SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement" or "Settlement") is reached by and between Plaintiffs Dmarie Rose and Michelle Hernandez ("Plaintiffs"), individually and on behalf of all members of the Settlement Class (defined below), on the one hand; and Defendant Ever Well Health Systems, LLC ("Ever Well" or "Defendant"), on the other hand. Plaintiffs and Defendant are referred to herein collectively as the "Parties." Plaintiffs and the Settlement Class are represented by Abramson Labor Group ("Class Counsel"). Defendant is represented by Jeffer Mangels Butler & Mitchell LLP ("Defense Counsel").

Plaintiff Rose filed a class action complaint against Defendant in San Luis Obispo County Superior Court (the "Court"), titled *Dmarie Rose v. Ever Well Health Systems, LLC, et al.*, Case No. 22CV-0605 on November 3, 2022 (the "Action"). The First Amended Complaint in the Action, filed on January 9, 2023, alleges claims against Defendant for: (i) failure to pay overtime wages; (ii) minimum wage violations; (iii) meal period violations; (iv) rest period violations; (v) wage statement violations; (vi) unfair competition; and (vii) civil penalties under the Labor Code Private Attorneys General Act ("PAGA"), Labor Code § 2698 *et seq*. As part of this Settlement, the Parties have agreed to stipulate to the filing of a Second Amended Complaint (the "Complaint"), which will (i) add claims for failure to reimburse business expenses and waiting time penalties, and (ii) add Michelle Hernandez as named Plaintiff.

Given the uncertainty of litigation, the Parties wish to settle Plaintiffs' claims on a class-wide and representative basis. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class and Class Period.** For purposes of this Settlement only, Plaintiffs and Defendant stipulate to the certification of a "Settlement Class," which shall be defined as:

   All current and former non-exempt employees who worked for Ever Well in California at any time from November 3, 2018 through the date preliminary approval is granted (the "Class Period").

   Defendant represents there are approximately 559 Settlement Class members.

   The Parties agree that certification for purpose of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure in a non-settlement context. If for any reason this Settlement is not approved or is terminated, this agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement.

2. **PAGA Members and PAGA Period.** The "PAGA Members" are defined as those Settlement Class members employed by Ever Well in California at any time from November 3, 2021 through the date preliminary approval is granted (the "PAGA Period").

3. **Release by Settlement Class**. Upon the occurrence of the Effective Date (defined below) and the Settlement (as well as employer-side taxes) being fully funded by Defendant, Plaintiffs and every Settlement Class member who does not opt-out of the class portion of the Settlement ("Participating Class Members") will release and discharge Defendant Ever Well Health Systems, LLC and each of its officers, directors, members, partners, owners, shareholders, employees, former employees, agents, servants, attorneys, assigns, affiliates,

independent contractors, volunteers, predecessors, successors, parent entities, subsidiary entities, and affiliated entities ("Released Parties") from any and all causes of action, claims, rights, damages, and penalties arising during the Class Period that will be alleged by Plaintiffs and Class Members in the Second Amended Complaint in the Action or that could have been alleged based on the facts alleged in the Second Amended Complaint in the Action, including but not limited to: (a) any alleged failure by Defendant (1) to pay minimum and overtime wages, (2) to pay minimum wages, (3) to provide meal periods or pay meal period premium wages, (4) to authorize and permit rest periods or pay rest period premium wages, (5) to issue compliant wage statements, (6) to timely pay wages at the end of employment, and (7) to indemnify or reimburse work-related expenses; (b) any right or claim for unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*, based on the alleged failures set forth in (a)(1) through (a)(7) above; and (c) any violation of the California Labor Code or any other applicable statute or regulation arising from or related to the conduct alleged in (a)(1) through (a)(7) above, including, without limitation, violation of California Labor Code sections 201-204, 226, 226.7, 510, 512, 516, 558, 1194, 1197, 1198, 2802, or any other applicable state statute, rule and/or regulation (Wage Order), during the Class Period ("Settled Class Claims"). In addition, all PAGA Members (whether or not they opt-out) who worked for Defendant as non-exempt employees in California at any point during the PAGA Period shall release any right or claim for civil penalties pursuant to the PAGA, California Labor Code sections 2698, *et seq*., arising under the California Labor Code or Wage Orders based on the alleged failures set forth in (a)(1) through (a)(7) above, arising at any time during the PAGA Period ("PAGA Released Claims").

4. **Effective Date**. The "Effective Date" of the settlement agreement shall be the first business day following the last of the following occurrences: after both of the following have occurred: (i) sixty (60) calendar days following the date the Court enters the Final Approval Order and Judgment; or (ii) if an appeal is taken from the Final Approval Order and Judgment, then the date of final resolution of that appeal (including any requests for rehearing and/or petitions for certiorari), resulting in final and complete judicial approval of the Settlement in its entirety, with no further challenge to the Settlement being possible.

5. **Gross Settlement Amount.** As consideration, Defendant agrees to pay a "Gross Settlement Amount" or "GSA" of Three Hundred Eighty Thousand Dollars and Zero Cents ($380,000.00) in full and complete settlement of the Action, as follows:

   A. The Parties have agreed to engage Phoenix Settlement Administrators ("Phoenix") as the "Settlement Administrator" to administer this Settlement.

   B. The Gross Settlement Amount shall be funded by Defendant no later than 15 business days after the Effective Date. Phoenix will establish a Qualified Settlement Fund ("QSF") pursuant to Section 468B(g) of the Internal Revenue Service for the purpose of administering the Settlement. Ever Well shall deposit the Gross Settlement Amount funds into the QSF with Phoenix.

   C. This is a non-reversionary settlement. The Gross Settlement Amount includes:

      i. All payments to the Settlement Class;

      ii. All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than $15,000.00;

      iii. Up to $5,000.00 to each named Plaintiff (totaling $10,000.00), in recognition of Plaintiffs' contributions to the Action and to the Settlement Class ("Class

Representative Service Award");

iv. Class Counsel attorney fees of one-third of the GSA (currently estimated to be $126,666.67), plus litigation costs and expenses incurred by Class Counsel in relation to the Action as supported by declaration, which are currently estimated to be no greater than $20,000.00;

v. The Parties have set aside $30,000.00 of the GSA as PAGA civil penalties. Per Labor Code § 2699(i), 75% of such penalties, or $22,500.00, will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining 25%, or $7,500.00, will be payable to the PAGA Members as the "PAGA Amount" as discussed below.

D. Defendant's share of payroll taxes on any wage portion of the payments to the Settlement Class shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount. Defendant's share of payroll taxes shall be deposited by Defendant into the QSF with the Settlement Administrator at the same time it deposits the Gross Settlement Amount.

E. **Escalator Clause.** Defendant represents that Settlement Class members worked approximately 14,309 workweeks as non-exempt employees in California during the Class Period ("Workweeks"). If the actual number of Workweeks worked by Settlement Class members during the Class Period exceeds 14,309 by more than 5% (i.e., if the Workweeks worked by Settlement Class members exceed 15,025), then Defendant will have the option to either (i) increase the Gross Settlement Amount by the increase in Workweeks over 5% (e.g., if the actual number of Workweeks is 7% greater than 14,309, then the GSA will increase by 2%); **<u>or</u>** (ii) truncate the end of the Class Period on the date prior to the date on which the number of Workweeks does not exceed 5% greater than 14,309 and this escalator provision will no longer be triggered. If Defendants elect to truncate the end of the Class Period under this provision, then the Class Period will end on that date and the notice to the Settlement Class will include the revised Class Period end date.

6. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment from the Settlement ("Settlement Award"). Settlement Awards will be determined and paid as follows:

A. The Settlement Administrator will deduct from the Gross Settlement Amount the Court-approved amounts for Class Counsel's attorneys' fees and litigation costs, Plaintiffs' Class Representative Service Awards, the Settlement Administrator's administration costs, and PAGA civil penalties. The remaining amount shall be known as the "Net Settlement Amount" or "NSA." Settlement Awards will be the total of each Settlement Class member's (i) payment from the NSA and (ii) payment, if any, from the PAGA Payment, as described below.

B. <u>Payments from the Net Settlement Amount</u>: The NSA will be distributed to all Participating Class Members based on each Participating Class Member's proportionate number of Workweeks worked for Ever Well. The Settlement Administrator will calculate each Participating Class Member's payment from the NSA by multiplying the NSA by a fraction, the numerator of which is the Participating Class Member's number of Workweeks, and the denominator of which is the total Workweeks worked by all Participating Class Members.

C. Payments from the PAGA Amount: In addition to the NSA, 25% of the amount set aside as PAGA civil penalties (i.e., $7,500.00) has been set aside as the "PAGA Payment," as mentioned above. The PAGA Payment shall be paid to all PAGA Members (regardless whether they opt out of the class portion of the settlement), based on each PAGA Member's proportional number of pay periods they were employed by Ever Well as a non-exempt employee in California during the PAGA Period ("PAGA Pay Periods"). Specifically, each PAGA Member's payment from the PAGA Payment will be calculated by multiplying the PAGA Payment by a fraction, the numerator of which is the PAGA Member's number of PAGA Pay Periods, and the denominator of which is the total PAGA Pay Periods of all PAGA Members.

D. Within seven (7) business days following Defendant's deposit of the Gross Settlement Amount and the employer's share of payroll taxes with the Settlement Administrator, the Settlement Administrator will calculate Settlement Awards, and provide the same to Class Counsel and Defense Counsel for review and approval. Within five (5) business days of (i) receipt of the Gross Settlement Amount and (ii) receiving approval of its calculations by counsel, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to Settlement Class members, as well as the Class Representative Service Award to Plaintiffs, the LWDA's PAGA payment to the LWDA, and Class Counsel's attorneys' fees and costs to Class Counsel. The Settlement Administrator shall simultaneously pay all applicable withholdings to the applicable authorities with the necessary reports, submitting copies to Defense Counsel.

E. For purposes of calculating applicable taxes and withholdings for payments, each Settlement Award shall be allocated as follows: for amounts paid from the PAGA Amount, 100% penalties; for amounts paid from the Net Settlement Amount, 15% wages and 85% penalties/interest. The Settlement Administrator shall issue to Settlement Class members an IRS Form W-2 for amounts deemed "wages" and an IRS Form 1099 for the portions allocated as penalties and interest. As stated above, Defendant is responsible for the employer's share of the payroll taxes on the wage portion of the Settlement Awards, and these taxes will not be deducted from the Gross Settlement Amount. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement are to be treated as earnings, wages, pay, or compensation for any purpose of any applicable bonus, benefit, or retirement plan, unless required by such plans. Neither Plaintiffs, Defendant, nor their respective counsel are giving any tax advice in connection with the settlement or any payments to be made pursuant to this settlement. Each Settlement Class member agrees to hold harmless Plaintiff, Defendant, and their respective counsel from any liability for taxes, fees, costs, or assessments resulting from his or her failure to timely pay his or her share of taxes, interest, fees, or penalties owed.

F. Each Settlement Class member who is mailed a Settlement Award must cash his/her Settlement Award check within 180 days from the date the Settlement Administrator mails it. Any funds payable to a Settlement Class member whose check is not cashed within 180 days after mailing will be deposited by the Settlement Administrator with the State of California Unclaimed Property Fund, in the name of the Settlement Class member whose check was not cashed. If any Settlement Award check is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall perform a "skip trace" for the Settlement Class member to whom the Settlement Award was mailed, and shall re-mail the Settlement Award to any new address obtained through the skip trace.

G. Neither Plaintiffs nor Defendant, nor their respective counsel, shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

7. **Attorneys' Fees and Costs.** Class Counsel will request a total award of attorneys' fees of one-third of the Gross Settlement Amount (currently estimated at $126,666.67), plus actual costs and expenses as supported by declaration in an amount not to exceed $20,000.00. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement, including any objections raised and any appeals necessitated by those objections. As noted above, the Settlement Administrator will mail Class Counsel the attorneys' fees and cost award when it mails the Settlement Awards to Settlement Class members. The Settlement Administrator will issue Class Counsel an IRS Form 1099 when the Settlement Administrator pays the fee and cost award approved by the Court.

8. **Class Representative Service Awards.** Plaintiffs will request, and Defendant will not oppose, a Class Representative Service Award of up to $5,000.00 to each Plaintiff (totaling $10,000.00) from the Gross Settlement Amount, in recognition of Plaintiffs' time and risks undertaken in prosecuting the Action, and their service to the Settlement Class. These awards will be in addition to Plaintiffs' Settlement Award as a Settlement Class member and shall be reported on an IRS Form 1099 by the Settlement Administrator. The Settlement Administrator will mail each Plaintiff their Class Representative Service Award when it mails the Settlement Awards to Settlement Class members.

9. **Settlement Administrator.** The Parties will request the appointment of Phoenix as Settlement Administrator. Defendant will not object to Plaintiffs' seeking permission to pay up to $15,000.00 from the Gross Settlement Amount for the Settlement Administrator's services. The Settlement Administrator shall be responsible for administering the Settlement. Among other things, the Settlement Administrator will be responsible for: sending notices to Settlement Class members, calculating Settlement Awards and preparing all checks and mailings, posting the Judgment to its website, and other duties as described in this Settlement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount only after Settlement Awards have been mailed to Settlement Class members. Any funds allocated for the Settlement Administrator that are not approved by the Court, will revert to the Net Settlement Amount.

10. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiffs shall apply to the Court for the entry of an Order:

A. Conditionally certifying the Settlement Class for purposes of this Settlement;

B. Appointing Abramson Labor Group as Class Counsel;

C. Appointing Plaintiff Rose and Plaintiff Hernandez as Class Representatives for the

Settlement Class;

D. Approving Phoenix as Settlement Administrator;

E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;

F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice and the Notice of Estimated Settlement Award, attached hereto as Exhibits A and B, respectively), and directing the mailing of same; and

G. Scheduling a Final Approval hearing.

11. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

A. Within ten (10) Court days after entry of an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the name, employee ID number, last known address, last known phone number, social security number, number of Workweeks, and number of PAGA Pay Periods, for each Settlement Class member (the "Class Data"). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.

B. Within ten (10) business days from receipt of the Class Data, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class members; (ii) update the addresses of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member, and provide Class Counsel and Defense Counsel with its calculations for their approval; (iv) provide Class Counsel and Defense Counsel with formatted versions of the Notice Packets to be sent to Settlement Class members; and (v) after receiving approval from all counsel, mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.

C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the class portion of the Settlement must complete and mail a Request for Exclusion (defined herein) to the Settlement Administrator on or before sixty (60) calendar days after the date of the initial mailing of the Notice Packets (the "Response Deadline"). The Request for Exclusion is a document prepared by the Settlement Class member that must: (1) contain the Settlement Class member's name, address, and telephone number; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from this settlement. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who excludes himself or herself from the

Settlement Class will not be entitled to any recovery under this Settlement (except for any share from the PAGA Amount, if applicable), will not be bound by the terms of the Settlement (except for release of the PAGA Released Claims, if applicable), and will not have any right to object, appeal, or comment thereon. The Settlement Administrator will provide the Parties with weekly updates regarding the number of Requests for Exclusion received.

D. Objections. Participating Class Members may object to the Settlement either by mailing a written objection to the Settlement Administrator, and/or by appearing at the Final Approval Hearing and objecting verbally. The Settlement Administrator shall, within two (2) business days of receipt, serve any written objection(s) as received on Class Counsel and Defense Counsel, and Class Counsel shall then file all such objections with the Court. Defense Counsel and Class Counsel shall file and serve any responses to written objections no later than five (5) calendar days prior to the Final Approval hearing. To be valid, any written objection must: (1) contain the objecting Participating Class Member's full name, current address, telephone number, and e-mail address, as well as contact information for any attorney representing the objecting Participating Class Member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence supporting the objection; and (4) be postmarked no later than the Response Deadline. Absent good cause found by the Court, a Participating Class Member who wishes to submit a written objection but who fails to comply with the procedures set forth herein for written objections shall be deemed not to have submitted a written objection. Any objecting Participating Class Member who intends to appear at the Final Approval Hearing, and any attorney who intends to represent an objecting Participating Class Member at the Final Approval hearing, must submit a Notice of Appearance to the Court and serve it on all Parties on or before the Response Deadline. The Parties and their counsel agree not to take any action to encourage any Settlement Class member to object to the Settlement.

E. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to Settlement Class members shall contain a Notice of Estimated Settlement Award, in which shall be disclosed the amount of the Settlement Class member's estimated Settlement Award as well as all of the information from Defendant's records used to calculate the Settlement Award, including the number of Workweeks worked, and the number of PAGA Pay Periods (if any) worked. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in their Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with counsel for the Parties to determine whether an adjustment to the Settlement Class member's Settlement Award is warranted. The Settlement Administrator shall determine the eligibility for, and amounts of, any Settlement Award under this Settlement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Settlement Class member and the Parties.

F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within three (3) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member within two (2) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed after having been returned to the Settlement Administrator as undeliverable shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline, whichever is later, to submit a Request for Exclusion, Objection, or dispute, as applicable. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline, if applicable. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet need not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defense Counsel to provide notice of the Settlement.

12. **Final Approval.** Following preliminary approval and the close of the period for submitting Requests for Exclusion, Objections, or disputes under this Settlement Agreement, Plaintiffs shall apply to the Court for entry of an Order:

    A. Granting final approval of the Settlement and adjudging its terms to be fair, reasonable, and adequate;

    B. Approving Plaintiffs' and Class Counsel's application for attorneys' fees, costs, Class Representative Service Award, PAGA civil penalties to the LWDA, and settlement administration costs; and

    C. Entering judgment pursuant to California Rule of Court 3.769.

13. **Non-Admission of Liability.** Defendant denies liability as to the matters alleged in the Action. Nothing in this Settlement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code § 1152, this Settlement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement. If Final Approval does not occur, the Parties agree that this Settlement is void, but remains protected by California Evidence Code § 1152.

14. **Confidentiality.** Plaintiffs and Class Counsel agree that, prior to filing a Motion for Preliminary Approval, they will not disclose or publicize the Settlement contemplated herein, the fact of the Settlement, its terms or contents, or the negotiations underlying the Settlement, in any manner or form, to any person or entity, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement as set forth herein, and except to each Plaintiff's respective spouse (if applicable) or to Plaintiffs' attorneys or tax preparers as necessary for those professionals to provide their professional services to Plaintiff.

15. **Continuing Jurisdiction.** Except as otherwise specifically provided for herein, the Court

shall retain jurisdiction to construe, interpret and enforce this Settlement, to supervise all notices, the administration of the Settlement, and to hear and adjudicate any dispute arising from or related to the Settlement. The Parties agree that the Court has jurisdiction over the Settlement pursuant to California Code of Civil Procedure, Section 664.6 and California Rule of Court 3.769.

16. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement except by a written agreement signed by counsel for all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement will not constitute a waiver of any other provision.

17. **Enforcement Action.** In the event either Party brings an action to enforce the terms of this Settlement, the prevailing party in such action shall be entitled to recover his/her/its reasonable attorneys' fees and costs incurred.

18. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Plaintiff:	Neil M. Larsen, Abramson Labor Group, 1700 W. Burbank Blvd., Burbank, CA 91506; neil@abramsonlabor.com
if to Defendant:	Travis M. Gemoets, Jeffer Mangels Butler & Mitchell LLP, 1900 Avenue of the Stars, 7th Floor, Los Angeles, CA 90067; txg@jmbm.com

19. **Applicable Law.** All terms and conditions of this Settlement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law or choice of law principles.

20. **Captions and Interpretations.** Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

21. **Entire Agreement.** This Settlement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

22. **Counterparts.** This Settlement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

23. **Cooperation in Drafting**. The Parties have cooperated in the drafting and preparation of this Settlement. This Settlement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

[SIGNATURES ON FOLLOWING PAGE]

AGREED TO AND APPROVED BY:

DATED: 1/8/2025

EVER WELL HEALTH SYSTEMS, LLC

By: DocuSigned by: ABF1FDDE55D245B...

Its: Dr. Christopher Zubiate, President & CEO

DATED: 10/03/2024

DMARIE ROSE

Dmarie Rose
Dmarie Rose (Oct 3, 2024 13:35 PDT)
Plaintiff and Class Representative

DATED: 10/03/2024

MICHELLE HERNANDEZ

Michelle Hernandez (Oct 3, 2024 11:06 PDT)
Plaintiff and Class Representative

APPROVED AS TO FORM:

ABRAMSON LABOR GROUP

DATED: 10/03/2024

By: Neil Larsen
Neil M. Larsen
Attorneys for Plaintiff

JEFFER MANGELS BUTLER & MITCHELL LLP

DATED: 1/10/2025

By:
Travis M. Gemoets
Brianna Frazier Earley
Attorneys for Defendant

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN LUIS OBISPO

DMARIE ROSE,

Plaintiff,

vs.

EVER WELL HEALTH SYSTEMS, LLC, et al

Defendant.

Case No. 22CV-0605

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT

To: All current and former non-exempt employees who worked for Defendant Ever Well Health Systems, LLC ("**Ever Well**") in California at any time from November 3, 2018 through <<END OF CLASS PERIOD>>.("**Class Period**").

PLEASE READ THIS NOTICE CAREFULLY.
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT.

Why should you read this Notice?

The San Luis Obispo County Superior Court ("**Court**") has granted preliminary approval of a proposed class action settlement (the "**Settlement**") in *Dmarie Rose v. Ever Well Health Systems, LLC, et al.*, San Luis Obispo County Superior Court Case No. 22CV-0605 (the "**Action**"). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from the Settlement. Ever Well's records show that you were employed by Ever Well as a non-exempt employee in California at some point during the Class Period. You are therefore a member of the proposed "Settlement Class." The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Action, to inform you of the terms of the proposed Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment. If final judgment is entered in this case, it will be posted to the Settlement Administrator's website, www.phoenixclassaction.com.

What is this case about?

Plaintiffs Dmarie Rose and Michelle Hernandez ("**Plaintiffs**") have filed a lawsuit alleging that Ever Well violated California law. In the operative Second Amended Complaint ("Complaint"), Plaintiffs allege that Ever Well: (i) failed to pay all overtime wages owed, (ii) failed to pay minimum wages, (iii) failed to provide meal periods or pay meal period premium wages, (iv) failed to authorize and permit rest periods or pay rest period premium wages, (v) failed to issue accurate itemized wage statements, (vi) failed to pay all wages at termination, (vii) failed to reimburse all business expenses incurred; and, as a result of the above, (viii) engaged in unlawful business practices. In addition, Plaintiffs seek civil penalties under the California Labor Code Private Attorneys General Act ("**PAGA**"). Plaintiffs' attorneys, who also represent the interests of all Settlement Class members, are known as "**Class Counsel**."

Ever Well denies that it has done anything wrong, and believes it has acted in compliance with all applicable laws and that Plaintiffs' claims have no merit. Ever Well also denies that it owes any wages, restitution, penalties, or other damages. By agreeing to settle, Ever Well is not admitting liability on any of the claims asserted in the Action or that the Action can or should proceed as a class action in a non-settlement context.

The Court has not ruled on the merits of Plaintiffs' claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Ever Well has concluded that it is in its best interests to settle the Action on the terms summarized in this Notice. After Ever Well provided relevant information to Class Counsel, the Settlement was reached after mediation and arm's-length negotiations between the parties.

Plaintiffs and Class Counsel also support the Settlement. Among the reasons for support are the defenses potentially available to Ever Well, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

<u>If you still work for Ever Well, your decision about whether to participate in the Settlement will not affect your status with Ever Well. California law and Ever Well company policy strictly prohibit unlawful retaliation.</u> Ever Well will not target, retaliate, or discriminate against any Settlement Class member because of the Settlement Class member's decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiffs / the Settlement Class:	Attorneys for Ever Well:
ABRAMSON LABOR GROUP Neil M. Larsen neil@abramsonlabor.com 1700 W. Burbank Blvd. Burbank, California 91506 Tel: (213) 723-2522 www.abramsonlaborgroup.com	**JEFFER MANGELS BUTLER & MITCHELL LLP** Travis M. Gemoets tgemoets@jmbm.com Brianna Frazier Earley bfrazierearley@jmbm.com 1900 Avenue of the Stars, 7th Floor Los Angeles, California 90067-4308 Tel: (310) 203-8080 www.jmbm.com

What are the terms of the Settlement?

Ever Well has agreed to pay $380,000.00 (the "**Gross Settlement Amount**") to fully resolve all claims in the Action, including claims by Settlement Class members, attorneys' fees, costs, settlement administration costs, PAGA civil penalties, and the Class Representative Service Award.

The following deductions from the Gross Settlement Amount will be requested by the parties:

<u>Settlement Administration Costs</u>. The Court has approved Phoenix Settlement Administrators to act as the "**Settlement Administrator**," who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to $15,000.00 from the Gross Settlement Amount to pay the Settlement administration costs.

<u>Attorneys' Fees and Costs</u>. Class Counsel will ask for fees of up to one-third of Gross Settlement Amount, currently estimated to be $126,666.67, as reasonable compensation for the work Class Counsel performed, and will continue to perform, in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to $20,000.00 for reimbursement of verified costs Class Counsel incurred in connection with the Lawsuit.

<u>Class Representative Service Awards</u>. Class Counsel will ask the Court to approve an award of up to $5,000.00 to each Plaintiff (totaling $10,000.00), also known as the "**Class Representatives**." This award is to compensate the Class Representatives for their service and

extra work provided on behalf of the Settlement Class.

PAGA Civil Penalties. The parties have agreed to allocate $30,000 of the Gross Settlement Amount for the settlement of Plaintiffs' PAGA claim. Pursuant to the requirements of the PAGA, seventy-five percent (75%) of that amount, or $22,500, will be paid to the California Labor & Workforce Development Agency. The remaining $7,500 has been designated as the "PAGA Payment" and will be paid to certain Settlement Class members as described below.

Calculation of Settlement Class Members' Settlement Awards. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the **Net Settlement Amount** ("**NSA**"), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated to be approximately $183,333.33. Together with the $7,500 PAGA Payment, the total amount to be distributed to Settlement Class members is estimated to be $190,833.33. Payments to Settlement Class members, known as "**Settlement Awards**," will be calculated as follows:

NSA Distribution: All **Participating Class Members** (i.e., all Settlement Class members who do not opt out of the Settlement) will receive a payment from the NSA based on each Participating Class Member's proportionate number of workweeks worked for Ever Well as a non-exempt employee in California during the Class Period.

PAGA Amount Distribution: In addition to the NSA, $7,500 of the Gross Settlement Amount has been designated as the "**PAGA Payment**" as described above, and will be allocated to all Settlement Class members (whether or not they opt out) who worked for Ever Well as a non-exempt employee in California at any time from November 3, 2021 to <<END OF CLASS PERIOD>> (the "**PAGA Period**"), in proportion to the number of pay periods that each Settlement Class member worked for Ever Well as a non-exempt employee in California during the PAGA Period. These Settlement Class members are known as "PAGA Members."

The enclosed "**Notice of Estimated Settlement Award**" contains your estimated payment under the Settlement, as well as the data from Ever Well's records that was relied upon in calculating your estimated payment.

Allocation and Taxes. For tax purposes, Settlement Awards shall be treated as follows: for payments from the PAGA Payment, 100% penalties; for payments from the NSA, 15% wages (with withholdings taken) and 85% penalties and interest. The Settlement Administrator will issue IRS forms W-2 for all amounts designated as "wages," and will issue IRS forms 1099 for all amounts designated as penalties and interest. Settlement Class members are responsible for the proper income tax treatment of the Settlement Awards. The Settlement Administrator, Ever Well and its counsel, and Plaintiffs and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. Once the Court's judgment approving the Settlement becomes final, and the Settlement is fully funded by Ever Well, Plaintiffs and every Participating Class Member will release Ever Well from any and all causes of action, claims, rights, damages, and penalties arising during the Class Period that will be alleged by Plaintiffs and Class Members in the Second Amended Complaint in the Action or that could have been alleged based on the facts alleged in the Second Amended Complaint in the Action, including but not limited to: (a) any alleged failure by Ever Well (1) to pay overtime wages, (2) to pay minimum wages, (3) to provide meal periods or pay meal period premium wages, (4) to authorize and permit rest periods or pay rest period premium wages, (5) to issue compliant wage statements, (6) to timely pay wages at the end of employment, and (7) to indemnify or reimburse work-related expenses; (b) any right or claim for unfair business practices in violation of California Business & Professions Code sections 17200, *et seq*., based on the alleged failures set forth in (a)(1) through (a)(7) above; and (c) any violation of the California Labor Code or any other applicable statute or regulation arising from or related to the conduct alleged in (a)(1) through (a)(7) above, including, without limitation, violation of California Labor Code sections 201-204, 226, 226.7, 510, 512, 516, 558, 1194, 1197, 1198, 2802, or any other applicable state statute, rule and/or regulation (Wage Order), during the Class Period ("Settled Class Claims"). In addition, all PAGA Members (whether or not they opt-out) who worked for Ever Well as non-exempt employees in California at any point during the PAGA Period shall release any right or claim for civil penalties pursuant to the PAGA, California Labor Code sections 2698, et seq., arising under the California Labor Code or Wage Orders based on the alleged failures set forth in (a)(1) through (a)(7) above, arising at any time during the PAGA Period ("PAGA Released Claims").

Conditional Settlement. By granting preliminary approval of the Settlement, the Court has determined that the Settlement falls within the range of possible approval as fair, reasonable, and adequate. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement.

How can I claim money from the Settlement?

Do Nothing. You do not need to do anything if you want to receive payment from and participate in the Settlement. If you do nothing, you will be entitled to your Settlement Award based on the number of workweeks you worked for Ever Well during the Class Period and the number of pay periods you worked for Ever Well during the PAGA Period. Your estimated individual Settlement Award is included in the enclosed Notice of Estimated Settlement Award. You also will be bound by the Settlement, including the release of claims stated herein.

Check Cashing Deadline and Uncashed Checks. You must cash or deposit your Settlement Award check within 180 days from the date that the Settlement Administrator mails the check to you. If you do not cash or deposit your check within 180 days, the funds from your check will be deposited in your name with the California Unclaimed Property Fund, where you can later claim those funds.

What other options do I have?

Disputing Information in Notice of Estimated Settlement Award. Your estimated Settlement Award has been calculated and is included in the enclosed Notice of Estimated Settlement Award. As stated above, your estimated Settlement Award is based on the number of workweeks you worked for Ever Well during the Class Period and the number of pay periods you worked for Ever Well during the PAGA Period. The information contained in Ever Well's records regarding each of these factors is listed on the accompanying Notice of Estimated Settlement Award.

If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.** The parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator's decision regarding any dispute will be final.

Exclude Yourself from the Class Portion of the Settlement. If you **do not** wish to take part in the class portion of the Settlement, you may exclude yourself by sending to the Settlement Administrator a written "Request for Exclusion" letter, postmarked no later than <<RESPONSE DEADLINE>>, with your full name, address and telephone number, your signature, and a statement that you wish to exclude yourself from the Settlement Class in the *Rose v. Ever Well Health Systems* lawsuit.

Send any Request for Exclusion directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a valid and timely Request for Exclusion shall, upon receipt, no longer be a Settlement Class member with respect to the class claims, shall be barred from participating in the class portion of the Settlement, and shall receive no benefits from the class portion of the Settlement. Any person who submits a valid and timely Request for Exclusion will also lack standing to submit any objection to the Settlement. However, all PAGA Members (that is, Settlement Class members who worked for Ever Well during the PAGA Period), even those who submit a valid and timely Request for Exclusion, will be bound by the PAGA portion of the Settlement and will receive a portion of the PAGA Amount.

Objecting to the Settlement. If you do not submit a Request for Exclusion, you have the right to object to the terms of the class Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the class Settlement, or any portion of it, you may mail a written Objection to the Settlement Administrator, and/or appear at the hearing to object orally. Any written Objection must include your full name, current address, current phone number and e-mail address, the name and contact information of any attorney representing you, each specific reason in support of your objection, and any legal or factual support for each objection, including any supporting papers, briefs, written evidence, declarations, and/or other evidence. All objections or other written correspondence must state the name and number of the case, which is *Rose v. Ever Well Health Systems, LLC.*, San Luis Obispo County Superior Court Case No. 22CV-0605. Any written Objections must be postmarked on or before <<RESPONSE DEADLINE>>.

You may also appear at the Final Approval Hearing to discuss your objection with the Court. You have the right to appear either in person or through your own attorney. If you wish to appear at the Final Approval Hearing and/or retain an attorney to represent you at the hearing, you must do so at your own expense. Any Settlement Class member who wishes to appear at the Final Approval Hearing, and any attorney who intends to represent an individual objecting to the Settlement, must file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>.

If you object to the Settlement, you will remain a Participating Class Member, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Participating Class Members who do not object. In other words, by submitting an Objection, you are not excluding yourself from the Settlement.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department 4 of the Sun Luis Obispo County Superior Court, located at 1050 Monterey St., San Luis Obispo, CA 93408. At the Final Approval Hearing, the Court will also be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of costs, the Class Representative Service Award, and the Settlement administration costs. The Final Approval Hearing may be postponed or moved without further notice to the Settlement Class. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing at their own expense.**

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may consult the case information for the Action by using the Court's webpage, located at https://slo.courts.ca.gov. You may also contact the Settlement Administrator or Class Counsel using the contact information listed above for more information. You may also access the Settlement Administrator's dedicated webpage for this case, at www.phoenixclassaction.com/xxxxxxx.

PLEASE DO NOT CALL OR WRITE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT.

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is **<<RESPONSE DEADLINE>>**. These deadlines will be strictly enforced.

EXHIBIT B

NOTICE OF ESTIMATED SETTLEMENT AWARD

ROSE v. EVER WELL HEALTH SYSTEMS, LLC
SAN LUIS OBISPO COUNTY SUPERIOR COURT CASE NO. 22CV-0605

Please complete, sign, and return this Form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

____
(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

____
Former Names (if any)

____
New Street Address

____
City State Zip Code

____
Phone number (if you wish to be contacted by phone)

(III) Information Used to Calculate Your Estimated Settlement Award:

According to Ever Well's records:

(a) you were employed for _____ workweeks for Ever Well as a non-exempt employee in California between November 3, 2018 and <<END OF CLASS PERIOD>>;

(b) you were employed for _____ pay periods for Ever Well as a non-exempt employee in California between November 3, 2021 and <<END OF CLASS PERIOD>>; and

(c) your employment with Ever <<DID/DID NOT>> end between November 3, 2019 and <<END OF CLASS PERIOD>>.

Based on the above, your Settlement Award is estimated at **$**____________.

(IV) If you disagree with either of the items (a) - (c) in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this Form:

____
____
____
____

If you dispute the above information from Ever Well's records, Ever Well's records will control unless you are able to provide documentation that establishes that Ever Well's records are inaccurate. If there is a dispute about whether Ever Well's information or yours is accurate, the dispute will be resolved by the Parties and the Settlement Administrator as described in the "Notice of Class Action Settlement" that accompanies this Form. The Settlement Administrator's determination will be final.

Date: _________________ **Signature:** ___________________

ANY DISPUTES (INCLUDING SUPPORTING DOCUMENTS) MUST BE POSTMARKED NO LATER THAN <<RESPONSE DEADLINE>>.