

Kane Moon (SBN 249834)
Enzo Nabiev (SBN 332118)
MOON LAW GROUP, PC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
E-mail: kmoon@moonlawgroup.com
E-mail: enabiev@moonlawgroup.com

Attorneys for Plaintiff Raffi Agopian

Julie A. Vogelzang (SBN 174411)
Lisa Hird Chung (SBN 246766)
Janelle R. Thornton (SBN 294514)
SCHOR VOGELZANG & CHUNG LLP
2170 Fourth Avenue
San Diego, California 92101
Phone: 619.906.2400
Fax- 619.906.2401
Julie@svclegal.com
Lisa@svclegal.com
Janelle@svclegal.com

Attorneys for Defendant Thousand Oaks
Post Acute, LLC

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

RAFFI AGOPIAN, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

THOUSAND OAKS POST ACUTE, LLC, a
limited liability company; and DOES 1
through 10, inclusive,

Defendants

Case No.: 56-2022-00570429-CU-OE-VTA

**SETTLEMENT AGREEMENT AND
RELEASE OF PAGA CLAIMS**

Complaint filed: September 26, 2022
Trial date: Not Set

SETTLEMENT AGREEMENT AND RELEASE OF PAGA CLAIMS

Plaintiff Raffi Agopian ("Plaintiff"), individually and in his capacity as a representative of the State of California on behalf of other allegedly aggrieved employees, and Defendant Thousand Oaks Post Acute, LLC ("Defendant"), hereby enter into this Settlement Agreement and Release of Private Attorneys General Act of 2004 Claims ("Settlement") as follows:

DEFINITIONS

1. **"Action"** means and refers to *Raffi Agopian v. Thousand Oaks Post Acute, LLC* Case No.:56-2022-00570429-CU-OE-VTA, which is currently pending in the Ventura County Superior Court of the State of California.

2. The terms **"Agreement," "Settlement,"** and **"Settlement Agreement"** mean this Agreement for PAGA Representative Action Settlement, which the Parties acknowledge sets forth all material terms and conditions of the Settlement between them, and which is subject to Court approval pursuant to Section 2699(1) of the California Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*

3. **"Court"** means the California Superior Court, County of Ventura.

4. **"Defendant"** means Thousand Oaks Post Acute, LLC.

5. **"Defendant's Counsel"** means Schor Vogelzang & Chung LLP.

6. **"Effective Date"** The Effective Date of this Agreement shall be the date the Court enters an order approving this Agreement.

7. **"Gross Settlement Amount" or "GSA"** means a maximum total of \$160,000.00, which includes all payments owing as a result of this Agreement and includes: the Net Settlement Amount (including the Individual PAGA Payments, and the LWDA PAGA Payment); Settlement Administration Costs; and PAGA Counsel Attorneys' Fees and Costs as awarded by the Court.

8. **"LWDA Payment"** means a payment to the California Labor Workforce and Development Agency ("LWDA") in an amount equal to 75% of the Net Settlement Amount.

9. **"Net Settlement Amount"** is the Gross Settlement Amount less (1) PAGA Counsel's Attorneys' Fees and Costs, and (2) Settlement Administration Costs.

//

1 10. **“Operative Complaint”** means and refers to the First Amended Complaint filed on
2 December 7, 2022, in the Action, which supersedes the complaint filed on September 26, 2022.

3 11. **“PAGA”** means the California Labor Code Private Attorneys General Act of 2004,
4 codified at California Labor Code §§ 2698 *et seq.*

5 12. **“PAGA Aggrieved Employee Payment”** means a payment of 25% of the Net
6 Settlement Amount, which the Parties have agreed to pay the Aggrieved Employees in connection
7 with the settlement of the PAGA Claim.

8 13. **“PAGA Claim”** means the claim for civil penalties under PAGA alleged in the
9 Action and stated in Plaintiff’s September 18, 2022 notice letter to the LWDA.

10 14. **“PAGA Counsel”** means Moon Law Group, PC.

11 15. **“PAGA Period”** means September 26, 2021, through June 13, 2023.

12 16. **“PAGA Settlement Members”** The PAGA Settlement Members (also referred to
13 herein as the **“Aggrieved Employees”**) included in the Settlement shall be all individuals at-issue
14 who are or were employed as hourly and/or non-exempt employees by Defendant in California at
15 any time during the PAGA Period.

16 17. **“Released Claims”** means all claims or causes of action for civil penalties that were,
17 or could have reasonably been asserted based on the facts in Plaintiff’s September 18, 2022 letter to
18 the LWDA or the Operative Complaint, that arose during the PAGA Period, including but not
19 limited to alleged: failure to pay minimum wages, failure to pay overtime compensation, failure to
20 provide meal periods, failure to pay meal premiums, failure to authorize and permit rest breaks,
21 failure to pay rest premiums, failure to indemnify necessary business expenses, failure to pay all
22 earned wages twice per month, failure to maintain accurate payroll records and records of hours
23 worked and meal periods taken or missed, failure to timely pay final wages at termination, failure
24 to timely pay accrued vacation wages at termination, and failure to provide accurate itemized wage
25 statements.

26 18. **“Released Parties”** shall mean Defendant, and all of its current, past, present, and/or
27 future subsidiary companies, affiliates, holding companies, successors, partners, shareholders,
28 insurers, legal representatives, assigns, employees, benefit plan administrators, vendors, officers,

1 directors, attorneys, agents, successors and predecessors in interest, parents, as well as any individual
2 or entity that could be jointly liable with Defendant or any other Released Party.

3 19. **“Representative Plaintiff” or “Plaintiff”** means Plaintiff Raffi Agopian.

4 20. **“Settled Claims”** This Settlement is a settlement of all PAGA Claims alleged or
5 which could have been alleged based on the facts identified in Plaintiff’s PAGA notice letter, dated
6 September 18, 2022, and/or in the Operative Complaint, which arose during the PAGA Period.

7 21. **“Settlement Administrator”** shall mean Phoenix Settlement Administrators, a
8 neutral third-party administrator chosen by the Parties, subject to approval by the Court.

9 **RECITALS**

10 22. On September 18, 2022, Plaintiff sent a letter to the LWDA and Defendant giving
11 notice of his intent to pursue a representative action pursuant to PAGA on behalf of himself and the
12 State of California, as well as on behalf of a proposed group of aggrieved employees (“PAGA
13 Notice”). On September 26, 2022, Plaintiff filed a class action complaint in the Action, alleging
14 that Defendant failed to properly pay minimum wages, overtime wages, provide lawful meal periods
15 or compensation in lieu thereof, authorize or permit lawful rest breaks or provide compensation in
16 lieu thereof, indemnify necessary business expenses, timely pay all wages at the termination of
17 employment, and provide accurate itemized wage statements.

18 23. On December 7, 2022, Plaintiff filed a first amended complaint in the Action to add
19 the PAGA Claim. In response, Defendant filed an answer that included a general denial and various
20 affirmative defenses.

21 24. The PAGA Claim seeks civil penalties and an award of reasonable attorneys’ fees
22 and costs.

23 25. Prior to mediation, Defendant provided Plaintiff with a copy of the arbitration
24 agreement containing a class action waiver signed by Plaintiff. The Parties therefore agreed to
25 attend mediation and enter into this Settlement as to the PAGA Claim and Plaintiff’s individual
26 claims only. In addition, Plaintiff has agreed to file a request for dismissal of the putative class
27 claims without prejudice within 15 days after the Parties have fully executed this Agreement and
28 before Plaintiff obtains a Settlement approval hearing date with the Court.

1 26. The Parties have conducted a thorough investigation into the facts of the Action.
2 This included exchanging data and information as well as documents relating to the underlying
3 alleged violations. After attending a mediation with Hon. Carl West (Ret.), on June 13, 2023, the
4 Parties reached the Settlement described in this Agreement. The Parties understand, acknowledge,
5 and agree that this Settlement Agreement constitutes a compromise of Plaintiff's Representative and
6 the Aggrieved Employees' PAGA Claim, and that it is the desire and intention of the Parties to
7 effectuate a final and complete resolution of the PAGA Claim that the Representative Plaintiff and
8 the Aggrieved Employees have against Defendant or any persons or companies affiliated with
9 Defendant.

10 27. Defendant denies any liability or wrongdoing of any kind associated with the claims
11 alleged in the Action, denies liability for the Released Claims, and further denies that the Action is
12 appropriate for representative treatment for any purpose other than settling this Action. Defendant
13 contends, among other things, that it has complied at all times with the California Labor Code and
14 the related applicable Industrial Welfare Commission Wage Orders, all other state and federal wage
15 laws, and further contend that all of their respective employees were and are paid properly and that
16 the Action is without merit. Defendant has denied and continues to deny each and every material
17 factual allegation and all alleged claims asserted against it in the Action.

18 28. The Parties recognize that the issues presented in the Action are likely only to be
19 resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause
20 inconvenience, distraction, disruption, delay and expense disproportionate to the potential benefits
21 of litigation. The Parties have accounted for the risk and uncertainty of the outcome inherent in any
22 litigation.

23 29. Based on their own independent investigations and evaluations, the Parties and their
24 respective counsel are of the opinion that the settlement for the consideration and on the terms set
25 forth in this Agreement is fair, reasonable, adequate, and is in the best interests of Plaintiff,
26 Aggrieved Employees, the State of California, and Defendant in light of all known facts and
27 circumstances and the risks inherent in litigation, including the potential appellate issues. Further,
28 PAGA Counsel believes that the settlement amount entered into is in the best interests of the

1 Aggrieved Employees and the State of California, and is fair, reasonable, and adequate given the
2 inherent risk of litigation.

3 30. The Parties enter into this Settlement Agreement on a conditional basis. In the event
4 the Court does not approve the Settlement or dismiss the putative class action claims without
5 prejudice, this Settlement Agreement will be deemed null and void *ab initio* and will be of no force
6 or effect whatsoever, and will not be referred to or utilized for any purpose whatsoever.

7 31. Defendant does not waive, but rather expressly reserves, all rights to challenge all
8 such claims and allegations upon all legal, procedural and factual grounds should this Settlement
9 Agreement not become final.

10 32. The Parties stipulate and agree to the following terms of this Settlement Agreement
11 with the intent that this Agreement finally disposes of the Action with prejudice.

12 TERMS AND CONDITIONS

13 33. **Settlement Payments and Calculation of Claims.** The following table summarizes
14 the allocation of the Gross Settlement Amount:

15 **Gross Settlement Amount of \$160,000.00 Is Broken Down As Follows:**

- 16 • PAGA Counsel Attorneys' Fees not to exceed 33 1/3% (or \$53,333.33).
- 17 • PAGA Counsel Costs not to exceed \$16,000.00.
- 18 • Settlement Administration Costs not to exceed \$10,000.00
- 19 • Remaining Net Settlement Amount:
 - 20 ○ 25% of the Net Settlement Amount for the PAGA Aggrieved
Employee Payment
 - 21 ○ 75% of the Net Settlement Amount for the LWDA Payment

22 34. Subject to Court approval of the Settlement and the conditions specified in this
23 Agreement, and in consideration of the mutual covenants and promises set forth in this Agreement,
24 Defendant agrees to pay the Gross Settlement Amount of \$160,000.00. The Gross Settlement
25 Amount includes, but is not limited to, payments to be made to PAGA Counsel's attorneys' fees
26 and costs, LWDA Payment, and Settlement Administration Costs.

27 35. **Escalator Clause:** At mediation Plaintiff calculated based on the information
28 provided by Defendant through informal discovery that there were approximately 5,107 pay periods

1 during the PAGA Period. If the actual number of pay periods is more than 10% greater than this
2 number (i.e., if there are more than 5,618 pay periods in the PAGA Period), Defendant shall increase
3 the settlement payment in proportion to the increase in pay periods beyond 5,618 (e.g., if the number
4 of pay periods is higher by 11% (5,669 pay periods), the Gross Settlement Amount will increase by
5 one percent (1%)).

6 36. The Parties agree, subject to Court approval, that the Gross Settlement Amount shall
7 be apportioned as follows:

8 a. Settlement Administration Fees And Costs: The fees and costs associated
9 with settlement administration (e.g., preparing and mailing payments to the Aggrieved Employees,
10 Spanish translation of the PAGA Settlement Notice, tax documentation, etc.) (the “**Settlement**
11 **Administration Costs**”) will be paid from the Gross Settlement Amount and are estimated to be up
12 to \$10,000.00. The Parties agree to use Phoenix Settlement Administrators as the Settlement
13 Administrator. Any unused portion of the Settlement Administration Costs shall be distributed to
14 the Aggrieved Employees and LWDA on a pro-rata basis.

15 b. PAGA Counsel’s Attorneys’ Fees and Costs: The Parties agree that, subject
16 to the Court’s review and approval, PAGA Counsel will be paid from the Gross Settlement Amount
17 an amount that is up to 33 1/3% of the Gross Settlement Amount for attorneys’ fees (\$53,333.33),
18 plus actual litigation costs, not to exceed \$16,000.00. Should PAGA Counsel request a lesser
19 amount for attorneys’ fees and costs and/or the Court approves a lesser amount, the difference shall
20 be included in the Net Settlement Amount and distributed to the Aggrieved Employees and LWDA
21 on a pro-rata basis. Payment of PAGA Counsel’s attorneys’ fees and costs will be reflected in an
22 IRS Form 1099 to PAGA Counsel, who shall assume full responsibility and liability for the payment
23 of taxes due on such payments.

24 c. Net Settlement Amount: After deducting PAGA Counsel’s Attorneys’ Fees
25 and Costs, and Settlement Administration Costs from the Gross Settlement Amount, the remaining
26 amount will comprise the Net Settlement Amount. The Net Settlement Amount is comprised of the
27 LWDA Payment and the PAGA Aggrieved Employee Payment. The Net Settlement Amount shall
28 be allocated 75% to the LWDA Payment. The remaining 25% of the Net Settlement Amount, shall

1 be allocated to the PAGA Aggrieved Employee Payment to be paid to the Aggrieved Employees on
2 a *pro rata* basis as noted below, which shall be referred to as the Aggrieved Employee's "**Individual**
3 **PAGA Payment.**"

4 d. Plaintiff's Individual Settlement: Plaintiff and Defendant have entered into
5 a separate settlement and general release of Plaintiff's individual claims. Plaintiff is entitled to no
6 further payment pursuant to this Agreement other than the portion that he is entitled to as a PAGA
7 Settlement Member.

8 e. Taxes and Reporting: The Individual PAGA Payments will be treated as non-
9 wage income to the Aggrieved Employees and reported by the Settlement Administrator on IRS
10 Form 1099. Nothing in this Settlement is intended to constitute legal advice regarding federal, state
11 and/or local tax obligations. Plaintiff acknowledges that he has obtained no tax advice from
12 Defendant and that neither Defendant nor Defendant's Counsel has made any representation
13 concerning the tax consequences, if any, of the Settlement payment in this Agreement. Defendant
14 is not responsible for any employee tax obligations regarding the allocation of the Settlement
15 payment.

16 f. No Effect on Employee Benefits: The payments made to Plaintiff and other
17 PAGA Settlement Members pursuant to this Agreement are not intended to count as earnings by
18 Plaintiff or the PAGA Settlement Members, and will not entitle Plaintiff or the PAGA Settlement
19 Members to any additional compensation and/or benefits under any retirement, benefit, bonus,
20 incentive, pension, welfare, and/or any other plan of or sponsored by Defendant. Defendant shall
21 not make as part of this Agreement, nor be required to make, any deductions, nor pay any monthly
22 contributions for any insurance, retirement, bonuses, 403(b), or profit sharing plans related to
23 monies paid as a result of this Agreement. The Individual PAGA Payments paid to PAGA
24 Settlement Members shall not have any effect on the eligibility for, or calculation of, any of the
25 employee benefits (e.g. bonuses, vacation, holiday pay, retirement plans, etc.) of PAGA Settlement
26 Members. The Parties agree that any Individual PAGA Payments paid to PAGA Settlement
27 Members under the terms of this Agreement do not represent any modification of PAGA Settlement
28 Members' previously credited hours of service or other eligibility criteria under an employee benefit

1 plan sponsored by Defendant. Further, any Individual PAGA Payments are penalties and thus shall
2 not be considered compensation in any year for purposes of determining eligibility for, or benefit
3 accrual within, and employee benefit plan or bonus plan sponsored by Defendant.

4 37. **Release By PAGA Settlement Members**

5 a. PAGA Settlement Members Limited Release. Each PAGA Settlement
6 Member (including Plaintiff) shall, for the PAGA Period, fully release and forever discharge
7 Released Parties from any and all Released Claims. The State of California shall fully release and
8 forever discharge Released Parties from the Released Claims as they pertain to PAGA Settlement
9 Members (including Plaintiff).

10 b. No Claims Based On Agreement. No Aggrieved Employee will have any
11 claim against any of the Released Parties, Defendant's Counsel, the Representative Plaintiff, or
12 PAGA Counsel, based on errors in administering claims or performing the mailing and skip-tracing
13 requirements of the Settlement Administrator under this Agreement.

14 38. **Settlement Funding**

15 Subject to Court approval of the Settlement, Defendant shall fully fund the Gross Settlement
16 Amount by transmitting the GSA to the Administrator no later than 90 days after the Effective Date
17 i.e. the date the Court enters an order approving the Agreement.

18 39. The Settlement Administrator will establish a Qualified Settlement Fund within the
19 meaning of Treasury Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.* for the benefit of Aggrieved
20 Employees and the State of California. Defendant shall transmit the Settlement payments due under
21 this Agreement into the established Qualified Settlement Fund.

22 40. **PAGA List**

23 Within 14 days after the Effective Date, Defendant will compile a PAGA Settlement
24 Member list containing the following information for each PAGA Settlement Member: (1) name;
25 (2) last known home address and telephone number; (3) number of pay periods as a PAGA
26 Settlement Member during the PAGA Period; and (4) social security number.

27 41. **Allocation and Calculation of the Individual PAGA Payments.**

28 The PAGA Settlement Members shall receive a pro-rata share of the PAGA Aggrieved

Employee Payment, which will be calculated using a ratio of (a) the number of pay periods worked by the PAGA Settlement Member during the PAGA Period; to (b) the total number of pay periods worked by all PAGA Settlement Members during the PAGA Period.

42. **List Of Individual PAGA Payment Amounts.**

Within 14 days after the Settlement Administrator receives the PAGA List, the Settlement Administrator will provide to PAGA Counsel and Defendant's Counsel a Proceeds List reflecting the Individual PAGA Payment amount for each Aggrieved Employee ("**Proceeds List**"). The Proceeds List provided to PAGA Counsel will not include the Aggrieved Employees' names, social security numbers or contact information.

43. **Individual PAGA Payments to Aggrieved Employees.**

a. No later than seven (7) days after the GSA is fully funded, the Settlement Administrator will mail to each Aggrieved Employee, via first-class United States Mail, the following: (a) the PAGA Settlement Notice in English and Spanish, the English version of which is attached as Exhibit A to this Agreement; and (b) their Individual PAGA Payment (collectively, the "**PAGA Packet**").

b. Prior to mailing, the Settlement Administrator will update all addresses using the National Change of Address System (NCOA). In the event that a PAGA Packet is returned to the Settlement Administrator with a forwarding address, the Settlement Administrator will re-send the PAGA Packet to the forwarding address identified. If no forwarding address is provided, then the Settlement Administrator will promptly conduct a "standard search," sometimes called, "Skip Trace" or "Credit Header" searches, to locate a better address. If a better address is found, the Settlement Administrator will promptly re-send the PAGA Packet. If a better address is not found or the PAGA Packet is ultimately returned without a forwarding address, neither the Settlement Administrator, Defendant, or PAGA Counsel shall be required to take further action.

c. Aggrieved Employees shall have 180 calendar days after the date the PAGA Packet is mailed to them to cash their settlement payment checks. If any Aggrieved Employee's check is not cashed within that period, the settlement payment check will be voided and a stop-payment will be issued. Neither Defendant, Defendant's Counsel, Plaintiff, nor PAGA Counsel will

1 have any liability for lost or stolen settlement payment checks, forged signatures on settlement
2 payment checks, unauthorized negotiation of settlement payment checks or failure to timely cash a
3 settlement payment check within the 180-day period.

4 d. Any unpaid cash residue or unclaimed Aggrieved Employee funds, plus any
5 accrued interest that has not otherwise been distributed pursuant to order of the Court, shall be
6 transmitted to California State Controller's Office for Unclaimed Property in the name of each
7 Aggrieved Employee who failed to cash their Individual PAGA Payment prior to the void date.

8 44. **Payments Of Attorneys' Fees And Costs, and the LWDA Payment.**

9 a. No later than seven (7) days after the GSA is fully funded, the Settlement
10 Administrator will pay from the Gross Settlement Amount to PAGA Counsel its Court-approved
11 Attorneys' Fees and Costs, settlement administration costs, Aggrieved Employees' recovery, and
12 the LWDA Payment by issuing a check payable to "California Labor Workforce and Development
13 Agency."

14 45. **Deadlines.**

15 If any deadline specified in this Agreement falls on a Saturday, Sunday, or Court holiday,
16 the deadline will be automatically extended to the next regular business day. Unless specified
17 otherwise, all references to "days" shall mean calendar days.

18 46. **Enforcement and Continuing Jurisdiction of the Court.**

19 Pursuant to the Parties agreement, this Settlement Agreement will be approved by the Court
20 and will be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6.
21 Even after the entry of the Order approving the Settlement, this Court will have and retain continuing
22 jurisdiction over the Action and over all Parties and the Aggrieved Employees, to the fullest extent
23 necessary or convenient to enforce and effectuate the terms and intent of this Settlement Agreement
24 and all matters provided for in it, and to interpret it.

25 47. **Mutual Full Cooperation.**

26 The Parties will fully cooperate with each other to accomplish the terms of this Settlement
27 Agreement, including, but not limited to, execution of such documents and taking such other action
28 as may be reasonably necessary or convenient to implement it.

1 48. **Non-Admission Of Liability.**

2 The Parties enter into this Agreement to resolve the dispute that has arisen between them
3 and to avoid the burden, expense and risk of continued litigation. In entering into this Agreement,
4 Defendant does not admit, and specifically denies, that it has violated any federal, state, or local
5 law; violated any regulations or guidelines promulgated pursuant to any statute or any other
6 applicable laws, regulations or legal requirements; violated or breached any duty; engaged in any
7 misrepresentation or deception; or engaged in any other unlawful conduct with respect to the Action.
8 Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected
9 with it, shall be construed as an admission or concession by Defendant of any such violations or
10 failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms
11 of this Agreement, this Agreement and its terms and provisions shall not be offered or received as
12 evidence in any action or proceeding to establish any liability or admission on the part of Defendant
13 or to establish the existence of any condition constituting a violation of, or a non-compliance with,
14 federal, state, local or other applicable law.

15 49. **Effective Date Of Defendant's Obligations Under This Agreement.**

16 Defendant's obligations under this Settlement Agreement will become final and effective
17 only upon the occurrence of the Effective Date. In the event that any of the conditions specified in
18 this Settlement Agreement are not satisfied, or in the event that this Settlement does not obtain
19 approval of the Court for any reason, all matters covered by this Agreement will be null and void.
20 In such event, neither this Agreement nor any negotiations leading to this Settlement will be used
21 or construed by or against any Party as a determination, admission, or concession of any issue of
22 law or fact in the litigation; and the Parties do not waive, and instead expressly reserve, their
23 respective rights regarding the prosecution and defense of the Action, including all available
24 defenses and affirmative defenses, and to challenge any claim, as if this Settlement Agreement never
25 existed.

26 50. **Nullification.**

27 If: (1) the Court should for any reason fail to approve the Settlement or dismiss the class
28 action claims; or (2) the Court's Order approving the Settlement is reversed or modified as to any

1 material term as defined above, or declared or rendered void as to any material term as defined
2 above, then (a) the Settlement Agreement shall become null and void; (b) the Parties will revert to
3 their respective positions immediately prior to reaching the Settlement; and (c) Defendant will be
4 responsible for any Settlement Administration Costs.

5 51. **Invalidation.**

6 Invalidation of any material term of this Settlement Agreement will invalidate this
7 Agreement in its entirety unless the Parties subsequently agree in writing that the remaining
8 provisions will remain in full force and effect.

9 52. **Confidentiality/No Publicity.**

10 Representative Plaintiff and his counsel agree that the terms of this Settlement Agreement
11 (including, but not limited to, the Gross Settlement Amount), the negotiations leading to the
12 execution of this Settlement Agreement, and the Settlement Agreement itself, shall not be discussed
13 with or publicized or promoted to the media (including, without limitation, legal periodicals and
14 publications such as "Jury Verdicts," disclosure of the Settlement Agreement on any web site of
15 Representative Plaintiff's counsel or any other website, or on any blogs, articles, or on any social
16 media platforms or channels), or the public at large, without the advance written consent of
17 Defendant. The Parties intend this paragraph to prohibit Plaintiff and his counsel from discussing,
18 answering questions about, promoting or publicizing the Settlement Agreement, its terms, or the
19 negotiations leading to the Settlement Agreement with anyone other than the Court or those
20 individuals necessary to effectuate the terms of the Agreement. Notwithstanding the foregoing,
21 Representative Plaintiff and his counsel (1) may tell the public in general only that certain claims
22 "have been resolved by the Parties;" and (2) may disclose the terms of the Settlement Agreement
23 (a) in appropriate filings with the Court in this case; (b) where required by law (e.g., income tax
24 returns); and (c) to accountants or other tax professionals for the purpose of preparing tax returns.
25 In addition, Plaintiff's counsel may respond to questions received from, and discuss any aspects of
26 this Agreement with Aggrieved Employees.

27 53. **Entire Agreement.**

28 This Settlement Agreement including the attached Exhibit A, which is incorporated by

reference, and Plaintiff's separate individual settlement, constitute the entire integrated agreement between the Parties relating to the Action, and no oral representations, warranties, or inducements have been made to any party concerning this Settlement Agreement other than the representations, warranties, and covenants contained and memorialized in this Settlement Agreement.

54. **Authorization To Act.**

PAGA Counsel warrants and represents that they are authorized by the Representative Plaintiff, and counsel of record for Defendant warrants that they are authorized by Defendant, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement Agreement, except for any documents, including but not limited to this Settlement Agreement, that are required to be executed by the Parties.

55. **Modification Only In Writing.**

This Settlement Agreement may be amended or modified only by a written instrument signed by all Parties or their successors in interest.

56. **Binding On Successors.**

This Settlement Agreement is binding upon and will inure to the benefit of the Parties to this Agreement, as well as their respective attorneys, past, present, and future predecessors, successors, shareholders, officers, directors, employees, agents, trustees, representatives, administrators, fiduciaries, assigns, insurers, executors, partners, parent corporations, subsidiaries, and related or affiliated entities.

57. **No Prior Assignments.**

The Aggrieved Employees are deemed by operation of the Order approving the Settlement to 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, cause of action, or rights released and discharged by this Agreement.

58. **Governing Law.**

All terms of this Settlement Agreement will be governed by and interpreted according to the laws of the State of California, without giving effect to conflicts of laws principles.

1 59. **Counterparts.**

2 This Settlement Agreement may be executed in one or more counterparts. All executed
3 counterparts and each of them will be deemed to be one and the same instrument. Counsel for the
4 Parties will exchange among themselves signed counterparts.

5 60. **Headings For Convenience Only.**

6 The descriptive headings of any paragraphs or sections of this Settlement Agreement are
7 inserted for convenience of reference only and do not constitute a part of this Settlement Agreement.

8 61. **Construction Of This Agreement.**

9 The Parties agree that the terms and conditions of this Settlement Agreement are the result
10 of arms-length negotiations between the Parties and that this Settlement Agreement will not be
11 construed in favor of or against any Party by reason of the extent to which any Party, or his or its
12 counsel participated in the drafting of this Agreement. This Settlement Agreement constitutes the
13 entire agreement between the Parties. Except as expressly provided in this Agreement, this
14 Settlement Agreement has not been executed in reliance upon any other oral or written
15 representations or terms and no such extrinsic oral or written representations or terms will modify,
16 vary or contradict the terms of this Settlement Agreement. In entering this Settlement Agreement,
17 the Parties explicitly recognize California Civil Code section 1625 and California Code of Civil
18 Procedure section 1856(a), which provide that a written agreement is to be construed according to
19 its terms and may not be varied or contradicted by extrinsic evidence. The Representative Plaintiff
20 and Defendant had available to them the advice and assistance of independent counsel. As such,
21 neither Representative Plaintiff nor Defendant may claim that any ambiguity in this Settlement
22 Agreement should be construed against the other.

23 62. **Corporate Signatories.**

24 Any person executing this Settlement Agreement or any related document on behalf of a
25 corporate signatory warrants and promises for the benefit of all Parties that such person has been
26 duly authorized by such corporation to execute this Settlement Agreement or any related document.

27 63. **Representation By Counsel.**

28 All of the Parties hereto acknowledge that they have been represented by counsel throughout

1 all negotiations which preceded the execution of this Settlement Agreement and that this Agreement
2 has been executed with the consent and advice of counsel.

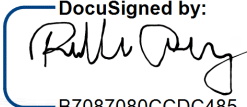
3 64. **Attorneys' Fees And Costs.**

4 Except as otherwise provided in this Agreement, the Parties will bear responsibility for their
5 own attorneys' fees and costs, taxable or otherwise, incurred by them or arising out of this Action
6 and will not seek reimbursement thereof from any Party to this Settlement Agreement. In the event
7 of a proven breach of this Agreement, the breaching party will be required to pay the prevailing
8 Party's reasonable attorneys' fees and costs incurred in enforcing this Agreement.

9 **IT IS SO AGREED:**

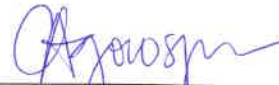
10 Dated: 10/17/2023

PLAINTIFF RAFFI AGOPIAN

11
12 DocuSigned by:
13 
14 B7087080CCDC485...
Raffi Agopian

15 Dated: 10/16/2023

16 DEFENDANT THOUSAND OAKS POST
17 ACUTE, LLC

18 
19 Charlene Gorospe

20
21 APPROVED AS TO FORM ONLY:

22
23 Dated: 10/17/2023

MOON LAW GROUP, PC

24
25 
26 Kane Moon
27 Enzo Nabiev
28 Attorneys for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: 10/16/2023

APPROVED AS TO FORM ONLY:

SCHOR VOGELZANG & CHUNG LLP



Julie A. Vogelzang
Lisa Hird Chung
Janelle R. Thornton

Attorneys for Defendant

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

NOTICE OF SETTLEMENT
Agopian v. Thousand Oaks Post Acute, LLC

Enclosed is your payment from the settlement of the lawsuit entitled *Raffi Agopian v. Thousand Oaks Post Acute, LLC*, Ventura County Superior Court Case No.: 56-2022-00570429-CU-OE-VTA (the “Lawsuit”). The Lawsuit was filed on September 26, 2022, against Thousand Oaks Post Acute, LLC (“Defendant”) pursuant to the California Private Attorneys General Act of 2004, codified at California Labor Code §§ 2698 *et seq.* (called “PAGA”). The Lawsuit was brought on behalf of the State of California and all non-exempt employees who worked for Defendant in California at any time between September 26, 2021, through June 13, 2023 (“Relevant Period”). You have been identified as one of the employees on whose behalf the Lawsuit was filed. On [DATE], the Court issued an order approving the settlement of the Lawsuit.

After accounting for Court approved deductions from the settlement amount for things such as attorneys’ fees and costs and administration of the settlement, the remainder is \$ _____. Of the remainder, the law requires that 75% is allocated to the State of California, and 25% is allocated to eligible employees (described above). Therefore, the State of California will receive \$ _____ (75% of the settled penalties), and the eligible employees will each receive a pro rata share of the remaining \$ _____ (25% of the settled penalties) based on the number of pay periods each person worked during the Relevant Period.

As part of the Court-approved settlement, you have released claims for civil penalties under PAGA that arose during the Relevant Period, based on the claims or causes of action asserted or that could have reasonably been asserted in the Lawsuit, related to the following: (1) Any claims for unpaid compensation or compensation at the incorrect rate (including but not limited to overtime pay, double time pay, sick pay, reporting pay, etc.); (2) Any claims for failure to provide meal periods in accordance with the California Labor Code and/or applicable Wage Orders, including any claims regarding failure to pay premium pay at the correct rate; (3) Any claim for failure to authorize and permit rest periods in accordance with the applicable California Wage Orders or Labor Code, including any claims regarding failure to pay premium pay at the correct rate; (4) Any claim for failure to provide reimbursements for necessary business related expenses; (5) Any claim for failure to pay wages timely and/or twice per month; (6) Any claim for failure to provide all accurate information required to be on wage statements; (7) Any claim for failure to maintain accurate payroll records and records of hours worked and meal periods taken or missed as required by the California Labor Code; and (8) Any claim for failure to timely pay final wages at termination, including but not limited to accrued vacation wages. Nothing in the settlement agreement releases any claims for wages that an employee might have against the employer. Defendant denies the allegations in the Lawsuit and denies any liability or wrongdoing of any kind associated with these allegations.

You have 180 days to cash the enclosed settlement check and will receive an IRS Form 1099 for the check. Checks remaining un-cashed for more than 180 days after issuance will become void, and the outstanding balance will be tendered in your name to the State Controller Unclaimed Property Fund.

Even if you fail to cash the enclosed check, you will still be deemed to have waived all claims arising from the Lawsuit, including all claims set forth in the release of claims described above.

If you have any questions concerning this settlement, please contact [SETTLEMENT ADMINISTRATOR] at [INSERT].