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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

EMMA JEAN ELWOOD, as an individual and
on behalf of all others similarly situated,

Plaintiff,

v.

ALL AMERICAN HEALTHCARE
SERVICES, INC. & ALAMEDA
HEALTHCARE & WELLNESS CENTER,
LLC, a California limited liability company
DBA ALAMEDA HEALTHCARE AND
WELLNESS CENTER, and DOES 1 through
100, inclusive,

Defendants.

Case No. 23CV028398

ALL PURPOSES TO JUDGE JULIA
SPAIN, DEPT. 520

**SETTLEMENT AGREEMENT AND
RELEASE OF PAGA CLAIMS**

Trial Date: None Set
FAC Filed: May 18, 2023

SETTLEMENT AGREEMENT AND RELEASE OF PAGA CLAIMS

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Attorneys for Defendant Alameda
Healthcare & Wellness Center, LLC

IT IS HEREBY STIPULATED, by and between Plaintiff EMMA JEAN ELWOOD (“Plaintiff”), individually and on behalf of all other allegedly aggrieved employees, on the one hand, and Defendant ALL AMERICAN HEALTHCARE SERVICES, INC. D/B/A ALLSHIFTS (“AllShifts”), and ALAMEDA HEALTHCARE & WELLNESS CENTER, LLC (“Alameda”) (collectively with AllShifts, “Defendants”) on the other hand, and subject to the approval of the Court, that the Action, as defined below, is hereby compromised and settled pursuant to the terms and conditions set forth in this Settlement Agreement and Release of PAGA Claims (“Settlement Agreement”) and that the Court shall enter judgment, subject to the continuing jurisdiction of the Court as set forth below, and subject to the definitions, recitals, and terms set forth herein which by this reference become an integral part of this Settlement Agreement.

DEFINITIONS

1. “Action” means the representative action entitled *Emma Jean Elwood v. All American Healthcare Services, Inc. & Alameda Healthcare & Wellness Center, LLC*, Alameda County Superior Court, Case No. 23CV028398.

2. “Aggrieved Employees” means all current and former non-exempt employees who worked for Defendant AllShifts and were placed at Defendant Alameda’s care facility to provide nursing services in the State of California from December 1, 2021, to the date of the Court’s approval of the Settlement.

3. “Approval Hearing” means the hearing to be conducted by the Court after the filing of an appropriate motion by Plaintiff, at which time Plaintiff shall request that the Court approve the Settlement, enter the Judgment, and take other appropriate action.

4. “Defendants” means All American Healthcare Services, Inc. d/b/a AllShifts and Alameda Healthcare & Wellness Center, LLC.

5. “Defense Counsel” means Robert Lockwood and Benjamin Hart of Littler Mendelson, P.C.; Coby M. Turner, Elizabeth Levy and Jeffrey A. Nordlander of Seyfarth Shaw LLP; and Skyler J. May of Frost Brown Todd LLP.

6. “Effective Date” means when all of the following events have occurred: (i) this Agreement has been executed by Plaintiff, Defendants, Plaintiff’s Counsel and Defendants’

SETTLEMENT AGREEMENT AND RELEASE OF PAGA CLAIMS

1 Counsel; (ii) Plaintiff's Counsel has sent the Notice of the Settlement to the LWDA; (iii) the Court
2 has given approval to the Settlement; (v) the Court has entered the Court's Final Order and
3 Judgment and Notice of Entry of Judgment has been filed; and (vi) five days after the later of any
4 of the following events: (A) the period for filing any appeal, writ or other appellate proceeding
5 opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding having
6 been filed; (B) any appeal, writ or other appellate proceeding opposing the Settlement has been
7 dismissed finally and conclusively with no right to pursue further remedies or relief; or (C) any
8 appeal, writ or other appellate proceeding has upheld the Court's Final Order and Judgment with
9 no right to pursue further remedies or relief.

10 7. "Employee Information" means information regarding the Aggrieved Employees
11 that Defendant AllShifts shall in good faith compile from its records and shall be authorized by the
12 Court to transmit in a secured manner to the Settlement Administrator. Employee Information shall
13 be transmitted in electronic form and shall include each Aggrieved Employee's full name; last
14 known address; Social Security number; and total number of PAGA Pay Periods (defined below).

15 8. "Individual Settlement Payment" means the amount the parties agreed to be paid to
16 Plaintiff for her general release of claims, associated with her wrongful termination and individual
17 wage and hour claims.

18 9. "Individual PAGA Payment" means the amount payable from the PAGA Fund to
19 each Aggrieved Employee.

20 10. "Judgment" means the final order and judgment to be entered by the Court granting
21 approval of the Settlement and this Settlement Agreement as binding upon the Parties and the
22 Aggrieved Employees.

23 11. "LWDA" means the California Labor and Workforce Development Agency.

24 12. "LWDA Letter" means the letter dated December 1, 2022, that Plaintiff submitted
25 to the LWDA alleging unpaid overtime, overtime paid incorrectly, failure to provide accurate wage
26 statements, failure to pay all wages at termination, failure to provide meal periods and/or pay
27 premium pay for missed breaks at the correct rate, failure to provide rest periods and/or pay
28

premium pay for missed breaks at the correct rate, failure to reimburse business expenses and failure to provide paid sick leave at the regular rate of pay.

13. “LWDA Payment” means the portion of the PAGA Fund payable to the LWDA (75 percent).

14. “Gross Settlement Amount” means the maximum amount Defendants shall have to pay in connection with this Settlement, which shall be inclusive of all Individual PAGA Payments to the Aggrieved Employees, Plaintiff’s Counsel fees and costs, Plaintiff’s portion of the mediator’s fees, the Individual Settlement Enhancement Payment, the Individual Settlement Payment, the Settlement Administration Costs, and the LWDA Payment. Subject to Court approval and the terms of this Settlement Agreement, the maximum Gross Settlement Amount Defendants shall be required to pay is Twenty Two Thousand Two Hundred and Ninety Dollars (\$22,290.00).

15. “Notice” means the Notice of PAGA Settlement, which shall be subject to Court approval and which the Settlement Administrator shall mail to each Aggrieved Employee at their last known address explaining the terms of this Settlement Agreement and the Settlement, attached as Exhibit A.

16. “PAGA” means the Labor Code Private Attorneys General Act of 2004, California Labor Code sections 2698, *et seq.*

17. “PAGA Fund” means the Gross Settlement Amount, minus Claims Administration Expenses, Individual Settlement Enhancement Payment, Plaintiff’s Counsel’s Fees, and Expenses (Plaintiff’s \$3,750 in mediation fees shall be deducted from the PAGA Fund).

18. “PAGA Period” means the period from December 1, 2021, through the date of the Court’s order approving the Settlement.

19. “Parties” means Plaintiff and Defendants.

20. “Plaintiff” means Plaintiff Emma Jean Elwood.

21. “Plaintiff’s Counsel” means Adam Rose and Manny Starr of Frontier Law Center and Janelle Carney of Janelle Carney Attorney at Law, APC.

22. “Plaintiff’s Counsel’s Fees and Expenses” means reasonable attorneys’ fees for Plaintiff’s Counsel’s litigation and resolution of this Action after Plaintiff’s \$3,750 portion of the

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mediator's fee has been deducted from the PAGA fund, not to exceed 33 1/3% of the Gross Settlement Amount, and expenses and costs reasonably incurred in connection with this Action as documented in Plaintiff's Counsel's billing statement not to exceed \$3,000.00 (after reimbursement of mediation fees as set forth *infra*).

23. "Qualifying Pay Periods" means the total number of pay periods during which an Aggrieved Employee performed work as a non-exempt employee of AllShifts while assigned to work at Alameda in California during the PAGA Period, based on Defendant AllShifts' records, which shall be used to calculate Individual PAGA Payments. Partial Pay Periods will be counted as full Qualifying Pay Periods.

24. "Released Parties" means Defendants and any of their respective past, present, and future direct or indirect parents, owners, joint venturers, limited liability companies and/or partnerships, subsidiaries, predecessors, successors and affiliates, as well as each of their past, present and future officers, directors, employees, partners, members, shareholders employees and agents, including but not limited to Rockport Administrative Services, LLC, their attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendants.

25. "Settlement" means the final and complete disposition of the Action pursuant to this Settlement Agreement.

26. "Settlement Administration Costs" means the reasonable costs and fees of administering the Settlement to be paid from the Gross Settlement Amount, including, but not limited to: (i) printing, mailing, and re-mailing (if necessary) Settlement Packets to the Aggrieved Employees; (ii) preparing and submitting to Aggrieved Employees and government entities all appropriate tax filings and forms; (iii) computing the amount of and distributing Individual PAGA Payments, the Individual Settlement Enhancement Payment, Plaintiff's Counsel Fees and Expenses, Plaintiff's Counsel's portion of the mediator's fee and the LWDA Payment; (iv) establishing a Qualified Settlement Fund ("QSF"), as defined by the Internal Revenue Code; and (vi) preparing and submitting filings required by law in connection with the payments required by the Settlement.

27. "Settlement Administrator" means ILYM Group Inc.

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28. “Settlement Packet” means the packet of documents that shall be mailed to all Aggrieved Employees by the Settlement Administrator, including the Notice and each Aggrieved Employee’s respective Individual PAGA Payment.

RECITALS

29. Pleading History: On February 27, 2023, Plaintiff filed a complaint in the County of Alameda Superior Court alleging PAGA Penalties and wrongful termination in violation of public policy. Plaintiff then amended her complaint on May 18, 2023, to include class claims, PAGA claims, and individual causes of action including failure to pay all wages, failure to provide meal breaks, failure to allow rest breaks, failure to reimburse for out-of-pocket expenses, inaccurate wage statements, failure to pay wages of terminated or resigned employees, wrongful termination, and unfair business practice.

30. On January 8, 2024, the Parties jointly stipulated to dismiss the class claims; submit all Plaintiff’s individual non-PAGA claims and individual PAGA claims to binding arbitration; stay the representative PAGA claims pending the resolution of arbitration; and jointly work to reach resolution through mediation. On January 23, 2024, the Court dismissed Plaintiff’s class claims.

31. On August 7, 2023, Defendant Alameda timely filed an Answer to the first amended complaint. On August 16, 2023, Defendant AllShifts timely filed an Answer to the first amended complaint.

32. Settlement Negotiations: On May 21, 2024, after exchanging information, data, and documents, and review of numerous corporate policies and practices, the Parties reached a settlement deal during a private mediation session with mediator Art Eidelhoch. On May 24, 2024, the Parties entered into a Memorandum of Understanding (“MOU”), which memorialized the settlement terms and conditions.

33. Benefits of Settlement to Plaintiff and the Aggrieved Employees: Plaintiff and Plaintiff’s Counsel recognize the expense and effort of lengthy continued proceedings that would be necessary to litigate Plaintiff’s claims in the Action through arbitration, trial and through any possible appeals. Plaintiff also has evaluated the uncertainty and risks of the outcome of further litigation, and the difficulties and delays inherent in such litigation. Plaintiff and Plaintiff’s Counsel

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1 are also aware of the burdens of proof necessary to establish liability for the claims asserted in the
2 Action, both generally and in response to Defendants' defenses thereto. Based on the foregoing,
3 Plaintiff and Plaintiff's Counsel have determined the Settlement set forth in this Settlement
4 Agreement is fair, adequate, and reasonable and provides genuine and meaningful relief consistent
5 with the underlying purposes of PAGA.

6 34. Defendants' Reasons for Settlement: Defendants have concluded that any further
7 defense of the Action would be protracted and expensive for all Parties. Substantial amounts of
8 Defendants' time, energy, and resources have already been, and unless this Settlement is completed,
9 shall continue to be, devoted to the defense of the claims asserted by Plaintiff. Defendants have
10 also evaluated the risks of further litigation in reaching its decision to enter into this Settlement.
11 Even though Defendants contend they are not liable for any of the claims alleged by Plaintiff in the
12 Action, Defendants have agreed, nonetheless, to settle in the manner and upon the terms set forth
13 in this Settlement Agreement and to put to rest the claims alleged in this Action. Defendants have
14 asserted and continue to assert that the claims alleged by Plaintiff have no merit and do not give
15 rise to liability. This Settlement Agreement is a compromise of disputed claims. Nothing contained
16 in this Settlement Agreement, no documents referred to herein, and no action taken to carry out this
17 Settlement Agreement, shall be construed or used as an admission by or against Defendants as to
18 the merits or lack thereof of the claims asserted in the Action. Defendants maintain that they have
19 complied with all applicable state, federal and local laws.

20 TERMS OF SETTLEMENT

21 NOW THEREFORE, in consideration of the mutual covenants, promises, and agreements
22 set forth herein, the Parties agree, subject to the Court's approval, as follows:

23 35. Binding Settlement: This Settlement shall bind the Parties and all Aggrieved
24 Employees, subject to the terms and conditions hereof and the Court's approval.

25 36. Tax Liability: The Parties make no representations as to the tax treatment or legal
26 effect of any of the payments specified herein, and the Aggrieved Employees are not relying on
27 any statement or representation by the Parties, Plaintiff's Counsel, or Defense Counsel in this
28 regard. The Aggrieved Employees and Plaintiff's Counsel understand and agree that they shall be

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1 responsible for the payment of all taxes and penalties assessed on the payments specified herein.,
2 and shall hold the Parties, Plaintiff's Counsel, and Defense Counsel free and harmless from and
3 against any claims resulting from treatment of such payments as non-taxable, including the
4 treatment of such payments as not subject to withholding or deduction for payroll and employment
5 taxes.

6 37. Circular 230 Disclaimer: THE PARTIES ACKNOWLEDGE AND AGREE THAT
7 (1) NO PROVISION OF THIS SETTLEMENT AGREEMENT, AND NO WRITTEN
8 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES,
9 PLAINTIFF'S COUNSEL, OR DEFENSE COUNSEL AND OTHER ADVISERS, IS OR WAS
10 INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE
11 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS TAX ADVICE WITHIN THE
12 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR
13 PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
14 EXCLUSIVELY UPON HIS OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL
15 FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS SETTLEMENT
16 AGREEMENT, (B) HAS NOT ENTERED INTO THIS SETTLEMENT AGREEMENT BASED
17 UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR
18 ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
19 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
20 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
21 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
22 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
23 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
24 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
25 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
26 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
27 SETTLEMENT AGREEMENT.

1 38. Approval of Settlement: Plaintiff shall be responsible for filing a motion, and related
2 papers, with the Court to approve the Settlement and enter the Judgment. The Parties agree to work
3 diligently and cooperatively to have this Settlement presented to the Court for approval. Plaintiff
4 will prepare and deliver to Defense Counsel all documents necessary for obtaining approval,
5 including: (i) a draft of the notice, and memorandum in support, of the Motion for Approval; (ii) a
6 draft proposed Order Granting Approval of PAGA Settlement; (iii) a draft proposed Notice; (iv) a
7 signed declaration from the Administrator; (v) a signed declaration from Plaintiff; and (v) a signed
8 declaration from PAGA Counsel firm attesting to their competency. Defendants will have two
9 business days from receipt to review and provide comment and will not delay the filing of the
10 approval motion.

11 39. Released Claims

12 a) Aggrieved Employees' Release: Upon the payment of the Gross Settlement
13 Amount, Plaintiff, individually and in her capacity as representative for the LWDA, and Aggrieved
14 Employees will fully and finally release and discharge the Released Parties from all Released
15 Claims. "Released Claims" means all claims asserted in the operative complaint and LWDA letter,
16 or that could have been asserted based on the factual allegations and/or theories of any complaint
17 in this Action and LWDA letter during the PAGA Period. This includes, but is not limited to claims
18 for civil PAGA penalties predicated on Labor Code sections 201, 202, 203, 204, 226, 226.3, 226.7,
19 246, 510, 512, and 1194, 1194.2, 1197, 1198, 2802, 2810.5, and Industrial Welfare Commission
20 Wage Orders based on the primary rights of those statutes, irrespective of the theory of recovery
21 alleged.

22 b) Plaintiff's Individual Release: In addition to the Released PAGA Claims discussed
23 above, upon the Effective Date, and in exchange for the Individual Settlement Payment entered into
24 with Defendants, Plaintiff, for and on behalf of herself and her agents, heirs, executors,
25 administrators and assigns ("Releasing Parties") unconditionally waives, releases and forever
26 discharges the Released Parties from any and all claims, actions, causes of action, rights, suits,
27 debts, contracts, obligations, agreements, proceedings, damages, penalties, charges, losses, and
28 expenses (including attorneys' fees and costs) of any nature whatsoever, whether based in contract,

1 statute or the common law, relating to any matters of any kind, whether known or unknown,
 2 suspected or unsuspected, that they may possess arising from any omissions, acts, and any and all
 3 events or facts that have occurred up until and including the date of the signing of this Agreement,
 4 including without limitation: (i) any and all claims actually alleged or could have been alleged in
 5 connection with, or arising directly or indirectly out of or in any way connected with Plaintiff's
 6 employment with AllShifts and placement at Alameda or alleged employment with any of the
 7 Released Parties; (ii) any and all claims relating to or arising from Plaintiff's relationship with the
 8 Released Parties and the termination of the relationship; (iii) any and all claims relating to unpaid
 9 wages, missed meal and rest periods, meal period and rest break premiums, sick pay, vacation pay,
 10 calculation of bonuses or commissions, and any other form of compensation, wage statements,
 11 retaliation, and any and all penalties, including but not limited to waiting time penalties and
 12 penalties under California Labor Code Section 226 *et seq.*, and interest relating to such claims; (iv)
 13 any and all claims for wrongful discharge of employment; emotional distress; breach of contract,
 14 both expressed and implied; breach of covenant of good faith and fair dealing, both expressed and
 15 implied; negligent or intentional interference with contract or prospective economic advantage; and
 16 defamation; (v) any and all claims against the Released Parties for any other tort, contract, common
 17 law, constitutional or statutory claims, including but not limited to, any violation(s) of the
 18 California Labor Code, the federal Fair Labor Standards Act (except as prohibited by applicable
 19 law), the National Labor Relations Act, Title VIII of the Civil Rights Act of 1964 and the California
 20 Fair Employment and Housing Act, the Americans with Disabilities Act, as amended, the Employee
 21 Retirement Income Security Act of 1974, as amended, the federal Worker Adjustment Retraining
 22 Notification Act (as well as any counterpart), the Family and Medical Leave Act of 1993 (as well
 23 as any state counterpart), the Occupational Safety and Health Act, the Consolidated Omnibus
 24 Budget Reconciliation Act of 1985, the Equal Pay Act, the Affordable Care Act, the Uniformed
 25 Services Employment and Reemployment Rights Act, the Federal Hazardous Materials
 26 Regulations, the Fair Credit Reporting Act, the California Parental Leave Act, the California
 27 Healthy Workplace Healthy Family Act, the Genetic Information Nondiscrimination Act of 1998,
 28 California Constitution Article 1 section 8, California's Industrial Welfare Commission Wage

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1 Orders, California Health and Safety Code sections 11161.8, 1276.5, 1278.5, 13337, *et seq.*, and
2 105100, *et seq.*, California Business and Professions Code sections 2725, 2750, *et seq.*, and 17200,
3 *et seq.*, Title 22 of the California Code of Regulations, including but not limited to section 72313,
4 72315 and 72501 (“Individually Released Claims”). Plaintiff also waives any and all rights
5 conferred upon her under Section 1542 of the California Civil Code, which provides as follows:

6 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR
7 OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR
8 HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF
9 KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
10 SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

11 This waiver is not a mere recital but is a knowing waiver of rights and benefits by Plaintiff. This is
12 a bargained-for provision of the Agreement and is further consideration for the covenants and
13 conditions contained herein.

14 40. Funding and Allocation of the Gross Settlement Amount: Defendants shall pay a
15 Gross Settlement Amount not to exceed Twenty Two Thousand Two Hundred and Ninety Dollars
16 and Zero Cents (\$22,290). Defendants shall make the payment to the Settlement Administrator in
17 any feasible manner, including, but not limited to, by way of a wire transfer, the Gross Settlement
18 Amount not later than thirty (30) days after the Effective Date.

19 a) Representation as to Number of Pay Periods: Defendants represent that the total number
20 of pay periods worked by Aggrieved Employees is approximately 618.

21 b) Individual PAGA Payments:

22 i. Individual PAGA Payments shall be paid by the Settlement Administrator
23 from the PAGA Fund pursuant to the following formula: Defendants shall provide the Settlement
24 Administrator with the Qualifying Pay Periods for each Aggrieved Employee. The Settlement
25 Administrator shall then divide the Aggrieved Employees’ portion of the PAGA Fund by the total
26 number of Qualifying Pay Periods for all Aggrieved Employees resulting in a value for each pay
27 period worked by the Aggrieved Employees during the PAGA Period (“Pay Period Value”). The
28

Settlement Administrator shall then multiply the number of Qualifying Pay Periods for each Aggrieved Employee by the Pay Period Value.

ii. Individual PAGA Payments shall be made by check and shall be made payable to each Aggrieved Employee as set forth in this Settlement Agreement.

iii. Individual PAGA Payments shall be allocated as non-wage penalties not subject to payroll tax withholdings. The Settlement Administrator shall issue an IRS Form 1099-MISC to each Aggrieved Employee.

iv. Individual PAGA Payment checks shall remain negotiable for one hundred eighty (180) days from the date of mailing. The sum value of all expired checks will be tallied by the Settlement Administrator. All such uncollected funds associated with Aggrieved Employees' checks will escheat to the State of California's Controller, to be held in the name of each expired check payee, pursuant to applicable unclaimed property laws. The Settlement Administrator shall undertake amended and/or supplemental tax filings and reporting, required under applicable local, state, and federal tax laws, that are necessitated due to the cancellation of any Individual PAGA Payment checks. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code section 384.

c) Plaintiff also entered into a separate individual settlement agreement in exchange for releasing her individual Released Claims and executing a general release as set forth in paragraph 39(b). Plaintiff's Counsel's Fees and Expenses: Subject to Court approval, Plaintiff's Counsel shall be entitled to receive reasonable attorneys' fees in an amount not to exceed one-third of the Gross Settlement Amount after deducting Plaintiff's \$3,750 share of the mediator's fee (i.e. one third of \$18,540) in the amount of Six Thousand One Hundred Eighty Dollars and Zero Cents. (\$6,180.00). In addition, Plaintiff's Counsel shall be entitled to an award of reasonable costs associated with Plaintiff's Counsel's prosecution of the Action in an amount not to exceed Three Thousand Dollars and Zero Cents (\$3,000), and according to proof. Plaintiff's Counsel shall provide the Settlement Administrator with a properly completed and signed IRS Form W-9 in order for the Settlement Administrator to process the Plaintiff's Counsel Award as approved by the Court. Defendants shall not oppose or object to Plaintiff's request for an award of attorneys' fees in an amount not to exceed

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one-third of the Gross Settlement Agreement in the amount of Six Thousand One Hundred Eighty Dollars and Zero Cents. (\$6,180.00) or request for an award of reasonable costs not to exceed \$3,000.00). In the event that the Court awards Plaintiff's Counsel less than the requested amount in attorneys' fees and/or costs, the difference shall become part of the PAGA Fund and shall be distributed to the LWDA and the Aggrieved Employees. The Settlement Administrator shall pay Plaintiff's Counsel any Court-awarded attorneys' fees and costs no later than ten (10) days after Defendants provide the Settlement Administrator with the Gross Settlement Amount. Plaintiff's Counsel shall be solely and legally responsible to pay all applicable taxes on the Plaintiff's Counsel Award. The Settlement Administrator shall issue an IRS Form 1099-MISC to Plaintiff's Counsel for the Plaintiff's Attorney's Fees and Costs. This Settlement is not conditioned upon the Court awarding Plaintiff's Counsel any particular amount of attorneys' fees or costs, unless the amount awarded is more than specified in this paragraph, in which case the difference shall be awarded from the PAGA Fund and shall not increase the Gross Settlement Amount. If the Court does not approve or approves only a lesser amount than that requested by Plaintiff's Counsel for attorneys' fees or costs, the other terms of the Settlement shall still apply. The Court's refusal to approve the attorneys' fees or costs award requested by Plaintiff's Counsel does not give Plaintiff or Plaintiff's Counsel any basis to abrogate the Settlement.

d) Settlement Administration Costs: The Settlement Administration fees and expenses, which are estimated not to exceed Three Thousand Four Hundred Fifty Thousand Dollars and Zero Cents (\$3,450.00) shall be paid from the Gross Settlement Amount. The Parties agree to cooperate in the Settlement Administration process and to make all reasonable efforts to control and minimize Settlement Administration Costs.

i. The Parties each represent they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

ii. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities required by the Settlement. The Settlement Administrator shall be authorized to establish a QSF pursuant to IRS rules and

1 regulations in which the Gross Settlement Amount shall be placed and from which payments
2 required by the Settlement shall be made.

3 41. Labor and Workforce Development Agency Payment: Subject to approval by the
4 Court, the Parties agree that any funds from the Gross Settlement Amount that remain after
5 subtracting amounts for Plaintiff's portion of the mediator's fee, Attorneys' Fees and Costs,
6 Plaintiff's Enhancement Payment, and Settlement Administration Fees will constitute the PAGA
7 Fund. Seventy-five percent (75%) of the PAGA Fund, or an estimated \$2,565.00, will be paid to
8 the LWDA (i.e., the LWDA Payment) and twenty-five percent (25%), or an estimated \$855.00,
9 will be distributed to the Aggrieved Employees.

10 42. Settlement Administration:

11 a) Mailing of Settlement Packets: Within thirty (30) calendar days of the Effective
12 Date, Defendant AllShifts shall provide the Settlement Administrator with the Employee
13 Information for purposes of mailing the Settlement Packets to Aggrieved Employees. Upon receipt
14 of the Employee Information, the Settlement Administrator shall perform a search based on the
15 National Change of Address Database maintained by the United States Postal Service to update and
16 correct any known or identifiable address changes. Within ten (10) days of receiving the Gross
17 Settlement Amount from Defendants as provided herein, the Settlement Administrator shall mail the
18 Settlement Packets to all Aggrieved Employees *via* regular First-Class U.S. Mail. The Settlement
19 Administrator shall exercise its best judgment to determine the current mailing address for each
20 Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing
21 address shall be presumed to be the most current mailing address for each Aggrieved Employee.
22 The Parties agree that this procedure for notice provides the best notice practicable to Aggrieved
23 Employees and fully complies with due process.

24 b) Undeliverable Settlement Packets: Any Settlement Packet returned to the Settlement
25 Administrator as non-deliverable shall be re-mailed to the forwarding address affixed thereto. If no
26 forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a
27 correct address by the use of skip-tracing, or other type of automated search, using the name, address,
28 and/or Social Security number of the Aggrieved Employee involved, and shall then perform a re-

mailing to the Aggrieved Employee whose Settlement Packet was returned as non-deliverable, assuming another mailing address is identified by the Settlement Administrator.

c) Determination of Individual PAGA Payments: The Settlement Administrator shall determine the eligibility for, and the amount of, each Aggrieved Employee's Individual PAGA Payment under the terms of this Settlement Agreement.

d) Disputes Regarding Administration of Settlement: Any dispute not resolved by the Settlement Administrator concerning the administration of the Settlement shall be resolved by the Court. Prior to any such involvement of the Court, counsel for the Parties shall confer in good faith and make use of the services of mediator Art Eidelhoch, if necessary, to resolve the dispute without the necessity of involving the Court.

e) Accounting: The Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid out, not later than 60 days after payment to the final Aggrieved Employee.

f) Monitoring and Reviewing Settlement Administration: The Parties have the right to monitor and review the administration of the Settlement to verify that the monies allocated under the Settlement are distributed in the correct amount, as provided for in this Settlement Agreement.

g) Best Efforts: The Parties agree to use their best efforts to carry out the terms of this Settlement.

43. Release of Claims by Aggrieved Employees: Upon the date Defendants fully fund the entire Gross Settlement Fund, Plaintiff, all Aggrieved Employees and the State of California will be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Claims during the PAGA Period, except as to the right to enforce the terms and conditions of this Settlement.

44. Nullification of Settlement: In the event: (i) the Court does not enter the Judgment; or (ii) the Settlement does not become final for any other reason, this Settlement Agreement shall be rendered null and void, any order or judgment entered by the Court in furtherance of this Settlement shall be treated as void from the beginning, and this Settlement Agreement and any documents related to it shall not be used in any other civil, criminal, or administrative action against

1 Defendants or any of the other Released Parties. In the event an appeal is filed from the Judgment,
2 or any other appellate review is sought, administration of the Settlement shall be stayed pending
3 final resolution of the appeal or other appellate review.

4 45. No Admission by Defendants: Defendants deny all claims alleged in this Action and
5 deny all wrongdoing whatsoever by Defendants. Neither this Settlement Agreement, nor any of its
6 terms and conditions, nor any of the negotiations connected with it, are a concession or admission,
7 and none shall be used against Defendants as an admission or indication with respect to any claim
8 of any fault, concession, or omission by Defendants. The Parties agree that this Settlement
9 Agreement shall not be admissible in this or any other proceeding as evidence that Defendants are
10 liable to Plaintiff or any Aggrieved Employee, other than according to the terms of this Settlement
11 Agreement.

12 46. No Publicity: The Parties agree that Plaintiff and Plaintiff's Counsel will not
13 communicate the fact of, or the terms of, this Settlement Agreement to members of the press,
14 including to Verdicts and Settlements. The Parties and their respective counsel also agree not to
15 publish the fact of, or terms of, this Settlement Agreement or any related information on their
16 website, for advertising purposes and/or in publication materials generally available to the public.

17 47. Descriptive Headings: The descriptive headings of any paragraphs or sections of
18 this Settlement Agreement are inserted for convenience of reference only.

19 48. Entire Agreement: This Settlement Agreement constitutes the entire agreement
20 between the Parties, and no oral or written representations, warranties, or inducements have been
21 made to Plaintiff or Defendants concerning this Settlement Agreement other than the
22 representations, warranties, and covenants contained and memorialized in this Settlement
23 Agreement. No other prior or contemporaneous written or oral agreements may be deemed binding
24 on the Parties.

25 49. Interim Stay of Action: The Parties agree to stay and to request that the Court stay
26 all proceedings in the Action, except such proceedings necessary to implement and complete the
27 Settlement and enter the Judgment.

1 50. Amendment or Modification: This Settlement Agreement may be amended or
2 modified only by a written instrument signed by counsel for all Parties or their successors-in-
3 interest.

4 51. Authorization to Enter into Settlement Agreement: The Parties shall cooperate with
5 each other and use their best efforts to affect the implementation of the Settlement. In the event the
6 Parties are unable to reach agreement on the form or content of any document needed to implement
7 the Settlement, or on any supplemental provisions that may become necessary to effectuate the
8 terms of this Settlement, the Parties may seek the assistance of the Court and/or mediator Art
9 Eidelhoch to resolve such disagreement. The person signing this Settlement Agreement on behalf
10 of Defendants represents and warrants that he or she is authorized to sign this Settlement Agreement
11 on behalf of Defendants. Plaintiff represents and warrants that she is authorized to sign this
12 Settlement Agreement and that she has not assigned any claim, or part of any claim, covered by
13 this Settlement to a third-party. Plaintiff acknowledges that she has read this Settlement Agreement,
14 that she fully understands her rights, privileges, and duties under the Settlement Agreement, and
15 enters this Settlement Agreement freely and voluntarily. Plaintiff further acknowledges that she has
16 had the opportunity to consult with her attorneys to seek an explanation of the terms of this
17 Settlement Agreement and the consequences of signing this Settlement Agreement. Additionally,
18 the Parties have cooperated in the drafting and preparation of this Settlement Agreement. Hence,
19 in any construction made of this Settlement Agreement, the same shall not be construed against any
20 of the Parties.

21 52. Binding on Successors and Assigns. This Settlement Agreement shall be binding
22 upon, and inure to the benefit of, the successors and assigns of the Parties.

23 53. California Law Governs. All terms of this Settlement Agreement shall be governed
24 by and interpreted according to the laws of the State of California, without giving effect to any law
25 that would cause the laws of any jurisdiction other than the State of California to be applied.

26 54. Counterparts. This Agreement may be executed in one or more counterparts by
27 facsimile, electronic signature with verification of signature provided, or email which for purposes
28 of this Agreement shall be accepted as an original. All executed counterparts and each of them will

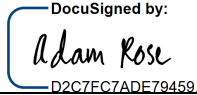
be deemed to be one and the same instrument. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

55. Jurisdiction of the Court. Following entry of the Judgment, the Court shall retain continuing jurisdiction California Code of Civil Procedure Section 664.6 to ensure the continuing implementation of the provisions of this settlement and that the time within which to bring this action to trial under California Code of Civil Procedure Section 583.310 shall be extended from the date of the signing of this Agreement by all parties until the entry of the final approval order and judgment or if not entered the date this Agreement shall no longer be of any force or effect.

56. Invalidity of Any Provision. Before declaring any term or provision of this Settlement Agreement invalid, the Parties request that the Court first attempt to construe the terms or provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement as valid and enforceable.

DATED: September 25, 2024

FRONTIER LAW CENTER

By: 
Adam Rose
Manny Starr
Attorneys for Plaintiff and the Aggrieved Employees

1 DATED: September 25, 2024

FROST BROWN TODD LLP

2
3 By: _____

Skyler J. May

4 Attorneys for Defendant
5 Alameda Healthcare & Wellness Center
6 LLC

7 DATED: September 25, 2024

SEYFARTH SHAW, P.C.

8
9 By: _____

Coby M. Turner
Elizabeth Levy
Jeffery A. Nordlander

11 Counsel for Defendant
12 Alameda Healthcare & Wellness Center
13 LLC

14 DATED: September 25, 2024

LITTLER MENDELSON, P.C.

17 _____
Robert I. Lockwood
Benjamin Hart

18 Counsel for Defendant
19 All American Healthcare Services, Inc. d/b/a
20 AllShifts

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FROST BROWN TODD LLP

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