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[Additional counsel on next page.]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF PLACER

KEVIN TOBIN and ROSA FALDON,
on behalf of the general public as private
attorney general,

Plaintiffs,

v.

ADVENTIST HEALTH SYSTEM/WEST,
a California Corporation; and DOES 1-50,
inclusive,

Defendants.

Case No. S-CV-0049484

**STIPULATION AND [PROPOSED] ORDER
AND JUDGMENT APPROVING
SETTLEMENT OF PRIVATE ATTORNEYS
GENERAL ACT CLAIMS**

*[Concurrently filed with Declaration of Roman
Otkupman; and Declaration of James Hawkins]*

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Attorneys for Defendant,
ADVENTIST HEALTH SYSTEM/WEST

STIPULATION

IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. On September 1, 2022, Plaintiff Kevin Tobin (“Plaintiff Tobin”) sent a PAGA Notice to the Labor Workforce and Development Agency (“LWDA”) and Defendant Adventist Health System/West (“Defendant”), providing notice of various provisions of the Labor Code that Defendant allegedly violated, including the facts and theories to support the alleged violations. Specifically, Plaintiff Tobin alleged claims related to failure to pay wages including minimum wages and overtime, failure to provide rest periods, failure to timely pay wages at separation, failure to provide accurate wage statements, and failure to indemnify necessary business expenses. (Declaration of James Hawkins (“Hawkins Decl.”), ¶ 2; Declaration of Roman Otkupman (“Otkupman Decl.”), ¶ 12)

2. On October 28, 2022, Plaintiff Rosa Faldon (“Plaintiff Faldon”) sent a PAGA Notice to the LWDA and Defendant, providing notice of various provisions of the Labor Code that Defendant allegedly violated, including the facts and theories to support the alleged violations. Specifically, Plaintiff Faldon alleged claims related to the failure to provide meal and rest breaks, and failure to pay premium wages for missed meal and rest breaks; the failure to properly pay all minimum and overtime wages due; the failure to maintain accurate records; the failure to issue accurate, itemized wage statements; the failure to timely pay wages during employment; the failure to provide a safe and healthful workplace; and the failure to reimburse for business expenses. (Declaration of Roman Otkupman (Hawkins Decl., ¶ 3; Otkupman Decl., ¶ 13)

3. The LWDA did not inform Plaintiffs of any intent to investigate the noticed claims within the sixty-five (65) day statutory deadline and, to this day, has not communicated any intent to investigate the claims. Thus, Plaintiffs became authorized under Labor Code section 2698, *et seq.* to act as private attorneys general for the alleged PAGA claims. (Hawkins Decl., ¶ 4; Otkupman Decl., ¶ 14)

4. On November 16, 2022, Plaintiff Tobin filed a representative action entitled *Kevin Tobin, on behalf of the general public as private attorney general v. Adventist Health*

1 *System/West, et al.* in Placer County Superior Court, alleging PAGA violations as set forth in
2 Plaintiff's Complaint pursuant to Labor Code § 2698, et seq. ("PAGA") for alleged violations of
3 the Labor Code (the "Tobin PAGA Action"). (Hawkins Decl., ¶ 5; Otkupman Decl., ¶ 15)

4 5. On March 6, 2023, Plaintiff Faldon filed a representative action entitled *Rosa*
5 *Faldon, on behalf of herself and all others similarly situated, and on behalf of the general public*
6 *v. Adventist Health System/West, et al.* in Kings County Superior Court, alleging PAGA violations
7 as set forth in Plaintiff's Complaint pursuant to Labor Code § 2698, et seq. ("PAGA") for alleged
8 violations of the Labor Code (the "Faldon PAGA Action"). (Hawkins Decl., ¶ 6; Otkupman Decl.,
9 ¶ 16)

10 6. On June 27, 2023, Plaintiff Tobin filed a First Amended Complaint to informally
11 consolidate the Tobin PAGA Action and Faldon PAGA Action (the "Operative Complaint").
12 (Hawkins Decl., ¶ 7; Otkupman Decl., ¶ 17)

13 7. The Operative Complaint alleges violations of the PAGA for Defendant's failure to
14 pay all minimum and overtime wages, failure to provide meal periods, failure to make meal period
15 premium payments, failure to authorize and permit rest periods, failure to make rest period
16 premium payments, failure to pay all wages earned and owed upon separation from Defendant's
17 employ, failure to pay wages timely during employment, failure to provide accurate itemized wage
18 statements, failure to maintain accurate records, failure to maintain a safe and healthful workplace,
19 and failure to reimburse necessary business expenses. (Hawkins Decl., ¶ 8; Otkupman Decl., ¶
20 18). The Operative Complaint specifically alleges that Defendant violated California Labor Code
21 sections 201, 202, 203, 204, 210, 218, 218.5, 222, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5,
22 1175, 1194, 1194.2, 1197, 1197.1, 1198, 2802, 6400, 6401, 6402, 6403, 6404, and 6407, as well as
23 the corresponding sections of any applicable Wage Order including without limitation IWC Wage
24 Order 5. (Id.)

25 8. Defendant denies all of the allegations in the Action and denies that it has
26 committed any misconduct, statutory or regulatory violation, wrongdoing, or any other actionable
27 conduct. (Otkupman Decl., ¶ 19)

1 9. During the course of litigation, Plaintiffs and Defendant (hereinafter, Plaintiffs and
2 Defendant are collectively referred to as the “Parties”) engaged in informal discovery and
3 exchanged extensive documents and information that allowed both sides to thoroughly evaluate
4 the potential exposure and potential risk, such as review of Defendant’s policies and procedures
5 related to the claims alleged and time and pay records, among others. Specifically, Plaintiffs
6 obtained, through informal discovery, statistical data including records of the Aggrieved
7 Employees, which consisted of wage statements, clock-in and clock-out times, times taken for
8 meal breaks, and wages earned during the relevant pay periods, as well as written policies and
9 procedures on meal breaks, rest breaks, overtime compensation, and reimbursement for business
10 expenses, the number of pay periods in the PAGA Period and the total number of Aggrieved
11 Employees. During this process, Plaintiffs’ counsel analyzed, researched, and investigated the
12 potential issues, including matters related to the calculation of PAGA penalties, trial management,
13 and appellate issues and risks. (Otkupman Decl., ¶ 20; Hawkins Decl., ¶¶ 10-13)

14 10. Following extensive discovery and investigation, the Parties participated in an all-
15 day mediation presided over by Lisa Klerman on June 4, 2024, and reached a settlement of all
16 claims alleged in the Operative Complaint, the terms and conditions of which are memorialized in
17 the Parties’ PAGA Settlement Agreement (“Settlement Agreement”). (Otkupman Decl., ¶ 21,
18 Exhibit 1; Hawkins Decl., ¶ 9)

19 11. The Parties have conducted a thorough investigation into the facts of the Action.
20 Based on the foregoing data and on their own independent investigation and evaluation, Plaintiffs’
21 Counsel is of the opinion that the settlement with Defendant for the consideration and on the terms
22 set forth in the Settlement Agreement is fair, reasonable, and adequate and is in the best interest of
23 the LWDA and Aggrieved Employees in light of all known facts and circumstances, including the
24 risk of significant delay, uncertainty associated with litigation, various defenses asserted by
25 Defendant, and numerous potential appellate issues. (Otkupman Decl., ¶ 22; Hawkins Decl., ¶¶
26 14-16)

1 12. Based on their extensive experience litigating numerous representative actions,
2 counsel for Plaintiffs believe the settlement here is fair and reasonable and warrants approval by
3 the Court. (Otkupman Decl., ¶¶ 6-11, 22-24; Hawkins Decl., ¶¶ 14-18)

4 13. As set forth in the Settlement Agreement, the Gross Settlement Amount is
5 \$1,865,000.00, which will be paid in exchange for a release of claims. The release provides:

6 Effective on the date when the Court enters its Approval Order, all Aggrieved Employees
7 and the LWDA will be deemed to release, on behalf of themselves and their respective
8 former and present representatives, agents, attorneys, heirs, administrators, successors, and
9 assigns, the Released Parties from all claims for PAGA penalties that were alleged, or
10 reasonably could have been alleged, based on the PAGA Period facts stated in the Complaint
11 and the LWDA Notice. This Release specifically includes but is not limited to claims for
12 penalties based on underlying alleged violations for: failure to pay minimum wage, including
13 but not limited to failure to pay minimum wage for any uncontrolled or controlled standby
14 hours; failure to pay overtime, including but not limited to any failure to properly calculate
15 and pay overtime wages at the appropriate rate and/or using the appropriate workday and/or
16 workweek; meal period violations, including but not limited to failure to provide meal
17 periods and failure to correctly calculate the appropriate rate of pay for meal period
18 premiums; rest period violations, including but not limited to failure to authorize and permit
19 rest periods and failure to correctly calculate the appropriate rate of pay for rest period
20 premiums; untimely payment of wages; wage statement violations; waiting time penalties;
21 failure to reimburse business expenses; failure to maintain accurate records; and failure to
22 provide a safe and healthful workplace. This Release shall include all theories giving rise to
23 a claim for civil penalties arising under California Labor Code sections 201, 202, 203, 204,
24 210, 218, 218.5, 222, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1175, 1194, 1194.2,
25 1197, 1197.1, 1198, 2802, 6400, 6401, 6402, 6403, 6404, and 6407, as well as the
26 corresponding sections of any applicable Wage Order including without limitation IWC
27 Wage Order 5. As a result of this release, the Aggrieved Employees and LWDA will be
28 unable to bring a claim under, or recover in any other claim brought under, the California
Private Attorneys General Act, California Labor Code § 2698 et seq., for any violations of
the Released Claims that took place during the PAGA Period.

14. Plaintiffs' counsel provided a copy of the Settlement Agreement to the LWDA on
September 19, 2024. (Otkupman Decl., ¶ 30, Exhibit 2)

15. The Parties request that the Court enter the accompanying Order, approving the
Settlement, as permitted by Labor Code § 2699(1), and entering Judgment in accordance with the
terms and conditions of the Settlement Agreement.

NOW, THEREFORE, in exchange for the mutual commitments and considerations detailed
in the Settlement Agreement attached as Exhibit 1 to the Declaration of Roman Otkupman submitted

STIPULATION AND [PROPOSED] ORDER AND JUDGMENT APPROVING SETTLEMENT OF PRIVATE
ATTORNEYS GENERAL ACT CLAIMS

1 concurrently herewith, the Parties stipulate as follows:

2 1. The Parties stipulate and jointly propose that the Court review and approve the
3 terms contained in the Parties' Settlement Agreement, attached as Exhibit 1 in full.

4 2. The Settlement is fair, adequate, and reasonable, as it represents a reasoned
5 compromise reached through negotiations and considers the risks, complexity, and expense of
6 further litigation.

7 3. The Settlement provides for a settlement payment by Defendant of \$1,865,000.00
8 ("Settlement Amount"). The Settlement Amount, which shall cover Plaintiffs' counsel's costs and
9 fees, distribution to the LWDA, and allegedly aggrieved employees (including Plaintiffs) is
10 allocated as follows:

11

Description	Amount
PAGA Portion (25% to aggrieved employees and 75% to LWDA)	\$1,194,680.27
Attorneys' Fees	\$620,400
Costs	22,343.58
Administrator Fees	27,576.15

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16 4. Upon the Court's entry of an Order approving the Settlement, the LWDA and each
17 and every Aggrieved Employee, including Plaintiffs, shall be deemed and are deemed to have
18 conclusively released and forever discharged the Released Parties from the Released Claims, as
19 defined in the Settlement Agreement, and are permanently barred and enjoined from the institution
20 or prosecution of all Released Claims against the Released Parties.

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1 5. The Parties expressly agree that the Court will retain jurisdiction under Code of
2 Civil Procedure section 664.6 to resolve any disputes arising from the settlement of the above-
3 described action.

4 **IT IS SO STIPULATED.**

5
6 Dated: September 20, 2024

OTKUPMAN LAW FIRM, A LAW CORPORATION

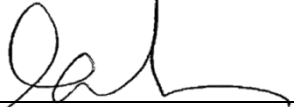
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8 By


Roman Otkupman
Nidah Farishta
Attorneys for Plaintiffs,
KEVIN TOBIN and ROSA FALDON, on
behalf of the general public as private attorney
general

12
13 Dated: September 20, 2024

JAMES HAWKINS APLC

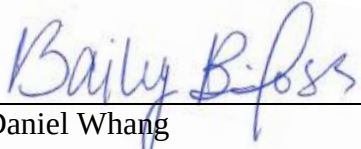
14
15 By


James R. Hawkins
Gregory Mauro
Attorneys for Plaintiffs,
KEVIN TOBIN and ROSA FALDON, on behalf of
the general public as private attorney general

19
20 Dated: September 20, 2024

SEYFARTH SHAW, LLP

21
22 By


Daniel Whang
Kerry Friedrichs
Bailey K. Bifoss
Attorneys for Defendant,
ADVENTIST HEALTH SYSTEM/WEST

1 **ORDER APPROVING PAGA SETTLEMENT AND ENTERING JUDGMENT**

2 WHEREAS, the action pending before this Court is an alleged representative action under
3 the Private Attorneys General Act of 2004; and

4 WHEREAS, the Court has considered the Stipulation by Plaintiffs Rosa Faldon and Kevin
5 Tobin (“Plaintiffs”) and Defendant Adventist Health System/West (“Defendant”) for approval of
6 the Parties’ settlement in accordance with the Parties’ PAGA Settlement Agreement (the
7 “Settlement Agreement”). The Court understands that the Settlement Agreement sets forth the terms
8 and conditions for a proposed settlement and entry of judgment. Based on a review of the
9 submissions by the Parties, and good cause appearing;

10 NOW, THEREFORE, IT IS HEREBY ORDERED:

11 1. All terms used in the Settlement Agreement shall have the same meaning as
12 defined therein.

13 2. The terms of the Settlement Agreement are fair, adequate, and reasonable, and
14 therefore, are approved by the Court. The Parties to this Action are directed to perform in
15 accordance with the terms set forth in the Settlement Agreement.

16 3. The Court finds that Plaintiff has satisfied the prerequisites under California Labor
17 Code section 2699.3, including and not limited to providing the Labor and Workforce
18 Development Agency (“LWDA”) and Defendant notice of the specific provisions of the Labor
19 Code alleged to have been violated, including and not limited to the facts and theories to support
20 the alleged violations.

21 4. The “Aggrieved Employees” covered under the Settlement consist of the following
22 individuals: All current and former non-exempt or hourly paid employees of Defendant who have
23 worked in a Revenue Cycle or IT Department, as those terms are defined in the Parties’ Settlement
24 Agreement, in the State of California between October 19, 2019 and the date of this Order or
25 October 15, 2024, whichever is earlier.

26 5. Defendant shall fund the Gross Settlement Amount of \$1,865,000.00 with the
27 Settlement Administrator no later than forty-five (45) days after the Effective Date. The Gross
28

1 Settlement Amount shall not increase, except as provided in the escalator provision in paragraph
2 4.1 of the Settlement Agreement.

3 6. Compensation to the LWDA and the Aggrieved Employees shall be effected
4 pursuant to the terms of the Settlement Agreement.

5 7. The Court hereby approves of the payment of attorneys' fees to Plaintiffs' Counsel
6 in the sum of \$620,400.00 and costs in the sum of \$22,343.58 to be effected in the manner set
7 forth in the Settlement Agreement.

8 8. The Court hereby approves of the payment in the amount of \$27,576.15 to APEX
9 Class Action Administration ("APEX"), for performance of its settlement administration services,
10 pursuant to the not-to-exceed bid provided by APEX and attached as Exhibit 4 to the Declaration
11 of Roman Otkupman filed concurrently herewith.

12 9. The Court finds that PAGA does not require that notice of the Settlement be
13 provided to the Aggrieved Employees. Nevertheless, the Settlement Administrator is ordered to
14 distribute payments to Aggrieved Employees concurrently with the Notice of Settlement to
15 Aggrieved Employees as agreed upon by the Parties and included as Exhibit C to the Settlement
16 Agreement. The Court has reviewed and approves the Notice of Settlement to Aggrieved
17 Employees for distribution to the Aggrieved Employees at the same time that payments are
18 distributed to Aggrieved Employees.

19 10. No later than thirty (30) calendar days after the Effective Date, Defendant shall
20 provide the Administrator with a list containing the Aggrieved Employees' full names, last known
21 mailing addresses, Social Security numbers, and number of pay periods worked during the PAGA
22 Period, pursuant to the terms of the Settlement Agreement.

23 11. The Administrator is directed to mail the Individual PAGA Payments and the
24 Notice of Settlement to Aggrieved Employees within fourteen (14) calendar days of receipt of the
25 Gross Settlement Amount being fully funded, pursuant to the terms of the Settlement Agreement.

26 12. Upon entry of this Order, the LWDA and each and every Aggrieved Employee,
27 including Plaintiffs, shall be deemed and are deemed to have conclusively released and forever

1 discharged the Released Parties (*i.e.*, Defendant and each of its former and present directors,
2 officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns,
3 subsidiaries, and affiliates) from the Released Claims, as defined in the Settlement Agreement. As
4 a result of this release, the Aggrieved Employees will be and are permanently barred and enjoined
5 from the institution or prosecution of all Released Claims against the Released Parties.

6 13. Neither the settlement, nor any term set forth in the Settlement Agreement, is an
7 admission of liability or any wrongdoing by the Released Parties. Defendant denies the allegations
8 and claims in this action. The Court's Order is not a finding of the validity or merits of any claims
9 in the lawsuit or of any wrongdoing by the Released Parties.

10 14. This Order is intended to be a final disposition of the lawsuit in its entirety and is
11 intended to be immediately appealable.

12 15. The Court shall retain jurisdiction with respect to all matters related to the
13 administration and consummation of the settlement.

14 16. The court hereby enters final judgment in this Action in accordance with the terms
15 of the Settlement Agreement.

16 17. Plaintiff shall submit a copy of this Order and Judgment to the LWDA within ten
17 calendar days after entry of this Order and Judgment.

18 18. Without affecting the finality of this Order, pursuant to California Code of Civil
19 Procedure Section 664.6 and Rule 3.769(h) of the California Rules of Court, the Court reserves
20 exclusive and continuing jurisdiction over this Action, Plaintiffs, the PAGA Members, and
21 Defendant for the purposes of supervising the implementation, enforcement, construction, and
22 interpretation of the Settlement Agreement.

23 **IT IS SO ORDERED, ADJUDGED, AND DECREED, AND LET JUDGMENT BE**
24 **FORTHWITH ENTERED ACCORDINGLY.**

25
26 Dated: _____

27 HON. JUDGE OF THE SUPERIOR COURT