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7 Attorneys for Plaintiff Azucena Alonzo-Galeana

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF NAPA**
10 **UNLIMITED JURISDICTION**

11 AZUCENA ALONZO-GALEANA, an
12 individual,

13 Plaintiff,

14 v.

15 NAPAIDENCE OPCO, LLC, d.b.a. NAPA
16 POST ACUTE a California limited liability
17 company; and DOES 1-25, inclusive,

18 Defendants.

Case No. 23CV000514

**DECLARATION OF JOHN A. LOFTON
IN SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF SETTLEMENT OF
LABOR CODE §2698, et seq. PRIVATE
ATTORNEYS GENERAL ACT ("PAGA")
CLAIMS**

Date: November 15, 2024
Time: 8:30 a.m.
Dept.: A

Case Filed: April 25, 2023
Trial Date: None set

19
20 I, John A. Lofton, declare as follows:

21 1. I am an attorney at law licensed to practice in the State of California and before this
22 Court. I am of counsel at the law firm Aiman-Smith & Marcy, P.C. ("ASM"), counsel of record
23 for Plaintiff Azucena Alonzo-Galeana, on behalf of the LWDA and Aggrieved Employees, in this
24 action. The facts stated herein are true of my own personal knowledge. This declaration is
25 provided in support of Plaintiff's Motion for Approval of Settlement of Labor Code Section 2698,
26 et seq., Private Attorneys General Act ("PAGA") Claims.

27 **Investigation, Mediation, and Settlement**

28 2. Prior to filing the complaint, our office thoroughly investigated the facts and legal

1 issues in this case. I met with and had multiple communications with Plaintiff Azucena Alonzo-
2 Galeana, who provided valuable information about her experiences and those of other employees.

3 3. On January 20, 2023, I filed Ms. Alonzo-Galeana's PAGA Notice with the Labor
4 and Workforce Development Agency ("LWDA") and caused it to be served on Defendant
5 Napaidence Opco, LLC. On March 8, 2023, I did the same with Ms. Alonzo-Galeana's Amended
6 PAGA Notice. True and correct copies of the PAGA Notices are attached hereto as Exhibit A.

7 4. The Parties exchanged discovery. Among other things, Defendant provided time
8 and pay records for Plaintiff and other employees for the relevant time period. This information,
9 along with the independent investigation conducted by Plaintiff's counsel, was sufficient for
10 Plaintiff to assess the strengths and weaknesses of the case, to perform a thorough damages
11 analysis, and to assess the likely amount Defendant could pay.

12 5. During the course of litigation, arbitration, mediation, and settlement negotiations, I
13 undertook significant efforts to analyze the risks and benefits of litigation and potential
14 damages/penalties exposure, which included but was not limited to, the following:
15

- 16 • interviewing Plaintiff at length on repeated occasions;
- 17 • researching applicable laws;
- 18 • preparing the terms of the PAGA Notices;
- 19 • preparing formal discovery requests;
- 20 • ongoing meet and confer efforts with defense counsel;
- 21 • drafting pleadings;
- 22 • reviewing employment policies, timekeeping records, payroll documents, and other
23 data;
- 24 • preparing a detailed mediation brief;
- 25 • attending a full-day mediation;
- 26 • preparing and negotiating about the terms of the Settlement Agreement; and
- 27 • preparing Plaintiff's Motion for Approval of PAGA Settlement and supporting
28 documents.

1 6. On June 19, 2024, the parties attended a full day mediation Jill R. Sperber and
2 engaged in arm's-length negotiations. After a full day of negotiations, the parties agreed to a non-
3 reversionary settlement of the PAGA claims in the amount of two hundred twenty thousand
4 dollars (\$220,000).

5 7. The parties entered into a long form settlement agreement, which was fully and
6 finally signed on July 31, 2024. A true and correct copy of the Settlement Agreement is attached
7 hereto as Exhibit B.

8 8. My office is serving a copy of the Settlement Agreement and Plaintiff's Motion for
9 Approval of Settlement on the LWDA, concurrently with the court filing, on October 17, 2024.

10 9. The Settlement was reached only after arm's length and good faith negotiations.
11 The mediator, Jill R. Sperber, is highly regarded and has extensive experience in the mediation of
12 employment disputes. Both parties provided detailed mediation briefs and our office prepared an
13 extensive analysis of the potential exposure. The parties engaged in a significant exchange of data
14 and had sufficient information to evaluate the strengths and weaknesses of the claims and
15 defenses, whether to pursue litigation or settle, and the appropriate settlement value of the claims.
16 Despite zealous advocacy from both sides, the risks of continued litigation had to be considered
17 and a compromise of the claims was settled upon.

18 10. Under the PAGA, a maximum penalty of \$100 per pay period is assessed for initial
19 violations and \$200 for subsequent violations. Per the data provided by Defendant and the
20 representations of Defendant's counsel, Defendant employed approximately 342 employees across
21 7,316 pay periods during the Covered Period. At \$100 per each of the 7,316 pay periods, this is a
22 maximum exposure at trial of \$731,600.00.

23 11. Here, the settlement for \$220,000, is approximately 30% of the potential maximum
24 exposure at trial. This is an excellent result given the Court's discretion to reduce the penalty
25 award in light of Defendant's defenses.

26 12. Plaintiff's counsel believes that this settlement is fair, reasonable, and adequate and
27 in the best interest of the LWDA and Aggrieved Employees.
28

PAGA Representative Incentive Award

13. Ms. Alonzo-Galeana spent a significant amount of time helping me and my firm, with the prosecution of this action and performing the following tasks: (1) meeting with and communicating with her attorney on numerous occasions; (2) detailing their experiences and producing copies of documents; (3) assisting in preparing the PAGA claim notices and complaints; (4) reviewing the mediation documents prepared; and (5) reviewing the terms of and signing the Settlement Agreement.

14. Plaintiff also faced great risk in challenging Defendant's employment policies and bringing suit against her former employer, not least because Plaintiff faced potential liability for Defendant's costs if Defendant prevailed.

15. Additionally, the notoriety of being a PAGA or class action representative is even more significant today given the accessibility of court documents on-line and PAGA/class action blogs. Further, employers frequently perform background checks of applicants and the fact that an individual has sued a former employer in a representative action will likely be viewed negatively. Thus, the incentive award is necessary to award Plaintiff for the notoriety and risk taken in their roles as a PAGA representatives.

Attorneys' Fees and Costs

16. Plaintiff seeks approval of attorney's fees, as part of this Settlement, of one-third of the Gross Settlement Amount, in the amount of seventy-three thousand three hundred thirty three dollars (\$73,333.00), in consideration of the time, effort, and expertise Plaintiff's Counsel expended on a contingent basis for the benefit of the LWDA and Covered Employees. The attorney's fees and costs will be paid from the agreed upon settlement amount.

17. Plaintiffs' Counsel are experienced in civil litigation and representative actions. My firm substantially concentrates its practice in the prosecution of representative actions and we have successfully served as class counsel and PAGA counsel in prosecuting dozens of complex actions against major corporations, including taking cases to judgment and to appeal. We have recovered tens of millions of dollars in benefits for individuals across the country. Four of our

1 recent class action appellate opinions are Bradley v. Networkers International LLC, 211
2 Cal.App.4th 1129 (2012), Benton v. Telecom Network Specialists, Inc., 220 Cal.App.4th 701
3 (2013), Accurso v. In-N-Out Burgers, 94 Cal.App.5th 1128 (2023), and Piplack v. In-N-Out
4 Burgers, 99 Cal.App.5th 1281 (2023), which have been cited in case law more than one hundred
5 times.

6 18. From the outset of the case to the present, prosecution of this action has involved
7 significant financial risk for our firm. We undertook this matter solely on a contingent basis, with
8 no guarantee of recovery, and have placed our own resources at risk to prosecute this action with
9 no guarantee of success.

10 19. If Defendant prevailed on any one of the affirmative defenses raised, it could
11 substantially reduce, if not wholly defeat, recovery. Despite such challenges, we were able to
12 secure a settlement which provides recovery to Plaintiff, the aggrieved employees, and the
13 LWDA.

14 20. The quality of opposing counsel is also important to evaluating the quality of the
15 work done by Plaintiffs' Counsel. Here, Grace Horoupian of Fisher & Phillips, LLP, an
16 experienced employment litigator, represented Defendant. Thus, the complexity and potential
17 duration of the case, and that in the face of experienced and resourceful opposition, weigh in favor
18 of awarding the requested attorney's fees.

19 21. The results achieved by the Settlement support Plaintiffs' Counsel's request for
20 attorney's fees. The Settlement will result in payments of \$91,250.25 to the LWDA and
21 \$30,416.75 to Covered Employees.

22 22. The efficiency with which this litigation was conducted and resolved should also be
23 rewarded. The LWDA and Covered Employees will directly benefit from the prompt and fair
24 resolution of their claims. They will be receiving a significant award in a short period of time as
25 opposed to waiting years to recover some undetermined amount if they succeeded at trial, which is
26 an uncertainty in itself.
27
28

23. As California law recognizes, Plaintiff's Counsel's commitment to this litigation should not be assessed in a vacuum. A relevant factor in determining attorney's fees is whether the litigation required Plaintiff's Counsel to forego other employment. Here, there was additional work that was available to my firm that we had to forgo to devote the time necessary to pursue this litigation.

24. Accordingly, attorney's fees in the amount of \$73,333.00, which is approximately one-third the Gross Settlement Amount, is fair and reasonable under the circumstances, and under California precedent. For the purposes of a lodestar cross-check, I have spent over 61 hours working on this matter, at my regular hourly rate of \$825, for a total of more than \$50,325.00 – a lodestar well within the range of the requested fees of \$73,333, requiring only a modest multiplier of 1.45. I expect to incur additional time appearing at the hearing on this motion, supervising the administration of the Settlement, answering questions from and assisting Covered Employees with their checks, and the like.

25. Plaintiff's litigation costs were all reasonable and necessary expenses in litigating and resolving this action. A true and correct copy of the itemized list of costs, in the amount of \$9,307.69, is attached hereto as Exhibit C.

Settlement Administrator

26. The Settlement Administrator will pay out of the Gross Settlement Amount to itself its reasonable fees and expenses, not to exceed \$5,000.00, after such payment has been approved by the Court. Atticus Administration is a well-known and respected Settlement Administrator. A true and correct copy of the quote from Atticus Administration for \$4,500.00 is attached hereto as Exhibit D. I have used Atticus Administration in other matters, and knows its rates to be fair and competitive.

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct. This Declaration was executed on October 17, 2024 at Oakland,
3 California.



John A. Lofton

Exhibit A

January 20, 2023

Via Certified Mail

Napaidence Opco, LLC
dba Napa Post Acute
705 Trancas Street
Napa, CA 94558

Napaidence Opco, LLC
dba Napa Post Acute
262 N. University Ave.
Farmington, UT 84025

Re: PAGA Notice Pursuant to Labor Code §2699.3(a)(1) re: Violations of the California Labor Code

Dear Sirs or Madams:

Pursuant to California Labor Code §2699.3, Azucena Alonzo-Galeana hereby gives notice of violations of the California Labor Code §§201, 202, 204, 226, 226.7, 247.5, 510, 512, 558, 1194, 2802, and IWC Wage Order No. 5-2001 (8 C.C.R. §11050) by Napaidence Opco, LLC a.k.a. Napa Post Acute (“Defendant”). Defendant’s legal violations as described herein were and are knowing and intentional.

Ms. Alonzo-Galeana is an aggrieved employee of Defendant as defined by California Labor Code §2699(c) because she was: (1) an employee of Defendant within the past 12 months, (2) against whom Defendant’s violations of the California Labor Code as described herein were committed.

I. Facts and Theories Giving Rise to Defendant’s Violations of the California Labor Code

Defendant operates a rehabilitation facility in Napa, California. On information and belief, Defendant employs more than two hundred employees in California. Ms. Alonzo-Galeana was employed by Defendant as a non-exempt hourly employee from approximately June 7, 2021 through December 15, 2022.

Throughout her employment, Defendant failed to provide Ms. Alonzo-Galeana and other employees with timely and uninterrupted meal and rest periods due to inadequate staffing, excessive workload, scheduling of doctors’ rounds, and otherwise.

Ms. Alonzo-Galeana might rush to eat a meal or go to the bathroom if she had an opportunity, but she remained always on call and subject to the needs of the business.

Because she was unable to take lawful meal periods, Ms. Alonzo-Galeana would not clock out for them. She later discovered that Defendant had been unilaterally adjusting her time records to deduct time so that it appeared that Defendant had taken a meal period – despite Defendant having no actual knowledge of whether or when or for how long Ms. Alonzo-Galeana might have taken a break.

Defendant failed to record meal periods for Ms. Alonzo-Galeana and other employees. Because Defendant failed to provide or record timely meal and rest periods, it owes Ms. Alonzo-Galeana one hour of compensation for each day worked without a timely meal period and one hour of compensation for each day worked with a missed rest period. Defendant failed to pay Ms. Alonzo-Galeana those wages when they were due and failed to pay Ms. Alonzo-Galeana those wages upon termination. As a direct result of this conduct, Defendant also deprived Ms. Alonzo-Galeana of pay for the hours worked that were unilaterally deducted. On information and belief, other employees were similarly affected.

In connection with this conduct, Defendant failed to accurately pay Ms. Alonzo-Galeana and other employees for overtime work, failed to maintain accurate time records, and failed to provide Ms. Alonzo-Galeana and other employees with accurate, itemized wage statements. Defendant also failed to provide wage statements to Ms. Alonzo-Galeana that included the full legal name of Defendant or otherwise meet the requirements of Labor Code §226.

At the conclusion of Ms. Alonzo-Galeana's employment, she had accrued approximately 26 hours of Paid Time Off ("PTO"). Her final paycheck did not include compensation for that accrued benefit or the other unpaid compensation noted above, and it remains due and owing. Consequently, during the relevant time period, Defendant failed to pay employees all wages owed at the time of separation or within 72 hours of said members' resignation and/or termination.

During the relevant time period, Defendant required Ms. Alonzo-Galeana and other employees to use their own personal phones for work purposes. Defendant failed to compensate Ms. Alonzo-Galeana and other employees for these expenses, despite the fact that they were expenses incurred at the instruction of Defendant and for the benefit of Defendant's business.

II. Provisions of the California Labor Code Violated by Defendants and Penalties Sought

As a result of Defendant's violations of the California Labor Code, as alleged herein, Ms. Alonzo-Galeana is entitled to recover civil penalties pursuant to Labor Code §2699 *et seq.* on behalf of herself and all other former or current California employees of Defendant who were subjected to their violations of the Labor Code as described herein.

For failing to provide meal periods in violation of Labor Code §§512, 558, and Industrial Welfare Commission Wage Order No. 5-2001 (8 C.C.R. §11050), Defendant is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to record meal periods and total hours worked in violation of Labor Code §558 and Industrial Welfare Commission Wage Order No. 5-2001 (8 C.C.R. §11050), Defendant is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to provide one hour of pay to each employee who was not provided a timely meal period under Labor Code §§512, 558 and Industrial Welfare Commission Wage Order No. 5-2001 (8 C.C.R. §11050), in violation of Labor Code §226.7, Defendant is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to provide rest periods in violation of Labor Code §558 and Industrial Welfare Commission Wage Order No. 5-2001 (8 C.C.R. §11050), Defendant is subject to civil penalties in the amount of \$50 for each aggrieved employee per pay period for the initial violation and \$100 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to provide one hour of pay to each employee who was not provided a rest period under Labor Code §558 and Industrial Welfare Commission Wage Order No. 5-2001 (8 C.C.R. §11050), in violation of Labor Code §226.7, Defendant is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to reimburse employees for expenditures incurred by the employees at the instruction of Defendants, in violation of Labor Code §2802, Defendant is subject to

civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to pay employees overtime premiums for work in excess of eight hours per day, forty hours per week, or six days within one workweek in violation of Labor Code §§510, 558, 1194 and Industrial Welfare Commission Wage Order No. 5-2001 (8 C.C.R. §11050), Defendant is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to pay all wages due at separation from employment in violation of Labor Code §§201 and 202, Defendant is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to pay wages on time in violation of Labor Code §204, Defendant is subject to civil penalties in the amount of \$100 for each failure to pay each employee for any initial violation, and for each subsequent violation, \$200 for each failure to pay each employee, plus twenty-five percent of the amount unlawfully withheld pursuant to Labor Code §210(a).

For failing to provide accurate, itemized wage statements in violation of Labor Code §226, Defendant is subject to civil penalties in the amount of \$50 for the initial pay period in which the violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of \$4,000 pursuant to Labor Code 226(e).

For failing to maintain time records in violation of Labor Code §247.5 and Industrial Welfare Commission Wage Order No. 5-2001 (8 C.C.R. §11050), Defendant is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

Please note that further investigation may shed light upon additional violations beyond those contained herein, and Ms. Alonzo-Galeana reserves the right to file and serve a further amended notice should additional violations be discovered.

Sincerely,

AIMAN-SMITH & MARCY
A PROFESSIONAL CORPORATION



John A. Lofton

March 8, 2023

Via Certified Mail

Napaidence Opco, LLC
dba Napa Post Acute
705 Trancas Street
Napa, CA 94558

Napaidence Opco, LLC
dba Napa Post Acute
262 N. University Ave.
Farmington, UT 84025

***Re: AMENDED PAGA Notice Pursuant to Labor Code §2699.3(a)(1) re:
Violations of the California Labor Code***

Dear Sirs or Madams:

Pursuant to California Labor Code §2699.3, Azucena Alonzo-Galeana hereby gives amended notice of violations of the California Labor Code §§201, 202, 226, 226.7, 247.5, 510, 512, 558, 1174, 1197, 2802, and IWC Wage Order No. 5-2001 (8 C.C.R. §11050) by Napaidence Opco, LLC a.k.a. Napa Post Acute (“Defendant”). Defendant’s legal violations as described herein were and are knowing and intentional.

Ms. Alonzo-Galeana is an aggrieved employee of Defendant as defined by California Labor Code §2699(c) because she was: (1) an employee of Defendant within the past 12 months, (2) against whom Defendant’s violations of the California Labor Code as described herein were committed.

I. Facts and Theories Giving Rise to Defendant’s Violations of the California Labor Code

Defendant operates a rehabilitation facility in Napa, California. On information and belief, Defendant employs more than two hundred employees in California. Ms. Alonzo-Galeana was employed by Defendant as a non-exempt hourly employee from approximately June 7, 2021 through December 15, 2022.

Throughout her employment, Defendant failed to provide Ms. Alonzo-Galeana and other employees with timely and uninterrupted meal and rest periods due to inadequate staffing, excessive workload, scheduling of doctors’ rounds, and otherwise.

Ms. Alonzo-Galeana might rush to eat a meal or go to the bathroom if she had an opportunity, but she remained always on call and subject to the needs of the business.

Because she was unable to take lawful meal periods, Ms. Alonzo-Galeana would not clock out for them. She later discovered that Defendant had been unilaterally adjusting her time records to deduct time so that it appeared that Defendant had taken a meal period – despite Defendant having no actual knowledge of whether or when or for how long Ms. Alonzo-Galeana might have taken a break.

Defendant failed to record meal periods for Ms. Alonzo-Galeana and other employees. Because Defendant failed to provide or record timely meal and rest periods, it owes Ms. Alonzo-Galeana one hour of compensation for each day worked without a timely meal period and one hour of compensation for each day worked with a missed rest period. Defendant failed to pay Ms. Alonzo-Galeana those wages when they were due and failed to pay Ms. Alonzo-Galeana those wages upon termination. As a direct result of this conduct, Defendant also deprived Ms. Alonzo-Galeana of pay for the hours worked that were unilaterally deducted. On information and belief, other employees were similarly affected.

In connection with this conduct, Defendant failed to accurately pay Ms. Alonzo-Galeana and other employees for overtime work, failed to maintain accurate time records, and failed to provide Ms. Alonzo-Galeana and other employees with accurate, itemized wage statements. Defendant also failed to provide wage statements to Ms. Alonzo-Galeana that included the full legal name of Defendant or otherwise meet the requirements of Labor Code §226.

At the conclusion of Ms. Alonzo-Galeana's employment, she had accrued approximately 26 hours of Paid Time Off ("PTO"). Her final paycheck did not include compensation for that accrued benefit or the other unpaid compensation noted above, and it remains due and owing. Consequently, during the relevant time period, Defendant failed to pay employees all wages owed at the time of separation or within 72 hours of said members' resignation and/or termination.

During the relevant time period, Defendant required Ms. Alonzo-Galeana and other employees to use their own personal phones for work purposes. Defendant failed to compensate Ms. Alonzo-Galeana and other employees for these expenses, despite the fact that they were expenses incurred at the instruction of Defendant and for the benefit of Defendant's business.

II. Provisions of the California Labor Code Violated by Defendants and Penalties Sought

As a result of Defendant's violations of the California Labor Code, as alleged herein, Ms. Alonzo-Galeana is entitled to recover civil penalties pursuant to Labor Code §2699 *et seq.* on behalf of herself and all other former or current California employees of Defendant who were subjected to their violations of the Labor Code as described herein.

For failing to provide meal periods in violation of Labor Code §§512, 558, and Industrial Welfare Commission Wage Order No. 5-2001 (8 C.C.R. §11050), Defendant is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to provide one hour of pay to each employee who was not provided a timely meal period under Labor Code §§512, 558 and Industrial Welfare Commission Wage Order No. 5-2001 (8 C.C.R. §11050), in violation of Labor Code §226.7, Defendant is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to provide rest periods in violation of Labor Code §558 and Industrial Welfare Commission Wage Order No. 5-2001 (8 C.C.R. §11050), Defendant is subject to civil penalties in the amount of \$50 for each aggrieved employee per pay period for the initial violation and \$100 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to provide one hour of pay to each employee who was not provided a rest period under Labor Code §558 and Industrial Welfare Commission Wage Order No. 5-2001 (8 C.C.R. §11050), in violation of Labor Code §226.7, Defendant is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to maintain accurate time and payroll records, and to record meal periods and total hours worked in violation of Labor Code §§247.5, 558, and 1174 and Industrial Welfare Commission Wage Order No. 5-2001 (8 C.C.R. §11050), Employer is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to reimburse employees for expenditures incurred by the employees at the instruction of Defendants, in violation of Labor Code §2802, Defendant is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to pay at least the minimum wage for time worked, in violation of Labor Code §§558 and 1197 and Industrial Welfare Commission Wage Order No. 5-2001 (8 C.C.R. §11050), Employer is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to pay employees overtime premiums for work in excess of eight hours per day, forty hours per week, or six days within one workweek in violation of Labor Code §§510, 558, 1197 and Industrial Welfare Commission Wage Order No. 5-2001 (8 C.C.R. §11050), Defendant is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to pay all wages due at separation from employment in violation of Labor Code §§201 and 202, Defendant is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

For failing to provide accurate, itemized wage statements in violation of Labor Code §226, Employer is subject to civil penalties in the amount of \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code §2699(f).

Please note that further investigation may shed light upon additional violations beyond those contained herein, and Ms. Alonzo-Galeana reserves the right to file and serve a further amended notice should additional violations be discovered.

Sincerely,

AIMAN-SMITH & MARCY
A PROFESSIONAL CORPORATION



John A. Lofton

Exhibit B

PAGA SETTLEMENT AND RELEASE AGREEMENT

This PAGA Settlement and Release Agreement (“Agreement”) is made and entered into by Plaintiff Azucena Alonzo-Galeana (“Plaintiff”), on the one hand, and Defendant Napaidence Opco, LLC (“Defendant”) (collectively referred to as “the Parties”), for the following purposes and with reference to the following facts, and is subject to approval of the Court.

I. DEFINITIONS

1. “Action” means and refers to Alonzo-Galeana v. Napaidence Opco, LLC, et al., Napa County Superior Court, Case No. 23CV000514 (the “PAGA Action”), and those claims identified by Plaintiff in her letters to the Labor Workforce Development Agency regarding Defendant.

2. “Covered Employees” means and refers to all current and former non-exempt Spa Relais employees of Defendant in California at any time between February 19, 2022 and June 19, 2024.

3. “Covered Employees’ Settlement Proceeds” means and refers to the twenty-five percent (25%) of the Net Settlement Amount that shall be paid to the Covered Employees.

4. “Covered Period” means and refers to the period between February 19, 2022 and June 19, 2024.

5. “Court” means and refers to the Napa County Superior Court.

6. “Defendant” means and refers to Napaidence Opco, LLC.

7. “Defendant’s Counsel” means and refers to Grace Horoupian of Fisher & Phillips LLP.

8. “Effective Date” means and refers to the date the Court approves this PAGA Settlement and Release Agreement.

9. “Incentive Award” means and refers to monetary amounts to be paid to Plaintiff in the amount of up to \$10,000.

10. “LWDA” means the California Labor and Workforce Development Agency.

11. “LWDA Settlement Proceeds” means and refers to the seventy-five percent (75%) of the Net Settlement Amount that shall be paid to the Labor Workforce and Development Agency.

12. “Net Settlement Amount” means and refers to the Settlement Amount less the Plaintiff’s Counsel’s attorneys’ fees and litigation costs, Incentive Award, and the Settlement Administrator costs.

13. “Notice” means and refers to the notice that will be sent to the Covered Employees after the Court’s entry of its Order approving this PAGA Settlement and Release Agreement.

14. “Parties” means and refers to the Plaintiff and the Defendant, collectively.
15. “Plaintiff” means and refers to Azucena Alonzo-Galeana..
16. “Plaintiff’s Counsel” means and refers to John A. Lofton of Aiman-Smith & Marcy, P.C.
17. “Released Parties” means and refers to, Napaidence Opco, LLC, and its respective past, present, and future officers, directors, employees, board members, shareholders, attorneys, insurers, reinsurers, customers, partners, investors, members, representatives, predecessors, parent companies, subsidiaries, affiliates, divisions, successors, agents and principals, and its and their members, heirs, estates, executors, administrators, servants, insurers, attorneys, and assigns.
18. “PAGA Released Claims” mean any and all claims, debts, liabilities, demands, obligations, guarantees, damages, wages, benefits, penalties, interest, attorney’s fees, costs, expenses, actions or causes of action, in law or equity, whether known or unknown, which have been or could have been asserted by each of the Plaintiff and/or any of the Aggrieved Persons and/or that could have been assessed upon and collected from the Released Parties under PAGA, based on the factual allegations in the Complaint, including, but not limited to, purported violations of California Labor Code §§201, 202, 204, 226, 226.7, 247.5, 510, 512, 558, 1174, 1197, 2802, and IWC Wage Order No.5-2001 (8 C.C.R. §11050), arising during the PAGA Period, from: failure to pay all wages, including minimum and overtime wages for all hours; failure to provide accurate, itemized wage statements; failure to maintain accurate records; failure to provide compliant meal and rest periods; failure to timely pay wages upon termination/separation, and failure to pay business expenses.
19. “Settlement Administrator” means and refers to the entity that will administer this PAGA Settlement and Release Agreement and which will be mutually selected by the parties.
20. “Settlement Administrator Costs” means and refers to the fees and costs incurred or charged by the Settlement Administrator in connection with its duties under this Agreement, including but not limited to fees and costs associated with: (1) performing a national change of address search for Covered Employees; (2) establishing and maintaining the Qualified Settlement Fund for the disbursement of the Settlement Amount; (3) computing the amount of the settlement and other payments to be made from the Settlement Amount; (4) processing and mailing the settlement and other payments, including the Notice to the Covered Employees, under this Settlement and Release Agreement; (5) printing and providing Plaintiffs, Plaintiffs’ Counsel and the Covered Employees with IRS 1099 forms as required by this Agreement and applicable law; (6) preparing, issuing, and filing any tax returns and information returns and other filings required by any governmental taxing authority or other governmental agency; and (7) for such other tasks as the Parties mutually agree upon or the Court orders the Settlement Administrator to perform.
21. “Settlement Amount” means and refers to the maximum settlement amount of Two Hundred Twenty Thousand Dollars (\$220,000) that Defendant will pay under this Agreement.

II. PROCEDURAL HISTORY

22. On January 29, 2023, Plaintiff Alonzo-Galeana submitted her PAGA claim notice to the LWDA notifying it of her claims against Defendant on behalf of herself and similarly aggrieved employees. On March 8, 2023, Plaintiff submitted an amended PAGA claim notice to the LWDA. On April 25, 2023, Plaintiff filed this Action in Napa County Superior Court on behalf of herself, the State of California, and other similarly aggrieved employees. The Action contained individual and PAGA-based claims concerning violations of Labor Code §§201, 202, 204, 226, 226.7, 247.5, 510, 512, 558, 1174, 1197, 2802, and IWC Wage Order No.5-2001 (8 C.C.R. §11050),.

23. Defendant denies Plaintiff's claims and allegations, denies any liability or wrongdoing of any kind associated with the claims alleged in the Action, and denies that Plaintiff can proceed with her claims on a representative basis.

24. The Parties have conducted a thorough investigation of the Action, including but not limited to conducting formal and informal discovery. On June 19, 2024, the Parties participated in a mediation before Jill Sperber, Esq., which resulted in the settlement of the Action.

25. Based on the foregoing and on their own independent investigation and evaluation, Plaintiff's Counsel is of the opinion that the settlement with Defendant for the consideration and on the terms set forth in this Agreement is fair, reasonable, and adequate and is in the best interest of the Plaintiff, the LWDA, and the Covered Employees in light of all known facts and circumstances, including the risk of significant delay, the uncertainty associated with litigation, the various defenses asserted by Defendant. Defendant and Defendant's Counsel also agree that the settlement is fair, reasonable, and adequate and in the best interest of the Plaintiff, the LWDA, and the Covered Employees.

26. The Parties agree that neither the Parties' settlement, nor this PAGA Settlement and Release Agreement, nor the acts to be performed or the orders to be entered pursuant to the terms of this Settlement and Release Agreement, shall be construed as an admission by Defendant of any wrongdoing, any violation of any statute or law, or any liability arising from the claims or allegations in the Action.

NOW, THEREFORE, in consideration of the promises and covenants set forth herein and other good and valuable consideration, receipt of which is acknowledged herein, it is hereby agreed by and between the Parties as follows:

III. TERMS OF SETTLEMENT

27. The financial terms of the settlement are as follows:

(a) **Settlement Amount:** The Parties agree that, subject to the Court's review and approval, Defendant will pay a total of Twenty Hundred Twenty Thousand Dollars (\$220,000) under this Agreement ("Settlement Amount"). This Settlement Amount is inclusive of the PAGA settlement payments to Plaintiff, the State of California, the Covered Employees, Plaintiffs' Counsel's attorneys' fees and litigation costs, Plaintiffs' Incentive Awards, and the Settlement

Administrator costs. Defendant will have no other monetary obligations under this Settlement and Release Agreement and no portion of the Settlement Amount will revert to Defendant.

(b) **Pro Rata Increase:** Defendant represents that the total number of pay periods through June 17, 2024, is estimated to be 7,316. If the number of pay periods during the PAGA Period exceeds 7,316 by more than 5% (i.e., 7,682 pay periods or greater), the GSA shall be increased by that percentage. For example, if the actual pay periods increase by 6%, then the GSA shall be increased by 1%. However, Defendant may elect to shorten the PAGA Period so that it ends at the time the number of Pay Periods reaches 7,682 Pay Periods.

(c) **Attorneys' Fees and Costs:** The Parties agree that, subject to the Court's review and approval, Plaintiff's Counsel will be paid a maximum of one-third of the Settlement Amount as attorneys' fees (\$73,333), plus its reasonable litigation costs (estimated to be no greater than \$10,000), based on actual costs to be submitted to the Court, both of which will be paid from the Settlement Amount. Defendant will not oppose a request for Court approval of these payments, provided they do not exceed these amounts. If the Court approves Plaintiff's counsel's payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Plaintiff's Counsel arising from any claim to any portion of the fees and expenses. Defendant agrees not to oppose any contention by Plaintiffs' Counsel that attorneys' fees should be based on the common fund and/or catalyst theory.

(d) **Settlement Administrator Costs:** The Parties agree that the Settlement Administrator Costs shall be paid from the Settlement Amount and are not anticipated to exceed \$5,000.

(e) **Incentive Award:** The Parties agree that, subject to the Court's review and approval, Plaintiff will request an Incentive Awards in the amount of Ten Thousand Dollars (\$10,000).

(f) **Allocation of Net Settlement Amount:** After deducting the amounts specified in items (b) through (d) from the Settlement Amount, the balance remaining will form the Net Settlement Amount and will be paid to the LWDA and the Covered Employees as follows:

(i) Seventy-five percent (75%), estimated to be approximately Ninety-One Thousand Two Hundred Fifty Dollars and Twenty-Five Cents (\$91,250.25), will be paid to the LWDA.

(ii) Twenty-five percent (25%) of the Net Settlement Amount, estimated to be approximately Thirty Thousand Four Hundred Sixteen Dollars and Seventy-Five Cents (\$30,416.75) will fund the Covered Employees' Settlement Proceeds. Each Covered Employee's share will be based on the following formula: Each of the Covered Employees will receive a pro rata share of the Covered Employees' Settlement Proceeds based on the number of pay periods during the Covered Period each worked during the Covered Period as compared to the total pay period of the entire Covered Period. Specifically, a total value per pay period will be derived by dividing the Covered Employees' Settlement Proceeds by the total number of pay periods that all the Covered Employees worked within the Covered Period, and each Covered

Employee will have their respective number of pay periods multiplied by the total value per pay period to derive their respective share of the Covered Employees' Settlement Proceeds.

IV. RELEASE BY PLAINTIFFS AND COVERED EMPLOYEES

28. Plaintiff, and her representatives, agents, attorneys, heirs, administrators, successors, and assigns, and the Covered Employees, release all claims for PAGA penalties arising out of or directly related to the allegations in the Action, including but not limited to the PAGA Released Claims, individual PAGA claims, all PAGA claims asserted in Plaintiff's January 20, 2023, LWDA claim notice, and/or March 8, 2023, LWDA claim notice, interest, attorneys' fees, costs, and all other PAGA claims and penalties alleged in the Action based on the allegations in the Complaint for the entirety of the Covered Period ("Released Claims") and in particular the Covered Employees have released their right to participate in or bring a claim under the PAGA for said claims. Plaintiff acknowledges that she may discover facts or law different from, or in addition to, facts or law that Plaintiff now knows or believes to be true, but nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

29. Each Covered Employee will be deemed to have made the foregoing Release as if by manually signing it.

30. Plaintiff is contemporaneously providing a full and complete releases of claims against Defendant and affiliated entities pursuant to a settlement of her individual claims, including waivers of the protections of California Civil Code §1542. California Civil Code § 1542 provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Plaintiff hereby reaffirms those releases and all other obligations contained in her settlement agreement in exchange for the consideration set forth therein.

V. SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURES

31. Plaintiff will file a motion and proposed order with the Court requesting the Court to approve this PAGA Settlement and Release Agreement, including the amounts to be paid to the LWDA, Plaintiff, the Plaintiff's Counsel for their attorneys' fees and costs, and the settlement administrator. Defendant will not oppose Plaintiff's motion upon review of the motion prior to submission to the Court.

32. At least seven (7) calendar days prior to filing the motion and proposed order with the Court, Plaintiff's Counsel will provide Defendant's Counsel with a draft of the motion and proposed order for Defendant's review and comment. In accordance with Labor Code §2699(1)(2), Plaintiff's Counsel shall also submit the motion and proposed order and this Agreement to the LWDA on the same day it files the motion and proposed order with the Court.

33. Within fifteen (15) calendar days after the Effective Date, Defendant will provide the Settlement Administrator a list setting forth the names, last known addresses, Social Security number, and number of workweeks worked by each Covered Employee in the Covered Period. The Settlement Administrator will perform a National Change of Address ("NCOA") search on all the Covered Employees to update the addresses of the Covered Employees.

34. Upon receiving the information described in Paragraph 33 from Defendant, the Settlement Administrator will perform all settlement administration duties, including (i) performing a National Change of Address ("NCOA") search on all former Covered Employees to update his/her address, (ii) issuing the letter and payments to the Covered Employees, (iii) issuing any required IRS forms, and (iv) issuing payments to the LWDA, Plaintiff's Counsel and Plaintiff, in accordance with the timeframe provided herein.

35. Defendant shall wire transfer the Settlement Amount to the Settlement Administrator, who will deposit the funds into the bank account of the Qualified Settlement Fund established by the Settlement Administrator for purposes of this settlement. Payment shall be made in three equal installments. The first installment will be due within thirty (30) days after the Effective Date, second installment will be due within 60 days after the Effective Date, and third installment will be due within 90 days after the Effective Date. All amounts to be paid to the Covered Employees, Plaintiff, Plaintiff's Counsel, the Settlement Administrator, and the LWDA shall be paid from this Qualified Settlement Fund.

36. After the Settlement Administrator has received the full Settlement Amount from Defendant, it shall deduct the amount of Plaintiff's Counsel's approved attorneys' fees and costs, Plaintiff's Incentive Award, and the Settlement Administrator's costs from the Settlement Amount, the remaining balance will constitute the Net Settlement Amount, which will be distributed as set forth herein.

37. Within fifteen (15) calendar days after receiving the full Settlement Amount from Defendant, the Settlement Administrator shall mail the settlement checks to the Covered Employees and the LWDA, and will wire to Plaintiff's Counsel its approved attorneys' fees and costs as specified in this agreement and send Plaintiff her Incentive Award. The settlement checks mailed to the Covered Employees will be accompanied with a letter explaining the payment and deadline to cash the check, and this letter will be in a format that the Parties shall agree upon in good faith.

38. The Covered Employees shall have 120 calendar days after mailing to cash their settlement checks. If any Covered Employee's check is not cashed within that period, the check will be void and a stop-payment will be issued. In such event, the Covered Employee will be deemed to have waived irrevocably any right in or claim to his/her share, except that the Covered Employee may seek to claim the funds from the DIR Unclaimed Property Fund, as noted below. The release nevertheless will be binding upon all Covered Employees, including those who do not cash their checks within the 120-day period. Any funds remaining in the Settlement Administrator's Qualified Settlement Fund established for the purpose of the Settlement and Release Agreement as a result of a failure to timely cash a settlement check shall be paid to the DIR Unclaimed Property Fund in the name of the Covered Employee who did not cash his/her check. Defendant, Defendant's Counsel, Plaintiff's Counsel and/or Plaintiff will not have any

liability for lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized negotiation of settlement checks.

39. All Settlement payments to Covered Employees will be treated as payments in settlement of non-wage (civil penalty) claims and, to the extent necessary, will be reported on IRS 1099 forms and corresponding state forms by the Settlement Administrator.

40. Plaintiff and Covered Employees will be solely responsible for correctly characterizing any compensation received under the settlement on his/her personal income tax returns for tax purposes, and paying all appropriate taxes due for any and all amounts paid to them under the settlement. Plaintiff, Defendant, Plaintiff's Counsel, and Defendant's Counsel make no representations or warranties with respect to tax consequences of any payment under this Settlement Agreement, do not intend anything contained in this Settlement Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement Agreement be relied upon as such.

VI. MISCELLANEOUS PROVISIONS

41. **Voiding the Agreement:** If for any reason the Court does not finally approve this Agreement, the Parties shall first attempt in good faith to address the concerns of the Court, if possible, including by amending the terms this Agreement. If the Parties are unable to reach a mutually agreeable amendment to the Agreement or take other actions that will satisfy the Court, the Agreement shall be considered void *ab initio* and shall be of no force and effect whatsoever and shall not be referred to or used for any purpose whatsoever.

42. **Dismissal of Individual Arbitration:** Plaintiff agrees to request dismissal of the Individual Arbitration, with prejudice, within seven (7) calendar days of the court's entry of order approving this PAGA settlement. However, Plaintiff shall file a notice of settlement with the arbitrator upon execution of the individual settlement.

43. **Confidentiality:** The parties and attorneys will keep the settlement confidential through approval of settlement. Thereafter, the Parties will agree to make no comments to the media or otherwise publicize the terms of the settlement. However, Plaintiff's counsel shall be allowed to discuss the Settlement Administration with Covered Employees, and disclose the Settlement to any Court for any matter for the of determining of Plaintiff's counsel's adequacy as counsel. In response to any media inquiries, Plaintiff will state that "the case was resolved with Court approval." Nothing in this provision is intended to prohibit: (i) Plaintiff from discussing this settlement with her spouse, attorneys, or tax advisors; (ii) Plaintiff's counsel from citing the settlement in this case as evidence supporting their competence as counsel in wage/hour and/or class action matters in public court filings; or (iii) Plaintiff's counsel from communicating with the Plaintiff in this case, discussions with Covered Employees regarding the settlement, the LWDA, or with the court in which this action is pending.

44. **Waiver:** The waiver by one Party of any breach of this Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

45. **Parties' Authority:** The signatories hereto represent that they are fully authorized to enter into this Agreement and to bind the Parties hereto to the terms and conditions hereof.

46. **Mutual Full Cooperation:** The Parties agree to fully cooperate with each other to accomplish the terms of this Agreement, including but not limited to executing such documents and taking such other action as may reasonably be necessary to implement the terms of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Agreement and the terms set forth herein.

47. **No Prior Assignments:** The Parties hereto represent, covenant, and warrant that they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber, to any person or entity any portion of any liability, claim, demand, action, cause of action or rights released and discharged by this Agreement.

48. **No Admission:** Defendant's agreement to enter into this Agreement is not and shall not be claimed to be, construed as, or deemed an admission by Defendant as to the truth or merit of the allegations in the Action or that they have any liability to Plaintiffs or the Covered Employees as a result of the allegations in the Action. Defendant denies that they have engaged in any unlawful activity, have failed to comply with the law in any respect, or have any liability to anyone based on the allegations in the Action. Defendant has entered into this Agreement solely for the purpose of compromising highly disputed claims.

49. **Dismissal:** Within 30 days after the 120-day check cashing deadline, or as soon as is practicable after any compliance hearing set by the Court, Plaintiffs shall request dismissal of the Action with prejudice.

50. **Binding Settlement:** This Agreement is a settlement document and shall, pursuant to California Evidence Code §1152 and/or Federal Rule of Evidence 408, be inadmissible in evidence in any proceeding, except an action or proceeding to approve the settlement and/or interpret or enforce the Agreement. To be clear, the Parties shall have the right to submit this Agreement in order to enforce the terms of this Agreement or for the Court's approval of this Agreement without regard to California Evidence Code §1152 and/or Federal Rule of Evidence 408 or other restriction from disclosure herein.

51. **Enforcement Actions:** Except as otherwise provided in this Agreement, in the event that a Party to the Agreement institutes any legal action or other proceeding against the other Party to enforce the provisions of this Agreement or to declare rights and/or obligations under this Agreement, the prevailing Party shall be entitled to recover from the other Party its or her or their reasonable attorneys' fees and costs incurred in connection with any such action or proceeding. This Settlement and Release Agreement is enforceable pursuant to California Code of Civil Procedure §664.6.

52. **Notices:** Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, or on the second business day after emailing, the physical or email addresses below:

To Plaintiffs:

John A. Lofton, Esq.
Aiman-Smith & Marcy, P.C.
7677 Oakport Street, Suite 1150
Oakland, CA 94621
Email: jal@asmlawyers.com

To Defendant:

Grace Horoupian, Esq.
Fisher & Phillips LLP
2050 Main Street, Suite 1000
Irvine, CA 92614
Email: ghoroupian@fisherphillips.com

53. **Construction:** The Parties hereto agree that the terms and conditions of this Agreement are the result of lengthy, intensive arm's length negotiations between the Parties and that this Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or her or their or its counsel participated in the drafting of this Agreement.

54. **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 Agreement or any provision thereof. Each term of this Agreement is contractual and not merely a recital.

55. **Modification:** This Agreement may not be changed, altered, or modified, except in writing signed by the Parties hereto, and approved by the Court. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by all of the Parties hereto.

56. **Choice of Law:** This Agreement shall be governed by and construed, enforced, and administered in accordance with the laws of the State of California, without regard to its conflicts-of-law rules.

57. **Integration Clause:** Aside from the separate individual settlement agreement entered into separately between the parties, this Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby with respect to the PAGA claim alleged by Plaintiff in the Action, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

58. **Binding On Assigns:** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

59. **Counterparts:** This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully-signed Agreement, which shall be binding upon and effective as to all Parties. Electronic delivery shall be deemed an original.

60. **Invalidity of Any Provision:** Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Settlement Agreement valid and enforceable.

61. **Severability:** If any term or provision of this Settlement Agreement is held to be invalid or unenforceable, the remaining portions of this Settlement Agreement will continue to be valid and will be performed, construed, and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Settlement Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

THE SIGNATORIES HAVE CAREFULLY READ THIS ENTIRE AGREEMENT. ITS CONTENTS HAVE BEEN FULLY EXPLAINED TO THEM BY THEIR ATTORNEYS. THE SIGNATORIES FULLY UNDERSTAND THE FINAL AND BINDING EFFECT OF THIS AGREEMENT. THE ONLY PROMISES MADE TO ANY SIGNATORY ABOUT THIS AGREEMENT, AND TO SIGN THIS AGREEMENT, ARE CONTAINED IN THIS AGREEMENT. THE SIGNATORIES ARE SIGNING THE AGREEMENT VOLUNTARILY.

IN WITNESS WHEREOF, the Parties hereto have executed this PAGA Settlement Agreement and General Release.

DATED: July 29, 2014

By Azucena Alonzo G.
Azucena Alonzo-Galeana (Jul 29, 2024 09:57 PDT)
Azucena Alonzo-Galeana

DATED: July __, 2014

By _____
Authorized Representative for
Napaience Opco, LLC

APPROVED AS TO FORM:

DATED: July 29, 2014

AIMAN-SMITH & MARCY, P.C.

By 
John A. Lofton
Attorneys for Plaintiffs

DATED: July __, 2014

FISHER & PHILLIPS LLP

By _____
Grace Horoupian
Attorneys for Defendant

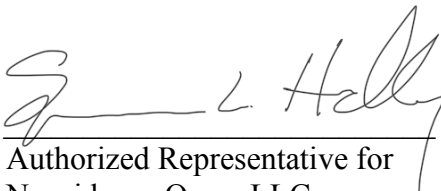
THE SIGNATORIES HAVE CAREFULLY READ THIS ENTIRE AGREEMENT. ITS CONTENTS HAVE BEEN FULLY EXPLAINED TO THEM BY THEIR ATTORNEYS. THE SIGNATORIES FULLY UNDERSTAND THE FINAL AND BINDING EFFECT OF THIS AGREEMENT. THE ONLY PROMISES MADE TO ANY SIGNATORY ABOUT THIS AGREEMENT, AND TO SIGN THIS AGREEMENT, ARE CONTAINED IN THIS AGREEMENT. THE SIGNATORIES ARE SIGNING THE AGREEMENT VOLUNTARILY.

IN WITNESS WHEREOF, the Parties hereto have executed this PAGA Settlement Agreement and General Release.

DATED: July __, 2014

By _____
Azucena Alonzo-Galeana

DATED: July __, 2014

By 
Authorized Representative for
Napaidence Opco, LLC

APPROVED AS TO FORM:

DATED: July __, 2014

AIMAN-SMITH & MARCY, P.C.

By _____
John A. Lofton
Attorneys for Plaintiffs

DATED: July 31, 2014

FISHER & PHILLIPS LLP

By 
Grace Horoupian
Attorneys for Defendant

Exhibit C

Alonzo-Galeana v. Napa Post Acute dba Napaidence OPCO,
Cost Detail

Date	Description	Cost
01/21/23	PAGA Notice filing fee	\$75.00
01/20/23	Certified mailing of PAGA Notice	16.18
04/23/23	One Hour Legal – filing fee re Summons and Complaint	523.45
05/11/23	Napa County Superior Court – advance deposit toward jury fees	150.00
05/11/23	Napa County Superior Court – filing fee re Notice of Posting Jury Fees	59.95
05/15/23	One Hour Legal – filing fee re First Amended Complaint	44.95
05/19/23	One Hour Legal – service of process of First Amended Complaint	98.50
06/14/23	One Hour Legal – filing fee re Proof of Service of Summons and Complaint	130.00
07/14/23	One Hour Legal – filing fee re Request for Entry of Default	44.95
09/20/23	One Hour Legal – filing fee re CMC Statement	69.95
10/31/23	LexisNexis – October 2023 legal research	4.64
11/08/23	Napa County Superior Court – fee to download Minute Order re 10/03/23 CMC	0.50
11/13/23	Judicate West – mediation fees for 04/18/23 mediation	7,875.00
06/30/24	LexisNexis – June 2024 legal research	14.91
07/19/24	Legal Mind Attorney Service – serve notice on class rep	150.75
08/22/24	Napa County Superior Court – fee to download CMC Statement	3.00
	Postage total	33.96
	Copier total 48 @ \$0.25	12.00
	TOTAL	\$9,307.69

Exhibit D

Atticus Administration, LLC
Chris Longley – CEO

**Alonzo-Galeana v. Napaidence Opco
PAGA**

Prepared for

John A. Lofton | Attorney
jal@asmlawyers.com
P: 510.817.2728

Aiman-Smith & Marcy, P.C.
7677 Oakport Street, Suite 1150
Oakland, California 94621



ATTICUS
SMART | ACCOUNTABLE | BETTER

Class Action Administration

Estimate E2024-10-E12
Alonzo-Galeana v. Napaidence Opco
PAGA

Prepared on October 7, 2024
By Chris Longley | Atticus Administration LLC

Estimate Summary

Atticus Services & Cost Description

NOTICE MAILING – Mailed First Class	\$0
Not applicable	
PROJECT MANAGEMENT, ADMIN FEES, TECHNICAL COMMUNICATIONS	\$1,625
	\$413
PO box rental, objections	Included
IVR, 800#, live operators	Included
Correspondence	Included
FUND, TAX, REPORTING	\$1,028
Setup QSF, file annual tax returns	Included
DISTRIBUTION	\$2,391
Check printing, payment calculation & verification, bank fees	Included
Discount	(\$957)

TOTAL: \$4,500

Key Assumptions

- Aggrieved Employees:
342 individuals, PAGA case.
- No noticing.
- One-page cover letter to accompany checks (English only).
- Data review, cleansing and preparing file for mailing; including NCOA, and new address searches (skip-tracing).
- Communications includes, dedicated 800#, IVR, live operators.
- All requested declarations included.
- PAGA payments to all individuals along with explanatory letter.
- Tax reporting will consist of 1099's.
- CA only.

PRINT NAME

ROLE

Client Signature

Date

By signing above, I understand and agree to the pricing terms and services to be provided by Atticus Administration for the stated project.

PLEASE NOTE: This estimate and pricing is for the services stated herein and is valid for 30 days from the date of the estimate. If the Settlement Agreement or other service scope document(s) require additional services not included or priced in this estimate, we will separately price those scope changes and submit an updated quote prior to proceeding with the work.

Payment Terms:
100% payable PAGA distribution



Detailed Budget

Atticus Services & Cost Description

DESCRIPTION		UNITS	SUBTOTAL
NOTICE MAILING (not applicable)		342 Class Mbrs	\$0
PROJECT MANAGEMENT		12 Hours	\$1,500
TECHNICAL SET UP (includes project kick-off)		1 Hours	\$125
COMMUNICATIONS			\$413
Telephone (Setup, Monthly Fee)		6 Months	\$150
Telephone (Messages, Voicemail, IVR, Live Operator Support)		6 Months	\$163
PO Box (Setup, Monthly Fee)		6 Months	\$100
FUND, TREASURY & TAX REPORTING			\$1,028
Establish QSF		1 Hours	\$124
Tax Reporting (Prepare and File, Annual Fund Return, 1096 Tax Forms)		6 Hours	\$741
Mail 1099's No Postage - Mailed with Check		0 Mailed Forms	\$0
Print 1099's		342 1099's	\$163
DISTRIBUTION (Payment Calculations & Reporting)			\$2,391
Check and Cover Letter (Design, Review, Finalize)		2 Hours	\$247
Payment Data (Calculate, Verify Payments)		4 Hours	\$494
Payment Reports (Preparation, Reconciliations)		4 Hours	\$494
Check Printing (Print Setup, Printing, Mail Prep)		342 Printed Checks	\$364
Check Mailing Postage (will be 1x mailings)		342 Mailed Checks	\$260
Check Undeliverable Mail (Receipting, Cataloging, NCOA, Remailing)	3.0%	10 Pieces	\$82
Bank Fees (Account Setup, Monthly Fee)		9 Months	\$450
DATA STORAGE		n/a	\$0
Discount			(\$957)
		TOTAL	\$4,500

Operating Assumptions

- Aggrieved Employees:
342 individuals, PAGA case.
- No noticing. Distribution includes explanatory letter to check recipients (English only).
- Data review, cleansing and preparing file for mailing; including NCOA, new address searches, and skip tracing if required.
- Communications includes, PO box, mail correspondence, 800#, IVR, and live phone operators.
- Project management assumes 13 hours at a blended rate of \$125 per hour. Includes summary reporting on a weekly basis and all requested declarations.
- Qualified Settlement Fund assumes 9 months. Price includes tax reporting both state and federal returns and all bank fees.
- All Aggrieved Employees receive a PAGA check along with explanatory letter and tax document.
- Uncashed checks tendered to cy pres recipient or state unclaimed property fund.
- Disbursement includes positive pay "anti-fraud" features.



Thank you



Chris Longley – CEO

612-315-9007 (Direct)

651-755-2552 (Cell)

clongley@atticusadmin.com

1295 Northland Drive Suite 160
St. Paul, MN 55120

www.atticusadmin.com