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Attorneys for Plaintiffs, the Class and Aggrieved Employees

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

MELISSA HEBDON, on behalf of herself
and all similarly aggrieved employees,

Plaintiff,

v.

MISSION HEALTHCARE SERVICES,
LLC; HEALTHY LIVING NETWORK
RESOURCES, LLC; HEALTHY LIVING
AT HOME - MONTEREY, LLC; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 22CV000226

**DECLARATION OF KRISTEN M. AGNEW IN
SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: October 11, 2024

Time: 8:30 a.m.

Dept.: 14

Action Filed: January 25, 2022

Trial Date: None Set

1 I, Kristen Agnew, declare as follows:

2 1. I am an attorney at law, duly licensed to practice before all Courts in the State of
3 California, and am with the law firm Diversity Law Group, P.C., counsel of record for Plaintiffs
4 Melissa Hebdon and Annette Lewis (collectively, “Plaintiffs”). I have personal knowledge of the
5 facts set forth below and if called to testify I could and would do so competently.

6 **THE PROCEDURAL HISTORY OF THE INSTANT ACTION**

7 2. From the inception of the case, Class Counsel has zealously represented the
8 interests of the Class. I have no conflicts with the Class and will adequately represent the Class.

9 3. On September 28, 2021, Plaintiff Melissa Hebdon (“Plaintiff Hebdon”) filed a
10 written notice with the California Labor & Workforce Development Agency (“LWDA”) alleging
11 that Defendants Mission Healthcare Services, LLC, Healthy Living Network Resources, LLC
12 and Healthy Living at Home – Monterey, LLC (“Defendants”) violated Labor Code sections
13 201, 201.3, 202, 203, 204, 207, 208, 209, 216, 218, 218.5, 218.6, 223, 225.5, 226, 226.7, 510,
14 512, 558, 1174, 1194, 1197, 1197.1, 1198, and 1199, and the applicable California Industrial
15 Welfare Commission Wage Order, pursuant to Labor Code section 2699 (“Hebdon PAGA
16 Notice”). Attached hereto as **Exhibit 2** is a true and correct copy of the September 28, 2021
17 Hebdon PAGA Notice.

18 4. On January 25, 2022, Plaintiff Hebdon initiated this Action in Monterey County
19 Superior Court. In the initial complaint, Plaintiff Hebdon asserted individual claims for: (1)
20 misrepresentation [Labor Code § 970]; (2) violation of the Equal Pay Act [Labor Code §
21 1197.5]; (3) discrimination based on sex in violation of the FEHA [Govt. Code § 12940(a)]; (4)
22 wrongful discharge in violation of public policy; (5) failure to provide meal periods [Labor Code
23 §§ 226.7 and 1198]; and (6) failure to provide rest period [Labor Code §§ 226.7 and 1198]. She
24 further alleged class claims for: (1) failure to pay hourly and overtime wages [Labor Code §§
25 1194 and 1198]; (2) failure to provide accurate itemized wage statements [Labor Code §§ 226,
26 1174 and 1175]; (3) failure to pay wage upon termination [Labor Code §§ 201, 202 and 203];
27 and (4) unfair business practices [Business and Professions Code §§ 17200 *et. seq.*]. Plaintiff
28 Hebdon also asserted a claim for civil PAGA penalties predicated on the Labor Code violations

1 set forth in the Hebdon PAGA Notice.

2 5. On August 23, 2022, Plaintiff Anette Lewis (“Plaintiff Lewis”) filed a written
3 notice with the LWDA alleging that Defendants violated Labor Code sections 201, 201.3, 202,
4 203, 204, 207, 208, 209, 216, 218, 218.5, 218.6, 223, 225.5, 226, 226.7, 510, 512, 558, 1174,
5 1194, 1197, 1197.1, 1198 and 1199, and the applicable California Industrial Welfare
6 Commission Wage Order, pursuant to Labor Code section 2699 (“Lewis PAGA Notice”).
7 Attached hereto as **Exhibit 3** is a true and correct copy of the August 23, 2022 Lewis PAGA
8 Notice.

9 6. On August 30, 2022, Plaintiffs filed the First Amended Complaint. The First
10 Amended Complaint adds Plaintiff Lewis as an additional named plaintiff, and includes class
11 claims predicated on Defendants’ alleged failure to provide meal/rest periods.

12 7. On November 8, 2023, Plaintiffs filed the operative Second Amended Complaint
13 for Damages, Civil Penalties and for Injunctive Relief (“Complaint”). As set forth in the
14 Complaint, Plaintiffs allege that Defendants maintained a policy and practice of failing to: (1)
15 provide meal periods and/or pay meal period premiums at the regular rate of pay [Labor Code §§
16 226.7 and 1198]; (2) provide rest periods and/or pay rest period premiums at the regular rate of
17 pay [Labor Code §§ 226.7 and 1198]; (3) pay hourly and overtime wages [Labor Code §§ 1194
18 and 1198]; (4) provide accurate itemized wage statements [Labor Code §§ 226, 1174 and 1175];
19 (5) pay wage upon termination [Labor Code §§ 201, 202 and 203]. Plaintiffs also assert PAGA
20 claims predicated on these alleged violations of the Labor Code. The Complaint also adds
21 allegations regarding retaliation and sex discrimination on behalf of Plaintiff Hebdon.

22 8. On December 8, 2023, Defendants filed their Answer to the Second Amended
23 Complaint, stating their general denial of all facts and allegations of the Second Amended
24 Complaint, and setting forth their affirmative defenses.

25 **FORMAL WRITTEN DISCOVERY**

26 9. On June 1, 2022, Plaintiff Hebdon propounded requests for production of
27 documents and special interrogatories seeking documents and information related to class
28 certification, including the number of putative class members, the number of putative class

1 members who separated employment, the average hourly rate of putative class members and
2 Defendants' policies and procedures utilized to calculate compensable time worked by putative
3 class members.

4 10. On August 16, 2022, Defendants served objections and responses to the initial
5 discovery. Defendants subsequently provided supplemental responses and amended
6 supplemental responses.

7 11. Ultimately, Defendants produced thousands of pages of documents, which
8 included Plaintiffs' personnel files, employee handbooks, and Excel spreadsheets with time and
9 payroll records for the putative class.

10 12. On August 18, 2023, Defendants served requests for production of documents and
11 special interrogatories. Plaintiffs served responses to the discovery, on October 26, 2023.

12 13. The Parties stipulated to the production of the contact information of putative
13 class members, subject to the *Belaire-West* opt-out process. On August 30, 2023, *Belaire-West*
14 notices were disseminated to the putative class.

15 MEDIATIONS

16 14. On or about September 19, 2022, the Parties agreed to participate in private
17 mediation with Steve Serratore, an experienced wage and hour class action mediator. The Parties
18 agreed to the informal exchange of information leading up to mediation. Defendants provided
19 data points regarding the size of the putative class and value of the claims, including, the number
20 of California non-exempt employees, the number of shifts lasting 3.5 hours or more worked by
21 California non-exempt employees, the number of shifts exceeding five hours worked by
22 California non-exempt employees, the number of pay periods in which California non-exempt
23 employees earned both overtime and non-discretionary incentive compensation, the number of
24 pay periods in which California non-exempt employees earned both sick pay and non-
25 discretionary incentive compensation, the number of wage statements issued to California non-
26 exempt employees, and the average hourly rate of California non-exempt employees.

27 15. On October 10, 2022, the Parties engaged in mediation with Mr. Serratore.
28 Although the Parties made progress towards settlement at the mediation, they did not reach a

1 resolution of the Action.

2 16. Following the mediation, the Parties extensively discussed the impact of two prior
3 wage and hour class action settlements on the scope of Defendants' liability in the Action. The
4 settlement in the matter of *James Black v. Mission Healthcare Services, Inc.* (Los Angeles
5 County Superior Court Case No. 19STCV04602) included a release for claims predicated on the
6 underpayment of overtime wages, meal/rest period violations, waiting time penalties and wage
7 statement violations. The *Black* release period extended from May 1, 2017 through February 7,
8 2020. The settlement in *Robin Dougan, et al v. Healthy Living at Home — San Diego, LLC, et*
9 *al* (San Diego Superior Court Case No. 37-2020-0001844-CU- 0E-CTL) also included a release
10 for unpaid overtime wages, including but not limited to alleged miscalculation of overtime
11 wages, meal/rest period violations, waiting time penalties and wage statement violations. The
12 *Dougan* release period spanned from June 3, 2016 to June 22, 2021.

13 17. On January 30, 2023, the Parties participated in a second day of private mediation
14 with Mr. Serratore. In light of the *Black* and *Dougan* class releases, Plaintiffs agreed to limit the
15 liability period to June 23, 2021 through the present. Defendants also provided a refined
16 workweek count that took into account the number of employees subject to the releases. The
17 Parties did not reach a resolution of the Action and resumed litigation.

18 18. On December 15, 2023, the Parties agreed to participate in a third mediation.

19 19. Class Counsel engaged Econ One to analyze the extensive payroll data produced
20 by Defendants. With Econ One's assistance, Class Counsel conducted a full damages analysis as
21 to the class and PAGA claims. Based on the information provided by Defendants, Class Counsel
22 was able to determine the total number of Class Members and Aggrieved Employees, the number
23 of meal and rest period eligible shifts worked during the Class Period and PAGA Period, the
24 number of pay periods in which non-discretionary incentive pay was earned in the same
25 workweek as meal period premium pay, overtime and/or sick pay, the number of Class Members
26 who separated employment, and the average rate of pay for Class Members.

27 20. On February 12, 2024, the Parties participated in a full-day mediation with
28 Michael Mandel. After the exchange of further information and extended negotiations following

mediation, the Parties reached the present class-wide settlement, memorialized by a written Memorandum of Understanding (“MOU”) fully executed on June 11, 2024.

21. The Parties subsequently executed the Joint Stipulation of Class and Representative Action Settlement. The settlement discussions were conducted at arm’s length.

SUMMARY OF THE SETTLEMENT TERMS

22. The terms of the class-wide settlement are set forth in the Joint Stipulation of Class and Representative Action Settlement (“Agreement” or “Settlement Agreement”). The Settlement Agreement sets forth all terms of the agreement reached by the Parties, which include, among other things, the method for calculating the Class Members’ individual settlement payments. A true and correct copy of the Settlement Agreement is attached hereto as **Exhibit 1.**

23. The proposed Class consists of “all persons who were formerly or are currently employed as non-exempt, hourly W-2 employee by Defendants and other Healthy Living at Home Entities¹ in California at any time during the Class Period.” SA § A-3. The Class Period is defined to mean the period from June 23, 2021 through the April 15, 2024. *See id.* at § A-7. Defendants have represented that there are approximately 2,537 individuals that comprise the Class.

24. As defined by the Settlement Agreement, PAGA Employees means “all persons who were formerly or are currently employed as non-exempt, hourly W-2 employee by Defendants and other Healthy Living at Home Entities in California at any time during the PAGA Period.” *See* SA § A-24. The PAGA Period is the period from September 28, 2020 through April 15, 2024. *See id.* at § A-25. Defendants have represented that there are approximately 2,671 individuals that comprise the PAGA Employees.

¹ “Healthy Living at Home Entities” is defined to mean the following :California-based Home Health locations operated by Mission Healthcare Services or Healthy Living at Home, including the following: Healthy Living at Home – East Bay; Healthy Living at Home - Fresno; Healthy Living at Home - Modesto; Healthy Living at Home - Monterey; Healthy Living at Home - Palm Desert; Healthy Living at Home - Redding; Healthy Living At Home – San Diego and Healthy Living at Home - San Jose. SA § A-17.

1 25. The Settlement Agreement provides for One Million Two Hundred Twenty-Five
2 Thousand Dollars (\$1,225,000.00) as the Gross Settlement Amount. *See* SA § A-16. The Gross
3 Settlement Amount was calculated with, and is premised on, Defendants’ representation that
4 there are approximately 49,882 pay periods in which Class Members worked at least one shift
5 during the Class Period. *See id.* at § D-2. Thus, the dollar value for each period being released by
6 the Settlement is approximately \$24.55. In the event the number of pay periods at issue exceeds
7 49,882 by more than ten percent (*i.e.*, 54,871) as determined by the Settlement Administrator, the
8 Gross Settlement Amount shall increase proportionately for each pay period in excess of 54,871.
9 *See id.*

10 26. The balance of the Gross Settlement Amount remaining after deduction of
11 attorneys’ fees (up to \$408,333.33), costs (up to \$60,000.00), Enhancement Payments (up to
12 \$20,000.00), payment of PAGA penalties to the LWDA and PAGA Employees (up to
13 \$150,000.00), and Settlement Administration Costs (up to \$24,000.00), is the Net Settlement
14 Amount. *See* SA §§ A-5, A-14, A-17, A-20, A-35. I estimate that the Net Settlement Amount
15 will be at least \$562,666.67.

16 27. The Net Settlement Amount will be available for distribution to Settlement Class
17 Members (*e.g.* Class Members who do not opt-out of the settlement). *See* SA § A-20. Settlement
18 Class Members will be entitled to receive a portion of the Net Settlement Amount on a *pro rata*
19 basis, based upon the total number of pay periods each Settlement Class Member worked during
20 the Class Period. *See* SA § D-9. This is fair, as it directly allocates greater recovery to individual
21 Settlement Class Members who have allegedly suffered greater harm. One Hundred percent
22 (100%) of the Net Settlement Amount shall be allocated to all Settlement Class Members. *See id.*

23 28. Subject to Court approval, One Hundred Fifty Thousand Dollars (\$150,000.00) of
24 the Gross Settlement Amount shall be allocated to PAGA penalties (“PAGA Allocation”). *See*
25 SA § A-23. Seventy-Five percent of the PAGA Allocation, *i.e.* the sum of One Hundred Twelve
26 Thousand Five Hundred Dollars (\$112,500.00), to the LWDA. *See* SA § D-7. The remaining
27 twenty-five percent (25%), *i.e.*, the sum of Thirty-Seven Thousand Five Hundred Dollars
28 (\$37,500.00), shall be distributed to PAGA Employees (“Net PAGA Payment”). *See id.* As

1 detailed in the Settlement, the amount of individual payments to PAGA Employees will be
2 determined by the number of pay periods in which the employee worked during the PAGA
3 Period. *See* SA § D-8.

4 29. As part of the Settlement, Defendants do not object to Class Counsel's request for
5 attorneys' fees of approximately one-third of the Gross Settlement Amount, *i.e.* the sum of Four
6 Hundred Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents
7 (\$408,333.33), and costs in the amount of up to Sixty Thousand Dollars (\$60,000.00), subject to
8 the Court finally approving this Settlement. *See* SA §§ A-5, D-4. Any portion of the requested
9 attorneys' fees and/or costs not approved by the Court shall be added to the Net Settlement
10 Amount. *See* SA § D-4.

11 30. Defendants also do not object to the Class Representatives' request for
12 Enhancement Payments in the amount of \$10,000 each (\$20,000.00). *See* SA §§ A-14, D-5. This
13 amount is intended to compensate Plaintiffs for their efforts and work in prosecuting this case,
14 including meeting and communicating with Class Counsel and reviewing the pleadings and
15 documents in this case, including the PAGA Notices, Complaints and the Settlement Agreement.
16 Moreover, in consideration for the Enhancement Payment, Plaintiffs also executed a general
17 release of all claims including a waiver under California Civil Code §1542, which other
18 members of the Class did not have to do. *See* SA § E-1.² Any portion of the Enhancement
19 Payments that are not approved by the Court shall become part of the Net Settlement Amount.
20 *See* SA § A-30.

21 31. Finally, the Settlement provides for the payment of the fees and expenses
22 reasonably incurred by the Settlement Administrator. *See* SA § D-6. The Parties have agreed to
23 utilize Phoenix Settlement Administrators to administer the settlement, with the administration
24 costs estimated to be \$24,000. *See id.* at §§ A-35, 36.

25
26
27 ² In the Action, Plaintiff Hebdon alleges individual claims for fraud, violation of the equal pay
28 act, sex discrimination, retaliation and wrongful termination in violation of public policy.
Plaintiff Hebdon entered into a separate confidential settlement and general release of these
claims.

1 **ESTIMATED INDIVIDUAL CLASS SETTLEMENT PAYMENTS**

2 32. I estimate that the Net Settlement Amount of \$562,666.67 will be available for
3 distribution to Settlement Class Members. On a raw average, each Settlement Class Member
4 may potentially recover approximately \$221.78. The amount actually paid to each Settlement
5 Class Member may increase or decrease depending on the actual number of pay periods worked
6 during the Class Period and/or the number of timely Requests for Exclusion received. This is
7 fair, as it directly allocates greater recovery to individual Class Members who have allegedly
8 suffered greater harm.

9 33. Those funds represented by settlement checks returned as undeliverable and the
10 funds which correspond with the settlement checks that are not negotiated within one hundred
11 and eighty (180) calendar days after issuance shall be remitted to the *cy pres* recipient, California
12 State Bar's Justice Gap Fund. *See* SA § D-15. I do not have a relationship, financial or otherwise,
13 with the State Bar's Justice Gap Fund.

14 **ANALYSIS OF THE CLASS CLAIMS**

15 34. **Rest Period Claim.** The rest period claim is premised on three alleged policies
16 and practices: (1) due to chronic understaffing and pressure from the corporate office to
17 maximize client productivity (i.e., seeing the highest number of patients in the least amount of
18 time), employees were frequently deprived of the opportunity to take timely, duty-free rest
19 breaks; (2) Defendants required employees to leave their cell phones on and respond to calls
20 during rest periods; and (3) Defendants did not pay rest period premiums for non-compliant rest
21 periods.

22 35. By virtue of the fact that Defendants failed to adequately staff the facilities in
23 question, fostered a company culture that encouraged employees to forgo breaks in order to
24 maximize client productivity, and required Class Members to carry a cellphone during their rest
25 periods, Plaintiffs allege Defendants failed to make uninterrupted rest breaks available to Class
26 Members at all times in compliance with California law. For each rest period missed or taken
27 late an employer must pay the employee an additional one hour of compensation. Labor Code §
28 226.7. The payroll records produced by Defendants establish that Class Members did not receive

1 the payment of rest period premium pay.

2 36. Defendants maintain that they complied with the law, had lawful and compliant
3 practices, and provided Class Members with duty-free rest periods. In this respect, Defendants'
4 written policies state that employees are "relieved of all duty" during their breaks and are
5 "prohibited from working" during them. The policy further directs employees to notify a
6 manager or human resources of any work performed during a break. Defendants also dispute the
7 existence of a common policy that required Class Members to carry a cell phone during their
8 breaks or otherwise interrupt their breaks to perform work related tasks.

9 37. Defendants further argue that their only obligation was to make rest periods
10 available to employees – not to police them. As such, according to Defendants, the claim is not
11 suitable for class treatment because there is no common method of proof to establish liability. As
12 argued by Defendants, an adjudication of the alleged rest period violations would require
13 individualized assessments as to the circumstances of each missed, delayed or interrupted break.
14 Defendants further argue that, even if Plaintiffs were able to establish that some employees
15 experienced a rest period violation, such a claim would not be manageable.

16 38. Based on EconOne's analysis of the payroll data provided by Defendants, Class
17 Counsel estimates that Class Members worked 498,820 rest period eligible shifts during the
18 Class Period. Using the average regular rate of pay (\$35.11), the total maximum amount of
19 damages for the rest period violation is \$17,513,570.20. However, with the risk factor discounts
20 for certification and liability, the value of that claim is estimated by Class Counsel to be
21 approximately **\$6,567,588.82**, assuming a certification probability of 75% and merits success at
22 50%.³

23
24 ³ The risk adjustment reflects a combination of risks. Since certification is an uncertain event, as
25 is success on the merits, both risks combine at this stage of the proceedings. For example, if
26 certification is viewed as an event with a 50% chance of success, and prevailing at trial is viewed
27 as a second event with a 50% chance of success, the current risk is $0.5 \times 0.5 = 0.25$, or a 25%
28 chance of both events resulting in a favorable outcome. Since *Kullar* and *Munoz* do not specify a
specific method must be used to evaluate the settlement as compared to the reasonable maximum
recovery, the approach used here is similar to an expected value analysis of risk events or a
present value calculation for future monetary value.

1 39. **Meal Period Claim.** The meal period claim is premised on three alleged policies
2 and practices: (1) Due to chronic understaffing, employees were frequently deprived of the
3 opportunity to take timely, duty-free meal periods of at least 30 minutes; (2) Defendants required
4 employees to leave their cell phones on and respond to calls during meal periods; and (3)
5 Defendants underpaid meal period premiums based on its policy of excluding non-discretionary
6 incentive payments from the calculation of the regular rate.

7 40. Plaintiffs allege that Defendants failed to provide meal periods to Class Members
8 in compliance with California law. This includes breaks that were completely missed, or taken
9 late, or interrupted for whatever reasons. Based on the payroll data provided by Defendants,
10 EconOne estimates that the violation rate for meal periods was 23.70%. For each meal period
11 missed or taken late an employer must pay the employee an additional one hour of
12 compensation. Labor Code § 226.7.

13 41. During workweeks when Class Members earned meal period premium and other
14 types of pay that Plaintiffs contend were non-discretionary, such as BNS, BONUS, COMM,
15 INCPY, and OCCL, Defendants failed to include the additional compensation in the regular rate
16 used to calculate and pay the meal period premium. The Parties sharply disagree as to these
17 forms of pay are accurately considered non-discretionary and whether they should be included in
18 the regular rate of pay, and therefore disagree as to the potential scope of the alleged violations.
19 However, the potential exposure on the regular rate claim is nominal. EconOne identified 64
20 instances where it appears that meal periods were paid below the regular rate of pay, which
21 resulted in the underpayment of \$286 to twenty-two Class Members.

22 42. For the reasons forth in above in paragraphs 36 and 37 *supra*, Defendants deny
23 liability and further maintain that they complied with the law, had lawful and compliant
24 practices, and provided Class Members with duty-free meal periods.

25 43. Based on EconOne's analysis of the payroll data provided by Defendants, Class
26 Counsel estimates that Class Members worked 498,820 meal period eligible shifts during the
27 Class Period. Applying a 23.70% violation rate and using the average regular rate of pay
28 (\$35.11), the total maximum amount of damages for the meal period violation is \$4,150,716.14.

1 However, with the risk factor discounts for certification and liability, the value of that claim is
2 estimated by Class Counsel to be approximately **\$1,556,518.55**, assuming a certification
3 probability of 75% and merits success at 50%.

4 **44. Off-the-Clock Claim.** Plaintiffs allege that Defendants failed to pay Class
5 Members for all hours worked , including certain pre- and post-shift activities incidental to
6 providing in-home medical care to Defendants’ patients. Such required activities included
7 making calls to, and receiving calls from, Defendants’ patients; reviewing and checking for
8 updates to Class Members’ assigned daily visits; and completing paperwork (“charting”)
9 associated with assigned daily visits. In addition, Plaintiffs allege that Class Members were
10 encouraged and/or required to perform training during off-the-clock hours. Plaintiffs further
11 allege that such Defendants knew, or should have known, of such unpaid hours worked, and that
12 Defendants encouraged such off-the-clock work in connection with their policy and practice of
13 promoting and requiring the maximization of client productivity above all else.

14 **45.** Defendants argue that the off-the-clock claims are not suitable to be adjudicated
15 on a classwide basis because their policies and training materials required accurate recording of
16 time and prohibited off-the-clock work. Defendants’ written policies strictly prohibit non-exempt
17 employees from working off the clock for any reason. Citing to *Brinker Restaurant Corp. v.*
18 *Superior Court*, 53 Cal. 4th 1004 (2012) and its progeny, Defendants argue that their liability is
19 contingent on proof that Defendants knew or should have known that off-the-clock work was
20 occurring. In the absence of a uniform policy that requires off-the-clock work, Defendants argue
21 that Plaintiffs will not be able to establish the requisite knowledge through common proof.

22 **46.** Class Members worked approximately 49,882 pay periods during the Class
23 Period. Assuming that Class Members worked 30 minutes off-the-clock each pay period and
24 using the average hourly rate (\$35.11), the total maximum amount of damages for the off-the-
25 clock claim is \$875,678.51. However, with the risk factor discounts for certification and liability,
26 the value of that claim is estimated by Class Counsel to be approximately **\$109,459.81**, assuming
27 a certification probability of 50% and merits success at 25%.

28 **47. Regular Rate (Overtime) Claim.** Plaintiffs assert an overtime claim based on the

1 alleged miscalculation of the regular rate of pay. For the reasons forth in above in paragraph 41
2 *supra*, the Parties sharply dispute whether Defendant failed to properly calculate the regular rate
3 of pay.

4 48. Based on the payroll data provided by Defendants, EconOne identified 12,637
5 overtime hours in which it appears that overtime wages were paid below the regular rate of pay.
6 This equates to the underpayment of \$91,648 in overtime wages to 421 Class Members.
7 However, with the risk factor discounts for certification and liability, the value of that claim is
8 estimated by Class Counsel to be approximately **\$34,368**, assuming a certification probability of
9 75% and merits success at 50%.

10 49. **Derivative Wage Statement Claim.** Plaintiffs allege a derivative wage statement
11 violation. As a result of the alleged underpayment and/or non-payment of wages to Class
12 Members, Plaintiffs contend that the wage statements omit information required by Labor Code
13 226, including all applicable hourly rates and the total hours worked.

14 50. As argued by Defendant, Plaintiffs' derivative wage statement violation is
15 vulnerable to a motion for summary judgment based on the weaknesses of the underlying
16 primary claims. *See Maldonado v. Epsilon Plastics, Inc.*, 22 Cal. App. 5th 1308 (2018) (finding
17 that the employees did not suffer a violation under 226(a) where their wage statement cause of
18 action was derived from an underlying wage and hour violation for overtime). Additionally,
19 Defendants maintain that any alleged omission of information from the wage statements was not
20 a "knowing and intentional failure" by Defendants to comply with Labor Code section 226(a),
21 nor did any omission result in any "injury" to Class Members, and penalties are therefore
22 unwarranted. *See Naranjo v. Spectrum Security Services, Inc.*, 15 Cal.5th 1056, 1087 (2024)
23 (employer's failure to include meal and rest period premium pay on the wage statements was not
24 "knowing and intentional" because it had a good faith belief that it was not in violation of Labor
25 Code section 226). Relatedly, Defendants contend that individualized inquiries would be needed
26 to determine whether an employee was injured and whether any purported wage statement error
27 or omission was "knowing and intentional," and that this claim is not susceptible to class-wide
28 adjudication.

1 51. Based on EconOne’s analysis of the payroll data provided by Defendants, Class
2 Counsel estimates that Defendants owe \$4,020,900 in Section 226(e) penalties. However, with
3 the risk factor discounts for certification and liability, the value of that claim is estimated by
4 Class Counsel to be approximately **\$502,612.50**, assuming a certification probability of 50% and
5 merits success at 25%.

6 52. **Derivative Waiting Time Penalties Claim.** Plaintiffs seek waiting time penalties
7 based on the alleged underpayment of wages, as set forth above. Defendants maintained that they
8 properly paid all employees wages and thus were not liable for these damages. Defendants also
9 argued that Plaintiffs could not establish that Defendants “willfully” failed to pay wages at
10 separation of employment and/or that a good faith dispute exists as to whether the allegedly
11 underpaid monies were wages due. This is a legal defense that, if successful, could potentially
12 defeat Plaintiffs’ Section 203 claim. *Chavez v. Converse, Inc.*, 2020 WL 1233919, at *1 (N.D.
13 Cal. 2020) (holding that an employer’s failure to pay is not willful where there is uncertainty in
14 the law or a “good faith mistaken belief that wages are not owed”). In *Naranjo v. Spectrum*
15 *Security Services, Inc.*, 88 Cal.App.5th 937, 948 (2023), the California Supreme Court upheld an
16 employer’s good faith defense to the plaintiff’s claim for waiting time penalties, pursuant to
17 Labor Code § 203. The employer argued that it had a viable legal defense, which precluded the
18 imposition of waiting time penalties because its acts were not “willful” within the meaning of the
19 statute. Even had Plaintiffs ultimately prevailed on the merits, Defendants may have sought
20 immediate appellate review through a writ or appeal. Thus, the maximum exposure estimated on
21 this claim was discounted for purposes of analyzing a reasonable settlement value.

22 53. Based on EconOne’s analysis of the payroll data provided by Defendants, Class
23 Counsel estimates that Defendants owe \$6,243,402 in Section 203 penalties. However, with the
24 risk factor discounts for certification and liability, the value of that claim is estimated by Class
25 Counsel to be approximately **\$780,425.25**, assuming a certification probability of 50% and
26 merits success at 25%.

27 54. The following chart summarizes the risk adjusted exposure analysis on the class
28 claims:

	Maximum Recovery	Class Certification Probability	Probability of Prevailing on the Merits	Present Settlement Value
Rest Period Premiums	\$17,513,570.20	75%	50%	\$6,567,588.82
Meal Period Premiums	\$4,150,716.14	75%	50%	\$1,556,518.55
Unpaid Regular Wages (Off-the-Clock)	\$875,678.5	50%	25%	\$109,459.81
Unpaid Overtime (Regular Rate Violation)	\$91,648	75%	50%	\$34,368
Wage Statement Penalties	\$4,020,900	50%	25%	\$502,612.50
Waiting Time Penalties	\$6,243,402	50%	25%	\$780,425.25
TOTAL				\$9,550,972.93

POTENTIAL RECOVERABLE CIVIL PAGA PENALTIES

55. Due to the discretionary nature of PAGA penalties, PAGA civil penalties are difficult to evaluate. Based on the payroll data provided by Defendants, Class Counsel estimates that there are 63,086 pay periods in which Aggrieved Employees worked during the PAGA Period. Assuming that Plaintiff was to prevail on the merits of the PAGA claim, applying the standard penalty of \$100 per pay period yields \$6,308,600 in potential liability. However, Plaintiffs' claims are contested.

56. In negotiating the amount of the settlement, I took into account the inherent uncertainty in the potential recovery in a PAGA action. By statute, the Court can decline to award the full amount of PAGA penalties where "...if, based on the facts and circumstances of the particular case, to do otherwise, would result in an award that is unjust, arbitrary and oppressive, or confiscatory." *See* Cal. Labor Code § 2699(e)(2). Assuming that Plaintiffs prevailed on liability, under the facts of this case, I appreciate the substantial risk that Defendants could present a persuasive argument to reduce the amount of PAGA penalties at trial.

1 57. In this case, Defendants asserted that a substantial reduction in potential PAGA
2 penalties was warranted because: (1) the alleged violations were inadvertent; and (2) Defendants
3 maintained compliant wage and hour policies. Thus, Defendants contend that no PAGA penalties
4 were needed to punish or deter Defendants for their inadvertent behavior, much less to deter
5 them from committing any future violations.

6 58. I am also aware that Courts routinely award far less than the statutory maximum
7 amount of civil penalties, even where an underlying violation of the Labor Code is found. As
8 shown in the Court of Appeal's decision in *Carrington v. Starbucks Corp.*, while the plaintiff
9 prevailed on his PAGA claim at trial, the trial court reduced the maximum PAGA penalty
10 amount by 90%, citing the employer's good faith attempt at complying with the law. 30 Cal.
11 App. 5th 504, 517 (2018). Upon review, the Court of Appeal found such reduction to be proper.
12 *Id.* at 539; *see O'Connor v. Uber Technologies, Inc.*, 201 F.Supp.3d 1110, 1133 (N.D. Cal.,
13 2016). Thus, assuming that the Court uses *Carrington* as a benchmark and assesses PAGA
14 penalties of approximately 10% of the total maximum, a more realistic estimate of the maximum
15 PAGA penalties at issue is \$630,860.

16 59. Based on the amounts explained above, I estimate that the total exposure for the
17 class and PAGA claims amount to \$15,859,572.93. The Gross Settlement is \$1,225,000.00, and
18 thus amounts to approximately 7.7% of Defendant's maximum exposure. However, this figure
19 assumes that the Court would award \$6,308,600 in civil PAGA penalties (which in turn
20 presumes that the Court would award \$100 per pay period at issue). In the alternative, if the
21 Court uses *Carrington* as a benchmark and assesses PAGA penalties of approximately 10% of
22 the total maximum, a more realistic estimate of the maximum PAGA penalties at issue is
23 \$630,860. In this case, the Gross Settlement Amount is approximately 12% of the total estimated
24 liability.

25 **THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

26 60. I believe that Plaintiffs and the Class could prevail at trial. However, I also
27 believe in the fairness of the settlement, which is based on factoring in the uncertainty and risks
28 attendant to not prevailing on one or more theories of liability, the possibility of losing at trial

1 and potential for appeals. Moreover, as Defendants adamantly deny that they should be liable for
2 the full extent of the alleged damages and penalties, there is a possibility that Plaintiffs and the
3 Class would be awarded less or recover nothing at trial. Thus, after taking into account sharply
4 disputed legal issues involved in this litigation, the risks associated with further prosecution,
5 delays caused by potential appeals, and the substantial benefits to be received pursuant to the
6 Agreement, I believe that the proposed settlement is fair, reasonable, and adequate and is in the
7 best interests of the Class.

8 **ATTORNEY EXPERIENCE**

9 61. Class Counsel has a great deal of experience in wage and hour class action
10 litigation. Diversity Law Group has been approved as class counsel in a number of wage and
11 hour class actions and have extensive litigation experience.

12 62. My qualifications are as follows: I was the 2003 recipient of the Spelman
13 Presidential Scholarship to Emory University School of Law. During law school, I was a summer
14 associate at the law firm of Sonnenschein, Nath and Rosenthal, and clerked with the Atlanta
15 office of the Equal Employment Opportunity Commission. I received my J.D. from Emory
16 University in 2006 and was admitted to the California Bar in December 2006. Following law
17 school, I was an associate at Sonnenschein from September 2006 to May 2009.

18 63. Since 2009, my primary area of practice has been employment litigation. I have
19 practiced law at two preeminent employment defense firms. From May 2009 to June 2011, I was
20 an associate at Ogletree, Deakins, Nash, Smoak & Stewart, P.C. I was also an associate, and then
21 senior associate, in the labor and employment practice group of Seyfarth Shaw, LLP from June
22 2011 to May 2016. At both Ogletree and Seyfarth, I represented a wide array of fortune 500
23 companies in employment litigation in both state and federal courts, as well as before
24 government agencies, including the California Department of Labor. My practice included the
25 defense of single plaintiff and multi-plaintiff lawsuits involving claims under the California Fair
26 Employment and Housing Act, the California Labor Code and the Fair Labor Standards Act. I
27 also handled a number of wage and hour class actions.

28 64. In June 2016, I joined Diversity Law Group, P.C. where I spend most of my time

1 handling employment cases. I primarily represent employees.

2 65. I served as the lead associate on a number of wage and hour class actions,
3 including *Martha Cardenas v. Gold's Gym*, Los Angeles County Superior Court Case No.
4 BC445112; *Nathaniel Werner v. Crown Equipment Corporation*, Los Angeles County Superior
5 Court Case No. BC439428; *Christopher Williams v. Allstate Insurance Co.*, Los Angeles County
6 Superior Court Case No. BC382577; *Hwang v. Caltech*, Los Angeles County Superior Court
7 Case No. BC464894; *Melissa Roberts v. Zale Delaware, Inc.*, Los Angeles Superior Court Case
8 No. BC523610; *Michael Oliver v. Konica Minolta Business Solutions U.S.A., Inc.*, Santa Clara
9 County Superior Court Case No. 114-CV-263183; *Tessa Hodge v. Zale Delaware, Inc., d/b/a*
10 *Piercing Pagoda*, San Bernardino Superior Court Case No CIVVS1301632; *Warren v. Paychex,*
11 *Inc.*, N.D. Cal. Case No. 3:10-cv-02006; *Tapia v. Zale Delaware Inc. et al*, S.D. Cal. Case No.
12 3:13-cv-01565; and *Benjamin Burgess et al v. Tesoro Refining and Marketing Company et al*,
13 C.D. Cal. Case No. 2:10-cv-05870.

14 66. I have been approved as class counsel in a number of class actions by the Superior
15 Courts of California and United States District Courts, including: *Antonio Becerra-Mata v. PSC*
16 *Industrial Outsourcing, LP*, San Benito County Superior Court Case No. CU-15-00030; *Andrew*
17 *Vasquez v. Earthbound Farm, LLC*, San Benito County Superior Court Case No. CU-17-00171;
18 *Francisco Pulido v. Westrock Services, Inc.*, San Benito County Superior Court Case No. CU-
19 18-00074; *Kosal So v. Owens-Brockway Glass Container, Inc.*, Los Angeles County Superior
20 Court Case No. BC608609; *John Obiols v. Lockheed Martin Corporation*, Santa Clara County
21 Superior Court Case No. 17CV314178; and *Eric Chavez v. Converse, Inc.*, N.D. Cal. Case No.
22 15-cv-03746-NC.

23 67. I also second chaired two jury trials where I represented the prevailing defendant.
24 Both cases involved employees who brought claims against their former employers pursuant to
25 the Fair Employment & Housing Act. The cases are: *Jeff Cowell v. Eaton Aerospace LLC et al*,
26 Los Angeles County Superior Court Case No. BC401543; and *Richard Gulden v. Pratt &*
27 *Whitney Rocketdyne Inc. et al.*, Los Angeles County Superior Court Case No. BC468909. More
28 recently, I was lead trial counsel on two bench trials, in which the plaintiffs were the prevailing

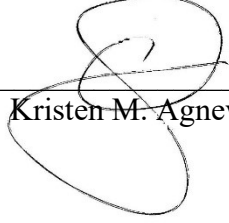
1 party. The cases are: *Esteban Palomino v. Northrop Grumman Systems Corporation*, Santa Clara
2 County Superior Court Case No. 19CV345534; and *Jose Delgado v. Taylor Farms California,*
3 *Inc.*, Monterey County Superior Court Case No. 18CV001381.

4 **NOTICE TO LWDA**

5 68. Concurrent with the filing of the Motion to Approve PAGA Settlement, my
6 office uploaded the Motion, Agreement, and proposed order to the LWDA's website. Attached
7 hereto as **Exhibit 4** is a true and correct copy of the submission confirmation.

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

10 Executed on this 13th day of September 2024, at Los Angeles, California.

11
12 
13 _____
14 Kristen M. Agnew
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INDEX OF EXHIBITS TO AGNEW DECLARATION

Exhibit 1	Joint Stipulation of Class Action Settlement and Release of Claims
	Exhibit A Notice of Proposed Class Action Settlement
Exhibit 2	September 28, 2021 Hebdon PAGA Notice
Exhibit 3	August 23, 2022 Lewis PAGA Notice
Exhibit 4	Proof of Submission of Motion to the LWDA

EXHIBIT 1

1 B. James Fitzpatrick (SBN: 129056)
2 Laura L. Franklin (SBN: 282642)
3 FITZPATRICK & SWANSTON
4 555 S. Main Street
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20 Facsimile: (831) 373-8211

21 Attorneys for Plaintiffs, the Class and Aggrieved Employees

22
23 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
24 **FOR THE COUNTY OF MONTEREY**
25

26 MELISSA HEBDON, on behalf of herself
27 and all similarly aggrieved employees,

28 Plaintiff,

v.

MISSION HEALTHCARE SERVICES,
LLC; HEALTHY LIVING NETWORK
RESOURCES, LLC; HEALTHY LIVING
AT HOME - MONTEREY, LLC; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 22CV000226

*Assigned to the Honorable Carrie M. Panetta for
all purposes*

**JOINT STIPULATION OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT**

JOINT STIPULATION OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

This Joint Stipulation of Class and Representative Action Settlement (“Agreement” or “Settlement Agreement”) is made and entered into by and between Plaintiffs Melissa Hebdon and Annette Lewis (collectively, “Plaintiffs”) and Defendants Mission Healthcare Services, LLC, Healthy Living Network Resources, LLC and Healthy Living at Home – Monterey, LLC (“Defendants”). Plaintiffs and Defendants collectively are referred to in the Agreement as “the Parties.”

A. DEFINITIONS

The following definitions are applicable to this Agreement. Definitions contained elsewhere in this Agreement shall also be effective:

1. “Action” means *Hebdon v. Mission Healthcare Services, Inc.*, Superior Court of California, County of Monterey, Case No. 22CV000226.

2. “Agreement” or “Settlement Agreement” means this Joint Stipulation of Class and Representative Action Settlement.

3. “Class” or “Class Member(s)” means all persons who were formerly or are currently employed as non-exempt, hourly W-2 employee by Defendants and other Healthy Living at Home Entities in California at any time during the Class Period.

4. “Class Counsel” means B. James Fitzpatrick, Laura L. Franklin of Fitzpatrick & Swanson; Larry W. Lee, Howard L. Magee, and Kristen M. Agnew of Diversity Law Group, P.C., and Andrew H. Swartz of Swartz & Kennedy.

5. “Class Counsel Award” means such award of fees and costs and expenses as the Court may authorize to be paid to Class Counsel for the services they have rendered and will render to Plaintiffs and the Class in the Action. Defendants agree not to oppose a Class Counsel Award of up to one-third (1/3) of the Gross Settlement Amount (\$1,225,000.00), *i.e.*, the sum of Four Hundred Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$408,333.33), and costs in the amount of up to Sixty Thousand Dollars (\$60,000.00), subject to the Court finally approving this Settlement.

6. “Class Data and List” means a true and complete list of all Class Members that

Defendants will compile, based on their business records, and provide to the Settlement Administrator within fifteen (15) days after the Court grants preliminary approval of the Settlement. The Class List shall be formatted in Microsoft Office Excel and shall, to the extent the information is available to Defendants, include each employee's full name, his or her last known home address, telephone number, Social Security Number, beginning and ending dates of employment, number of pay periods worked during the Class Period, and number of pay periods worked during the PAGA Period.

7. "Class Period" means the period from June 23, 2021 through the April 15, 2024.

8. "Class Representatives" or "Plaintiffs" means Plaintiffs Melissa Hebdon and Annette Lewis.

9. "Complaint" means the operative Second Amended Complaint for Damages, Civil Penalties and for Injunctive Relief ("SAC") filed by Plaintiffs in this Action.

10. "Counsel for Defendants" or "Defense Counsel" means Patricia Stambelos of Stambelos Law Office; and Gregory M. Saylin and Kody L. Condos of Holland & Hart, LLP.

11. "Court" means the Superior Court for the State of California, County of Monterey, or any other court taking jurisdiction of the Action.

12. "Defendants" means Mission Healthcare Services, LLC, Healthy Living Network Resources, LLC, and Healthy Living at Home – Monterey, LLC.

13. "Effective Date" shall be the date the Court enters an order granting final approval of the Settlement. If objections are filed to the Settlement and/or any appeal is made, then the "Effective Date" shall be 30 days after the appeal is withdrawn or after all appellate review is exhausted and the final approval decision becomes final.

14. "Enhancement Payment" means the amount that the Court authorizes to be paid to the Class Representatives, in addition to their Individual Class Payment and Individual PAGA Penalty Payment, in recognition of their efforts and risks in assisting with the prosecution of the Action. Subject to the Court granting final approval, the Parties agree that each Class Representative shall be paid up to Ten Thousand Dollars (\$10,000.00) each (collectively, Twenty Thousand Dollars [\$20,000.00]) from the Gross Settlement Amount.

1 15. “Final Approval” means that the Final Approval Order and Judgment have been
2 entered by the Court.

3 16. “Gross Settlement Amount” means the Gross Settlement Amount of One Million
4 Two Hundred Twenty-Five Thousand Dollars (\$1,225,000.00) to be paid by Defendants. The
5 Gross Settlement Amount includes all Individual Class Payments, the Enhancement Payments,
6 Settlement Administration Costs, the PAGA Allocation, and Class Counsel Award.

7 17. “Healthy Living at Home Entities” means the following California-based Home
8 Health locations operated by Mission Healthcare Services or Healthy Living at Home, including
9 the following: Healthy Living at Home – East Bay; Healthy Living at Home - Fresno; Healthy
10 Living at Home - Modesto; Healthy Living at Home - Monterey; Healthy Living at Home - Palm
11 Desert; Healthy Living at Home - Redding; Healthy Living At Home – San Diego and Healthy
12 Living at Home - San Jose.

13 18. “Individual PAGA Penalty Payment” means each PAGA Employee’s portion of
14 the PAGA Allocation calculated in accordance with the calculations described in Section C of this
15 Settlement.

16 19. “Individual Class Payment” means the amount payable from the Net Settlement
17 Amount to each Settlement Class Member.

18 20. “Net Settlement Amount” means the balance of the Gross Settlement Amount
19 remaining after deduction of the approved Enhancement Payments, Settlement Administration
20 Costs, the PAGA Allocation, and Class Counsel Award. The entire Net Settlement Amount is the
21 maximum amount that will be available for distribution to Settlement Class Members.

22 21. “Notice of Objection” means a Class Member’s valid and timely written objection
23 to the Settlement. For the Notice of Objection to be valid, it must include: (a) the objector’s full
24 name, signature, address, and telephone number; (b) a written statement of basis for the objection;
25 and (c) any copies of papers, briefs, or documents upon which the objection is based. The Notice
26 of Objection must be returned by mail to the Settlement Administrator at the specified address
27 indicated in the Notice Packet and must be postmarked by the Response Deadline.

28 22. “Notice Packet” means the Notice of Proposed Class Action Settlement,

substantially in the form attached as Exhibit A.

23. "PAGA Allocation" means the portion of the Gross Settlement Amount that the Parties have agreed will be allocated to resolve all claims, penalties, and remedies under the Private Attorneys General Act of 2004 (Lab. Code § 2698, *et seq.*, "PAGA"). Subject to Court approval and pursuant to California Labor Code § 2699(l), the Parties agree that the PAGA Allocation shall be One Hundred Fifty Thousand Dollars (\$150,000.00).

24. "PAGA Employee(s)" means all persons who were formerly or are currently employed as non-exempt, hourly W-2 employee by Defendants and other Healthy Living at Home Entities in California at any time during the PAGA Period.

25. "PAGA Period" means the period from September 28, 2020 through April 15, 2024.

26. "Parties" means Plaintiffs and Defendants collectively.

27. "Preliminary Approval" means the Court's order granting preliminary approval of the Settlement.

28. "Qualified Settlement Fund" means a fund, account, or trust established under California state law and by the Settlement Administrator.

29. "Released Class Claims" means any and all claims, rights, demands, liabilities, and causes of action of any kind, whether known or unknown, arising from the facts pleaded in the Second Amended Complaint for violation of common law, California law and/or federal law which was or could have been raised in the Second Amended Complaint based on the facts pleaded, including but not limited to claims based on the Fair Labor Standards Act (29 U.S.C. §§ 201 *et seq.*), California Labor Code sections 201, 202, 203, 204, 223, 225.5, 226, 226.7, 510, 512, 1174, 1194, 1197, and 2802, and, California Code of Regulations, Title 8 Section 11000 *et seq.*, the applicable Industrial Welfare Commission (IWC) Wage Orders, and Business & Professions Code sections 17200 *et seq.*; that arose during the Class Period.

30. "Released PAGA Claims" means all claims for penalties under the California Private Attorneys General Act, including without limitation, interest, costs and attorneys' fees related thereto, predicated on Defendants' violation of Labor Code, including sections 201, 201.3, 202, 203, 204, 207, 208, 209, 216, 218, 218.5, 218.6, 223, 225.5, 226, 226.7, 227.3, 510, 512, 558,

1 1174, 1194, 1197, 1197.1, 1198, 1199, and 2698 *et seq.* that accrued during the PAGA Period and
2 were alleged by Plaintiffs in their LWDA Notice Letters and were or could have been alleged in
3 the Second Amended Complaint.

4 31. "Released Parties" means Defendants, other Healthy Living at Home Entities in
5 California, and their former and present employees, directors, shareholders, officers, owners,
6 attorneys, agents, insurers, successors, assigns, parents, subsidiaries, affiliates, or legal
7 representatives and any individual or entity which could be jointly liable with Defendants and all
8 persons or entities acting by, through, under, or in concert with any of them.

9 32. "Request for Exclusion" means a timely letter submitted by a Class Member
10 indicating a request to be excluded from the Settlement. The Request for Exclusion must: (1)
11 clearly state that the Class Member does not wish to be included in the Settlement; (2) set forth the
12 name, address, telephone number, and last four digits of the Social Security Number of the Class
13 Member requesting exclusion; (3) be signed by the Class Member; (4) be returned by mail to the
14 Settlement Administrator at the specified address indicated in the Notice Packet; and (5) be
15 postmarked on or before the Response Deadline.

16 33. "Response Deadline" means sixty (60) days after the Settlement Administrator
17 initially mails the Notice Packet to Class Members, and the last date on which Class Members may
18 submit Requests for Exclusion or Notices of Objections to the Settlement.

19 34. "Settlement" means the Agreement among the Parties to resolve the Action, as set
20 forth in this Stipulation.

21 35. "Settlement Administration Costs" means the fees and expenses reasonably
22 incurred by the Settlement Administrator as a result of the procedures and processes expressly
23 required by this Agreement, which are estimated at Twenty-Four Thousand Dollars (\$24,000.00).
24 Any portion of the Settlement Administration Costs not used or approved by the Court shall be
25 added to the Net Settlement Amount.

26 36. "Settlement Administrator" means Phoenix Settlement Administrators.

27 37. "Settlement Class" or "Settlement Class Members" means all Class Members who
28 do not submit valid and timely Requests for Exclusion.

1 38. “Settlement Payment Check” means the payment of the Individual Class Payment
2 to Settlement Class Members and Individual PAGA Penalty Payment to PAGA Employees.

3 **B. FACTUAL BACKGROUND**

4 1. On September 28, 2021, Plaintiff Melissa Hebdon (“Plaintiff Hebdon”) filed a
5 written notice with the California Labor & Workforce Development Agency (“LWDA”) alleging
6 that Defendants violated Labor Code sections 201, 201.3, 202, 203, 204, 207, 208, 209, 216, 218,
7 218.5, 218.6, 223, 225.5, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, and 1199,
8 and the applicable California Industrial Welfare Commission Wage Order, pursuant to Labor Code
9 section 2699 (“Hebdon LWDA Letter”).

10 2. On January 25, 2022, Plaintiff Hebdon initiated this Action in Monterey County
11 Superior Court. In the initial complaint, Plaintiff Hebdon asserted individual claims for: (1)
12 misrepresentation [Labor Code § 970]; (2) violation of the Equal Pay Act [Labor Code § 1197.5];
13 (3) discrimination based on sex in violation of the FEHA [Govt. Code § 12940(a)]; (4) wrongful
14 discharge in violation of public policy; (5) failure to provide meal periods [Labor Code §§ 226.7
15 and 1198]; and (6) failure to provide rest period [Labor Code §§ 226.7 and 1198]. She further
16 alleged class claims for: (1) failure to pay hourly and overtime wages [Labor Code §§ 1194 and
17 1198]; (2) failure to provide accurate itemized wage statements [Labor Code §§ 226, 1174 and
18 1175]; (3) failure to pay wage upon termination [Labor Code §§ 201, 202 and 203]; and (4) unfair
19 business practices [Business and Professions Code §§ 17200 *et. seq.*]. Plaintiff Hebdon also
20 asserted a claim for civil PAGA penalties predicated on the Labor Code violations set forth in the
21 Hebdon LWDA Letter.

22 3. On May 3, 2022, Defendants filed their Answer, stating their general denial of all
23 facts and allegations of the initial complaint, and setting forth their affirmative defenses.

24 4. On June 1, 2022, Plaintiff Hebdon propounded requests for production of
25 documents and special interrogatories seeking documents and information related to class
26 certification, including the number of putative class members, the number of putative class
27 members who separated employment, the average hourly rate of putative class members and
28 Defendants’ policies and procedures utilized to calculate compensable time worked by putative

1 class members. On August 16, 2022, Defendants served objections and responses to the initial
2 discovery. Defendants subsequently provided supplemental responses and amended supplemental
3 responses.

4 5. On August 23, 2022, Plaintiff Anette Lewis ("Plaintiff Lewis") filed a written
5 notice with the LWDA alleging that Defendants violated Labor Code sections 201, 201.3, 202,
6 203, 204, 207, 208, 209, 216, 218, 218.5, 218.6, 223, 225.5, 226, 226.7, 510, 512, 558, 1174, 1194,
7 1197, 1197.1, 1198 and 1199, and the applicable California Industrial Welfare Commission Wage
8 Order, pursuant to Labor Code section 2699 ("Lewis LWDA Letter").

9 6. On August 30, 2022, Plaintiffs filed the first amended complaint, in order to add
10 Plaintiff Lewis as an additional plaintiff and class representative.

11 7. On October 10, 2022, the Parties engaged in mediation with Steve Serratore, an
12 experienced wage and hour class action mediator. Although the Parties made progress towards
13 settlement at the mediation, they did not reach a resolution of the Action.

14 8. On November 30, 2022, Defendants filed their Answer to the First Amended
15 Complaint, stating their general denial of all facts and allegations of the initial complaint, and
16 setting forth their affirmative defenses.

17 9. On January 30, 2023, the Parties participated in a second day of private mediation
18 with Mr. Serratore. The Parties did not reach a resolution of the Action and resumed litigation.

19 10. On August 18, 2023, Defendants served requests for production of documents and
20 special interrogatories. Plaintiffs served responses to the discovery, on October 26, 2023.

21 11. The Parties also stipulated to the production of the contact information of putative
22 class members, subject to the *Belaire-West* opt-out process. On August 30, 2023, *Belaire-West*
23 notices were disseminated to the putative class.

24 12. On November 8, 2023, Plaintiffs filed the operative Second Amended Complaint
25 for Damages, Civil Penalties and for Injunctive Relief, in order to: (1) add allegations regarding
26 retaliation and sex discrimination on behalf of Plaintiff Hebdon; (2) add an individual cause of
27 action for retaliation [Labor Code § 1102.5] on behalf of Plaintiff Hebdon; and (3) add a class
28 claim for violation to pay vacation wages at the regular rate of pay [Labor Code § 227.3].

1 13. Shortly thereafter, the Parties agreed to participate in a third mediation. In
2 connection with the mediation, Class Counsel engaged Econ One to analyze the extensive payroll
3 data produced by Defendants, which allowed counsel to prepare a full damage analysis.

4 14. On December 8, 2023, Defendants filed their Answer to the Second Amended
5 Complaint, stating their general denial of all facts and allegations of the initial complaint, and
6 setting forth their affirmative defenses.

7 15. On February 12, 2024, the Parties participated in a full-day mediation with Michael
8 Mandel. After the exchange of further information and extended negotiations, the Parties reached
9 the present class-wide settlement. The settlement discussions were conducted at arm's-length.

10 16. While Defendants deny any wrongdoing, the Parties recognize the risk, expense,
11 and delay in continuing the Action, and therefore believe the Settlement to be fair, reasonable, and
12 adequate. Accordingly, the Parties desire to settle, compromise, and discharge all disputes and
13 claims arising from or relating to the Action.

14 **C. NON-ADMISSION OF LIABILITY**

15 Defendants deny any liability for any claim in the Action. Neither this Settlement, nor
16 any document referred to or contemplated, nor any action taken to carry out this Settlement, is,
17 may be construed as, or may be used as, an admission, concession, or indication by or against
18 Defendants of any unlawful conduct, fault, wrongdoing, or liability whatsoever.

19 **D. CALCULATION AND DISTRIBUTION OF GROSS SETTLEMENT AMOUNT**

20 1. Settlement Consideration. Defendants shall pay the sum of the Gross Settlement
21 Amount as specified in this Agreement, which shall be used to pay: (1) Individual Class Payments;
22 (2) Class Counsel Award; (3) Enhancement Payments; (4) Settlement Administration Costs; and
23 (5) the PAGA Allocation. The Parties agree that this is a non-reversionary Settlement and that no
24 portion of the Gross Settlement Amount shall revert to Defendants. Except as provided in Section
25 D hereof, and in the Confidential Settlement and General Release Agreement between Hebdon
26 and Defendants (the "Hebdon Settlement Agreement"), in no event shall Defendants be required to
27 pay more than the Gross Settlement Amount as specified in this Agreement, with the exception of
28 employer-side payroll taxes owed on Individual Class Payments classified as wages.

2. Calculation of Gross Settlement Amount. The Gross Settlement Amount was calculated with, and is premised on, Defendants' representation that there are approximately 49,882 pay periods in which Class Members worked at least one shift during the Class Period. In the event the number of pay periods at issue exceeds 49,882 by more than ten percent (*i.e.*, 54,871) as determined by the Settlement Administrator, the Gross Settlement Amount shall increase proportionately for each pay period in excess of 54,871.

3. Funding of the Gross Settlement Amount. Within thirty (30) days of the Effective Date, Defendants shall make a one-time deposit of the Gross Settlement Amount into a Qualified Settlement Fund to be established by the Settlement Administrator.

4. Class Counsel Award. Defendants agree not to oppose or impede any application or motion by Class Counsel for attorneys' fees of up to one-third (1/3) of the Gross Settlement Amount (\$1,225,000.00), *i.e.*, the sum of Four Hundred Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$408,333.33), and costs in the amount of up to Sixty Thousand Dollars (\$60,000.00), which shall be paid from the Gross Settlement Amount. Class Counsel understands that the Court has final discretion in any fee award. The Settlement Administrator shall issue an IRS Form 1099 to Class Counsel reflecting the awarded attorneys' fees, costs, and expenses. Any portion of the Class Counsel Award not awarded to Class Counsel shall be added to the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. Notwithstanding any other provision of this Agreement, if the Court should fail to award attorneys' fees to Class Counsel in the full amount provided for in this Agreement, no order of the Court or modification of any order of the Court concerning the amount of any attorneys' fees to be paid by Defendants to Class Counsel pursuant to this settlement shall constitute grounds for cancellation or termination of the Agreement or grounds for limiting any other provision of the Final Order and Judgment. It is agreed that no order of the Court, including any order concerning attorneys' fees, may alter or otherwise increase the Gross Settlement Amount.

5. Enhancement Payments. Defendants agree not to oppose or impede any application or motion by Plaintiffs for each to receive an Enhancement Payment of up to Ten Thousand Dollars

1 (\$10,000.00) (collectively, Twenty Thousand Dollars [\$20,000.00]). The Enhancement Payments
2 shall be paid from the Gross Settlement Amount and shall be paid in addition to Plaintiffs'
3 Individual Class Payments as Settlement Class Members and Individual PAGA Penalty Payments
4 as PAGA Employees. Plaintiffs understand that the Court has final discretion in awarding any
5 Enhancement Payments. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiffs
6 reflecting their respective Enhancement Payment. Plaintiffs shall be solely and legally
7 responsible to pay any and all applicable taxes on their Enhancement Payment and shall hold
8 Defendants harmless from any claim or liability for taxes, penalties, or interest arising as a result
9 of the Enhancement Payment. Any portion of the Enhancement Payments not awarded to
10 Plaintiffs shall be added to the Net Settlement Amount and shall be distributed to Class Members
11 as provided in this Agreement.

12 6. Settlement Administration Costs. The Settlement Administrator shall be paid for
13 the reasonable costs of administration of the Settlement from the Gross Settlement Amount,
14 currently estimated at Twenty-Four Thousand Dollars (\$24,000.00). These costs, which shall be
15 paid from the Gross Settlement Amount, shall include, *inter alia*, the required tax reporting on the
16 Individual Class Payments and Individual PAGA Penalty Payments, the issuing of W-2 and 1099
17 IRS Forms, establishing a Qualified Settlement Fund, administering and distributing the Gross
18 Settlement Amount and Class Counsel Award, and providing necessary reports and declarations.
19 Any portion of the Settlement Administration Costs not allowed shall be added to the Net
20 Settlement Amount and shall be distributed to Class Members as provided in this Agreement.

21 7. PAGA Allocation. Subject to Court approval, the Parties agree that the amount of
22 One Hundred Fifty Thousand Dollars (\$150,000.00) of the Gross Settlement Amount shall be
23 designated for satisfaction of claims for civil penalties under the PAGA. The Settlement
24 Administrator shall pay seventy-five percent (75%) of the PAGA Allocation, *i.e.*, the sum of One
25 Hundred Twelve Thousand Five Hundred Dollars (\$112,500.00), to the LWDA. The remaining
26 twenty-five percent (25%), *i.e.*, the sum of Thirty-Seven Thousand Five Hundred Dollars
27 (\$37,500.00), shall be distributed to PAGA Employees ("Net PAGA Payment").

28 8. Individual PAGA Penalty Payment Calculation. The Net PAGA Payment shall be

1 allocated proportionally to PAGA Employees on a pro rata basis, based on the number of pay
2 periods worked by a PAGA Employee during the PAGA Period. The Settlement Administrator
3 will calculate the Individual PAGA Penalty Payments by first dividing the Net PAGA Payment
4 by the total number of pay periods worked by all PAGA Employees during the PAGA Period.
5 That value will then be multiplied by the number of pay periods that each respective PAGA
6 Employee worked during the PAGA Period. PAGA Employees are entitled to 100% of the Net
7 PAGA Payment. Defendants maintain no reversionary right to any portion of the Net PAGA
8 Payment.

9 9. Individual Class Payments. The Net Settlement Amount shall be used to satisfy
10 Individual Class Payments to Settlement Class Members in accordance with the terms of this
11 Agreement. The Settlement Administrator will calculate the Individual Class Payments by first
12 dividing the Net Settlement Amount by the total number of pay periods worked by all Class
13 Members during the Class Period. That value will then be multiplied by the number of pay
14 periods that each respective Class Member worked during the Class Period. Settlement Class
15 Members are entitled to 100% of the Net Settlement Amount. Defendants maintain no
16 reversionary right to any portion of the Net Settlement Amount. If there are any timely submitted
17 Requests for Exclusion, the Settlement Administrator shall proportionately increase the
18 Individual Class Payments for each Settlement Class Member so that the amount distributed to
19 Settlement Class Members equals 100% of the Net Settlement Amount.

20 10. Tax Allocation of Individual Class Payments and Individual PAGA Penalty
21 Payments. All Individual Class Payments shall be allocated as ten percent (10%) to wages and
22 ninety percent (90%) to penalties. Individual PAGA Penalty Payments shall be allocated as 100%
23 to penalties. The amount of payment shall be reported on IRS Forms W-2 and 1099, as appropriate,
24 by the Settlement Administrator.

25 11. Tax Liability. Defendants, Defense Counsel, the Settlement Administrator, and
26 Class Counsel make no representation as to the tax treatment or legal effect of the payments called
27 for hereunder, and Plaintiffs, Settlement Class Members and PAGA Employees are not relying on
28 any statement, representation, or calculation by Defendants, Defense Counsel, Class Counsel, or

1 by the Settlement Administrator in this regard. Plaintiffs, Settlement Class Members and PAGA
2 Employees understand and agree that they will be solely responsible for the payment of any and
3 all taxes and penalties assessed on their respective payments described herein and will defend,
4 indemnify, and hold Defendants, other Healthy Living at Home Entities in California, and their
5 former and present employees, directors, shareholders, officers, owners, attorneys, agents,
6 insurers, successors, assigns, parents, subsidiaries, affiliates, members, managers, or legal
7 representatives and any individual or entity that could be jointly liable with Defendants, Defense
8 Counsel, Class Counsel, and the Settlement Administrator free and harmless from and against any
9 claims resulting from treatment of such payments as non-taxable penalties/damages.

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

OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

13. Administration of Taxes by the Settlement Administrator. The Settlement Administrator shall be responsible for issuing to Plaintiffs, Settlement Class Members, PAGA Employees, and Class Counsel, W-2 and 1099 Forms or other tax forms as may be required by law for all amounts paid pursuant to this Agreement.

14. Distribution of Payments Under the Settlement. Within ten (10) business days of Defendants funding the Gross Settlement Amount, the Settlement Administrator shall pay: (1) the Individual Class Payments to Settlement Class Members; (2) the Individual PAGA Penalty Payments to PAGA Employees; (3) seventy-five percent (75%) of the PAGA Allocation to the LWDA; (4) the Enhancement Payments to Plaintiffs; and (5) Class Counsel Award to Class Counsel. The Settlement Administrator shall also issue a payment to itself for services performed in connection with the Settlement.

15. Non-Negotiated Settlement Checks. Any checks issued by the Settlement Administrator to Settlement Class Members and PAGA Employees shall be negotiable for one hundred and eighty (180) calendar days. Those funds represented by settlement checks returned as undeliverable and the funds which correspond with the settlement checks that are not negotiated within one hundred and eighty (180) calendar days after issuance shall be remitted to the *cy pres* recipient, California State Bar's Justice Gap Fund.

16. No Credit Toward Benefit Plans. The Individual Class Payments made to Settlement Class Members, the Individual PAGA Penalty Payments made to PAGA Employees, the Enhancement Payments made to Plaintiffs, as well as any other payments made pursuant to this Agreement, shall not be utilized to calculate any additional benefits under any benefit plans to which any Class Members and PAGA Employees may be eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave

plans, PTO plans, and any other benefit plans. Rather, it is the Parties' intention that this Settlement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

E. INDIVIDUAL, CLASS AND PAGA RELEASES

1. Release of Claims by the Class Representatives. As a condition to obtaining the Enhancement Payments provided for herein, the Class Representatives (on behalf of themselves, heirs, executors, administrators, trustees, and/or permitted assigns) also agree to a general release of any and all claims against the Released Parties—which shall include without limitation any and all claims which in any way relate to their employment with Defendants, under State or Federal law, in tort, common law, statute, contract, or equity, whether pled in the Complaint or not, including but not limited to any claims under the FLSA, Title VII, ADA, FEHA, ADEA, PAGA, California Labor Code, or any Industrial Welfare Commission Wage Order—now existing or arising in the future, based on any act, omission, event, occurrence, or nonoccurrence from the beginning of time to the date of execution hereof, except for those claims that may be prohibited by law, such as claims for workers' compensation benefits. Plaintiffs further expressly waive and relinquish, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, 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.

2. Release of Claims by Settlement Class Members. Upon the payment of the Gross Settlement Amount, Plaintiffs and all Settlement Class Members, on behalf of themselves, their heirs, executors, administrators, attorneys, agents and assigns, hereby do and shall waive, fully release and forever discharge the Released Parties from any and all Released Class Claims. Plaintiffs and Settlement Class Members shall be permanently barred and enjoined from the

institution or prosecution of any and all Released Class Claims against the Released Parties, except as to such rights or claims as may be created by the Settlement,

3. Release of Claims by PAGA Employees. Upon the payment of the Gross Settlement Amount, Plaintiffs and all PAGA Employees, on behalf of themselves, their heirs, executors, administrators, attorneys, agents and assigns, shall waive, fully release and forever discharge the Released Parties from any and all Released PAGA Claims.

F. ADMINISTRATION OF NOTICE OF SETTLEMENT

1. Settlement Administration Process. The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in the administration of the Settlement. The Settlement Administrator shall provide the following services:

- a. Establish and maintain a Qualified Settlement Fund account;
- b. Calculate the amount of the settlement each Class Member/PAGA Employee is eligible to receive;
- c. Verify the last known address for each Class Member/PAGA Employee through a generally utilized, national address update database prior to mailing the Notice Packet;
- d. Print and mail the Notice Packet;
- e. Establish and maintain a toll-free informational telephone support line to assist Class Members/PAGA Employees who have questions regarding the Notice Packet;
- f. Conduct additional address searches for mailed Notice Packets that are returned as undeliverable and, to the extent new and more current addresses are found, also reprint and re-mail Notice Packets accordingly;
- g. Calculate Settlement Class Members/PAGA Employees' settlement share, field inquiries from Class Members, and administer any Requests for Exclusion. This service will include settlement proceed calculations, printing and issuance of checks, and preparation of W-2 and 1099 Forms;
- h. Provide declarations and/or other information to the Court as requested; and
- i. Establish and maintain and use an internet website to post information of

1 interest to Class Members including the date, time, and location for the Final Approval Hearing
2 and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary
3 Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees
4 Payment (if separate from the Motion for Final Approval), Class Counsel's litigation costs,
5 Enhancement Payments to Plaintiffs, the Final Approval and the Judgment. The Administrator will
6 also maintain and monitor an email address and a toll-free telephone number to receive Class
7 Member calls, faxes, and emails.

8 2. Delivery of the Class Data and List. Within fifteen (15) business days of
9 Preliminary Approval, Defendants shall provide the Class Data and List to the Settlement
10 Administrator.

11 3. Notice by First-Class U.S. Mail. Within ten (10) business days after receiving the
12 Class Data and List from Defendants, the Settlement Administrator shall mail a Notice Packet to
13 all Class Members via regular First-Class U.S. Mail, using the most current, known mailing
14 addresses identified in the Class List.

15 4. Confirmation of Contact Information in the Class List. Prior to mailing, the
16 Settlement Administrator shall perform a search based on the National Change of Address
17 Database for information to update and correct for any known or identifiable address changes.

18 5. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice
19 Packet will provide: (1) information regarding the nature of the Action; (2) a summary of the
20 Settlement's principal terms; (3) the Class definition; (4) each Class Member's estimated
21 Individual Class Payment and the formula for calculating Individual Class Payments; (5) each
22 PAGA Employee's estimated Individual PAGA Penalty Payment and the formula for calculating
23 Individual PAGA Penalty Payments; (6) the dates that comprise the Class Period and PAGA
24 Period; (7) instructions on how to submit valid Requests for Exclusion, or objections; (8) the
25 deadlines by which the Class Member must submit a Request for Exclusion or Notice of Objection
26 to the Settlement; (9) the date for the final approval hearing; and (10) the claims to be released.
27 The Notice Packet will also inform Class Members that, in order to receive the Individual Class
28 Payment and Individual PAGA Penalty Payment, they do not need to do anything except keep the

Settlement Administrator apprised of their current mailing addresses.

6. Re-Mailing of Returned Notices. Any Notice Packets returned to the Settlement Administrator as non-deliverable on or before the Response Deadline shall be re-sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator shall indicate the date of such re-mailing on the Notice Packet. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine the correct address using a skip-trace, or other search using the name, address and/or Social Security Number of the Class Member involved and shall then perform a re-mailing. Those Class Members who receive a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15) days from the original Response Deadline.

7. Settlement Administrator's Reports of Information. The Settlement Administrator shall provide Defense Counsel and Class Counsel a weekly report which certifies the number of Class Members who have submitted valid Requests for Exclusion. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement as needed or requested. The Settlement Administrator shall also forward to Parties' counsel any Notices of Objection received immediately upon receipt. Further, the Settlement Administrator shall immediately forward any Request for Exclusion to the Parties' counsel so that they can determine whether the Request for Exclusion is valid and timely.

8. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator shall provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

9. Request for Exclusion Procedures. Any Class Member, other than Plaintiffs, may opt-out from the Settlement by submitting a written Request for Exclusion to the Settlement Administrator postmarked by the Response Deadline. A Request for Exclusion must: (1) clearly state that the Class Member does not wish to be included in the Settlement; (2) set forth the name, address, telephone number, and last four digits of the Social Security Number of the Class Member requesting exclusion; (3) be signed by the Class Member; (4) be returned by mail to the Settlement Administrator at the specified address indicated in the Notice Packet; and (5) be postmarked on or

1 before the Response Deadline. The date of the postmark shall be the exclusive means to determine
2 whether a Request for Exclusion is timely. By submitting such a Request for Exclusion, a Class
3 Member shall be deemed to have exercised his or her option to opt out of the Settlement and not
4 be bound by this Agreement. At no time shall any of the Parties or their counsel seek to solicit or
5 otherwise encourage Class Members to submit a Request for Exclusion. Class Counsel shall not
6 represent any Class Members with respect to any such request.

7 10. No PAGA Opt-Out. No Class Member may opt out of or be excluded from
8 participating in the settlement of the Released PAGA Claims. All Class Members shall be bound
9 by the Final Order and Judgment entered herein and will have released the Released PAGA Claims
10 upon the final approval of this Settlement and the payment of the Gross Settlement Amount.

11 11. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class
12 Member who does not affirmatively opt-out of the Settlement by submitting a valid and timely
13 Request for Exclusion shall be bound by all terms of the Settlement to the fullest possible extent,
14 including those pertaining to the Released Class Claims and Released PAGA Claims, as well as
15 any judgment that may be entered by the Court.

16 12. Defendants' Right to Rescind. If more than ten percent (10%) of Class Members
17 submit a timely and valid Request for Exclusion, Defendants will have the right, but not the
18 obligation, to revoke and void this Agreement at their discretion. Defendants must exercise the
19 option to rescind within five (5) business days of Defense Counsel receiving notification from the
20 Settlement Administrator that more than ten percent (10%) of Class Members have submitted
21 timely and valid Requests for Exclusion from the Settlement. If Defendants exercise this right to
22 void the Agreement, then the Parties will have no further obligations under the Agreement or the
23 Memorandum of Understanding signed by the Parties, including, without limitation, any obligation
24 by Defendants to pay the Gross Settlement Amount, or any amounts that otherwise would have
25 been owed under this Agreement, except that Defendants shall pay all Settlement Administration
26 Costs incurred by the Settlement Administrator up to the date of Defendants' notice to rescind. In
27 the event the Settlement is terminated, the Parties shall proceed in all respects as if this Agreement
28 had not been executed. The Parties agree that they will not encourage any Class Member to object

1 to the Settlement or to opt out.

2 13. Objection Procedures. Any Class Member who does not opt-out of this Settlement
3 shall be entitled to object to the Settlement. To object to the Settlement, a Class Member must
4 return by mail a written statement of objection to the Settlement Administrator at the specified
5 address by the Response Deadline. The Notice of Objection must include: (1) the objector's full
6 name, signature, address, and telephone number; (2) a written statement of the basis for the
7 objection; and (3) any copies of papers, briefs, or documents upon which the objection is based.
8 Class Members may present objections at the final approval hearing, regardless of whether they
9 submitted a written objection. At no time shall any of the Parties or their counsel seek to solicit or
10 otherwise encourage Class Members to submit written objections to the Settlement or appeal from
11 the order and judgment. Class Counsel shall not represent any Class Members with respect to any
12 such objections to this Settlement. Any Class Member who submits a valid Request for Exclusion
13 shall not be allowed to object to this Settlement. No later than five (5) days after the Response
14 Deadline, the Settlement Administrator shall provide Defense Counsel with a complete list of all
15 Class Members who have timely and properly requested exclusion from the Class.

16 14. Disputes Regarding Individual Class Payments. In the event that Class Members
17 have a dispute as to the data provided by the Defendants, Class Members will have the opportunity
18 to provide documentation and/or an explanation. Any Class Member, may submit a written dispute
19 to the Settlement Administrator regarding the data, including: (i) the number of pay periods the
20 Class Member worked during the Class Period; and (ii) the number of pay periods the Class
21 Member worked during the PAGA Period. The dispute must be postmarked by the Response
22 Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to
23 determine whether an adjustment is warranted. The Settlement Administrator shall determine the
24 eligibility for, and the amounts of, any Individual Class Payments or Individual PAGA Penalty
25 Payments under the terms of this Agreement, and that determination shall be binding.

26 15. Administration Costs if Settlement Fails or is Delayed. If an objection to the
27 Settlement is filed with the Court, regardless of the ultimate outcome of any appeals taken, or if
28 the Settlement is voided or rescinded, any costs incurred by the Settlement Administrator shall be

borne equally by Defendants and Plaintiffs unless otherwise specified in this Agreement.

G. COURT APPROVAL OF SETTLEMENT

1. Non-Admission of Liability. The Parties enter into this Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense, and risk of continued litigation. In entering into this Agreement, Defendants do not admit, and specifically deny, that they have violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations, or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to its employees. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendants of any such violation or failure to comply with any applicable law, regulation, or legal requirement. Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission of any nature on the part of Defendants, or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local, or other applicable law.

2. Class Action Certification. The Parties are agreeing to class certification for settlement purposes only. This Agreement shall not constitute, in this or any other proceeding, an admission of any kind by Defendants, including without limitation, that certification of a class for trial or any other purpose is appropriate or proper or that Plaintiffs or any Class Member can establish any of the requisite elements for class treatment of any of the claims in this Action. If, for any reason, the Settlement is not finally approved, this Agreement will be void and the Parties will be restored to their respective positions in the lawsuit as if they had not entered into this Agreement. The Parties further agree that this Agreement or any documents or orders issued related to this Settlement will not be admissible, other than according to the Settlement's terms, in this or any other proceeding as evidence that either: (i) a class action should be certified, or (ii) any Defendant or Released Party is liable to Plaintiffs or any Class Member.

3. Preliminary Approval Hearing. Plaintiffs shall obtain a hearing before the Court to request the Preliminary Approval of the Settlement, conditional certification of the Class, and the entry of a Preliminary Approval Order: (i) approving of the proposed Settlement, and (ii) setting a date for a Final Approval/Settlement Fairness Hearing. The Preliminary Approval Order shall provide for the Notice Packet to be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval hearing, Plaintiffs shall submit this Agreement, which sets forth the terms of this Settlement, and will include the proposed Notice Packet, attached to this Agreement as Exhibit A.

4. Final Settlement Approval Hearing. Upon expiration of the deadlines to submit Requests for Exclusion or Notices of Objections to the Settlement, and with the Court's permission, a Final Approval/Settlement Fairness Hearing shall be conducted to determine the Final Approval of the Settlement along with the amounts properly payable for (i) Individual Class Payments; (ii) the PAGA Allocation; (ii) the Class Counsel Award; (iii) the Enhancement Payments; and (iv) Settlement Administration Costs. Class Counsel will be responsible for drafting all documents necessary to obtain final approval. Class Counsel will also be responsible for drafting the attorneys' fees and costs application to be heard at the Final Approval Hearing.

5. Entry of Judgment and Continued Jurisdiction of the Court. Concurrent with the Motion for Final Approval, the Parties shall also jointly seek the entry of Judgment consistent with the terms of this Agreement. After entry of the Final Order and Judgment, the Court shall have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) Settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Agreement.

H. FINAL PROVISIONS

1. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations, mediation, and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult

with their counsel regarding the fairness and reasonableness of this Agreement.

2. Exhibits Incorporated by Reference. The terms of this Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Agreement are an integral part of the Settlement.

3. Confidentiality Preceding Preliminary Approval. The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry, post information on any social media or website, or have any communication with the press about the fact, amount, or terms of the Settlement.

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

5. Nullification of Settlement. In the event that the Settlement does not become final for any reason, then this Agreement, and with the exception of the Hebdon Settlement Agreement, any documents generated to bring it into effect, shall be null and void. Any order or judgment entered by the Court in furtherance of this Agreement shall likewise be treated as void from the beginning.

6. Disputes Regarding Administration of Settlement. Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court under the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the disputes without the necessity of involving the Court.

7. Entire Agreement. This Agreement, the Hebdon Settlement Agreement, and any Exhibits attached hereto constitute the entirety of the Parties' Settlement terms. No other prior or contemporaneous written or oral negotiations or agreements may be deemed binding on the Parties.

8. Disputes Regarding Language of Final Settlement Agreement. If the Parties have a dispute with regard to the language of the Agreement, the Parties agree to attempt to informally

1 resolve the dispute by engaging Michael Mandel to mediate such dispute.

2 9. Amendment or Modification. This Agreement may be amended or modified only
3 by a written instrument signed by the Parties or their successors-in-interest and with Court
4 approval.

5 10. Authorization to Enter into Agreement. Counsel for all Parties warrant and
6 represent they are expressly authorized by the Parties whom they represent to negotiate this
7 Agreement and to take all appropriate actions required or permitted to be taken by the Parties
8 pursuant to this Agreement to effectuate its terms and to execute any other documents required to
9 effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each
10 other and use their best and good-faith efforts to affect the implementation of the Settlement. If
11 the Parties are unable to reach agreement on the form or content of any document needed to
12 implement the Settlement, or on any supplemental provisions that may become necessary to
13 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve
14 such disagreement.

15 11. Binding on Successors and Assigns. This Agreement shall be binding upon, and
16 inure to the benefit of, the successors, heirs, or assigns of the Parties hereto.

17 12. California Law Governs. All terms of this Agreement and Exhibits hereto shall be
18 governed by and interpreted according to the laws of the State of California.

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

24 14. Invalidity of Any Provision. Before declaring any provision of this Agreement
25 invalid, the Court shall first attempt to construe the provision as valid to the fullest extent possible
26 consistent with applicable precedents so as to define all provisions of this Agreement valid and
27 enforceable. Any invalid, illegal, or unenforceable provision determined by the Court shall in no
28 way affect any other provision if Defendants and Class Counsel, on behalf of the Parties and the

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

15. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however, that Plaintiffs or Class Counsel may appeal any reduction in the Class Counsel Award below the amount Class Counsel requests, and either Party may appeal any order that materially alters the Agreement's terms.

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

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

18. Enforcement Actions. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement, or to declare rights and/or obligations under this Settlement, the prevailing Party or Parties shall be entitled to recover from the non-prevailing Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

19. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and conditions of this Agreement. Accordingly, this Agreement shall not be construed more strictly against one Party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Agreement.

20. Representation by Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel. Further, Plaintiffs and Class Counsel warrant and represent that there are no liens on the Agreement.

21. Cooperation and Execution of Necessary Documents. All Parties shall cooperate in

good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Agreement.

22. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Agreement, and further intend that this Agreement shall be fully enforceable and binding on all Parties and agree that it shall be admissible and subject to disclosure in any proceeding to enforce its terms.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class and Representative Action Settlement Between Plaintiffs and Defendants as of the date(s) set forth below:

SIGNATURES

READ CAREFULLY BEFORE SIGNING

DATED: 9/3/2024

PLAINTIFF MELISSA HEBDON

DocuSigned by:

Melissa Hebdon

203C71A92EA9468
Plaintiff Melissa Hebdon

DATED: 09/04/2024

PLAINTIFF ANNETTE LEWIS

Signed by:

Annette Lewis

0FE269CEFE80450
Plaintiff Annette Lewis

DATED: August 29, 2024

DEFENDANT MISSION HEALTHCARE SERVICES, LLC

Signed by:

Philip Spencer

F0C8196C3222412

Philip Spencer

Please Print Name of Authorized Signatory

1 DATED: August 29, 2024

2 **DEFENDANT HEALTHY LIVING AT**
3 **HOME - MONTEREY, LLC**

4 Signed by:

5 *Philip Spencer*

6 F068196C5222412...

7 Philip Spencer

8 Please Print Name of Authorized Signatory

9 DATED: August 29, 2024

10 **DEFENDANT HEALTHY LIVING**
11 **RESOURCES, LLC**

12 Signed by:

13 *Philip Spencer*

14 F068196C5222412...

15 Philip Spencer

16 Please Print Name of Authorized Signatory

17 **APPROVED AS TO FORM**

18 DATED: September 4, 2024

19 **FITZPATRICK & SWANSON**

20 *[Signature]*

21 B. James Fitzpatrick

22 Laura L. Franklin

23 Attorneys for Plaintiffs and the Class

24 DATED: 9/4/2024

25 **DIVERSITY LAW GROUP, P.C.**

26 *[Signature]*

27 Larry W. Lee

28 Kristen M. Agnew

Attorneys for Plaintiffs and the Class

29 DATED: 8/29/2024

30 **SWARTZ & KENNEDY**

31 *[Signature]*

32 Andrew H. Swartz

33 Attorneys for Plaintiffs and the Class

1
2 DATED: August 29, 2024

STAMBELOS LAW OFFICE

3
4 DocuSigned by:

Patricia T. Stambelos

5 Patricia Stambelos
6 Attorney for Defendants

7 DATED:

HOLLAND & HART, LLP

8
9 see attached

10 Gregory M. Saylin
11 Kody L. Condos
12 Attorneys for Defendants
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1
2 DATED: August 29, 2024
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STAMBELOS LAW OFFICE

4 DocuSigned by:

5 Patricia T. Stambelos

6 Patricia Stambelos

Attorney for Defendants

7 DATED: September 5, 2024
8

HOLLAND & HART, LLP

9 Signed by:

10 Kody Condos

11 Gregory M. Saylin

12 Kody L. Condos

13 Attorneys for Defendants
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EXHIBIT A

NOTICE OF CLASS-ACTION SETTLEMENT (“NOTICE”)

IF YOU WERE EMPLOYED AS A NON-EXEMPT, HOURLY W-2 EMPLOYEE BY MISSION HEALTHCARE SERVICES, LLC, HEALTHY LIVING NETWORK RESOURCES, LLC, HEALTHY LIVING AT HOME – MONTEREY, LLC, OR ANY OTHER HEALTHY LIVING AT HOME ENTITY IN CALIFORNIA DURING THE PERIOD FROM SEPTEMBER 28, 2020, THROUGH THE APRIL 15, 2024, YOU MAY BE ABLE TO COLLECT MONEY FROM A CLASS ACTION SETTLEMENT.

The Monterey County Superior Court (“Court”) authorized this Notice to be sent by Phoenix Settlement Administrators (“Settlement Administrator”). This is not an advertisement. This is not a solicitation from a lawyer.

DEFENDANTS CANNOT AND WILL NOT RETALIATE AGAINST YOU IN ANY WAY FOR PARTICIPATING IN THIS SETTLEMENT.

«BarcodeString»
SIMID «SIMID»
ATTN: «FirstName» «LastName»
«Address1» «Address2»
«City» «Abbrev» «Zip»

**YOU ARE ESTIMATED TO RECEIVE
APPROXIMATELY
Individual PAGA Penalty Payment: \$ ****
Individual Class Payment: \$ ******

THROUGH THIS CLASS ACTION SETTLEMENT

- Plaintiffs Melissa Hebdon and Annette Lewis (“Named Plaintiffs”), have sued Mission Healthcare Services, LLC, Healthy Living Network Resources, LLC and Healthy Living at Home – Monterey, LLC (“Defendants” or the “Company”) on behalf of themselves and all other similarly situated employees.
- The parties to the lawsuit have reached a tentative settlement, and the Court has preliminarily approved it.
- The settlement resolves the lawsuit.
- Your legal rights are affected whether you act or do not act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

You Can DO NOTHING

You will receive a payment from the settlement. If you do nothing, you continue your participation in this lawsuit, and you will be impacted by the outcome of this case. You will receive a settlement payment; however, you will **lose** any rights to sue Defendants separately for the same legal claims made in the lawsuit. The estimated amount of your settlement payment is shown above. To receive your settlement payment, all you need to do is keep the Settlement Administrator informed of your current mailing address. Once the Court grants final approval of the settlement, the Settlement Administrator will mail your check to the address on file for you.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

You Can ASK TO BE EXCLUDED FROM THE CLASS SETTLEMENT (Deadline: RESPONSE DEADLINE)	If you ask to be excluded from the class settlement, you will get no payment from the class settlement, but you will keep any rights to sue Defendants separately for the same legal claims made in this lawsuit. However, you may not request exclusion from the settlement of the PAGA claim. Important: You cannot ask to be excluded <u>and</u> still get a class settlement payment.
You Can OBJECT TO THE SETTLEMENT (Deadline: RESPONSE DEADLINE)	If you do not like the class settlement, you can send a written objection to the Settlement Administrator by the deadline. However, you may not object to the settlement of the PAGA claim. If your objection is overruled, you will still be bound by the terms of the settlement and will receive a settlement payment. Important: If you object to the settlement, you cannot also ask to be excluded.

THESE RIGHTS AND OPTIONS—AND THE DEADLINES TO EXERCISE THEM—ARE EXPLAINED IN THIS NOTICE.

The Court is in charge of this lawsuit and still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after appeals, if any, are resolved. **Please be patient.**

1. Why Should You Read This Notice?

You should read this Notice because you may be entitled to money from a class action settlement.

2. What Is This Lawsuit About?

In the lawsuit, the Named Plaintiffs claimed that Defendants: (1) failed to pay hourly and overtime wages [Labor Code §§ 1194 and 1198]; (2) failed to provide accurate itemized wage statements [Labor Code §§ 226, 1174 and 1175]; (3) failed to pay wage upon termination [Labor Code §§ 201, 202 and 203]; (4) pay vacation wages at the regular rate of pay [Labor Code § 227.3]; (5) engaged in unfair business practices [Business and Professions Code §§ 17200 *et. seq.*]; and (6) violated PAGA, Labor Code section 2698 *et. seq.*

Defendants deny the allegations in the lawsuit and deny the Company has engaged in any wrongdoing. Defendants assert that the Company complied with all legal requirements but is resolving this action in order to avoid the costs of further legal proceedings.

3. Why Is This a Class Action?

This lawsuit is a class action. In a class action, one or more persons, called a class representative (in this case, Plaintiffs Melissa Hebdon and Annette Lewis), sue on behalf of people who allegedly have similar claims. All these people are a class or class members. One case resolves the issues for all class members, except for those who exclude themselves from the class. The Monterey County Superior Court is in charge of the case. The lawsuit is known as *Hebdon v. Mission Healthcare Services, Inc.*, Case No. 22CV000226.

4. Why Is There a Settlement?

The Court did not decide in favor of Named Plaintiffs or Defendants. Named Plaintiffs think they could have won at trial. Defendants think that the Company would have won at trial. But there was no trial. Instead, both parties agreed to a settlement. That way, they avoid the cost of litigation, and the individuals potentially affected will get compensation. The class representatives and the attorneys think the settlement is best for class members.

5. How Do I Know If I Am Part of The Class Settlement?

The Court has decided that any person who was formerly or is currently employed as non-exempt, hourly W-2 employee by Defendants and other Healthy Living at Home Entities in California at anytime between June 23, 2021, through the April 15, 2024 (“Class Period”), is a class member.

6. What Does the Settlement Provide?

The proposed settlement provides for a payment by Defendants of \$1,225,000.00 to fully and finally resolve all claims in the lawsuit (referred to as the “Gross Settlement Amount”). The total amount to be distributed to Class Members who can be located, and who do not exclude themselves from the class settlement, will be the value of the Gross Settlement Amount after deducting the following (the “Net Settlement Amount”): (a) settlement-administration costs not to exceed \$24,000.00; (b) an Enhancement Payment to each Named Plaintiff in the amount of \$10,000.00 (collectively, \$20,000.00) for their work and efforts in prosecuting this case, and for undertaking the risks of costs (in the event the outcome of this lawsuit was not favorable); (c) Class Counsel’s attorneys’ fees not to exceed \$408,333.33; (d) Class Counsel’s actual litigation costs and expenses as supported by declaration not to exceed \$60,000.00; and (f) PAGA Allocation of \$150,000.00 representing PAGA civil penalties allocated for settlement of claims under California Labor Code § 2698, *et seq.* **Class Counsel’s attorneys’ fees and costs, and Named Plaintiffs’ Enhancement Payments, remain subject to Court approval.**

By statute, 75% of the PAGA Allocation, *i.e.*, the sum of \$112,500.00, will be paid as civil penalties to the California Labor Workforce Development Agency. The remaining 25%, *i.e.*, the sum of \$37,500.00, will be distributed to PAGA Employees. “PAGA Employees” means all persons who were formerly or are currently employed as non-exempt, hourly W-2 employee by Defendants and other Healthy Living at Home Entities in California during the period from September 28, 2020, through April 15, 2024 (“PAGA Period”).

No portion of the Gross Settlement Amount will be returned to Defendants under any circumstances.

7. How Much Will My Individual Class Payment Be?

Your estimated share of the Class settlement proceeds will be approximately \$***. This amount is subject to change, based on the terms of the Court’s final approval order.

Your estimated share of the Class settlement proceeds is based on the number of pay periods you worked during the Class Period (June 23, 2021, through the April 15, 2024), as compared to the total number of pay periods worked by all Class Members in that same period. Based upon Defendant’s records, you were determined to have worked *** pay periods during the Class Period.

If this information appears correct, you do not need to do anything further to receive your settlement payment. If you disagree with the number of pay periods allocated to you, see below (Question 10).

8. How Much Will My Individual PAGA Penalty Payment Be?

If you are an, hourly, non-exempt or W-2 worker who worked during the period of September 28, 2020, through April 15, 2024, you are a PAGA Employee and are entitled to receive a portion of the PAGA Allocation. Your estimated share of the PAGA Allocation will be approximately \$***. This amount is subject to change, based on the terms of the Court's final approval order.

Your estimated share of the PAGA Allocation is based on the number of pay periods you worked during the PAGA Period (September 28, 2020 through April 15, 2024), as compared to the total number of pay periods worked by all PAGA Employees in that same period. Based upon Defendant's records, you were determined to have worked *** pay periods during the PAGA Period. If this information appears correct, you do not need to do anything further to receive your settlement payment. If you disagree with the number of pay periods allocated to you, see below (Question 10).

9. How Do I Get a Payment?

To qualify for payment, you need not do anything. The Settlement Administrator will mail you a check within approximately ninety days after the Court enters a judgment based on this settlement, but possibly later depending on whether there is any appeal of the judgment entered by the Court.

10. What If I Believe the Information Is Inaccurate?

If you believe the number of pay periods attributed to you is inaccurate, you may dispute it by sending a letter to [ADMINISTRATOR'S ADDRESS] no later than [RESPONSE DEADLINE]. Be sure to include your name, address, telephone number, last four digits of your Social Security Number, and a statement as to what and why you are disputing. Also attach a copy of any documentation you want to include to support your dispute.

11. What Am I Giving Up to Get a Settlement Payment?

Unless you request to be excluded from the class settlement, you remain a part of the Settlement Class, and that means you cannot sue, continue to sue, or be part of any other lawsuit against Defendants for any legal claims that are based on the facts alleged by Named Plaintiffs in the lawsuit, or any claims that could have been brought under the facts and allegations made in the lawsuit. Specifically, you will be giving up or "releasing" Defendants from the claims described below:

any and all claims, rights, demands, liabilities, and causes of action of any kind, whether known or unknown, arising from the facts pleaded in the Second Amended Complaint for violation of common law, California law and/or federal law which was or could have been raised in the Second Amended Complaint based on the facts pleaded, including but not limited to claims based on the Fair Labor Standards Act (29 U.S.C. §§ 201 *et seq.*), California Labor Code sections 201, 202, 203, 204, 223, 225.5, 226, 226.7, 510, 512, 1174, 1194, 1197, and 2802, and, California Code of Regulations, Title 8 Section 11000 *et seq.*, the applicable Industrial Welfare Commission (IWC) Wage Orders, and Business & Professions Code sections 17200 *et seq.*; that arose during the Class Period.

Additionally, if you worked during the period of September 28, 2020 through April 15, 2024, you are an PAGA

Employee and that means you will be giving up or “releasing” Defendants from the claims described below:

all claims for penalties under the California Private Attorneys General Act, including without limitation, interest, costs and attorneys’ fees related thereto, predicated on Defendants’ violation of Labor Code, including sections 201, 201.3, 202, 203, 204, 207, 208, 209, 216, 218, 218.5, 218.6, 223, 225.5, 226, 226.7, 227.3, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 1199, and 2698 *et seq.* that accrued during the PAGA Period and were alleged by Plaintiffs in their LWDA Notice Letters and were or could have been alleged in the Second Amended Complaint.

12. How Do I Exclude Myself from The Class Settlement?

To exclude yourself from the class settlement (also referred to as “opt-out”), you must mail a letter to the Settlement Administrator saying that you want to be excluded from the *Hebdon v. Mission Healthcare Services, Inc.*, settlement.

Be sure to include your name, address, telephone number, last four digits of your Social Security Number, and your signature. You must mail your exclusion letter postmarked no later than [RESPONSE DEADLINE], to the Settlement Administrator at [ADMINISTRATOR’S ADDRESS].

If you submit a timely and valid “opt-out” request, you will no longer be a member of the Class and you will not receive any money from the class portion of the settlement, or be able to object to the settlement, but you will not be legally bound by anything that happens regarding the class action portion of this lawsuit. You will keep any rights to sue (or continue to sue) Defendants in the future for the class claims made in this lawsuit, at your own expense.

If you worked during the PAGA Period, you may not opt-out, or request to be excluded, from the settlement of the PAGA claim. Thus, even if you submit a timely and valid “opt-out” request, you will still receive an Individual PAGA Penalty Payment and will be deemed to have released the PAGA claims. Your estimated Individual PAGA Penalty Payment is shown above.

13. If I Don’t Exclude Myself, Can I Sue Defendants or Get Money from The Settlement?

If you do not exclude yourself from the class settlement, you cannot sue Defendants for any of the claims that this settlement resolves. If you have a pending lawsuit against Defendants, speak to your lawyer in that case immediately. You may have to exclude yourself from this case to continue with your own lawsuit. Remember, the exclusion deadline is [RESPONSE DEADLINE].

If you exclude yourself from the class settlement, you will not receive any money from the settlement of the class action claims in this matter.

14. How Do I Tell the Court That I Don’t Believe That the Settlement Is Fair?

If you do not exclude yourself from the class settlement, you can object to the class settlement if you believe that the settlement is unfair or inadequate. You can give reasons why you think the Court should not approve the class settlement. If you object and follow the procedures set out in this section, your objection will be considered.

If you decide to object to the proposed settlement, you may do so in writing. All objections must be signed by you and must include: (1) your full name, signature, address, and telephone number; (2) a written statement of the basis for your objection; and (3) any copies of papers, briefs, or documents upon which the objection is based. You must mail your objection postmarked no later than **[RESPONSE DEADLINE]**, to the Settlement Administrator at **[ADMINISTRATOR'S ADDRESS]**.

You may also appear at the final approval hearing for the settlement (see section 17 below for details as to when this hearing will take place), either in person or through an attorney at your own expense. *You may present objections at the final approval hearing, regardless of whether you submitted a written objection.*

There is no right to object to the settlement of the PAGA claim. Thus, even if you submit a timely objection to the class settlement, you will still receive an Individual PAGA Penalty Payment and will be deemed to have released the PAGA claims. Your estimated Individual PAGA Penalty Payment is shown above.

15. What Is the Difference Between Objecting and Excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Class. Excluding yourself, on the other hand, is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you. However, if you file an objection, you will still receive settlement benefits under the settlement if it is approved by the Court. **Do not submit both an Objection and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

16. Do I Have a Lawyer in This Case?

The Court decided that the law firms of Fitzpatrick & Swanson, Diversity Law Group, P.C., and Swartz & Kennedy represent the Named Plaintiffs, are also qualified to represent you and all class members. You will not be charged for these lawyers. These law firms are referred to as "Class Counsel." If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How Will the Attorneys for The Class and The Class Representative Be Paid?

The attorneys for the Named Plaintiffs and the class will be paid from the Gross Settlement Amount. Class Counsel will ask for up to \$408,333.33 in attorneys' fees and for actual litigation costs incurred up to a maximum of \$60,000.00, the actual amount of which will be determined by the Court at the final approval hearing (see section 18 below for details as to when this hearing will take place). Class Members (like you) do not have to pay the fees and costs of Class Counsel. **If you elect, however, to hire your own lawyer, you have to make your own arrangements to compensate your lawyer.**

If approved by the Court, a service payment for the Named Plaintiffs of an amount up to \$10,000.00 each (collectively, \$20,000.00) will be paid from the Gross Settlement Amount for their work and efforts in prosecuting this case, and for undertaking the risks of costs (in the event the outcome of this lawsuit was not favorable).

18. Notice Of Hearing on Final Approval and Objections to Class-Action Settlement.

The Court has preliminarily approved the settlement and will hold a final approval hearing to decide whether to give final approval to the settlement. This hearing will be held before the Honorable Carrie M. Panetta on *******, 2024, at ******* a.m., in Department 14 of the Superior Court of California for the County of Monterey, located at

1200 Aguajito Road, Monterey, California 93940, to determine whether the proposed settlement is fair, reasonable, and adequate, and whether it should be finally approved by the Court. If there are objections, the Court will consider them. After the hearing, the Court will decide whether to approve the settlement. We do not know how long this decision will take. The final approval hearing may be continued without further notice. The Court may adjourn or continue the hearing from time to time, without further notification, as the Court may direct.

Once final approval is granted by the Court, the Court will enter judgment against Defendant, and all Class Members who have not requested exclusion will be deemed to have waived the Released Claims set forth above.

19. How Do I Get More Information?

This Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by contacting Class Counsel.

You may also find additional information regarding the settlement posted on [ADMIN'S WEBSITE], including the date and time of the Final Approval Hearing, the Motion for Preliminary Approval, the Preliminary Approval Order, the Class Notice, the Motion for Final Approval, the Final Approval Order and the Judgment.

20. What Is the Contact Information for The Court and Class Counsel?

The addresses for the Court and Class Counsel are as follows:

CLASS COUNSEL

FITZPATRICK & SWANSTON

B. James Fitzpatrick James bjfitzpatrick@fandslegal.com
Laura L. Franklin – lfranklin@fandslegal.com
555 S. Main Street
Salinas, CA 93901
Telephone: (831) 755-1311
Facsimile: (831) 755-1319

DIVERSITY LAW GROUP, P.C.

Larry W. Lee – lwlee@diversitylaw.com
Kristen M. Agnew – kagnew@diversitylaw.com
515 South Figueroa Street, Suite 1250
MONTEREY, California 90071
Telephone: (213) 488-6555
Facsimile (213) 488-6554

SWARTZ & KENNEDY

Andrew H. Swartz – andy@swartzkennedylaw.com
215 W Franklin Street, 5th Floor
Monterey, CA 93940-2816
Facsimile: (831) 373-8211

COURT

Clerk of Court
Monterey County Superior Court
1200 Aguajito Road
Monterey, CA 93940

WHAT IF I HAVE QUESTIONS?

If you have any questions about the settlement, you may contact the Settlement Administrator:

Hebdon v. Mission Healthcare Services, Inc.
c/o Phoenix Settlement Administrator

Address

Toll-Free Phone Number:***

Email: ***

PLEASE DO NOT TELEPHONE DEFENSE COUNSEL, THE COURT, OR THE OFFICE OF THE COURT CLERK FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS.

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EXHIBIT 2

FITZPATRICK & SWANSTON

B. JAMES FITZPATRICK
CHARLES SWANSTON
LAURA L. FRANKLIN

ATTORNEYS AT LAW
555 South Main Street
Salinas, California 93901
Telephone: 831.755.1311
Facsimile: 831.755.1319

September 28, 2021

Via Online Filing

Labor & Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

Via Certified Mail

Mission Healthcare Services, LLC
c/o Agent for Service of Process:
2385 Northside Drive, Suite 200
San Diego, CA 92108

Via Certified Mail

Healthy Living Network Resources, LLC
c/o Agent for Service of Process:
Cogency Global Inc.
Attn: Erin Upchurch
1325 J Street, Suite 1550
Sacramento Ca 95814

Via Certified Mail

Healthy Living at Home - Monterey, LLC
c/o Agent for Service of Process:
Cogency Global Inc.
Attn: Erin Upchurch
1325 J Street, Suite 1550
Sacramento Ca 95814

Via Certified Mail

Trinity Management Services Organization, LLC
c/o Agent for Service of Process:
Cogency Global Inc.
Attn: Erin Upchurch
1325 J Street, Suite 1550
Sacramento Ca 95814

Re: Notice of Labor Law Violations
California Labor Code §§ 2699, 2699.3, 2699.5
Aggrieved Employee: Melissa Hebdon

To Representatives of the Labor and Workforce Development Agency, Mission Healthcare Services, LLC, Healthy Living Network Resources, LLC, Healthy Living at Home – Monterey, LLC and Trinity Management Services Organization, LLC:

Pursuant to California Labor Code §§ 2699, 2699.3, and 2699.5, aggrieved employee Melissa Hebdon, on behalf of herself and as representatives on behalf of all current and former aggrieved employees (hereinafter shall be collectively referred to as “the employees”) of Mission Healthcare Services, LLC, Healthy Living Network Resources, LLC, Healthy Living at Home – Monterey, LLC and Trinity Management Services Organization, LLC (hereinafter collectively referred to as “the employer”), hereby notifies you of the labor law violations and facts and circumstances giving rise to them, committed by the employer.

The employees were subjected to numerous violations based on, among others, the following facts, circumstances and laws:

Ms. Hebdon worked for the employer from approximately October 12, 2020, through approximately July 30, 2021. Throughout her employment, Ms. Hebdon was misclassified as an exempt employee. Because of the misclassification, the employer failed to pay Ms. Hebdon minimum and overtime wages, failed to provide timely, off-duty meal and rest periods, and failed to provide compliant wage statements. Ms. Hebdon is informed and believes that other employees suffered and continue to suffer similar violations, as is further described below.

The employer maintained and enforced a meal period policy that failed to provide a 30-minute duty-free meal period to the employees that began before more than five hours were worked. Additionally, the employer failed to compensate the employees one hour of wages at their regular rate of compensation for each meal period not afforded as required by California Labor Code § 226.7, and the applicable Industrial Welfare Commission Wage Order.

The employer also maintained and enforced a uniform policy by which they repeatedly failed to authorize, permit and provide the employees with a paid duty-free rest period of at least 10 consecutive uninterrupted minutes during which the employees were relieved of all duties for every four hours worked or major fraction thereof and which were counted as hours worked for which there would be no deduction from wages. Additionally, the employer failed to compensate the employees one hour of wages at their regular rate of compensation for each rest period not afforded as required by California Labor Code § 226.7, and the applicable Industrial Welfare Commission Wage Order.

The employer violated Labor Code §§ 510, 558, and 1194 by failing to correctly calculate the correct regular rate of pay for a pay period when the employees were paid a non-discretionary bonus pay. As a further result of such violation, the correct regular rate of pay, the overtime and vacation rates of pay, as well as the gross and net wages earned as reflected on the employees' itemized wage statements were inaccurately identified, in violation of Labor Code § 226(a). Specifically, because of the miscalculation and under payment of wages, the wrong rate of overtime and vacation pay was listed, and the gross and net wages earned identified on the wage statements did not accurately reflect correct amount of wages that should have been paid had the overtime and vacation rates of pay been accurately calculated. Finally, as a result of such violations, the employer also violated Labor Code §§ 201-203 by failing to pay all wages in a timely manner upon separation of employment pursuant to the above-referenced violations.

Moreover, the employer issued incomplete and inaccurate wage statements to the employees that included, but not limited to, the total hours worked, overtime hours worked, accurate gross and net wages earned, all applicable rates of pay and the corresponding number of hours worked under each rate, all deductions, premium wages owed for missed rest and meal periods, and an accurate accounting for all wages, in violation of Labor Code section 226.

The employer willfully failed to pay the employees upon the termination of their employment all owing and unpaid wages for work performed by them during their employment and at the end of their employment. Such wages include, but are not limited to, wages for all hours

worked, minimum wages, overtime premium wages for all overtime hours worked, and compensation for missed meal and rest periods.

The employer maintained and enforced a uniform policy by which it violated Labor Code section 204 by failing to pay all employees their earned wages in a timely manner following the end of each pay period within the deadlines set forth in Section 204.

The employer also violated Labor Code § 201.3 by failing to pay wages on a weekly basis. Specifically, the employer is a temporary services employer that contracts with clients or customers to supply workers to perform services for the clients or customers. Despite this, the aggrieved employees were not paid their wages on a weekly basis.

The legal violations arising from the conduct referenced above and below include, but are not limited to, the following:

1. The employer failed to pay either agreed wages for all hours worked;
2. The employer failed to pay wages in a timely manner;
3. The employer failed to pay employees who were discharged or who resigned all wages owed within the time required by Labor Code §§ 201 and 202;
4. The employer failed to:
 - a. Record in ink or other indelible form, properly dated, showing the month, day, and year, all deductions made from payment of wages of the employees. They also failed to provide the employees with a copy of the statement, and they failed to maintain a record of the deductions on file for at least three years at the place of employment or at a central location within the State of California;
 - b. Furnish to the employees, semimonthly or at the time of each payment of wages, a complete and accurate itemized statement in writing showing: (1) gross wages earned; (2) total hours worked; (3) all deductions; (4) net wages earned; (5) the inclusive dates of the period for which the employee is paid; (6) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer and; (7) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee;
5. The employer failed to keep accurate records, including but not limited to time and pay records showing when the employees begin and end each work period, start and stop times for meal periods and the total length of meal periods, the total daily hours worked in each payroll period, the applicable rate of pay and the total wages paid for at least three years at the place of employment or at a central location within the State of California;

6. The employer repeatedly employed the employees for work periods of more than five hours per day without providing them with timely meal periods of not less than 30 minutes during which the employees were relieved of all duties, and failed and refused to pay the employees one hour of pay at the their regular rate of compensation for each work day that such meal periods were not provided;
7. The employer repeatedly employed the employees for work periods of more than ten hours per day without providing them with a second meal periods of not less than 30 minutes during which the employees were relieved of all duties, and failed and refused to pay the employees one hour of pay at the their regular rate of compensation for each work day that such meal periods were not provided; and
8. The employer repeatedly employed the employees for work days of at least three and one half hours without authorizing and permitting them to take paid rest periods of at least 10 minutes net rest time for every four hours work time or major fraction thereof in the middle of each work period, insofar as practicable, and failed and refused to pay the employees one hour of pay at the their regular rate of compensation for each work day that one or more rest periods were not provided.

The above described conduct by the employer violates numerous provisions of the Labor Code, including but not limited to, Labor Code §§ 201, 201.3, 202, 203, 204, 207, 208, 209, 216, 218, 218.5, 218.6, 223, 225.5, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 1199, 2699, and the applicable California Industrial Welfare Commission Wage Order. The employees seek wages and penalties from the employer.

Very truly yours,

FITZPATRICK & SWANSTON



B. James Fitzpatrick

BJF/jf

cc: Larry W. Lee, Esq.
Andrew H. Swartz, Esq.

EXHIBIT 3

FITZPATRICK & SWANSTON

B. JAMES FITZPATRICK
CHARLES SWANSTON
LAURA L. FRANKLIN

ATTORNEYS AT LAW
555 South Main Street
Salinas, California 93901
Telephone: 831.755.1311
Facsimile: 831.755.1319

August 23, 2022

Via Online Filing

Labor & Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

Via Certified Mail

Mission Healthcare Services, LLC
c/o Agent for Service of Process:
Kerry Pawl
2385 Northside Drive, Suite 200
San Diego, CA 92108

Re: Notice of Labor Law Violations
California Labor Code §§ 2699, 2699.3, 2699.5
Aggrieved Employee: Annette Lewis

To Representatives of the Labor and Workforce Development Agency and Mission Healthcare Services, LLC:

Pursuant to California Labor Code §§ 2699, 2699.3, and 2699.5, aggrieved employee Annette Lewis, on behalf of herself and as representatives on behalf of all current and former aggrieved employees (hereinafter shall be collectively referred to as “the employees”) of Mission Healthcare Services, LLC (hereinafter referred to as “the employer”), hereby notifies you of the labor law violations and facts and circumstances giving rise to them, committed by the employer.

The employees were subjected to numerous violations based on, among others, the following facts, circumstances and laws:

Annette Lewis worked for the employer from approximately May 21, 2018, through approximately September 30, 2021.

The employer maintained and enforced a meal period policy that failed to provide a 30-minute duty-free meal period to the employees that began before more than five hours were worked. Additionally, the employer failed to compensate the employees one hour of wages at their regular rate of compensation for each meal period not afforded as required by California Labor Code § 226.7, and the applicable Industrial Welfare Commission Wage Order.

The employer also maintained and enforced a uniform policy by which they repeatedly failed to authorize, permit and provide the employees with a paid duty-free rest period of at least 10 consecutive uninterrupted minutes during which the employees were relieved of all duties for every four hours worked or major fraction thereof and which were counted as hours worked for which there would be no deduction from wages. Additionally, the employer failed to compensate

the employees one hour of wages at their regular rate of compensation for each rest period not afforded as required by California Labor Code § 226.7, and the applicable Industrial Welfare Commission Wage Order.

The employer violated Labor Code §§ 510, 558, and 1194 by failing to correctly calculate the correct regular rate of pay for a pay period when the employees were paid a non-discretionary bonus pay. As a further result of such violation, the correct regular rate of pay, the overtime and vacation rates of pay, as well as the gross and net wages earned as reflected on the employees' itemized wage statements were inaccurately identified, in violation of Labor Code § 226(a). Specifically, because of the miscalculation and under payment of wages, the wrong rate of overtime and vacation pay was listed, and the gross and net wages earned identified on the wage statements did not accurately reflect correct amount of wages that should have been paid had the overtime and vacation rates of pay been accurately calculated. Finally, as a result of such violations, the employer also violated Labor Code §§ 201-203 by failing to pay all wages in a timely manner upon separation of employment pursuant to the above-referenced violations.

Moreover, the employer issued incomplete and inaccurate wage statements to the employees that included, but not limited to, the total hours worked, overtime hours worked, accurate gross and net wages earned, all applicable rates of pay and the corresponding number of hours worked under each rate, all deductions, premium wages owed for missed rest and meal periods, and the name and address of the legal entity that is the employer, in violation of Labor Code section 226.

The employer willfully failed to pay the employees upon the termination of their employment all owing and unpaid wages for work performed by them during their employment and at the end of their employment. Such wages include, but are not limited to, wages for all hours worked, minimum wages, overtime premium wages for all overtime hours worked, and compensation for missed meal and rest periods.

The employer maintained and enforced a uniform policy by which it violated Labor Code section 204 by failing to pay all employees their earned wages in a timely manner following the end of each pay period within the deadlines set forth in Section 204.

The employer also violated Labor Code § 201.3 by failing to pay wages on a weekly basis. Specifically, the employer is a temporary services employer that contracts with clients or customers to supply workers to perform services for the clients or customers. Despite this, the aggrieved employees were not paid their wages on a weekly basis.

The legal violations arising from the conduct referenced above and below include, but are not limited to, the following:

1. The employer failed to pay either agreed wages for all hours worked;
2. The employer failed to pay wages in a timely manner;
3. The employer failed to pay employees who were discharged or who resigned all wages owed within the time required by Labor Code §§ 201 and 202;

4. The employer failed to:
 - a. Record in ink or other indelible form, properly dated, showing the month, day, and year, all deductions made from payment of wages of the employees. They also failed to provide the employees with a copy of the statement, and they failed to maintain a record of the deductions on file for at least three years at the place of employment or at a central location within the State of California;
 - b. Furnish to the employees, semimonthly or at the time of each payment of wages, a complete and accurate itemized statement in writing showing: (1) gross wages earned; (2) total hours worked; (3) all deductions; (4) net wages earned; (5) the inclusive dates of the period for which the employee is paid; (6) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer and; (7) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee;
5. The employer failed to keep accurate records, including but not limited to time and pay records showing when the employees begin and end each work period, start and stop times for meal periods and the total length of meal periods, the total daily hours worked in each payroll period, the applicable rate of pay and the total wages paid for at least three years at the place of employment or at a central location within the State of California;
6. The employer repeatedly employed the employees for work periods of more than five hours per day without providing them with timely meal periods of not less than 30 minutes during which the employees were relieved of all duties, and failed and refused to pay the employees one hour of pay at the their regular rate of compensation for each work day that such meal periods were not provided;
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8. The employer repeatedly employed the employees for work days of at least three and one half hours without authorizing and permitting them to take paid rest periods of at least 10 minutes net rest time for every four hours work time or major fraction thereof in the middle of each work period, insofar as practicable, and failed and refused to pay the employees one hour of pay at the their regular rate of compensation for each work day that one or more rest periods were not provided.

The above described conduct by the employer violates numerous provisions of the Labor Code, including but not limited to, Labor Code §§ 201, 201.3, 202, 203, 204, 207, 208, 209, 216, 218, 218.5, 218.6, 223, 225.5, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 1199,

Notice of Labor Law Violations

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2699, and the applicable California Industrial Welfare Commission Wage Order. The employees seek wages and penalties from the employer.

Very truly yours,

FITZPATRICK & SWANSTON

A handwritten signature in black ink, appearing to read 'B. James Fitzpatrick', written over the printed name.

B. James Fitzpatrick

BJF/jf

EXHIBIT 4