Dated: _____

Linda Claxton
Counsel of record for Defendant Developmental
Client Care Industries, Inc.