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SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

RUTH TANKSLEY, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

HISHAM SOLIMAN M.D. INC., a California
Corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. 34-2023-00335509

*Assigned to Jill H. Talley For All Purposes
Department 23*

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR FINAL APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT**

Date: June 21, 2024

Time: 9:00 a.m.

Dept.: 23

Judge: Hon. Jill H. Talley

Filed: March 2, 2023

FAC Filed: June 22, 2023

Trial Date: None Set

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on June 21, 2024, at 9:00 a.m., or as soon thereafter as the matter may be heard in Department 23 of the above-entitled Court, Plaintiff Ruth Tanksley, individually and on behalf of all other similarly situated individuals, hereby move for entry of an Order for the following:

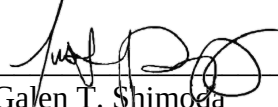
1. Certifying the proposed class herein for purposes of settlement;
2. Appointing Plaintiff Ruth Tanksley as class representative for purposes of settlement;
3. Appointing Shimoda & Rodriguez Law, PC, as Class Counsel for purposes of settlement;
4. Approving the proposed class action and Private Attorneys General Act settlement, in the gross amount of \$292,500, which is incorporated herein by reference;
5. Approving the application for payment to Class Counsel of attorneys' fees in the amount of \$102,375;
6. Approving the application for payment to Class Counsel of reasonable costs in the amount of \$6,760.93;
7. Approving the Class Representative Enhancement Payment of \$10,000 to Plaintiff Ruth Tanksley;
8. Approving the appointment of Apex Class Action as the Settlement Administrator and for payment to Apex Class Action for administering said class action settlement in the amount of \$6,990;
9. Approving the settlement of claims under the Private Attorneys General Act for the total amount of \$10,000, 75% of which will be paid to the Labor and Workforce Development Agency and 25% of which will be paid to Aggrieved Employees;
10. Determining that the class notification procedure and process complied with Class Members' due process rights
11. Directing that any amount from settlement checks that were not cashed by the check cashing deadline be donated equally, *i.e.* 50/50, to Capital Pro Bono, Inc., and the Center for Workers Rights under the doctrine of *cy pres*;
12. Approving and adopting the Proposed Order and its implementation schedule, which is filed herewith and incorporated by reference.

1 This Motion is being made pursuant to Code of Civil Procedure section 382, Labor Code section
2 2699(l), and California Rules of Court 3.769 and 3.764, on the grounds that the preliminarily approved
3 class action and Private Attorneys General Act settlement is fair, reasonable, and adequate as to all Class
4 Members and should be given final approval by the Court. This motion will be based on the notice of
5 motion, memorandum of points and authorities, the Declaration of Justin P. Rodriguez, the Declaration
6 of Ruth Tanksley, the Declaration of Madely Nava, exhibits, the record and files of this case, and any
7 further oral or documentary evidence introduced at the hearing of this motion.

8
9 **Pursuant to Local Rule 1.06 (A), the court will make a tentative ruling on the merits of this matter**
10 **by 2:00 p.m., the court day before the hearing. The complete text of the tentative rulings for the**
11 **department may be downloaded off the court's website. If the party does not have online access,**
12 **they may call the dedicated phone number for the department as referenced in the local telephone**
13 **directory between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and**
14 **receive the tentative ruling. If you do not call the court and the opposing party by 4:00 p.m. the**
15 **court day before the hearing, no hearing will be held.**

16 Dated: May 29, 2024

17 **Shimoda & Rodriguez Law, PC**

18 By: 
19 Galen T. Shimoda
20 Justin P. Rodriguez
21 Renald Konini
22 Attorneys for Plaintiff

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Department 23*

CLASS ACTION

**MEMORANDUM OF POINTS &
AUTHORITIES IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

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1 **I. INTRODUCTION AND OPENING SUMMARY OF ARGUMENT**

2 Plaintiff Ruth Tanksley (“Plaintiff”) seeks final approval of a wage and hour class action and
3 Private Attorneys General Act (“PAGA”) settlement in the gross amount of \$292,500. *See generally*
4 Exhibit A (Joint Stipulation Regarding Class Action and PAGA Settlement and Release [“Agreement”]).
5 Plaintiff brought this class action individually and on behalf of similarly situated employees who worked
6 for Defendant Hisham Soliman M.D. Inc. (“Defendant”) (Plaintiff and Defendants sometimes
7 collectively referred to as the “Parties”). *See generally* Exhibit B (Plaintiff’s Operative Complaint).
8 There are approximately 217 Participating Class Members.

9 Plaintiff has alleged that Defendants failed to pay overtime wages, failed to pay minimum
10 wages, failed to provide meal and rest period or premiums in lieu thereof, failed to provide accurate
11 wage statements, failed to timely pay final wages, failed to reimburse expenses, failed to maintain
12 accurate records, and failed to provide paid sick leave. *See generally* Exhibit B; *see also* Declaration of
13 Justin P. Rodriguez (“Decl. Rodriguez”), ¶¶ 2, 9-10. Plaintiff has also alleged Defendant is liable for a
14 civil penalties under the PAGA based on these violations. *See id.*; Exhibit C (Plaintiff’s Ltr. to the
15 Labor and Workforce Development Agency [“LWDA”] Regarding PAGA Claims). Defendants have
16 denied all of Plaintiff’s allegations in their entirety and any liability or wrongdoing of any kind. *See*
17 Decl. Rodriguez, ¶ 5. Defendant has also denied that this case is appropriate for class certification
18 other than for purposes of settlement. *See id.* However, subject to Court approval, the Parties have
19 been able to compromise and settle all asserted claims as a result of extensive investigations, document
20 and data exchanges, and extended negotiations. *See* Exhibit A. Plaintiff and Plaintiff’s counsel believe
21 the proposed Agreement is fair, reasonable, and adequate based on the investigations, informal
22 discovery, employee data exchanges, negotiations, and a detailed knowledge of the issues in this case.
23 *See* Decl. Rodriguez, ¶¶ 7, 6-10.

24 The reaction of Class Members to the preliminarily approved Agreement has been
25 overwhelmingly positive and gives substantial support to the Agreement and all terms and allocations
26 therein being fair, reasonable, and adequate. Only three (3) Class Members opted out of the settlement
27 and there have been zero objections to the Agreement. *See* Declaration of Madely Nava (“Decl.
28 Nava”), ¶¶ 11-12. It is well within the discretion of this Court to grant final approval of the proposed

1 settlement, which satisfies all applicable criteria under California law. Accordingly, Plaintiff requests
2 that the Court: (1) certify the settlement class; (2) grant final approval of the Agreement; (3) find that
3 the procedures used to notify Class Members complied with due process; (4) Grant Plaintiff's request
4 for attorney's fees and costs, the Enhancement payment to the Class Representative, and Claims
5 Administrator Costs; and (5) approve and adopt the proposed order granting final approval, which is
6 filed concurrently herewith.

7 **II. PROCEDURAL AND LITIGATION HISTORY**

8 Plaintiff filed a class action complaint on approximately March 2, 2023, in the Sacramento
9 County Superior Court against Defendant. Plaintiff exhausted administrative remedies under the
10 PAGA by providing notice of the claims and violations to the LWDA. *See* Exhibit C; Cal. Lab. Code §
11 2699.3(a), (c); Decl. Rodriguez, ¶ 3. Then, Plaintiff filed a First Amended Class Action Complaint to
12 include a PAGA claim. *See id.*; Exhibit B. There is no date set for a motion for certification or trial in
13 this matter. *See* Decl. Rodriguez, ¶ 4.

14 **III. INVESTIGATION AND DISCOVERY CONDUCTED**

15 Plaintiff thoroughly investigated issues affecting certification, the merits of the class claims, and
16 potential damages for such claims. *See* Decl. Rodriguez, ¶ 7. Plaintiff worked during the time all of
17 Defendant's policies and practices at issue in the Complaint were in effect and provided information
18 regarding these policies and practices, enabling pre-filing investigations to take place. *See* Decl.
19 Tanksley, ¶¶ 2, 5-6. The Parties engaged in informal discovery and exchange of documents, including
20 a representative sampling of employee data, such as timecards, paystubs, payroll data, and relevant
21 policies for the entirety of the statute of limitations applicable to the asserted claims. The discovery
22 covered all aspects of the asserted claims, including certification issues, merits issues, damages, the
23 scope and configuration of Class Members, the content and implementation of the wage and hour
24 policies at issue, issues relating to manageability concerns at trial, among other relevant areas. *See*
25 Decl. Rodriguez, ¶ 7. The information allowed Plaintiff to determine the extent and frequency of any
26 violations in accordance with Plaintiff's contentions and create an accurate damages model to assess
27 the reasonableness of any settlement. *See id.*

IV. NEGOTIATION AND PROPOSED SETTLEMENT

a. Plaintiff and Defendant Engaged in Extensive Arm's Length Negotiations

The final settlement occurred only after extended, arm's length negotiations. Over the course of approximately eight months, Plaintiff has been investigating the claims and discussing with Defendant's counsel the merits of the claims and issues present in this case. *See id.* at ¶¶ 6-10. The Parties exchanged substantial amounts of information and legal analysis in connection with these discussions. *See id.* It was only after these extended discussions, which included a full day mediation with Russ J. Wunderli, that the Parties were able resolve all claims and enter into the Agreement. *See id.* at ¶ 8.

b. The Terms of the Agreement

1. The following groups of individuals are covered by the Agreement: (a) Class Members, which include all non-exempt employees who have, or continue to, work for Hisham Soliman M.D., Inc. in California from March 2, 2019 up to January 13, 2024; and (b) Aggrieved Employees, which include all non-exempt employees who have, or continue to, work for Hisham Soliman M.D., Inc. from March 1, 2022, up to January 13, 2024. *See Exhibit A, ¶¶ 1.2, 1.5.* There are approximately 214 Participating Class Members. *See id.*

2. Defendant and its owners, Hisham Soliman, M.D. and Abeer Soliman, will pay the Gross Settlement Amount of \$292,500, which is exclusive of the employer's share of payroll taxes. *See id.* at ¶ 5.1. No portion of the Gross Settlement Amount will revert to Defendant. *See id.* at ¶ 5.6. Aggrieved Employees will still be paid their share of the PAGA Payment regardless of whether they opt out of being Class Members. *See id.* at ¶¶ 7.5.1, 7.8.3.

3. Up to \$10,000 will be paid to Plaintiff as an Enhancement Payment. This amount will be in addition to any amount Plaintiff may be entitled to under the terms of the Agreement. *See id.* at ¶ 5.4.

4. The Parties have selected Apex Class Action to act as the Settlement Administrator, whose final costs are \$6,990. *See Decl. Nava ¶ 16.* The difference between the actual administration

costs and the originally allocated \$10,000 under the Agreement, will be added to the Net Settlement Amount and paid to Class Members on a pro rata basis. See Exhibit A, ¶ 5.3.

5. The Parties agree that \$10,000 of the Gross Settlement Amount shall be allocated to resolving claims under the PAGA. Seventy-Five percent (75%) of the PAGA Payment will be paid to the LWDA and Twenty-Five percent (25%) will be paid to Aggrieved Employees. See *id.*, at ¶ 5.5. Given the risk to proving the claims on the merits, the derivative nature of the penalties, the efforts by Defendants to maintain compliant policies and take corrective action, the presence of what may likely be deemed good faith disputes, and the Court's discretion to reduce any penalty award, Plaintiff believes the \$10,000 PAGA Payment allocation represents a meaningful settlement aimed at deterring non-compliance given the facts of this case. See Decl. Rodriguez, ¶¶ 9-10; see also *Nordstrom Com. Cases*, 186 Cal.App.4th 576, 589 (2010) (approving \$0 allocation to the resolution of PAGA claims based on their being disputed and being part of a class settlement which was evaluated based on the terms of the agreement overall); *Junkersfeld v. Med. Staffing Sols., Inc.*, 2022 WL 2318173, at *8 n.2 (E.D. Cal. 2022) (collecting cases with PAGA settlement values ranging from .037%-1%); *Jennings v. Open Door Marketing, LLC*, 2018 WL 4773057, *9 (N.D. Cal. 2018) (approving settlement of PAGA claims at 0.6% of total estimated value due to risk of no recovery); *Ruch v. AM Retail Grp., Inc.*, 2016 WL 5462451, *7 (N.D. Cal. 2016) (approving \$10,00 PAGA settlement allocation where total PAGA penalty exposure was approximately \$5.2 million, or 0.2% of total estimated value); *Davis v. Cox Commc'ns California, LLC*, 2017 U.S. Dist. LEXIS 63514, *1 (S.D. Cal. 2017) (preliminarily approving \$4,000 PAGA allocation in \$275,000 settlement); *Moore v. Fitness Int'l, LLC*, 2014 U.S. Dist. LEXIS 8358, *5 (S.D. Cal. 2014) (approving \$2,500 PAGA allocation when attorneys' fees award alone amounted to \$200,000); *Jack v. Hartford Fire Ins. Co.*, 2011 U.S. Dist. LEXIS 118764, *6 (S.D. Cal. 2011) (approving \$3,000 PAGA allocation in \$1,200,000 settlement); *Singer v. Becton Dickinson & Co.*, 2010 U.S. Dist. LEXIS 53416, *2 (S.D. Cal. 2010) (approving \$3,000 PAGA allocation in \$1,000,000 settlement); *Hopson v. Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, *9 (N.D. Cal. 2009) (approving \$1,500 PAGA allocation in \$1,026,000 settlement); *Syed v. M-I, L.L.C.*, 2017 U.S. Dist. LEXIS 24880, *34-35 (E.D. Cal. 2017) (approving \$100,000 PAGA allocation in a \$3,950,000 settlement even though PAGA exposure was calculated at \$53,600,000, or 0.2% of total estimated

1 value); *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, at *7 (E.D. Cal. 2012)
2 (approving \$10,000 PAGA allocation in a \$3,700,000 settlement); *Franco v. Ruiz Food Prod., Inc.*,
3 2012 WL 5941801, at *14 (E.D. Cal. 2012) (\$10,000 in PAGA payment from \$2,500,000 settlement
4 fund); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, at *1 (N.D. Cal. 2011) (approving
5 PAGA settlement payment of \$7,500 to the LWDA out of \$6.9 million common-fund settlement).

6 6. The Parties agree that up to thirty-Five Percent (35%) of the Gross Settlement Amount
7 (\$102,375) will be paid for Plaintiff's attorneys' fees incurred in the litigation of this case. Defendant
8 will not oppose any application for attorneys' fees so long as it is within this threshold. *See id.* at ¶ 5.2.
9 Additionally, the Parties agree that Plaintiff will be entitled to the actual litigation costs in the amount
10 of \$6,760.93. *See* Exhibit D (Plaintiff's Counsel's Itemized Costs). The difference between the actual
11 costs and the originally allocated \$10,000 will be redistributed to Class Members on a pro rata basis.
12 *See* Exhibit A, ¶ 5.2.

13 7. Any allocated amounts under the Agreement for Settlement Administrator Costs, an
14 Enhancement Payment, and attorney's fees and costs that are not ultimately awarded by the Court will
15 remain part of the Net Settlement Amount and be paid out to Participating Class Members on a pro rata
16 basis as set forth in the Agreement. *See* Exhibit A, ¶¶ 5.1-5.5, 5.8. These amounts will be paid out
17 from the Gross Settlement Amount, not in addition to the Gross Settlement Amount. *See* Exhibit A, ¶¶
18 5.1-5.5.

19 8. Class Members who fail to timely opt-out of this settlement will waive all Released
20 Class Claims as set forth in the Agreement. *See* Exhibit A, ¶¶ 1.14, 1.26, 1.30, 1.32, 6.1. Aggrieved
21 Employees will waive all Released PAGA Claims as set forth in the Agreement regardless of whether
22 they opt out of being a Class Member. *See id.* at ¶¶ 1.2, 1.14, 1.31-1.32, 6.2, 7.5.1.

23 9. For any portion of the Net Settlement Amount or PAGA Payment allocated to
24 Participating Class Members and/or Aggrieved Employees that is not claimed by them by cashing their
25 respective settlement checks within 180 calendar days of issuance, that remaining amount shall be
26 donated equally, *i.e.*, 50/50 to Capital Pro Bono, Inc., and the Center for Workers' Rights under the
27 doctrine of *cy pres*. *See* Exhibit A, at ¶ 5.6. Because the Agreement provides for all funds such that
28 there is no residue, the provisions of California Civil Procedure Code section 384 are inapplicable. *See*

1 *In re Microsoft I-V Cases*, 135 Cal.App.4th 706, 718, 720 (2006). The designated beneficiaries clearly
2 promote the law consistent with the objectives and purposes underlying the lawsuit as they are non-
3 profits aimed at assisting employees with wage and hour claims who cannot afford legal representation,
4 including providing representation for employees in wage claims before the California Labor
5 Commissioner. *See id.* at 722-724; *see also* Decl. Rodriguez, ¶ 25-32.

6 **c. Allocation of Settlement Funds**

7 Payment to Participating Class Members and Aggrieved Employees will not require the
8 submission of a claim form. A Net Settlement Amount will be determined by subtracting from the
9 Gross Settlement Amount any attorneys' fees and costs, Enhancement Payment to the Class
10 Representative, Settlement Administrator Costs, PAGA Payment that are approved and/or awarded by
11 the Court. Each Class Member's share will be determined by dividing their total weeks worked within
12 the Class Period by the total weeks worked by all Class Members within the Class Period. That
13 fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member's
14 individual share of the Net Settlement Amount. Each Aggrieved Employee's share of the 25% portion
15 of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA
16 Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period.
17 That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the
18 Aggrieved Employee's individual share. *See* Exhibit A, at ¶ 5.8.

19 **V. PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND THE**
20 **SUBSEQUENT CLASS ACTION ADMINISTRATION**

21 Plaintiff's motion for preliminary approval of the class action settlement was approved by the
22 Court, in its entirety, on March 7, 2024. To comply with the class members' due process rights, the
23 parties enlisted an exhaustive method to ensure the best practical means possible was used to provide
24 notice to the class. The parties provided the class action administrator the names, last known address,
25 and social security numbers for the class. The class action administrator then updated this information
26 by doing an address trace for each individual using this information. *See* Decl. Nava, ¶¶ 5-6. If the
27 Notice Packets were returned as undeliverable, further investigation was performed and they were re-
28 mailed using updated information. *See id.* at ¶ 8. Of the 217 Notice Packets mailed, only 16 were

1 undeliverable after use of these methods. *See id.* at ¶¶ 7-10. The Notice Packets included information
2 regarding the requested attorneys' fees, costs, payment to the LWDA, administration costs, and tax
3 allocations. *See* Decl. Nava, Exh. A. The average distribution to participating class members is
4 approximately \$730.72, the maximum distribution is approximately \$5,532.26. *See id.* at ¶ 15. No
5 objections to the preliminarily approved settlement have been made and only three (3) Class Members
6 opted out. *See* Decl. Nava, ¶¶ 11-12.

7 It is not required that Class Members be given actual notice of a class settlement; instead, the
8 best practicable notice under the circumstances is all that is required. *See Silber v. Mabon*, 18 F.3d
9 1449, 1453 (9th Cir. 1994); *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121, 1129 (9th Cir. 2017);
10 *Walsh v. CorePower Yoga LLC*, 2017 U.S. Dist. LEXIS 163991, at *12-14 (N.D. Cal. 2017); *Wright v.*
11 *Linkus Enters.*, 259 F.R.D. 468, 474-75 (E.D. Cal. 2009). In *Silber v. Mabon*, 18 F.3d 1449 (9th Cir.
12 1994), the Court rejected a class member's argument that he had not received due process because he
13 did not receive notice until after the opt out period, finding that, so long as the notice process utilized is
14 the best practicable under the circumstances, due process is satisfied even if there is no actual receipt of
15 the notice. *See Silber*, 18 F.3d at 1453-1454. A similar finding was made in *Briseno v. Conagra*
16 *Foods, Inc.*, 844 F.3d 1121 (9th Cir. 2017). With regard to any undeliverable Notice in this case, the
17 Court in *Rannis v. Recchia*, 380 F. App'x 646 (9th Cir. 2010) found that class members who did not
18 receive actual notice due to their mailings being deemed undeliverable were still properly held to be
19 part of the class settlement because they received the best notice practicable under the circumstances.
20 *See Rannis v. Recchia*, 380 F. App'x at 650-651. In *Noel v. Thrifty Payless, Inc.*, 7 Cal.5th 955, 980-
21 984 (2019), the California Supreme Court noted that California has adopted a similar approach
22 regarding providing notice to class members.

23 The notice method in *Rannis* is similar to that used in the present case. For example, the Notice
24 contains all information necessary for a Class Member to assess the litigation, the settlement, and whether
25 they wanted to participate, object, or opt-out. *See* Decl. Nava, Exh. A. The Claims Administrator utilized
26 a national change of address database, forwarding notices, and skip tracing in an effort to ensure that all
27 reasonable means were exhausted in attempting to provide Class Members notice of this settlement. *See*
28 Decl. Nava, ¶¶ 6-9. Additionally, the entire motion for preliminary approval, the Notice, and all filings

1 in this matter were available, free of charge, on a web page accessible to all Class Members and identified
2 on the class notice. See Dec. Nava, Exh. A, pg. 4. The content of the notice provided and the manner in
3 which it was provided to Class Members was the best practicable notice to satisfy due process.

4 **VI. THE AGREEMENT WARRANTS FINAL APPROVAL AS IT IS FAIR, REASONABLE,**
5 **AND ADEQUATE AS TO ALL CLASS MEMBERS BASED ON THE FACTS OF THIS**
6 **CASE**

7 A class action may not be dismissed, compromised, or settled without Court approval and the
8 decision to approve or reject a settlement is committed to the Court's sound discretion. See Cal. Rules
9 of Court, Rule 3.769; Fed. R. Civ. Proc., Rule 23(e)¹; *Wershba v. Apple Computer, Inc.*, 91 Cal. App.
10 4th 224, 234-35 (2001); see also Cal. Lab. Code §§ 2699(l)(2). However, "[d]ue regard should be given
11 to what is otherwise a private consensual agreement between the parties. The inquiry 'must be limited to
12 the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or
13 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole,
14 is fair, reasonable and adequate to all concerned.'" See *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794,
15 1801 (1996); see also *Cellphone Termination Fee Cases*, 180 Cal. App. 4th 1110, 1118 (2009); *In re*
16 *Microsoft I-V Cases*, 135 Cal. App. 4th 706, 723 (2006); *Nordstrom Com. Cases*, 186 Cal. App. 4th 576,
17 581 (2010). The law favors settlement of lawsuits, particularly class actions and other complex cases
18 where substantial resources can be conserved by avoiding the time, expense, and rigors of formal
19 litigation. See *Cellphone Termination Fee Cases*, 180 Cal. App. 4th 1110, 1117-1118 (2009); *In re*
20 *Microsoft I-V Cases*, 135 Cal. App. 4th 706, 723 n.14 (2006); *Nordstrom Com. Cases*, 186 Cal. App. 4th
21 576, 581 (2010); see also *Neary v. Regents of Univ. of Cal.*, 3 Cal. 4th 273, 277-81 (1992).

22 **a. The Terms of The Settlement Are Fair and Within the Range of Reasonableness**

23 The purpose of the Court's final evaluation of a proposed class action settlement is to determine
24 only whether it is within the range of reasonableness. See *Wershba*, 91 Cal. App. 4th at 234-35. If the
25 Court finds a proposed settlement falls within "the range of reasonableness," it should grant final
26 approval of the class action settlement. See, e.g., *North County Contr. 's Assn., Inc. v. Touchstone Ins.*
27 *Svcs.*, 27 Cal. App. 4th 1085, 1089-90 (1994); *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th

28 ¹The California Supreme Court has authorized California's trial courts to rely on these federal resources to decide class certification issues. See *Green v. Obledo*, 29 Cal.3d 126, 145-46 (1981).

1 116, 133 (2008). Factors to consider in determining whether the settlement is fair, reasonable, and
2 adequate include the strength of the Plaintiff’s case, the risk, expense, complexity and likely duration of
3 further litigation, the risk of maintaining class action status through trial, the amount offered in
4 settlement, the extent of discovery completed and the stage of the proceedings, the experience and
5 views of counsel, the presence of a governmental participant, and the reaction of the class members to
6 the proposed settlement. *See Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996). However,
7 this Court should begin its analysis with a presumption that the proposed settlement is fair. “A
8 presumption of fairness exists where: (1) the settlement is reached through arm’s length bargaining; (2)
9 investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel
10 is experienced in similar litigation; and (4) the percentage of objectors is small.” *Id.* at 1802; *see also*
11 *In re Heritage Bond Litig.*, 2005 WL 1594403, at *10 (C.D. Cal. June 10, 2005) (“It is established that
12 the absence of a large number of objectors to a proposed class action settlement raises a strong
13 presumption that the terms of a proposed class settlement action are favorable to the class members”).

14 **i. The Agreement is a Result of Extensive, Non-Collusive Arm’s Length**
15 **Negotiations Between the Parties**

16 Settlement of this case was reached only after substantial litigation and extensive arm’s length
17 negotiations lasting nearly eight months, which included a full day mediation. *See* Decl. Rodriguez, ¶¶
18 6-10. At all times, the negotiations were adversarial, although still professional in nature. *See id.*

19 **ii. The Extent of Investigation and Discovery Completed Provided Ample**
20 **Information to Enter Into an Informed and Reasonable Settlement**

21 The Parties were in possession of all necessary information during the negotiations. The Parties
22 engaged in substantial informal discovery, which included all necessary components for evaluating the
23 class claims and creating an accurate damages model. *See id.* at ¶¶ 6-10. Plaintiff was in possession of
24 this information prior to calculating any damages in this case. *See id.* As a result, Plaintiff was able to
25 make a reasonable estimation of Defendants’ potential liability. *See id.* For these reasons, the
26 settlement now before the Court was reached at a stage where “the parties certainly have a clear view of
27 the strengths and weaknesses of their cases” sufficient to support the settlement. *See Boyd v. Bechtel*
28 *Corp.*, 485 F.Supp. 610, 617 (N.D. Cal. 1979).

1 **iii. Plaintiff's Counsel are Experienced in Similar Litigation**

2 Plaintiff's counsel have considerable experience in complex litigation such as class and PAGA
3 actions. *See* Decl. Rodriguez, ¶¶ 12-23. Thus, Plaintiff's counsel are qualified to evaluate the class
4 claims, the value of settlement versus moving forward with litigation, and viability of possible
5 affirmative defenses. Plaintiff's counsel believes that the Agreement is fair, reasonable, and adequate
6 in light of the risks associated with the claims, the uncertainties of complex litigation, and the secured
7 benefit to Class Members. *See id.* at ¶¶ 6, 9-10.

8 **iv. No Class Members Objected and only three (3) Class Members Opted Out.**

9 The reaction by Class Members to the Agreement and all the terms and allocations stated
10 therein is overwhelmingly positive. Zero Class Members have objected to any aspect of the Agreement
11 and only three (3) have opted out. *See* Decl. Nava, ¶¶ 11-12. This provides strong evidence that the
12 settlement is fair, reasonable, and adequate. *See In re Heritage Bond Litig.*, 2005 WL 1594403, at *10
13 ("It is established that the absence of a large number of objectors to a proposed class action settlement
14 raises a strong presumption that the terms of a proposed class settlement action are favorable to the
15 class members"); *Nat'l Rural Telecommunications Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 529 (C.D.
16 Cal. 2004) ("That unanimous, positive reaction to the Proposed Settlement is compelling evidence that
17 the Proposed Settlement is fair, just, reasonable, and adequate").

18 **v. The Settlement is Fair, Reasonable, and Adequate Based on the Strength of**
19 **Plaintiff's Case and the Risks and Costs of Further Litigation**

20 Plaintiff's claims and the ability to obtain and maintain certification all the way through trial
21 were heavily disputed by Defendants. *See* Decl. Rodriguez, ¶¶ 5, 6-10. Based on the records and facts
22 of this case, Plaintiff has secured a gross recovery of approximately 14% of the maximum likely value
23 of the claims in this matter and between 36.5% to 157% of the more realistic range of recovery. *See*
24 Decl. Rodriguez, ¶¶ 9-10. The net recovery represents approximately 7.5% of the maximum likely
25 value of the claims in this matter and between 19.5% to 84% of the more realistic range of recovery.
26 The average net award is approximately \$730,72 and the maximum award is \$5,532.26. *See* Decl.
27 Nava, ¶ 15.

1 This settlement is a reasonable compromise of the class and PAGA claims, and is within the
2 percentile ranges of the total available damages that have been approved in other class settlements. *See*
3 *Wershba*, 91 Cal.App.4th at 246, 250; *Rebney v. Wells Fargo Bank*, 220 Cal.App.3d 1117, 1139
4 (1990); *Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 628 (9th Cir. 1982); *see also In re*
5 *Omnivision Technologies, Inc.*, 559 F.Supp.2d 1036, 1042 (2007) (noting that certainty of recovery in
6 settlement of 6% of maximum potential recovery after reduction for attorney’s fees was higher than
7 median percentage for recoveries in shareholder class action settlements, averaging 2.2%-3% from
8 2000 through 2002); *Bravo v. Gale Triangle, Inc.*, 2017 U.S. Dist. LEXIS 77714 (C.D. Cal. 2017)
9 (approving a settlement where the net recovery to class members was approximately 7.5% of the
10 projected maximum recovery amount); *Avila v. Cold Spring Granite Co.*, 2017 U.S. Dist. LEXIS
11 130878 (E.D. Cal. 2017) (approving a settlement with a gross recovery of 11% of the projected
12 maximum damages available and a net recovery of approximately 6.7% of the projected maximum
13 recovery); *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245 (N.D. Cal. 2015) (approving a
14 settlement where the gross recovery was approximately 8.5% of the projected maximum recovery);
15 *Schiller v. David’s Bridal, Inc.*, 2012 U.S. Dist. LEXIS 80776 at *48 (E.D. Cal. 2012) (“Class
16 Members will receive an average of approximately \$198.70, with the highest payment to a Class
17 Member being \$695.78 . . . Overall, the Court finds that the results achieved are good, which is
18 highlighted by the fact that there was no objection to the settlement amount or the attorneys’ fees
19 requested.”); *Gardner v. GC Servs., LP*, 2012 U.S. Dist. LEXIS 47043, 18 (S.D. Cal. 2012) (“the
20 results achieved in this case were very favorable. Class members are provided with immediate
21 monetary relief, with an average award of around several hundred dollars and a minimum award of
22 \$50”).

23 **vi. The Proposed Settlement is a Reasonable Compromise of Claims**

24 In *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116 (2008), the Court required additional
25 information be presented in class action settlements “to ensure that the recovery represents a reasonable
26 compromise, given the magnitude and apparent merit of the claims being released, discounted by the
27 risks and expenses of attempting to establish and collect on those claims by pursuing the
28 litigation . . .” *Id.* at 129. *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal.App.4th 399

(2010), clarified that *Kullar* does not require an illusory prediction of the outer reaches of exposure without taking into account the actual risks of litigation such as dispositive motions and trial. *Kullar* also does not require an explicit statement of the maximum amount to be recovered if a plaintiff prevailed on all the claims, provided there is a record that allows “an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation.” *Id.* at 409.

Plaintiff has thoroughly set forth the realistic range of outcomes in this litigation as well as the data points relied upon in reaching these ranges. *See* Decl. Rodriguez ¶¶ 9-10. The record demonstrates that the compromises made by Plaintiff was reasonable and have resulted in a settlement with recovery percentage well within the range of what has been found to be sufficient in several other cases. *See, supra*, Section VI.a.v; *see also* *Linney v. Cellular Alaska P’ship*, 151 F.3d 1234, 1242 (9th Cir. 1998) (“The fact that a proposed settlement may only amount to a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved”); *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 455 (2d Cir. 1974) (“In fact there is no reason, at least in theory, why a satisfactory settlement could not amount to a hundredth or even a thousandth part of a single percent of the potential recovery”).

b. Certification of the Class is Appropriate

Class certification is appropriate when (1) the class is ascertainable and (2) there is “a well-defined community of interest in the questions of law and fact involved affecting the parties to be represented.” *Dunk*, 48 Cal. App. 4th at 1806. The “community of interest” element “embodies three factors: (1) common questions of law or fact predominate; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.” *Id.* Here, the Court conditionally certified the settlement class on March 2, 2024, and nothing has happened in the interim that would warrant changing that decision. *See Garcia v. City of King City*, 2017 WL 363257 *4 (N.D. Cal. 2017); *Messineo v. Ocwen Loan Servicing, LLC*, 2017 WL 733219, *4 (N.D. Cal. 2017).

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1 **VII. THE AMOUNTS REQUESTED FOR ATTORNEY’S FEES AND COSTS, AN**
2 **ENHANCEMENT PAYMENT TO THE CLASS REPRESENTATIVE, AND**
3 **SETTLEMENT ADMINISTRATOR COSTS ARE REASONABLE AND SHOULD BE**
4 **APPROVED**

5 The Notice of Settlement sent to Class Members specifically identified the allocations for
6 attorney’s fees and costs, the Enhancement Payment, and Claims Administrator Costs. *See* Decl. Nava,
7 Exh. A. The reaction of Class Members to these requested amounts provides useful evidence of
8 whether they are reasonable. *See In re Heritage Bond Litig.*, 2005 WL 1594403, *21 (“The absence of
9 objections or disapproval by class members to Class Counsel’s fee request further supports finding the
10 fee request reasonable”). As noted above, there were no objections raised to the Agreement or any term
11 or allocation therein whatsoever. *See* Decl. Nava, ¶ 12. In addition to Class Members’ reactions
12 supporting the requested amount, the facts and applicable case law also support awarding these
13 amounts in full.

14 An award of attorney’s fees should include compensation for all hours reasonably spent. *See*
15 *Ketchum v. Moses*, 24 Cal.4th 1122, 1133 (2001); *see also Hensley v. Eckerhart*, 461 U.S. 424, 431
16 (1983) (finding hours are reasonably spent if they are the kind normally billed to a fee-paying client).
17 California has not adopted any “benchmark” percentage utilized by several federal courts. *See Emmons*
18 *v. Quest Diagnostics Clinical Lab’ys, Inc.*, 2017 WL 749018, at *7 (E.D. Cal. 2017) (“Notably, while
19 the California Supreme Court recognized the Ninth Circuit’s 25 percent benchmark for percentage
20 awards in common fund cases, it did not adopt such a benchmark for California cases”). Instead, “[t]he
21 benchmark in determining attorney fees is reasonableness.” *Karton v. Ari Design & Constr., Inc.*, 61
22 Cal.App.5th 734, 744 (2021).

23 **a. A Fee of Thirty-Five Percent of the Common Fund Is Reasonable Because It Is Within**
24 **the Ranges Historically Approved by Courts in Class Settlements and a Lodestar**
25 **Cross Check Validates the Proposed Fee**

26 An award of attorney’s fees under the common fund doctrine is appropriate in this case as there
27 is a sufficiently identifiable class of beneficiaries (*e.g.* the settlement class), the benefits received can be
28 accurately traced to the settlement Plaintiff and Class Counsel were able to negotiate on behalf of Class
Members, and the fee can be shifted with exactitude to those benefiting as the fee request is a specific,
lump-sum percentage of the fund. *See Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016);

1 *Paul, Johnson, Alston & Hunt v. Gaulty*, 886 F.2d 268, 271 (9th Cir. 1989); *Boeing Co. v. Van*
2 *Gemert*, 444 U.S. 472, 477-478 (1980) (“A lawyer who recovers a common fund for the benefit of
3 persons other than . . . her client is entitled to a reasonable attorney’s fee from the fund as a whole.”).
4 The requested fee, 35% of the common fund, is within ranges awarded in other cases. *See Martin v.*
5 *Ameripride Servs.*, 2011 U.S. Dist. LEXIS 61796, *22-23 (S.D. Cal. 2011) (collecting cases); *Birch v.*
6 *Office Depot, Inc.*, USDC Southern District, Case No. 06cv1690 DMS (WMC) (awarding 40% fee on a
7 \$16 million wage and hour class action settlement); *Rippee v. Boston Mkt. Corp.*, USDC Southern
8 District, Case No. 05cv1359 BTM (JMA) (awarding a 40% fee on a \$3.75 million wage and hour class
9 action settlement).

10 To the extent there may be some Courts that have granted fees at a percentage less than 35%,
11 that does not justify an arbitrary cap on Class Counsel’s fees in this case. First, in many instances, the
12 treatises or cases discussing these percentages are relying on federal decisions guided by a
13 “benchmark” percentage of 25% that has not been adopted by the California Supreme Court. *See*
14 *Emmons*, 2017 WL 749018, at *7. This artificially lowers the average percentage of fees awarded.
15 Second, many of the same decisions and treatises refer to cases that have a substantial gross settlement
16 fund to begin with, which will generally correspond to a lower percentage of fees being deemed
17 reasonable. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1052 (9th Cir. 2002) (compiling an
18 appendix of class settlements with gross settlement funds of \$53 million to \$193 million and a range of
19 2.8% to 40% in awarded attorney’s fees, averaging approximately 22%). Rather than acting as a cap on
20 any fee, the percentages applied in cases are a tool to cross check the reasonableness of the fee just as
21 the lodestar method is a tool to cross check the reasonableness of the requested percentage. *See Karton*,
22 61 Cal.App.5th at 744; *Vizcaino*, 290 F.3d at 1048 (“courts cannot rationally apply any particular
23 percentage—whether 13.6 percent, 25 percent or any other number—in the abstract, without reference
24 to all the circumstances of the case”).

25 To the extent the Court wishes to exercise its discretion to conduct a lodestar cross check, the
26 cross check only validates the fee request. *See Laffitte*, 1 Cal.5th at 503-506. Again, an award of
27 attorney’s fees should include compensation for all hours reasonably spent. *See Ketchum*, 24 Cal.4th at
28 1133; *see also Hensley*, 461 U.S. at 431 (finding hours are reasonably spent if they are the kind

1 normally billed to a fee-paying client). To date, Class Counsel has spent approximately 206.8 hours
2 performing tasks that would normally be billed to any fee playing client in complex litigation and
3 estimate that this number will increase to approximately 216.8 after monitoring the disbursement of all
4 funds and compliance hearing(s). See Decl. Rodriguez, ¶ 22; Exhibit F; *Syers Props. III, Inc. v. Rankin*,
5 226 Cal.App.4th 691, 699 (2014) (“Because time records are not required under California law ... ,
6 there is no required level of detail that counsel must achieve.”) (internal quotations omitted).
7 At the prevailing market rates for Class Counsel’s level of experience and this type of complex
8 litigation, this equates to a lodestar of approximately \$116,970.00. See Decl. Rodriguez, ¶¶ 21-23;
9 Exhibit G; Exhibit H; *Children’s Hosp. and Med. Ctr. v. Bonta*, 97 Cal.App.4th 740, 746 (2002)
10 (noting rates were reasonable where they were “within the range of reasonable rates charged by and
11 judicially awarded comparable attorneys for comparable work”).

12 The reasonableness of Class Counsel’s fee request is also demonstrated by the fact that the
13 amount requested would not require any multiplier of the lodestar. Multipliers are typically awarded in
14 contingent fee litigation to compensate counsel for the risk of non-payment:

15 It is an established practice in the private legal market to reward attorneys
16 for taking the risk of non-payment by paying them a premium over their
17 normal hourly rates for winning contingency cases. See *Richard Posner*,
18 *Economic Analysis of Law* § 21.9, at 534-35 (3d ed. 1986). Contingent
19 fees that may far exceed the market value of the services if rendered on a
20 non-contingent basis are accepted in the legal profession as a legitimate
21 way of assuring competent representation for Plaintiff who could not
22 afford to pay on an hourly basis regardless whether they win or lose.

23 *Chem. Bank v. City of Seattle (In re Wash. Pub. Power Supply Sys. Sec. Litig.)*, 19 F.3d 1291, 1299 (9th
24 Cir. 1994). Moreover, “in the common fund context, attorneys whose compensation depends on their
25 winning the case, must make up in compensation in the cases they win for the lack of compensation in
26 the cases they lose.” *Id.* at 1300-01; see also *Ketchum*, 24 Cal.4th at 1138 (“The adjustment to the
27 lodestar figure, *e.g.*, to provide a fee enhancement reflecting the risk that the attorney will not receive
28 payment if the suit does not succeed, constitutes earned compensation; unlike a windfall, it is neither
unexpected nor fortuitous”); *Wershba*, 91 Cal.App.4th at 255 (“Multipliers can range from 2 to 4 or
even higher”). Yet, Class Counsel’s requested fee of \$102,375 would actually result in a negative

multiplier. As a result, a lodestar cross check validates the common fund percentage requested and the Court should grant Plaintiffs' Counsel's fee request. See Decl. Rodriguez, ¶¶ 21-23.

b. Class Counsel's Expenses and Costs Were Necessarily Incurred to Achieve the Benefit Obtained

The appropriate analysis in determining whether particular costs are compensable is whether they are of the type typically billed by attorneys to paying clients in the marketplace. See *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) ("Harris may recover as part of the award of attorney's fees those out-of pocket expenses that 'would normally be charged to a fee paying client'"); *Abrams v. Lightolier, Inc.*, 50 F.3d 1204, 1225 (3d Cir. 1995); *Bratcher v. Bray-Doyle Indep. Sch. Dist. No. 42*, 8 F.3d 722, 725-26 (10th Cir. 1993). The categories of expenses for which Class Counsel seek reimbursement here are categories normally charged to hourly clients and, therefore, should be reimbursed out of the common fund. See Decl. Rodriguez, ¶ 24; Exhibit D.

c. Class Counsel's Request for A Class Representative Enhancement Payment Is Justified In Light of The Results Achieved for the Class

A service payment to a named plaintiff is intended to recognize their time and effort on behalf of the class. Indeed, courts routinely approve incentive awards to compensate named plaintiffs for the services they provide and the risks they incurred during the course of the class action litigation. See *Ingram v. The Coca Cola Co.*, 200 F.R.D. 685, 694 (N.D. Ga. 2001). In *Ingram*, the Court approved incentive awards of \$300,000.00 to each named Plaintiff in recognition of the services they provided to the class by responding to discovery, participating in the mediation process, and taking the risk of stepping forward on behalf of the class. See *id.* at 694; see also *Van Vranken v. Atlantic Richfield Co.*, 901 F.Supp. 294 (N.D. Cal. 1995) (approving a \$50,000.00 participation award); *Cellphone Termination Fee Cases*, 186 Cal.App.4th 1380, 1393 (2010) (approving \$10,000 awards to each of the four (4) named plaintiffs).

In this case, Plaintiff spent approximately 90-100 hours providing substantial support in helping to secure payment to Class Members. Plaintiff provided and explained a substantial number of documents critical to helping establish important facts central to this case and participated in substantial amount of informal discovery. See Decl. Tanksley, ¶¶ 5-7. Payment of \$10,000.00 to Plaintiff is

appropriate given the risk, assistance, time required, and burden experienced in bringing and resolving this case, especially since this amount was identified in the Notice of Settlement and no objections to it have been received. *See West v. Circle K Stores, Inc.*, 2006 U.S. Dist. LEXIS 76558, at *7-*8, *12, *27 (E.D. Cal. 2006) (awarding a \$15,000 representative enhancement where 10,000 class members were to receive a gross award of approximately \$500 each from the \$5,000,000 settlement); *Dent v. ITC Serv. Group*, 2013 U.S. Dist. LEXIS 139359, at *9-*10, *15-*16 (D. Nev. 2013) (awarding a \$15,000 representative enhancement out of a \$150,000 settlement for approximately 530 class members).

d. The Court Should Approve the Payment of Settlement Administrator Costs

Since being preliminarily approved as the Settlement Administrator, Apex Class Action has carried out its duties as set forth in the Court's order and the Agreement. *See generally* See Decl. Nava. Under the Agreement, a maximum of \$10,000 was set aside for potential Claims Administrator Costs. Apex Class Action's final costs are \$6,990.00, well under the potential maximum Class Members were given notice of. Plaintiff requests that the Court approve payment to the Claims Administrator in the amount of \$6,990.00 to compensate it for the costs of administration as part of the final order approving the Settlement.

VIII. CONCLUSION

For all of the foregoing reasons, Plaintiff respectfully requests that this Court certify the class for settlement purposes; grant final approval of the proposed settlement, including the Plaintiff's Class Representative Enhancement Payment, the payment to the LWDA under PAGA, and Class Counsel's application for reasonable attorneys' fees and costs; find that the Notice of Settlement, and administration process satisfied Class members' due process rights; and approve the proposed order submitted concurrently herewith.

Shimoda & Rodriguez Law, PC

Dated: May 29, 2024

By: _____

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Attorneys for Plaintiff RUTH TANKSLEY

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

RUTH TANKSLEY, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

HISHAM SOLIMAN M.D. INC., a California
Corporation; and DOES 1 to 100, inclusive,
Defendants.

Case No. 34-2023-00335509

*Assigned to Jill H. Talley For All Purposes
Department 23*

CLASS ACTION

**DECLARATION OF JUSTIN P. RODRIGUEZ
IN SUPPORT OF PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Date: June 21, 2024

Time: 9:00 a.m.

Dept.: 23

Judge: Hon. Jill H. Talley

Filed: March 2, 2023

FAC Filed: June 22, 2023

Trial Date: None Set

1 I, Justin P. Rodriguez, declare:

2 1. I am an attorney at law duly admitted to practice before all the courts of the State of
3 California and an attorney of record for Plaintiff Ruth Tanksley (“Plaintiff”) herein. I am making this
4 declaration on behalf of the named Plaintiff, the putative class members, and in support of Plaintiff’s
5 Motion for Final Approval of Class Action and PAGA Settlement (“Motion”). A true and correct copy
6 of the Joint Stipulation Regarding Class Action and PAGA Settlement and Release (“Agreement”) in
7 this matter is filed with this Motion as Exhibit A.

8 2. This case was brought as a wage and hour class action based on Plaintiff’s contention
9 that Defendant Hisham Soliman M.D. Inc. (“Defendant”) failed to pay overtime wages, failed to pay
10 minimum wages, failed to provide meal and rest period or premiums in lieu thereof, failed to provide
11 accurate wage statements, failed to timely pay final wages, failed to reimburse expenses, failed to
12 maintain accurate records, and failed to provide paid sick leave. Plaintiff also alleged liability for civil
13 penalties under the Private Attorneys General Act (“PAGA”). These claims were based allegations that
14 Defendant violated California law by 1) failing to pay Plaintiff and similarly situated employees for all
15 hours worked, including time spent outside of their scheduled shifts; 2) failing to authorize and permit
16 all meal and rest periods; 3) failing to reimburse employees for the use of personal cellphones; 4)
17 failing to pay Covid-19 supplemental paid sick leave to employees who had been employed less than
18 six (6) months; and 5) failing to incorporate the value of bonuses into employees’ regular rates of pay.
19 The PAGA, waiting time penalty, wage statement, and unfair competition claims also derive from these
20 violations.

21 3. Plaintiff is the only named representative in this matter. From our firm’s initial
22 investigations of Plaintiff’s claims and documents, we believed these claims had merit and could be
23 maintained as a class action. We filed the action on or about March 2, 2023. Plaintiff exhausted
24 administrative remedies through the Labor and Workforce Development Agency (“LWDA”) prior to
25 amending the Complaint to add a PAGA claim. Plaintiff filed a notice with the LWDA on March 1,
26 2023, setting forth the facts and theories of liability. Plaintiff later filed an amended notice to identify
27 an additional provision of the Labor Code Plaintiff alleged was violated based on the same facts already
28 alleged in her initial notice. A true and correct copy of the operative notice filed with the LWDA is

1 being filed with this Motion as Exhibit C. Copies of the notices were also sent to Defendant via
2 certified mail and the \$75.00 filing fee was remitted to the LWDA at that time. There was no response
3 by the LWDA regarding its intent to investigate the claims alleged in Plaintiff's notices for more than
4 65 days. As such, Plaintiff became authorized to commence a civil action under the PAGA and filed a
5 First Amended Complaint on June 22, 2023. A true and correct copy of Plaintiff's operative Complaint
6 is filed with this Motion as Exhibit B. A file endorsed copy of the Complaint has been uploaded to the
7 LWDA.

8 4. Currently, there is no date set for a motion to certify the class and there is no trial date.

9 5. Defendant is represented in this matter by Timothy Del Castillo, Lisa Bradner, and
10 Daniel Richardson of Castle Law: California Employment Counsel, PC. From the beginning,
11 Defendant has contested the merits of this case, the suitability of the case for class action or
12 representative treatment, the manageability of the case at trial, and Plaintiff's ability to prove a
13 violation in each pay period for each employee among other defenses and contentions they made
14 challenging the propriety of this action. Defendant further contended, even assuming there was a
15 finding supporting the imposition of PAGA penalties, that the Court would likely exercise its discretion
16 to substantially reduce any such penalties owed based on evidence of good faith attempts to comply
17 with California Labor Code obligations by Defendant. Notwithstanding its agreement to settle this
18 matter, Defendant believes the practices Plaintiff is contending are unlawful either do not exist or, to
19 the extent they do exist, fully comply with all state and federal employment laws with respect to
20 Plaintiff and Class Members. For instance, Defendant contends that Class Members had alternative
21 means to communicate available to them other than their personal cellphones, that it had legally
22 compliant meal and rest period policies, provided Class Members with an opportunity to take meal and
23 rest periods, communicated to Class Members that they should take their meal and rest periods.
24 Defendant also contends its records reflect legally compliant meal periods for Class Members and that
25 Defendant paid Class Members for all hours worked reflected on their time records and that to the
26 extent Class Members performed any work off-the-clock it was unknown to Defendant that such work
27 was performed or not included as hours worked by Class Members. Defendant has also contended that
28 this matter is not appropriate for class certification outside of this proposed class settlement.

1 6. Based on the expected testimony from Plaintiff and Class Members, a review of
2 Defendant's policies and procedures and other documents relating to the alleged claims, information on
3 the number of Class Members, Class Members' dates of employment, and a representative sample of
4 Class Members' time and payroll data, the scope of the potential damages to Plaintiff and Class
5 Members in light of the claims alleged, the uncertainty in the law with regard to certification, and the
6 negotiations that have taken place, I believe that the proposed settlement is in the best interest of the
7 class. The length and risks of trial and other normal perils of litigation that impact the value of the
8 claims were also considered and weighed in reaching the Agreement. In addition, we carefully
9 considered the prospect of potential class certification issues as well as the uncertainty of class
10 certification, the difficulties of complex litigation, and the lengthy process of establishing specific
11 damages and various possible delays and appeals in agreeing to the proposed settlement. We further
12 considered the fact that penalties under the PAGA could be substantially cut at the discretion of the
13 Court even if Plaintiff was successful on proving those claims and there was risk that a Court could find
14 no willfulness in the failure to pay wages at separation, which would eliminate the value of the waiting
15 time penalty claim entirely. Overall, we believe it is more beneficial to secure a guaranteed benefit to
16 the class now rather than to proceed with litigation and potentially obtain zero funds to the class due to
17 legal or factual issues in the case.

18 7. My office, including my partners Galen T. Shimoda, my former associate, Brittany V.
19 Berzin, our paralegal, and myself, along with Plaintiff's assistance, thoroughly investigated the merits of
20 the claims and potential damages for such claims. The parties engaged in informal discovery and
21 exchange of documents, including a representative 25% sampling of employee data, covering timecards,
22 paystubs, payroll data and relevant handbooks, bulletins, and memoranda containing Defendant's
23 policies for the entirety of the statute of limitations applicable to the alleged claims. We also engaged in
24 witness interviews in preparation for formal discovery and drafted discovery requests. The discovery
25 covered all aspects of the asserted claims, including certification issues, merits issues, damages, the
26 scope and configuration of Class Members, the content and implementation of the wage and hour
27 policies at issue, and issues relating to manageability concerns at trial. From this production we were
28 able to determine information critical to a reliable damages analysis such as the average hourly rate,

1 average daily hours worked, shifts eligible for meal and rest periods and the number of potential shifts
2 that may correspond to liability under our theories of liability, the average number of workweeks and
3 pay periods that had potential violations based on the asserted claims, the frequency with which
4 violations occurred in a given week and/or pay period, and the number of former employees. This
5 information allowed my office to assess both liability and damages and create an accurate damages
6 model. Plaintiff assisted in all aspects of this litigation including providing factual information relating
7 to Plaintiff's and Class Members' employment conditions, providing a substantial number of documents,
8 and answering questions regarding Defendant's factual contentions in this matter. This was important
9 because it directly related to our ability to maintain this case as a class action and our ability to obtain a
10 favorable settlement for the class.

11 8. Throughout this litigation our office had numerous communications with Defendant's
12 Counsel discussing our respective positions. The parties engaged in mediation on November 13, 2023,
13 using an experienced mediator, Russ J. Wunderli. It was only after approximately eight months of
14 extensive, arm's length negotiations that the parties were able to reach a settlement, which only occurred
15 after a full-day mediation. The negotiations were at all times contentious and adversarial, though still
16 professional in nature.

17 9. The following represents the potential maximum recovery for each of Plaintiff's claims
18 based on my office's analysis of Defendant's relevant policies and the data produced by Defendant,
19 including a sample of time and payroll records for Class Members. At the time of mediation there were
20 7,540 workweeks in the Class Period and 534 PAGA pay periods. The average rate of pay was \$18.35
21 We also interviewed several putative class members, covering their work experiences in relation to the
22 asserted claims and utilizing that information in conducting a merits and damages analysis:

- 23 • Minimum Wages: This claim is based on allegations that Defendant communicated with
24 Class Members outside of their scheduled work hours and failed to pay Class Members
25 for their additional time worked. At the time of mediation, the maximum possible
26 damages for this claim based on information from interviews with Class Members and
27 Defendant's records was \$98,020.00. This amount was calculated based on an estimate
28 of one (1) unpaid hour per week at minimum wage rate. This amount does not take into

1 account any potential risks with respect to Plaintiff proving the merits or damages.
2 Defendant had a written policy that employees should record all of their hours worked.
3 In addition, Defendant contends that to the extent employees worked off-the-clock or
4 did not record all of their hours worked Defendant did not have knowledge of it and
5 believed that employees were recording their true end times if they worked past the end
6 of their scheduled shifts. Defendant also points to instances in its records where
7 employees worked longer than their scheduled hours and were compensated for that
8 time. In order to be liable for off-the-clock work, an employer must know or have
9 reason to know it was occurring. *Brinker Rest. Corp. v. Superior Ct.*, 53 Cal.4th 1004,
10 1051 (2012). A good faith dispute would eliminate liability for liquidated damages for
11 unpaid minimum wages. See Cal. Lab. Code § 1194.2(b). Taking these factors into
12 account, a more realistic range of recovery for this claim is \$0 to \$49,010 (reduced by
13 50% to account for potential risk).

- 14 • Overtime Wages: The basis for this claim is the same as Plaintiff's minimum wage
15 claim. At the time of mediation, the maximum possible damages for this claim based on
16 information from interviews with Class Members and Defendant's records was
17 \$207,538.50. This amount was calculated based on an estimate of one (1) unpaid hour
18 per week at 1.5x the average hourly rate of pay. This amount does not take into account
19 any potential risks with respect to Plaintiff proving the merits or damages. Defendant's
20 contentions and potential risk with respect to this claim are the same as the risks
21 identified above for Plaintiff's minimum wage claim. Taking these factors into account,
22 a more realistic range of recovery for this claim is \$0 to \$103,769.25 (reduced by 50% to
23 account for potential risk).
- 24 • Meal Periods: This claim is based on allegations that due to work demands Class
25 Members were unable to begin their meal periods before the end of their fifth hour of
26 work or were unable to take a meal period. At the time of mediation, the maximum
27 possible damages for this claim based on information from interviews with Class
28 Members and Defendant's records was \$55,343.60. This amount was calculated based

on an average of five meal periods being available to Class Members each week an 8% violation rate based on Defendant's time records. This amount does not take into account any potential risks with respect to Plaintiff proving the merits or damages. Defendant had a written policy that employees were entitled to meal periods and Defendant contends it communicated this policy to Class Members and informed them that they should take legally compliant meal periods. Defendant contends that it provided Class Members with an opportunity to take meal periods and that to the extent they were not taken or were taken late it was due to employee choice. Taking these factors into account, a more realistic range of recovery for this claim is \$0 to \$55,343.60.

- Rest Periods: This claim is based on allegations that due to work demands Class Members were unable to take all rest periods. At the time of mediation, the maximum possible damages for this claim based on information from interviews with Class Members and Defendant's records was estimated to be \$55,343.60. This amount was calculated based on an average of five shifts worked per week by Class Members where they were entitled to rest periods. An 8% violation rate was used for this calculation because it can be reasonably assumed that on days where Class Members were unable to take legally compliant meal periods, work demands also prevented them from taking all rest periods. This amount does not take into account any potential risks with respect to Plaintiff proving the merits or damages. Defendant had a written policy that employees were entitled to rest periods and Defendant contends it communicated this policy to Class Members and informed them that they should take legally compliant rest periods. Defendant contends that it provided Class Members with an opportunity to take rest periods and that to the extent they were not taken it was due to employee choice. Taking these factors into account, a more realistic range of recovery for this claim is \$0 to \$55,343.60.
- Sick Time: This claim is based on allegations that Class Members who worked less than six (6) months were not provided with Covid-19 supplemental paid sick time. At the

time of mediation, the maximum possible damages for this claim based on information from interviews with Class Members and Defendant's records was estimated to be \$11,010. This amount does not take into account any potential risks with respect to Plaintiff proving the merits or damages. This amount was calculated for 75 Class Members who had worked less than 6 months and based on an estimate that each Class Member was owed approximately 8 hours of paid sick time. Defendant contends that it did not deny employees the use of paid sick time and that Plaintiff would not be able to prove typicality to certify this claim. Taking these factors into account, a more realistic range of recovery for this claim is \$0 to \$11,010.

- Wage Statement: This claim is derivative of the claims above and therefore carries the same risks. At the time of mediation, the maximum possible damages for this claim based on information from Class Members and Defendant's data was \$26,700. This amount was calculated using a \$50 initial violation rate for the 534 pay periods in the claim period. This amount does not take into account any potential risks with respect to Plaintiff proving the merits or damages. The same risks identified above are applicable to this claim because it is derivative. In addition, Labor Code section 226 requires a knowing and intentional violation and Defendant contends that to the extent the wage statements it issued to Class Members were incorrect it was not intentional. Taking these factors into account, a more realistic range of recovery for this claim is \$0 to \$26,700.
- Waiting Time: This claim is derivative of the failure to pay minimum wages, failure to pay overtime, and failure to provide meal and rest periods. Thus, the same risks identified above apply to this claim. At the time of mediation, the maximum possible damages for this claim based on the data and information provided by Class Members was \$931,776. This amount was calculated based on information from Defendant that there were 217 former employees. It was assumed that each employee had some amount of wages owing to him or her and the penalty was calculated using a full 30 days. This amount does not take into account any potential risks with respect to Plaintiff proving

1 the merits or damages. Labor Code section 203 requires that the failure to pay wages be
2 willful in order for a waiting time penalty to be appropriate. Defendant contends that it
3 cannot be liable for waiting time penalties because it did not have knowledge of the
4 alleged violations and has a good faith defense. Moreover, there is substantial risk that
5 Defendant's policies and records would provide it with a good faith affirmative defense,
6 which would eliminate the value of this claim entirely. *See Diaz v. Grill Concepts*
7 *Servs., Inc.*, 23 Cal.App.5th 859, 868 (2018). Taking these factors into account, it is
8 possible this claim would be eliminated entirely.

- 9 • Reimbursement: This claim is based on allegations that Class Members were required
10 to use their personal cellphones for work and drive their personal vehicles without being
11 reimbursed. At the time of mediation, the maximum possible damages for this claim
12 based on information from interviews with Class Members and Defendant's records was
13 estimated to be \$96,723.12. Unpaid cellphone reimbursement was calculated based on
14 an estimate that Class Members were owed \$12.50 per week. Unpaid mileage was
15 calculated based on an estimate that Class Members were owed reimbursement for 5
16 miles per week in about 10% of weeks worked. This amount does not take into account
17 any potential risks with respect to Plaintiff proving the merits or damages. Defendant
18 contends that Class Members could have communicated using e-mail on their work
19 computers or using work phones at the office locations where they worked. Plaintiff
20 contends that Defendant initiated work communications with Class Members on their
21 cellphones and therefore using their cellphones was a necessary expenditure. Taking
22 these factors into account, a more realistic range of recovery for this claim is \$77,378.50
23 (reduced by 20% for potential risk).
- 24 • PAGA: This claim is derivative of the Labor Code violations identified above and would
25 be subject to all the same risks as the underlying claims it is based on. Additionally,
26 based on our research, we did not find any prior Labor Commissioner or court decisions
27 that stated Defendant's practices and/or policies were improper. As such, a "subsequent
28 violation" may not be found for penalty calculation purposes, and the exposure analysis

1 here is based on an “initial violation” valuation being adopted by any fact finder if this
2 matter went to trial. *See Amaral v. Cintas Corp. No. 2*, 163 Cal.App.4th 1157, 1207-
3 1209 (2008). Based on Class Members’ payroll data, the maximum total exposure for
4 this claim is \$604,679.10. This amount does not take into account any of the risks in
5 proving the merits of the underlying claims that the PAGA damages are based on. In
6 addition to the risks on the merits and disputes regarding the proper valuation of the
7 penalty amounts, I believe the Court may exercise its discretion to reduce PAGA
8 penalties in this case because a majority of the civil penalties sought would be in
9 addition to amounts owed for substantive violations, some of the violations are due to
10 technical non-compliance with the Labor Code, such as derivative wage statement
11 violations, and Defendant produced legally compliant policies among other documents,
12 that a Court may find demonstrates a good faith attempt at compliance. Courts are
13 statutorily authorized to use discretion to reduce penalties and the range of discretion
14 used varies substantially. *See Thurman v. Bayshore Transit Mgmt., Inc.*, 203
15 Cal.App.4th 1112, 1135 (2012) (30% reduction); *Fleming v. Covidien, Inc.*, 2011 U.S.
16 DIST. LEXIS 154590, *9 (C.D. Cal. 2011) (82% reduction). Thus, even if using the
17 maximum values possible and setting aside risks of proving the claims on the merits, the
18 total exposure may be cut to approximately \$108,842.24 (82% reduction) to
19 \$423,275.37 (30%) or lower. It is important to note that this discretionary reduction is
20 completely separate and in addition to any risks on the merits. Given the substantial
21 risks associated with the claims, we believe the amount that might ultimately be awarded
22 under this claim would be significantly lower than our maximum exposure calculation.
23 Allocating \$10,000 to the PAGA claims in this case is appropriate, especially in light of
24 amounts that Courts have approved as reasonable valuations in other cases. *See*
25 *Nordstrom Com. Cases*, 186 Cal.App.4th 576, 589 (2010) (approving \$0 allocation to
26 the resolution of PAGA claims based on their being disputed and being part of a class
27 settlement which was evaluated based on the terms of the agreement overall);
28 *Junkersfeld v. Med. Staffing Sols., Inc.*, 2022 WL 2318173, at *8 n.2 (E.D. Cal. 2022)

(collecting cases with PAGA settlement values ranging from .037%-1%); *Jennings v. Open Door Marketing, LLC*, 2018 WL 4773057, *9 (N.D. Cal. 2018) (approving settlement of PAGA claims at 0.6% of total estimated value due to risk of no recovery); *Ruch v. AM Retail Grp., Inc.*, 2016 WL 5462451, *7 (N.D. Cal. 2016) (approving \$10,00 PAGA settlement allocation where total PAGA penalty exposure was approximately \$5.2 million, or 0.2% of total estimated value); *Davis v. Cox Commc 'ns California, LLC*, 2017 U.S. Dist. LEXIS 63514, *1 (S.D. Cal. 2017) (preliminarily approving \$4,000 PAGA allocation in \$275,000 settlement); *Moore v. Fitness Int'l, LLC*, 2014 U.S. Dist. LEXIS 8358, *5 (S.D. Cal. 2014) (approving \$2,500 PAGA allocation when attorneys' fees award alone amounted to \$200,000); *Jack v. Hartford Fire Ins. Co.*, 2011 U.S. Dist. LEXIS 118764, *6 (S.D. Cal. 2011) (approving \$3,000 PAGA allocation in \$1,200,000 settlement); *Singer v. Becton Dickinson & Co.*, 2010 U.S. Dist. LEXIS 53416, *2 (S.D. Cal. 2010) (approving \$3,000 PAGA allocation in \$1,000,000 settlement); *Hopson v. Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, *9 (N.D. Cal. 2009) (approving \$1,500 PAGA allocation in \$1,026,000 settlement); *Syed v. M-I, L.L.C.*, 2017 U.S. Dist. LEXIS 24880, *34-35 (E.D. Cal. 2017) (approving \$100,000 PAGA allocation in a \$3,950,000 settlement even though PAGA exposure was calculated at \$53,600,000, or 0.2% of total estimated value); *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, at *7 (E.D. Cal. 2012) (approving \$10,000 PAGA allocation in a \$3,700,000 settlement); *Franco v. Ruiz Food Prod., Inc.*, 2012 WL 5941801, at *14 (E.D. Cal. 2012) (\$10,000 in PAGA payment from \$2,500,000 settlement fund); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, at *1 (N.D. Cal. 2011) (approving PAGA settlement payment of \$7,500 to the LWDA out of \$6.9 million common-fund settlement).

10. In summary, Plaintiff's gross recovery of \$292,500 under the Agreement equals approximately 14% of the maximum value of the claims in this matter and between 36.5% to 157% of the more realistic range of recovery. After deducting from the Gross Settlement Amount the requested attorneys' fees and costs, Enhancement Payment to the Class Representative, Settlement Administrator

Costs, and the PAGA Payment to the LWDA, the net recovery under the Agreement, \$156,374.07, represents approximately 7.5% of the maximum likely value of the claims in this matter. The net recovery also represents between 19.5% to 84% of the more realistic range of recovery. The average net award is approximately \$730.72. I believe the Agreement represents a reasonable compromise of claims based on the legal and factual disputes in this case. The ability to secure a guaranteed settlement now and ensure Class Members receive some compensation, rather than proceed to further litigation and potentially recover nothing, was a motivating factor in reaching this Agreement.

11. In agreeing to take on this case, our office agreed to take this case on a contingency basis, meaning that we would take a percentage of any settlement or judgment should we recover a monetary amount. We took a risk that we would not recover any money in this matter if we were unsuccessful at trial. We also took on the risk that the case may be subject to an unfavorable summary judgment ruling. However, we believe it is important to make sure employees are able to find affordable representation in order to ensure that employers are complying with all their legal obligations towards employees and paying employees all their hard-earned wages. We rely on attorneys' fee awards in order to continue working to ensure California wage and hour protections are enforced. Recovery of our full lodestar plus an appropriate multiplier is necessary to compensate for the risk undertaken. Otherwise, we could not continue to represent employees who are denied wages, but whose cases may be time-consuming and difficult to prove. There have been many class cases we have litigated where ultimately, we get zero for our time because we are unable to meet certification requirements or the company becomes financially insolvent. Additionally, there are occasions, where the fee recovered actually results in a negative multiplier of our lodestar.

12. I am a shareholder at Shimoda & Rodriguez Law, PC. My law firm is a boutique law practice that focuses primarily on employment litigation, emphasizing wage and hour litigation. I attended and graduated college from U.C. Davis, receiving a Bachelor of Arts in Philosophy and the Departmental Citation for Academic Achievement in the Philosophy program. I was one of only two recipients of this award out of the entire Philosophy Department. After U.C. Davis, I attended the University of the Pacific, McGeorge School of Law, graduating in 2011 and receiving a Juris Doctorate. I graduated in the top 20% of my class and was a member of the Traynor Honor Society at

McGeorge. Other academic achievements of mine include receiving a Witkin Award (top grade) in my legal research and writing course, a Witkin Award in complex civil litigation, being a member of the Dean's List from 2008 to 2011, being a Legislative Staff Writer for the *McGeorge Law Review* from 2009–2010, being an Associate Comment Editor for the *Pacific McGeorge Global Business & Development Law Journal* from 2010–2011, and being selected as a Sacramento County Bar Association Diversity Fellow in 2009. I was also a member of the Employment and Labor Law Society and an officer for the Latino Law Students Association from 2009 to 2010.

13. I have been practicing law since 2011. From 2011 to 2016, I worked with the Shimoda Law Corp. as an Associate. I became a Shareholder/Partner in the firm in 2017. Shimoda Law Corp. became Shimoda & Rodriguez Law, PC, in 2022. Since 2017, I have received an AV Preeminent rating from Martindale-Hubbell for my legal ability and ethical standards. From 2018 to present, I have been recognized as a Super Lawyer (Rising Star). I have been a panel speaker and presented a number of seminars covering issues in wage and hour litigation in general and complex class and PAGA litigation in particular. These engagements include the following: (1) *Epic Systems*, PAGA, and the Future of Employment Arbitration in California (Sacramento County Bar Assoc., Sept. 2018); (2) Class Actions and PAGA Claims (Assoc. of Defense Counsel of Northern California & Nevada, Jul. 2020); (3) Mediation: The Experienced Trial Lawyers Perspective (Sacramento County Bar Assoc., Sept. 2020); (4) How to Become a Pivotal Part of Any Wage and Hour Practice Group (Sacramento County Bar Assoc., Mar. 2021); (5) Emerging Trends and Issues Relating to Arbitration and PAGA Claims in a Post-*Viking River Cruises* World (Sacramento County Bar Assoc., Nov. 2022). I was elected to the Sacramento County Bar Association Labor and Employment Law Section's executive committee in 2019 and was the Chair of the executive committee for 2022. I have also been a member of the Presiding Judge Civil Law Advisory Committee for Sacramento County Superior Court since August 2020. My practice focuses on complex civil litigation, including wage and hour class actions, PAGA claims, and Fair Labor Standards Act ("FLSA") claims. I am actively involved in most all of the complex litigation handled by our firm. Class and/or PAGA actions I have litigated or am currently litigating, including the instant case, includes, but is not limited to, the following:

- *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);

- *Adams-Anguy v. Placer Title Company, et al.*, Case No. SCV0040845 (Placer Sup. Ct.);
- *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- *Aslam v. American Custom Private Security, Inc.*, Case No. STK-CV-UOE-2018-0012080 (San Joaquin Sup. Ct.);
- *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac. Sup. Ct.);
- *Barkhousen v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin Sup. Ct.);
- *Benak v. MDStat Urgent Care, Inc.*, Case No. 34-2015-00188181 (Sac. Sup. Ct.);
- *Bigornia v. Quest Diagnostics Clinical Laboratories, Inc., et al.*, Case No. 34-2019-00271174 (Sac. Sup. Ct.);
- *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup. Ct.);
- *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac. Sup. Ct.);
- *Castorena v. Flowmaster, Inc.*, Case No. CV18-2191 (Yolo Sup. Ct.);
- *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup. Ct.);
- *Carr, et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-00209613 (Sac. Sup. Ct.);
- *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- *Cress, et al. v. Mitsubishi Chemical Carbon Fiber and Composites, Inc.*, Case No. 34-2017-

- 00222101 (Sac. Sup. Ct.);
- *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.);
 - *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
 - *Foye v. The Golden 1 Credit Union*, Case No. 34-2018-00235003 (Sac. Sup. Ct.);
 - *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
 - *Garcia v. Royal Plywood Company, LLC, et al.*, Case No. 34-2017-00221627 (Sac. Sup. Ct.);
 - *Gomes v. Progressive Casualty Insurance Company*, Case No. 34-2018-00241979 (Sac. Sup. Ct.);
 - *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
 - *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
 - *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac Sup. Ct.);
 - *Gordon, et al. v. Hospice Source, LLC, et al.*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
 - *Gotts v. John L. Sullivan Chevrolet, Inc.*, Case No. 34-2018-00231576 (Sac Sup. Ct.);
 - *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
 - *Hellum v. A1 Protective Services, LLC, et al.*, Case No. 34-2018-00234449 (Sac. Sup. Ct.);
 - *Hercules v. Maximus Services, LLC, et al.*, Case No. 34-2019-00268385 (Sac Sup. Ct.);
 - *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac. Sup. Ct.);
 - *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
 - *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
 - *Insixiengmay v. Hyatt Corporation, et al.*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal.);
 - *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
 - *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
 - *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
 - *Nguyen v. Cardinal Health Pharmacy Services, LLC, et al.*, Case No. 2:19-cv-01939-KJM-EFB (E.D. Cal.);
 - *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
 - *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
 - *Roberts v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);

- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Salas, et al. v. Joint Ventures, LLC, et al.*, Case No. 34-2018-00227493 (Sac. Sup. Ct.);
- *Salmon v. Ovarions Fanfare, L.P., et al.*, Case No. 34-2018-00244749 (Sac. Sup. Ct.) ;
- *Scarano v. J.R. Putman, Inc.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.) ;
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

14. The preceding list does not include those cases where, for various reasons, the case was filed as a class action and/or PAGA action, but did not maintain that status through the end of the case.

15. My partner, Galen T. Shimoda, Esq., worked with me on this matter, assisting with all aspects of the litigation of this case. Mr. Shimoda and I are some of only a handful of plaintiff attorneys located in Sacramento who handle wage and hour class actions. Mr. Shimoda attended and graduated from the University of Utah in 2000 with a B.S. in Business Management and a B.A. in Asian Studies, with a minor in Japanese language. He then attended and graduated from the University of the Pacific, McGeorge School of Law and received his J.D. degree in 2003. He graduated from McGeorge in the top 5% of his class and was a member of the Order of the Coif and Traynor Honor Society. Since graduating from McGeorge, Mr. Shimoda has authored a number of employment law articles for journals and our firm regularly publishes articles on our firm's website. Mr. Shimoda has been a regular panel speaker for the CEB (Continuing Education of the Bar) Employment Review seminars from 2014 to the present. His speaking engagements include the following: 1) Lorman Military Leave Law Speaker; 2) Restaurant Association Speaker at Annual Seminar (Los Angeles); 3) Federal Bar Association, Sacramento Chapter: 2015 Amendments to the Federal Rules of Civil Procedure (Mar. 30, 2016); 4) CEB – Employment Law Practice: 2016 Year in Review (Jan. 20, 2017);

5) CEB – Employment Law Practice: 2015 Year in Review (Jan. 22, 2016); 6) CEB – Employment Law Practice: Year in Review (2014) (Jan. 9, 2015); 7) CEB - Employment Law Practice: Year in Review (2013) (Jan. 10, 2014); 8) Sacramento County Bar Association - Class Actions from the Trenches: Real World Experiences from the Plaintiff and Defense Bar (Feb. 21, 2012); 9) Sacramento Employer Advisory Council – Wage and Hour Workshop: Going Beyond the Exemption Discussion (Apr. 7, 2016); 10) Sacramento Employer Advisory Council - Wage & Hour Panel and AB 1825 Training: Updates on California’s New Wage Laws and Manager Compliance Training (Apr. 25, 2017); 11) Sacramento County Bar Association, Labor and Employment Section – PAGA Representative Litigation: Emerging Trends and Issues (May 17, 2016); 12) Sacramento Business Journal Panel – Overtime Rules (Jun. 23, 2016); 13) Association of Defense Counsel of Northern California & Nevada - Employment Law Update – Do the Math: Calculation Exposure and Damages in Wage and Hour Cases (Aug. 12, 2016); 14) California Employment Lawyers Association - PAGA Today and PAGA Tomorrow: Moderate-Advanced Issues In PAGA Litigation (Oct. 20, 2017); 15) California Employment Lawyers Association Advanced Wage and Hour Seminar – Better Know a Venue Roundup (May 17, 2019). Mr. Shimoda has been AV rated by Martindale Hubbell since 2013, was recognized as a Super Lawyer (Rising Star) from approximately 2009 to 2013 and was recognized as a Super Lawyer from 2014 to present.

16. Mr. Shimoda has practiced law in California since being admitted to the State Bar in 2003, litigating wage and hour class actions and individual wage and hour litigation among other cases. Mr. Shimoda began practicing class action law on the defense side at the firm of Orrick, Herrington & Sutcliffe LLP. He then switched to plaintiff class action work in 2005. His class action experience is in wage and hour law. Mr. Shimoda has litigated several class action cases in California State and Federal Courts, including up to certification, settlement, preliminary and final approval, and disbursement of monies, and has been found to be satisfy the adequacy requirements for class counsel. Some of the class action and/or PAGA cases he is litigating and/or has litigated as lead or co-counsel include the following:

- *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- *Acosta v. Acosta Sales, LLC, et al.*, Case No. 2:11-CV-01796 (C.D. Cal.);

- *Atchley v. Blaggs Food Service, LLC*, 34-2017-0215930 (Sac. Sup. Ct.);
- *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- *Arnall v. North American Merchandising Service Inc.*, Case No. 06AS01439 (Sac. Sup. Ct.);
- *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac. Sup. Ct.);
- *Benak v. MDStat Urgent Care, Inc.*, No. 34-2015-00188181 (Sac. Sup. Ct.);
- *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup. Ct.);
- *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac. Sup. Ct.);
- *Carlos v. Abel Mendoza, Inc., et al.*, Case No. 34-2016-00195806 (Sac. Sup. Ct.);
- *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup. Ct.);
- *Carr et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-00209613 (Sac. Sup. Ct.);
- *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
- *Colbert v. American Home Craft Inc.*, Case No. 05AS05012 (Sac. Sup. Ct.);
- *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.)
- *Diosdado v. Nor-Cal Venture Group, Inc., et al.*, Case No. STK-CV-UOE-2020-0008242 (San Joaquin Sup. Ct.);
- *Dugue v. Sierra Forever Families, et al.*, Case No. 34-2017-00210770 (Sac. Sup. Ct.);
- *Fadhl v. Siemens Healthcare Diagnostics, Inc., et al.*, Case No. 34-2017-00209518 (Sac.

Sup. Ct.);

- *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No. 20CV01255 (Butte Sup. Ct.);
- *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
- *Gerard v. Les Schwab Tires Center of California, Inc.*, Case No. 34-2007-30000003 (Sac. Sup. Ct.);
- *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
- *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
- *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- *Hernandez et al. v. MP Nexlevel, LLC et al*, Case No. 3 :16-cv-03015-JCS (N.D. Cal.);
- *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac Sup. Ct.);
- *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- *James v. Language World Services, Inc., et al.*, Case No. 34-2020-00279929 (Sac. Sup. Ct.);
- *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- *Koretsky v. Furniture USA, Inc.*, Case No. 34-2014-00172142 (Sac. Sup. Ct.);
- *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac. Sup. Ct.);
- *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac. Sup. Ct.);
- *Miller v. Leaders in Community Alternatives*, Case No. FCSO47249 (Solano Sup. Ct.);
- *Pickens v. Elica Health Centers*, Case No. 34-2016-00200382 (Sac. Sup. Ct.);
- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Rickwalt v. Direct Reconditioning, LLC, et al.*, Case No. 34-2015-00175642 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Rogers v. Les Scwhab Tires Center of California, Inc.*, Case No. 34-2009-00066320 (Sac. Sup. Ct.);

- *Schechter et al. v. Isys Solutions, Inc.*, Case No. RG10550517 (Alameda Sup. Ct.);
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.);
- *Williams v. Civic Development Group*, Case No. 06AS00267 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

17. The preceding list of cases does not include those where, for a variety of reasons, the case was initially filed as a class and/or PAGA action, but did not maintain that status through the end of the case.

18. My associate, Renald Konini, Esq., also worked with me on this case. In May 2011, Mr. Konini graduated from Seton Hall University School of Law. Prior to moving to California, he practiced law in New Jersey. While working for my firm, Mr. Konini has worked on a variety of individual and class action cases, including those involving wage and hour claims, Private Attorney General Act claims, wrongful termination claims, discrimination claims, retaliation claims, and harassment claims. Mr. Konini passed the July 2016 California Bar Examination and started practicing as an associate at my firm from approximately April 2019 to February 2021. He rejoined my firm in September 2022. Mr. Konini has experience drafting written discovery, taking and defending depositions, calculating class-wide damages, interviewing putative class members, drafting motions and briefs on complex class action procedures, negotiating class and individual damages claims, and communicating with opposing counsel regarding these items in navigating the litigation. Mr. Konini has also worked on other class and/or PAGA wage and hour actions that my firm has filed, namely *Bertelli v. Air Products and Chemicals, Inc.*, Case No. 34-2018-00236898 (Sac. Sup. Ct.), *Carr v. Howroyd-Wright Employment Agency, Inc.*, Case No. 34-2018-00228290 (Sac. Sup. Ct.), *Gomez v. Vander Schaaf Dairy, et al.*, Case No. STK-CV-UOE-2020-0003954 (San Joaquin Sup. Ct.), *Haggins v. Kelly Services, Inc.*, Case No. 34-2017-00220473 (Sac. Sup. Ct.), *Hussaini v. Integrated Resources*,

1 *Inc.*, et al, Case No. 34-2021-00297152 (Sac. Sup. Ct.), *Kee, et al. v. Dr. Jeffrey A. Saladin, Dental*
2 *Corporation (D/B/A Children's Choice Pediatric Dental Care), et al.*, Case No. 34-2020-00290072
3 (Sac. Sup. Ct.), *Lear v. Raxium, Inc.*, Case No. 21CV004358 (Alameda Sup. Ct.), *Serrano v. Cool*
4 *Time, LLC*, Case No. 34-2021-00312356 (Sac. Sup. Ct.), *Grebe v. Mary Ann's Baking Co., Inc.*, Case
5 No. 34-2020-00285254-CU-OE-GDS (Sac. Sup. Ct.), *Fujimoto v. Nabe-Ya, Inc., et al.*, Case No.
6 20CV01255 (Butte Sup. Ct.), *Massey v. V3 Electric, Inc., et al.*, Case No. 34-2019-00263666 (Sac.
7 Sup. Ct.), *Miller v. Caldwell Transportation Company, LLC, et al.*, Case No. 34-2018-00234954 (Sac.
8 Sup. Ct.), *Pek, et al v. Varris Management, Inc.*, Case No. STK-CV-UOE-2020-3954 (San Joaquin Sup.
9 Ct.), *Valencia v. Lowbrau Bier Garten, LLC, et al.*, Case No. 34-2019-00258038 (Sac Sup. Ct). Mr.
10 Konini's practice largely revolves around wage and hour matters, including class and PAGA claims.

11 19. My former associate, Brittany V. Berzin, attended and graduated college from U.C.
12 Davis, receiving a Bachelor of Arts in Psychology. Ms. Berzin received her J.D. from the University of
13 the Pacific McGeorge School of Law. Ms. Berzin joined Shimoda & Rodriguez Law, PC as a law clerk
14 in February 2015 where she gained civil litigation experience working on individual, class action and
15 PAGA employment cases throughout law school. Ms. Berzin also participated in an employment law
16 clinic in 2015 and 2016 that helps low-income workers by providing free legal consultations, advising
17 employees of their legal remedies on a variety of matters (*e.g.*, wage and hour, discrimination,
18 harassment, California leave laws, unemployment, workers' compensation, retaliation, and wrongful
19 termination, etc.) under the supervision of an attorney, preparing wage claims, and providing
20 representation in wage claims before the California Labor Commissioner. From 2016-2017, Ms.
21 Berzin completed an externship at the Federal Public Defenders Office as a Certified Law Student
22 where Ms. Berzin obtained discovery, completed legal research, drafted motions, negotiated plea deals,
23 represented clients in a variety of hearings (*e.g.*, arraignments, motion hearings, sentencing hearings,
24 etc.), and defended a client against five misdemeanor charges in a jury trial in the United States District
25 Court for The Eastern District of California. Ms. Berzin was also a member of the nationally
26 recognized McGeorge Mock Trial Team and went on to coach a high school Mock Trial team in 2018
27 after graduating from law school. In May 2017, Ms. Berzin graduated from the University of the
28 Pacific, McGeorge School of Law with Great Distinction and was inducted into the Order of the Coif,

1 graduating in the top 10% of her class. Ms. Berzin received the Witkin Award for Academic
2 Excellence in Legal Research and Writing, Civil Procedure, Bankruptcy, and Criminal
3 Procedure. From 2020 to 2024, Ms. Berzin has been recognized as a Super Lawyer (Rising Star). Ms.
4 Berzin has been a member of the executive committee of the Sacramento County Bar Association
5 Labor & Employment Section since January 2020, serving as Co-Chair of the committee in 2021. Ms.
6 Berzin has over seven years of experience working on civil litigation and employment law matters.
7 Most of that experience has been specific to analyzing and litigating wage and hour claims. As an
8 associate, Ms. Berzin has worked on a variety of individual, class action, and PAGA cases involving
9 wage and hour claims, such as failure to pay overtime, failure to pay minimum wages, failure to
10 provide meal and rest periods, failure to pay reimbursement expenses, unlawful deductions, failure to
11 keep accurate time records, failure to provide paid sick leave, failure to pay all wages upon separation,
12 unfair competition, breach of contract, independent contractor misclassification, and salaried
13 misclassifications. Some of the class action and/or PAGA cases that Ms. Berzin litigated as lead or co-
14 counsel include the following:

- 15 • *Arosemena v. Ranchhodrai, Inc., et al.*, Case No. STK-CV-UOE-2019-15963 (San Joaquin
16 Sup. Ct.);
- 17 • *Arroyo v. Epic Home Solar*, Case No. 34-2021-00310634 (Sac. Sup. Ct.);
- 18 • *Balli v. Brown Box Investments, Inc., et al.*, Case No. 34-2018-00232656 (Sac. Sup. Ct.);
- 19 • *Barkhousen, et al. v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin
20 Sup. Ct.);
- 21 • *Barrios v. American Property Management, Inc.*, Case No. 1:18-cv-00352-AWI-SKO (E.D.
22 Cal.);
- 23 • *Callahan v. Creative Alternatives, Inc., et al.*, Case No. 2027518 (Stanislaus Sup. Ct.);
- 24 • *Collazo v. T.O.P. Marketing Group, Inc.*, Case No. 34-2022-00314092 (Sac. Sup. Ct.);
- 25 • *Cristobal v. BAT Residential Services, Inc.*, Case No. FCS056331 (Solano Sup. Ct.);
- 26 • *Coronado v. MGD, Inc.*, Case No. STK-CV-UOE-2021-893 (San Joaquin Sup. Ct.);
- 27 • *Estrada v. MAD Security Services, Inc.*, Case No. 34-2021-00300627 (Sac. Sup. Ct.);
- 28 • *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);

- *Finance of America Wage And Hour Cases*, Case No. JCCP 5081 (Orange County Sup. Ct.);
- *Gomez, et al. v. Kleary Masonry, Inc.*, Case No. 34-2020-00278067 (Sac. Sup. Ct.);
- *Gonzalez v. Northcentral Pizza, LLC, et. al.*, Case No. 34-2019-00252018 (Sac. Sup. Ct.);
- *Gordon, et al. v. Hospice Source, LLC*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- *Green v. Warden Security Associates, Inc.*, Case No. 22CV396140 (Santa Clara Sup. Ct.);
- *Hampton v. Unlimited Security Specialists, Inc.*, Case No. CV2021-2130 (Yolo Sup. Ct.);
- *Hercules, et al. v. Maximus Services, LLC*, Case No. 34-2019-00268385 (Sac. Sup. Ct.);
- *Insixiengmay v. Hyatt Corporation*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal);
- *Kurtz v. Perimeter Security Group, LLC, et al.*, Case No. CU19-083650 (Nevada Sup. Ct.);
- *Leong-Call v. MRB Foods, Inc.*, Case No. 34-2020-00287486 (Sac. Sup. Ct.);
- *Magat v. Medical Care Professionals, Inc., et. al.*, Case No. SCV0042579 (Placer Sup. Ct.);
- *Mayorga v. Brown Strauss, Inc.*, Case No. STK-CV-UOE-2020-0010906 (San Joaquin Sup. Ct.);
- *McGhee v. Salute Incorporated*, Case No. 34-2022-00315317 (Sac Sup. Ct.);
- *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- *Meals v. Grass Valley Extended Care, Inc., et al.*, Case No. CU19-083606 (Nevada Sup. Ct.);
- *Munoz v. Wilmor And Sons Plumbing And Construction*, Case No. 34-2021-00306609 (Sac. Sup. Ct.);
- *Ruiz v. CTE Cal, Inc.*, Case No. 34-2020-00289168 (Sac. Sup. Ct.);
- *Saavedra, et al. v. SMF Global, Inc.*, Case No. 34-2018-00243363 (Sac. Sup. Ct.);
- *Scarano v. J.R. Putman, Inc., et al.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.);
- *Scoggins, et al. v. Energy Star Construction, Inc.*, Case No. 34-2018-00243048 (Sac. Sup. Ct.);
- *Strawn v. Bridgestone Retail Operations, LLC*, Case No. 34-2018-00242049 (Sac. Sup. Ct.);
- *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- *Tracy v. Von Housen's Sacramento, Inc.*, Case No. 34-2020-00282778 (Sac. Sup. Ct.);
- *Uribe v. Ecoguard Pest Management, Inc.*, Case No. 34-2021-00300650 (Sac. Sup. Ct.);

- 1 • *Vasquez v. Chriswell Home Improvements, Inc.*, Case No. 34-2021-00305938 (Sac. Sup.
2 Ct.);
- 3 • *Villarruel, et al. v. General Produce Company, et al.*, Case No. 34-2021-00311463 (Sac.
4 Sup. Ct.);
- 5 • *Walker v. Yan Kalika Dental Corporation*, Case No. 34-2021-00305106 (Sac. Sup. Ct.); and
- 6 • *Webb v. Professional Healthcare At Home, LLC*, Case No. FCS055317 (Solano Sup. Ct.).

7 20. The preceding list of cases does not include those where, for a variety of reasons, the
8 case was initially filed as a class and/or PAGA action, but did not maintain that status through the end
9 of the case.

10 21. My office is requesting attorneys' fees pursuant to the common fund doctrine pursuant
11 to *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016); *Paul, Johnson, Alston & Hunt v.*
12 *Grauly*, 886 F.2d 268, 271 (9th Cir. 1989); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 477-478 (1980).
13 Plaintiffs have been able to secure an identifiable benefit on behalf of the class and equity counsels that
14 the cost of the representation should be born equally amongst all class members receiving these
15 benefits. The settlement recovery provides a good result and is the product of substantial time and
16 effort in analyzing the facts and law applicable to this case. There was substantial risk in agreeing to
17 take this case on a contingency basis and as a class action with the possibility that our firm would not
18 receive any compensation their time and efforts due to issues regarding the merits and/or certification
19 and have carried that risk over the course of the case. In my experience, the attorney's fee request of
20 thirty-five percent (35%) of the common fund is within ranges typically approved in wage and hour
21 class action litigation. This includes awards in Sacramento County Superior Court. Moreover, in
22 November 2022, this Court approved a fee request of 35% and the same hourly rates for Mr. Shimoda,
23 Ms. Berzin, and myself, in connection with a motion for final approval of a wage and hour class action
24 settlement in *Strawn v. Bridgestone Retail Operations, LLC*, Case No. 34-2018-00242049 (Sac. Sup.
25 Ct.).

26 22. I believe a lodestar cross check supports finding a 35% fee award is appropriate in this
27 case. The total lodestar is approximately \$116,970 based on approximately 216.8 hours, which
28 includes approximately 10 hours of time for myself preparing for and attending the final approval

1 hearing, ensuring compliance and the disbursement of funds consistent with a final approval order. I
2 have reviewed our firm's billing records with Mr. Shimoda and Mr. Konini and have created a
3 summary chart showing the task categories and hours worked by each billing attorney in each category.
4 Ms. Berzin was no longer with our firm at the time this Motion was filed, so I was not able to review
5 with her. I independently reviewed her billing entries. A true and correct copy of the summary chart is
6 being filed with this Motion as Exhibit F. In reviewing the entries, I believe the hours reported are
7 accurate. To the extent we believe it appropriate to do so in any given assignment, we attempt to assign
8 tasks to the billing attorney with the lower rate in order to reduce costs that otherwise might inhibit the
9 likelihood a case will resolve. Our firm uses billing software, which tracks the entries by day and time.
10 Our billing software also records time in 1/10 of an hour increments. Our billing software also enables
11 the use of a start/stop timer that can be used to more accurately record how long a particular task takes.
12 A summary of the entries in Exhibit F by timekeeper is as follows:

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Lodestar</u>
Galen T. Shimoda	24.7	\$725	\$17,907.50
Justin P. Rodriguez	87.1	\$625	\$54,437.50
Brittany V. Berzin	98.7	\$425	\$41,947.50
Renald Konini	6.3	\$425	\$2,677.50
Total:	216.8	--	\$116,970.00

20 23. I believe the requested rates are within the prevailing market rates for Sacramento
21 County and elsewhere. Ms. Berzin, Mr. Konini, myself, and Mr. Shimoda have approximately 5 years,
22 8 years, 12 years, and 20 years of experience, respectively, litigating complex wage and hour class and
23 PAGA actions. Again, this Court approved these rates for myself, Mr. Shimoda, and Ms. Berzin in
24 November 2022. *See Strawn v. Bridgestone Retail Operations, LLC*, Case No. 34-2018-00242049
25 (Sac. Sup. Ct.). Mr. Konini was approved at these rates in connection with a wage and hour class
26 action in Sacramento County Superior Court in January 2023. *See Kee, et al. v. Dr. Jeffrey A. Saladin,*
27 *Dental Corporation (D/B/A Children's Choice Pediatric Dental Care), et al.*, Case No. 34-2020-
28 00290072. Awarding fees at the hourly rate in effect at the time of the fee request is an appropriate and

1 judicially approved method. *See Missouri v. Jenkins by Agyei*, 491 U.S. 274, 283 (1989). For the
2 foregoing reasons, I believe the request of \$102,375 (35%) for attorneys' fees is justified given the
3 results obtained on behalf of the class.

4 24. Although the Agreement set out a maximum of \$10,000.00 for potential attorney's costs,
5 the total costs incurred or that will be incurred through a compliance hearing by Class Counsel is
6 \$6,760.93. A true and correct copy of my firm's itemized costs incurred prior to the filing of this
7 Motion and the expected costs incurred through the final approval and compliance hearings is attached
8 to this declaration as Exhibit D. The difference in the actual costs and the maximum amount allocated
9 under the Agreement will be added to the Net Settlement Amount and disbursed to Class Members.

10 25. I have used several class action administrator companies in the wage and hour class
11 actions I have resolved in the past and believe Apex Class Action will provide the best service to
12 administer the proposed class settlement. The CEO of Apex Class Action, Sean Hartranft, has worked
13 in the administration industry for a decade and utilizes case managers with considerable experience in
14 the field. Apex Class Action has procedures in place to protect the security of class data as well as
15 insurance. Under the settlement the difference between the originally allocated \$10,000, and the actual
16 administration costs of \$6,990 will be paid to the Class members on a pro rata basis.

17 26. A copy of the Agreement and the entire Motion was submitted to the LWDA for review
18 at the same time the Motion was submitted to the Court pursuant to California Labor Code section
19 2699(l)(2). A true and correct copy of documents demonstrating the settlement documents were
20 provided to the LWDA and that the LWDA has confirmed receipt are being filed with this Motion as
21 Exhibit E.

22 27. The intended *cy pres* beneficiaries in this case are Capital Pro Bono, Inc. ("CPB") and
23 The Center For Workers Rights ("CFWR"). Only those funds that remain from uncashed settlement
24 checks will be sent to the *cy pres* beneficiaries pursuant to section 5.6 of the Agreement.

25 28. CPB is a 501(c)(3) nonprofit in good standing with the State of California that was
26 established in 1981 and incorporated in 1986 to provide free civil legal services to the indigent,
27 primarily through the use of volunteer attorneys. The formal service area includes Sacramento, Yolo,
28 San Joaquin, El Dorado and Placer counties, however it also regularly provides assistance, whether in

1 person or by phone, to individuals residing outside those counties, including Solano, Nevada, Merced,
2 Sutter, Yuba, and Stanislaus counties. CPB changed its name in 2020 from Voluntary Legal Services
3 Program of Northern California (“VLSP”) to Capital Pro Bono, Inc. CPB has been the recipient of *cy*
4 *pres* funds from several jurisdictions in the State of California, including from Sacramento County
5 Superior Court.

6 29. CPB was preliminarily approved as a *cy pres* beneficiary, any funds received will be
7 dedicated to the Employment Law Clinic and Advice Line project, which assists the indigent with legal
8 matters related to their current or former employment. This assistance regularly includes, but is not
9 limited to, free legal advice regarding claims for unpaid wages, failure to provide meal and rest periods,
10 failure to pay reimbursement, and waiting time penalty claims. CPB provides legal advice, assistance
11 with legal forms, and direct representation in administrative hearings, including administrative hearings
12 in front of the California Labor Commissioner for unpaid wages. CPB has a staff attorney and clinic
13 coordinator who provide assistance, along with experienced employment law attorney volunteers. These
14 services have been a focus of the Employment Law Clinic and Advice Line project since its inception
15 with VLSP and continuing through today under CPB.

16 30. CFWR is also a qualified *cy pres* designee in class actions, under section 384, as it is a
17 501(c)(3) nonprofit in good standing with the State of California providing free civil legal services to the
18 indigent. Since its inception in 2014 and in partnership with Legal Aid at Work, the CFWR offers one-
19 on-one legal consultations for low-wage workers. The CFWR discusses employment issues with
20 workers and advises them as to the available legal remedies. In addition to individual counseling on
21 employment issues, the CFWR educates workers, unions, and community members about workplace
22 laws and remedies through “Know-Your-Rights” trainings conducted by the CFWR staff and volunteers.

23 31. The CFWR provides limited representation for low-wage workers in wage claims before
24 the California Labor Commissioner. The CFWR has provided services to low-wage workers in a variety
25 of industries across the entire state of California. CFWR primarily focuses on the enforcement of basic
26 workplace protections, including claims for unpaid wages, minimum wage violations, failure to pay
27 overtime, failure to pay reimbursement, waiting time penalties, and meal and rest period violations. The
28 CFWR helps workers navigate the wage claim process before the California Labor Commissioner

1 through advice given at its legal consultation clinics and/or, in some cases, through representing workers
2 in these claims. If the CFWR is approved as a *cy pres* beneficiary, the funds received will be dedicated
3 towards assisting low-wage workers with wage claims and enforcing the California Labor Code with
4 respect to those wage claims.

5 32. I believe the services provided by CPB and the CFWR promote the law consistent with
6 the objective of wage and hour class actions in general and in this case specifically.

7 33. I have spoken with every other attorney at my firm to determine whether they have any
8 relationship with either of the proposed *cy pres* beneficiaries. Galen T. Shimoda, my partner, has
9 volunteered for both organizations on and off over the past several years through either presenting wage
10 and hour seminars to law students who staff the free advice clinics or helping at the advice clinics
11 themselves. However, Mr. Shimoda has not performed any volunteer work with either organization
12 since approximately March 2020. Mr. Shimoda has never received payment or compensation of any
13 kind in connection with any work he's done with either of the proposed *cy pres* beneficiaries.

14 34. Brittany V. Berzin, my former associate attorney at my firm, has never done any work,
15 volunteer or otherwise with Capital Pro Bono, Inc. During law school, Ms. Berzin was a student
16 volunteer for the CFWR for two summers. Since graduating law school, she has volunteered for the
17 CFWR approximately one to two times per year, assisting in the advice clinic. Recently, Ms. Berzin
18 volunteered to be on the Board of Directors and is currently the Chair, which is an unpaid position. As
19 Chair, Ms. Berzin is one of seven Board Members, who are all from different law firms and/or local
20 public and private organizations. The Executive Director of the CFWR controls the day-to-day
21 operations of the CFWR, not Ms. Berzin or the Board of Directors. Furthermore, CFWR has not, and
22 does not, provide any referrals to Shimoda & Rodriguez Law, P.C. Renald Konini who is also an
23 associate attorney at my firm, has never done any work, volunteer or otherwise, with Capital Pro Bono,
24 Inc., or the Center for Workers Rights.

25 35. I have volunteered for both CPB and the CFWR numerous times over the past several
26 years, either directly in the advice clinics or by presenting seminars on wage and hour laws for law
27 students seeking to also volunteer at advice clinics. I have also volunteered by sitting on CPB's
28 advisory committee. I have witnessed firsthand the quality service and attention these entities provide to

1 individuals in need of employment law advice and representation at the California Labor Commissioner.
2 I believe the services they provide directly support and promoted the purposes underlying this lawsuit. I
3 do not receive any compensation, whether direct or indirect, for my time spent volunteering for these
4 entities or for designating them as *cy pres* beneficiaries.

5 I declare under penalty of perjury under the laws of the State of California that the foregoing is
6 true and correct. Executed on May 28, 2024, in Elk Grove, California.

7
8
9 
10 Justin P. Rodriguez

Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)

Shimoda & Rodriguez Law, PC
9401 East Stockton Boulevard, Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733

Attorneys for Plaintiff RUTH TANKSLEY

**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

RUTH TANKSLEY, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

HISHAM SOLIMAN M.D. INC., a California
Corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. 34-2023-00335509

CLASS ACTION

**DECLARATION OF MADELY NAVA OF
APEX CLASS ACTION, LLC, IN SUPPORT
OF MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: June 21, 2024

Time: 9:00 a.m.

Dept.: 23

Judge: Hon. Jill H. Talley

Filed: March 2, 2023

FAC Filed: June 22, 2023

Trial Date: None Set

1 I, Madely Nava, declare as follows:

2 1. I am a resident of the United States of America and am over the age of 18. I am a Case
3 Manager for Apex Class Action, LLC, (hereinafter referred to as “Apex”), the professional settlement
4 services provider who has been retained by the Parties’ Counsel and subsequently appointed by the
5 Court to serve as the Settlement Administrator for the above captioned *Tanksley v. Hisham Soliman, M.D.,*
6 *Inc.*, matter. On behalf of both Apex and myself, I possess the authority to issue this declaration. I am
7 personally acquainted with the information contained herein, and in the event of being summoned to
8 provide testimony, I am fully capable and willing to provide competent testimony regarding these facts.

9 2. Apex Class Action’s team has been directly involved with class action administration for a
10 combined 15 years and has successfully managed numerous class action cases during that time. Our team
11 comprises experienced professionals with extensive knowledge of class action settlement administration. In
12 addition, Apex Class Action has the necessary technology and infrastructure to efficiently manage large-
13 scale class action cases. We utilize state-of-the-art software and systems to ensure that all aspects of the
14 administration process are executed accurately and efficiently.

15 3. Apex was engaged by the Parties’ Counsel and subsequently approved and appointed by
16 the Court to provide notification services and claims administration, pursuant to the terms of the
17 Settlement, in the above-referenced Action. The responsibilities undertaken thus far, as well as those to
18 be fulfilled following the granting of Final Approval of the Settlement, include: (a) printing and mailing
19 the *Notice of Proposed Class Action and PAGA Settlement, and Hearing Date for Final Court Approval*
20 *of Settlement*, (referred to as “Notice Packet”); (b) receiving and processing requests for exclusion; (c)
21 resolving disputes among Class Members regarding the number of workweeks recorded by Defendants
22 during the Class Period, as stated on their individualized Notice Packet.; (d) calculating individual
23 settlement award amounts; (e) processing and mailing settlement award checks; (f) handling tax
24 withholdings as required by the Settlement and the law; (g) preparing, issuing and filing tax returns and
25 other applicable tax forms; (h) managing the distribution of any unclaimed funds pursuant to the terms of
26 the Settlement; and (i) undertaking additional tasks as mutually agreed upon by the Parties or as ordered
27 by the Court for Apex to perform.

1 4. On February 12, 2024, Counsel for the Plaintiff provided Apex with the Court-approved
2 content for the Notice Packet. Apex then generated a draft of the formatted Notice Packet, which received
3 approval from the Parties' Counsel before being mailed.

4 5. On February 20, 2024, Counsel for the Defendants provided Apex with the class data file,
5 comprising the names, social security numbers, last known mailing addresses, and the total number of
6 relevant workweeks worked by each Settlement Class Member. The data file was successfully uploaded
7 to our database, where it underwent a thorough review to identify any duplicates or potential
8 inconsistencies. The Class List consisted of a total of 217 individuals.

9 6. In preparation for the mailing process, all 217 names and addresses listed in the Class List
10 underwent verification and updating against the National Change of Address (NCOA) database
11 maintained by the United States Postal Service (USPS). The purpose of this step was to ensure the
12 accuracy and validity of the Settlement Class Members' mailing addresses before sending out the Notice
13 Packet. The NCOA database contains records of requested address changes submitted to the USPS. If an
14 updated address was found in the NCOA database, it was utilized for the mailing of the Notice Packet.
15 However, in cases where no updated address was found in the NCOA database, the original address
16 provided by Counsel for Defendants was used for the mailing of the Notice Packet.

17 7. On March 8, 2024, The Notice Packet was sent to all 217 individuals listed in the Class
18 List using U.S First Class Mail. A copy of the mailed Notice Packet is attached hereto as **Exhibit A**.

19 8. As of the date of this declaration, our office has received 23 returned Notice Packets as
20 undeliverable. Of the 23 returned Notice Packets, none were returned with a forwarding address.
21 Therefore, Apex conducted a computerized skip trace on the 23 returned Notice Packets in order to acquire
22 updated addresses for the purpose of re-mailing the Notice Packet. This skip trace effort resulted in
23 obtaining 7 updated addresses, to which we promptly re-mailed the Notice Packets via U.S First Class
24 Mail.

25 9. As of the date of this declaration, there have been 7 Notice Packets re-mailed as a result of
26 Apex's skip-tracing efforts.

27 10. As of the date of this declaration, 16 Notice Packets have been deemed undeliverable as no
28 updated address was found despite conducting skip tracing.

1 11. As of the date of this declaration, Apex has received 3 requests for exclusion. The
2 individuals who have opted out include Rachelle Cisneros, Breanna Hill, and Anita Acharya. The deadline
3 for submitting a request for exclusion from the Settlement was May 7, 2024.

4 12. As of the date of this declaration, Apex has not received any objections to the Settlement.
5 The deadline for submitting a written objection to the Settlement was May 7, 2024.

6 13. As of the date of this declaration, Apex will report 214 Participating Class Members,
7 constituting 98.62% of the total 217 Settlement Class Members.

8 14. The total number of workweeks worked by Participating Class Members during the Class
9 Period is 7,073.86. The Net Settlement Amount available to Participating Class Members is estimated to
10 be \$156,374.07 and was calculated by subtracting the requested attorneys' fees (\$102,375.00), the amount
11 being requested for litigation costs and expenses (\$6,760.93), the requested Enhancement Payment
12 (\$10,000.00), the requested Settlement Administration Costs (\$6,990.00), and the PAGA Payment
13 (\$10,000.00) from the Gross Settlement Amount (\$292,500.00).

14 15. The *highest* Individual Settlement Amount to a Participating Class Member is currently
15 estimated to be approximately \$5,532.26, the *average* Individual Settlement Amount is currently
16 estimated to be approximately \$730.72. These amounts are subject to employee-side tax and withholdings.

17 16. Apex's comprehensive fees and costs for administering this Settlement, covering both
18 incurred and anticipated expenses, amount to \$6,990.00. Apex will proceed with additional tasks related
19 to this matter, such as calculating settlement award payments, issuing and mailing settlement award
20 checks, handling necessary tax filings and reporting on these payments, and any other tasks mutually
21 agreed upon by the Parties or ordered by the Court for Apex to undertake.

22 I declare under penalty of perjury under the laws of the State of California and the United States
23 that the foregoing is true and correct, and that this Declaration was executed this 24th day of May 2024, in
24 Irvine, California.

25
26
27
28



MADELY NAVA

Exhibit A

CALIFORNIA SUPERIOR COURT
FOR THE COUNTY OF SACRAMENTO

RUTH TANKSLEY, individually and on behalf of all other
similarly situated employees,

Plaintiff,

vs.

HISHAM SOLIMAN M.D. INC., a California Corporation;
and DOES 1 to 100, inclusive,

Defendants.

Case No. 34-2023-00335509

**NOTICE OF PROPOSED CLASS ACTION AND
PAGA SETTLEMENT, AND HEARING DATE FOR
FINAL COURT APPROVAL OF SETTLEMENT**

ATTENTION: all non-exempt employees who have, or continue to, work for Hisham Soliman M.D., Inc. in California from March 2, 2019, up to January 13, 2024 (the “Class Members”).

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE IN OR OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

You are receiving this notice pursuant to an order from the Sacramento County Superior Court (“Court”) granting Plaintiff’s motion for preliminary approval of a Joint Stipulation Regarding Class and Action PAGA Settlement and Release (“Agreement” or “Settlement”) as fair, reasonable, and adequate. The Settlement was entered into between Plaintiff Ruth Tanksley (“Plaintiff” or “Class Representative”) and Defendants Hisham Soliman M.D. Inc., Hisham Soliman and Abeer Soliman (“Defendants”) on behalf of Class Members as defined above. The terms of the Settlement are outlined herein. You are receiving this notice because Defendants’ records indicate you fall within the definition of “Class Member.” Defendants’ records also indicate that you worked «Class_Weeks» weeks during the applicable Class Period (as defined below), which means your total share of the settlement proceeds is estimated to be \$«Est_Class_PMT». Your actual share of the settlement proceeds will vary depending on the total number of Class Members that choose to participate, and the resolution of any workweek disputes as described in this notice.

The terms of the Agreement and a description of the case are identified in this notice. Pursuant to the Court’s order, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

I. BACKGROUND OF THE CASE

On March 2, 2023, Plaintiff filed a Complaint against Defendants in the Sacramento County Superior Court of California on behalf of herself and Class Members. The term “Action” means this putative class action pending in Sacramento County Superior Court, Case No. 34-2023-00335509. The Class Period is from March 2, 2019 up to January 13, 2024 (the “Class Period”).

In the Action, Plaintiff sought to obtain unpaid wages, interest, statutory penalties, civil penalties, fees, and costs on behalf of herself, Class Members, and Aggrieved Employees. Plaintiff alleged that Defendants violated California law by 1) failing to pay Plaintiff and similarly situated employees for all hours worked, including time spent outside of their scheduled shifts; 2) failing to authorize and permit all meal and rest periods; 3) failing to reimburse employees for the use of personal cellphones; 4) failing to pay Covid-19 supplemental paid sick leave to employees who had been employed less than six (6) months; and 5) failing to incorporate the value of bonuses into employees’ regular rates of pay. Defendants have denied all of Plaintiff’s allegations. The Action has been actively litigated. There have been on-going investigations, and there has been an exchange of extensive documentation and information. Furthermore, the Parties have participated in a full day mediation facilitated by a neutral third party. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Agreement, Defendants continue to deny all allegations and claims. Defendants have entered into this Settlement to fully, finally, and forever resolve this Action, based on the terms set forth in the Agreement, in order to avoid the burden and expense associated with ongoing litigation.

The Agreement applies to any and all Class Members, which are defined as all non-exempt employees who have, or continue to, work for Hisham Soliman M.D., Inc. in California from March 2, 2019 up to January 13, 2024. The Agreement also applies to

Aggrieved Employees, which are defined as all non-exempt employees who have, or continue to, work for Hisham Soliman M.D., Inc. from March 1, 2022 up to January 13, 2024. If you are a Class Member, you have the opportunity to participate in the Settlement, or to exclude yourself (“opt out”) from the Settlement. This notice is to advise Class Members of how they can either participate in the Settlement or be excluded from the Settlement. As set forth below, Aggrieved Employees cannot opt out of this Agreement as it relates to the PAGA Payment or Released PAGA Claims regardless of whether they opt out of being a Class Member. Aggrieved Employees will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Agreement, Defendants have agreed to pay a total sum of Two Hundred Ninety-Two Thousand Five Hundred Dollars and No Cents (\$292,500) (“Gross Settlement Amount”). Deducted from this Gross Settlement Amount will be sums approved by the Court for attorneys’ fees not to exceed 35% of the Gross Settlement Amount, attorneys’ costs not to exceed \$10,000, Settlement Administrator Costs estimated not to exceed \$10,000, Class Representative’s Enhancement Payment of \$10,000, and \$10,000 for alleged PAGA penalties (the “PAGA Payment”), which will result in a “Net Settlement Amount” for distribution to all Class Members. Any employer side taxes attributable to payments allocated as wages will be paid by Defendants in addition to the Gross Settlement Amount. As explained further below, the amount of each Class Member’s share of the Net Settlement Amount will depend on the number of weeks worked by participating Class Members during the Class Period. Of the \$10,000 allocated to resolving the PAGA claims, 75% of the PAGA Payment will be paid to the State of California Labor and Workforce Development Agency and 25% of the PAGA Payment will be divided among Aggrieved Employees.

The number of weeks you worked during the Class Period and your estimated total share of the Net Settlement Amount and PAGA Payment (“Individual Settlement Amount”) is stated on the first page of this notice. The actual amount received may be more or less than the amount stated depending on the actual number of weeks worked by Participating Class Members (*i.e.*, those who do not opt out of the Settlement), the resolution of any disputes regarding workweeks, and on the distributions finally approved and allocated by the Court. However, whether Class Members opt out will have no effect on Aggrieved Employees’ allocations for the PAGA claims.

B. Individual Settlement Amounts and Allocation Between Class Members and Aggrieved Employees

Defendants will pay Individual Settlement Amounts through the Settlement Administrator, as described below, to each Participating Class Member and to Aggrieved Employees. All Individual Settlement Amounts will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action that all Individual Settlement Amounts payable to eligible Class Members will be allocated from the Net Settlement Amount and paid as 80% for disputed interest, statutory penalties, and other non-wage damages for which IRS Forms 1099-MISC and 1099-INT will issue and 20% for disputed wages for which IRS Forms W-2 will issue. The PAGA Payment to Aggrieved employees will be paid as 100% for civil penalties.

Payment to Participating Class Members and Aggrieved Employees will not require the submission of a claim form. Each Participating Class Member’s share will be determined by dividing their total weeks worked within the Class Period by the total weeks worked by all Participating Class Members within the Class Period. That fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member’s individual share of the Net Settlement Amount. Each Aggrieved Employee’s share of the 25% portion of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee’s individual share. The PAGA Claim Period is defined as from March 1, 2022, up to January 13, 2024. Defendants’ records indicate that you worked «PAGA_Weeks» weeks during the applicable PAGA Claim Period, which means your share of the PAGA Payment is estimated to be \$«Est_PAGA_PMT». This amount is included in your estimated Individual Settlement Amount stated on the first page of this notice, not in addition to it. You will still receive your share of the PAGA Payment even if you opt out of being a Class Member. Receipt of the Individual Settlement Amounts will not entitle any Class Member or Aggrieved Employee to additional compensation or benefits under any compensation, retirement or benefit plan or agreement in place during the period covered by the Settlement.

C. Calculations to Be Based on Defendants’ Records and Resolution of Workweek Disputes

For each Class Member, the amount payable will be calculated by the Settlement Administrator from Defendants’ records. Defendants’ records will be presumed correct unless evidence to the contrary is provided to the Settlement Administrator. Defendants’ records and any additional evidence will be reviewed by the Settlement Administrator in the event of a dispute about the number of

workweeks worked by an individual Class Member. If a Class Member disputes the accuracy of Defendants' records, all supporting documents evidencing additional workweeks must be submitted by the Class Member. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than May 7, 2024. The dispute will be resolved by the Settlement Administrator based on the records and evidence provided.

D. Release of Claims

For those Class Members who do not opt out and Aggrieved Employees, the Agreement contains the following releases:

Class members who do not opt out will be deemed to have released any and all class claims that are alleged in the Complaint, and any additional wage and hour claims that could have been brought based on the facts alleged in the Complaint, through the Class Period. This release excludes the release of claims not permitted by law. The Released Class Claims exclude claims for workers' compensation or unemployment insurance benefits. This release will cover all Class Members who do not opt out.

Aggrieved Employees will be deemed to have released any and all claims that were brought under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.*, contained in the Complaint and any additional wage and hour PAGA claims that could have been brought based on the facts alleged in the Complaint during the PAGA Claim Period. Aggrieved Employees cannot opt out of this waiver of claims.

The individuals released ("Released Parties") Defendants, as well as Defendants' officers, shareholders, directors, agents, employees, attorneys, and insurers.

Class Members and/or Aggrieved Employees can talk to one of the lawyers appointed as Class Counsel (listed below) for free or talk to their own lawyer if they have questions about the released claims and what they mean.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Participating in the Settlement as a Class Member

If you wish to be a Participating Class Member and believe your workweek information is accurate, **you do not need to take any further action**. Payment will be automatically made to you consistent with the terms of the Agreement and Court Order. If you wish to dispute the workweek calculation, you may follow the procedures outlined in Section II.C above. California law protects Class Members from retaliation based on their decision to participate in the Settlement.

B. Excluding Yourself from the Settlement as a Class Member

The Court will exclude you from the being a Class Member if you request this by May 7, 2024. If you do not wish to be bound by the Settlement as a Class Member, you may request to be excluded (*i.e.*, "opt out") by submitting a timely written request to the Settlement Administrator. The request to opt-out must (a) state your full name and date of birth; (b) a statement that you do not want to be a Class Member, do not want to participate in the Settlement, and/or wants to be excluded from this Settlement; (c) identify the case name and number (*i.e.*, *Tanksley v. Hisham Soliman, M.D., Inc.*, 34-2023-00335509); (d) be signed; and (e) be post-marked no later than May 7, 2024. The request to opt out must be mailed by First Class U.S. Mail, or the equivalent, to:

Apex Class Action, LLC
P.O. Box 54668
Irvine, CA 92619

If you submit a request to opt out which is not postmarked by May 7, 2024, your request to opt out will be rejected, and you will be bound by the release and all other terms of the Agreement. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request to opt out. Any Class Member who submits a complete and timely request to opt out shall, upon receipt by the Settlement Administrator, no longer be a Class Member and not received their share of the Net Settlement Amount. Aggrieved Employees cannot opt out of this Agreement and will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

C. Objection to Settlement

If you do not opt out of the Settlement, you can object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. The objection must (a) state your full name and date of birth; (b) provide evidence that you are, in fact, a Class Member; (c) state the reasons for the objection(s), including supporting documentation; (d) identify the case name and number (*i.e.*, *Tanksley v. Hisham Soliman, M.D., Inc.*, 34-2023-00335509) (e) be signed; and (f) be post-marked no later than May 7, 2024. The objection must be sent to the Settlement Administrator at the address identified in Section III.B and to counsel for Plaintiff and Defendants at the addresses identified in Section VI of this notice.

You may also appear at the final approval hearing to state your objection. Any Class Member who does not request exclusion may, if the Class Member so desires, enter an appearance through an attorney. If you appear through your own attorney, you are responsible for paying that attorney. You should also file a notice of intent to appear with the Court and serve the notice on counsel for Plaintiff and Defendants.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

If the Court grants final approval of the Settlement, the Court will make and enter judgment consistent therewith. The judgment, whether favorable or not, will bind all Class Members who do not request exclusion. After final approval, each and every Class Member who does not opt out of the Settlement and Aggrieved Employee, will release Defendants and the Released Parties from the Released Class Claims and the Released PAGA Claims described above. In other words, if you were employed as a Class Member by Defendants in California during the Class Period, and you do not exclude yourself from the Settlement, you will be deemed to have entered into these releases and to have released the above-described claims. In addition, you will be barred from ever suing Defendants and the Released Parties with respect to the claims covered by this Settlement. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Department 23, 720 9th Street, Sacramento, California 9514 on June 21, 2024, at 9:00 a.m. to determine whether the Agreement should be finally approved as fair, reasonable and adequate. To join by Zoom link: <https://saccourt-ca-gov.zoomgov.com/my/sscdept23>. To join by phone: (833) 568-8864 / ID: 16108301121. The Court also will be asked to approve Class Counsel's request for attorneys' fees and costs, the Settlement Administrator Costs, and the Class Representative's Enhancement Payment. The hearing may be continued without further notice. It is not necessary for you to appear at this hearing.

VI. ADDITIONAL INFORMATION

You may access the Complaint, Class Counsel's motion for preliminary approval, the Agreement, and any other documents required by the Court at the Settlement Administrator's website: www.apexclassaction.com/hishamsoliman. If final approval is granted, a notice of entry of order and copy of the order will be available on the Court's Public Case Access website: <https://services.saccourt.ca.gov/PublicCaseAccess/>. You can also contact Class Counsel or Defendants' Counsel as follows:

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
On behalf of Plaintiff

Timothy B. Del Castillo
Lisa L. Bradner
Daniel E. Richardson
Castle Law: California Employment Counsel, PC
2999 Douglas Blvd., Suite 180
Roseville, CA 95661
Telephone: 916-245-0122
On behalf of Defendants

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. IF YOU HAVE ANY QUESTIONS, CALL (800) 355-0700

BY ORDER OF THE COURT

Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
Renald Konini (Cal. State Bar No. 312080)
Shimoda & Rodriguez Law, PC
9401 East Stockton Boulevard, Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733

Attorneys for Plaintiff RUTH TANKSLEY

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

RUTH TANKSLEY, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

HISHAM SOLIMAN M.D. INC., a California
Corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. 34-2023-00335509

*Assigned to Jill H. Talley For All Purposes
Department 23*

CLASS ACTION

**DECLARATION OF PLAINTIFF RUTH
TANKSLEY IN SUPPORT OF MOTION FOR
FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT**

Date: June 21, 2024

Time: 9:00 a.m.

Dept.: 23

Judge: Hon. Jill H. Talley

Filed: March 2, 2023

FAC Filed: June 22, 2023

Trial Date: None Set

1 I, Ruth Tanksley, declare:

2 1. I am a competent adult, I have personal knowledge of the facts set forth in this
3 declaration, and I am making this declaration on behalf of myself, as a named plaintiff, and in support
4 of Plaintiff's Motion for Final Approval of Class Action and PAGA Settlement.

5 2. I worked for Defendant Hisham Soliman M.D. Inc. ("Defendant") from May 2022 to
6 January 12, 2023, as a non-exempt employee. During my employment, I was subject to all of
7 Defendant's policies and practices that have been alleged as unlawful in the Complaint, including the
8 following: failure to pay overtime, failure to pay minimum wages, meal period violations, rest period
9 violations, wage statement violations, waiting time penalties, failure to reimburse expenses, failure to
10 maintain accurate records, and failure to provide paid sick leave.

11 3. I have actively participated in the litigation of this case for the benefit of all Class
12 Members. Prior to obtaining an attorney, I performed several hours of research over a period of about a
13 month on the potential claims, so I could be sure I could have an informed discussion with the attorneys
14 about the claims and have a better idea of what to expect in litigation and how to help the case proceed.
15 After securing Shimoda & Rodriguez Law, PC, I continued to be actively involved in the case to help
16 ensure a positive outcome.

17 4. My attorneys explained to me the risks and benefits of bringing a class action and a
18 claim under the Private Attorneys General Act ("PAGA"). I understood that pursuing the case as a
19 class and PAGA action meant that it would take substantially longer than pursuing my claims
20 individually, whether in Court or with the California Labor Commissioner, and that I risked getting
21 nothing in the end, but I believed it was important to make sure that Defendant followed the law for
22 everyone. I understood that I took on the risk, both professionally and financially, in pursuing the case
23 as a class and PAGA action rather than pursuing my claims individually, including the risk of having to
24 pay Defendant's costs if we were unsuccessful in bringing our claims.

25 5. During the course of this litigation, I have given detailed accounts of all the facts related
26 to my employment. I provided my attorneys with extensive documentation that I believe supported the
27 claims brought against Defendant. I met with and assisted my attorneys in understanding these
28 documents and providing context for Defendant's payroll process as it applied to me and how I

1 believed it applied to Defendant's other employees. I worked at multiple office locations and knew that
2 Defendant's policies and practices were the same at each location, so I was able to discuss the
3 similarities of the wage and hour policies and practices among all Class Members.

4 6. The work I performed for this case included an extensive review of documents and
5 payroll practices to show and explain to my attorneys what was happening and why I thought it was
6 unlawful. For example, I provided my attorneys with copies of paystubs and a substantial number of
7 work related text messages that evidenced Defendant's policies and practices and hours I worked. This
8 was important as it pertained to the off-the-clock and reimbursement claims. I reviewed Defendant's
9 timekeeping practices, Defendant's policies regarding paying overtime, meal and rest period policies
10 and practices, paid sick leave policy, and reimbursement policy with my attorneys to give them
11 information regarding alleged unpaid hours worked, why Class Members were unable to take all meal
12 and rest periods, failure to reimburse for work related personal cellphone use, and failure to pay
13 supplemental sick leave to employees who had been employed less than 6 months to help reconstruct
14 the timeline and facts consistent with our allegations. The review became even more detailed when my
15 attorneys asked me questions about the payroll data sample that was produced as part of informal
16 discovery to engage in mediation. I also spent a substantial amount of time identifying and speaking to
17 potential witnesses who could speak to my attorneys to give their own insights and provide
18 declarations. Since the settlement, I have also fielded questions by Class Members about this case and
19 helped to direct them to my attorneys and/or the Settlement Administrator to make sure they
20 understood the settlement terms. Overall, I have spent an enormous amount of time assisting in the
21 prosecution of this case. I estimate that I spent about 90-100 hours assisting with this case.

22 7. I participated in the negotiations and settlement discussions in this case, including
23 participating in mediation by phone, speaking with my attorneys to answer questions, provide any
24 additional information needed to assist the negotiations, and discussing the potential terms of the
25 Agreement to evaluate its adequacy. Throughout the course of this litigation, I have asked questions
26 when I needed clarification about various aspects of this case to make sure there were continually steps
27 taken to advance the interests of Class Members.

10. I understand that any Class Representative Enhancement Payment I may receive is for my participation as a Class Representative and it is not contingent on my support or approval of the Agreement.

DocuSigned by:

 30340897A6E3483...
 Ruth Tanksley

Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
Renald Konini (Cal. State Bar No. 312080)
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Attorneys for Plaintiff RUTH TANKSLEY

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

RUTH TANKSLEY, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

HISHAM SOLIMAN M.D. INC., a California
Corporation; and DOES 1 to 100, inclusive,
Defendants.

Case No. 34-2023-00335509

*Assigned to Jill H. Talley For All Purposes
Department 22*

CLASS ACTION

**EXHIBIT LIST AND EXHIBITS IN
SUPPORT OF PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT**

Date: June 21, 2024

Time: 9:00 a.m.

Dept.: 23

Judge: Hon. Jill H. Talley

Filed: March 2, 2023

FAC Filed: June 22, 2023

Trial Date: None Set

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
A	Joint Stipulation Regarding Class Action and PAGA Settlement and Release
B	Plaintiff's Operative Complaint
C	Plaintiff's Letter to the LWDA Regarding PAGA Claims
D	Plaintiff's Itemized Costs
E	Proof of Submission to LWDA
F	Summary Chart of Plaintiff's Counsel's Hours

Dated: May 29, 2024

Shimoda & Rodriguez Law, PC

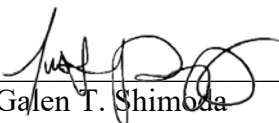
By: 
 Galen T. Shimoda
 Justin P. Rodriguez
 Renald Konini
 Attorneys for Plaintiff

Exhibit A

Galen T. Shimoda (Cal. State Bar No. 226752)
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Attorneys for HISHAM SOLIMAN, M.D., Inc.

**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

RUTH TANKSLEY, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

HISHAM SOLIMAN M.D. INC., a California
Corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No.: 34-2023-00335509

**JOINT STIPULATION REGARDING CLASS
ACTION AND PAGA SETTLEMENT AND
RELEASE**

Filed: March 2, 2023

FAC Filed: June 22, 2023

Trial Date: None Set

This Joint Stipulation Regarding Class Action and PAGA Settlement and Release is made and entered into between the Plaintiff Ruth Tanksley (“Plaintiff”), on behalf of herself, the Labor and Workforce Development Agency, Class Members, and Aggrieved Employees, and Defendants Hisham Soliman M.D. Inc., Hisham Soliman and Abeer Soliman (“Defendants”). This Agreement is subject to the terms and conditions set forth below and the approval of the Court.

1. DEFINITIONS

The following terms, when used in this Agreement, have the following meanings:

1.1 “Action” means the above stated lawsuit, *Tanksley v. Hisham Soliman, M.D., Inc.*, Sacramento County Superior Court, Case No. 34-2023-00335509, filed March 2, 2023.

1.2 “Aggrieved Employee(s)” means all non-exempt employees who have, or continue to, work for Hisham Soliman M.D., Inc. in California during the PAGA Claim Period.

1.3 “Agreement” or “Settlement” or “Settlement Agreement” means this Joint Stipulation Regarding Class Action and PAGA Settlement and Release.

1.4 “Class Counsel” means Galen T. Shimoda, Justin P. Rodriguez and Brittany V. Berzin of Shimoda & Rodriguez Law, PC.

1.5 “Class Member(s)” means all non-exempt employees who have, or continue to, work for Hisham Soliman M.D., Inc. in California during the Class Period.

1.6 “Class Period” means from March 2, 2019 up to either (1) to the Preliminary Approval Date or (2) January 13, 2024, whichever is earlier.

1.7 “Class Representative” means Plaintiff Ruth Tanksley .

1.8 “Complaint” means the operative Complaint on file in the Action with the Court.

1.9 “Court” means the Sacramento County Superior Court.

1.10 “Defendants” means Hisham Soliman M.D. Inc., Hisham Soliman M.D., and Abeer Soliman.

1.11 “Defendants’ Counsel” means Castle Law: California Employment Counsel, PC.

1.12 “Enhancement Payment” means the amount approved by the Court to be paid to the Class Representative in recognition of the time and effort expended on behalf of Class Members for the benefit

of Class Members, which is in addition to any Individual Settlement Amount paid to the Class Representative as a Participating Class Member.

1.13 “Effective Date” means the Final Approval Date unless there is a timely objection lodged that has not later been withdrawn, in which case the Effective Date will be either (a) the 60th calendar day after a signed order approving this settlement has been filed provided no appellate proceeding having been filed; or (b) seventh (7th) calendar day after any appellate proceeding opposing the settlement has been finally dismissed with no material change to the terms of this settlement and there is no right to pursue further remedies or relief, whichever is later.

1.14 “Final Approval Date” means the date a signed order granting final approval of this Agreement is filed with the Court.

1.15 “Gross Settlement Amount” is the sum of Two Hundred Ninety-Two Thousand Five Hundred Dollars and No Cents (\$292,500.00).

1.16 “Individual Settlement Amount” means an individual Class Member’s and Aggrieved Employee’s allocation of the Net Settlement Amount and PAGA Payment respectively, as defined in Sections 5.5, and 5.8.

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

1.18 “Net Settlement Amount” is the portion of the Gross Settlement Amount available for distribution to Class Members, as described in this Agreement, after deduction of Class Counsel’s attorneys’ fees and litigation costs, Settlement Administrator Costs, the PAGA Payment, and Enhancement Payment to the Class Representative.

1.19 “Notice of Settlement” means the document substantially in the form attached hereto as Exhibit 1.

1.20 “Notice Period” means sixty (60) calendar days from the initial mailing of the Notice of Settlement to Class Members and Aggrieved Employees.

1.21 “PAGA” means Private Attorneys General Act.

1.22 “PAGA Payment” means the amount allocated from the Gross Settlement Amount towards resolving claims under the Private Attorneys General Act of 2004, California Labor Code §§ 2698 *et seq.*

1 1.23 “PAGA Claim Period” means from March 1, 2022 up to either (1) to the Preliminary
2 Approval Date or (2) January 13, 2024, whichever is earlier.

3 1.24 “Parties” mean Defendants and Plaintiff.

4 1.25 “Participating Class Member” means any and all Class Members who have not made any
5 timely request to opt-out of the Agreement.

6 1.26 “Preliminary Approval Date” means the date a signed order granting preliminary approval
7 of this Agreement is filed with the Court.

8 1.27 “QSF” means a Qualified Settlement Fund set up by the Settlement Administrator for the
9 benefit of the Participating Class Members and/or Aggrieved Employees and from which the payments
10 under this Agreement shall be made. Any amounts Defendants have agreed to pay under this Agreement
11 shall remain the property of Defendants until the payments required under the Agreement are made.

12 1.28 “Qualifying Workweeks” are weeks worked by Class Members and/or Aggrieved
13 Employees during the Class Period and/or PAGA Claim Period, respectively, in California. For Class
14 Members, workweeks shall be defined as the total length of service (in days) in California during the Class
15 Period divided by seven. For Aggrieved Employees workweeks shall be defined as the total length of
16 service (in days) in California during the PAGA Claim Period divided by seven. The calculation of a Class
17 Member’s and/or Aggrieved Employee’s workweeks and a determination as to whether a Class Member
18 and/or Aggrieved Employee was actively employed in California in a particular workweek shall be
19 construed from Defendants’ records.

20 1.29 “Released Class Claims” means any and all class claims that are alleged in the Complaint,
21 and any additional wage and hour claims that could have been brought based on the facts alleged in the
22 Complaint, through the Class Period. This release excludes the release of claims not permitted by law.
23 The Released Class Claims exclude claims for workers’ compensation or unemployment insurance
24 benefits. This release will cover all Class Members who do not opt out.

25 1.30 “Released PAGA Claims” means any and all claims that were brought under the Private
26 Attorneys General Act, Labor Code §§ 2698 *et seq.*, contained in the Complaint and any additional wage
27 and hour PAGA claims that could have been brought based on the facts alleged in the Complaint during
28

1 the PAGA Claim Period or the PAGA letters filed with the LWDA. Aggrieved Employees cannot opt out
2 of this waiver of claims.

3 1.31 “Released Parties” means Defendants, as well as Defendants’ officers, shareholders,
4 directors, agents, employees, attorneys, and insurers.

5 1.32 “Settlement Administrator” means and refers to Apex Class Action, the third-party entity
6 that will administer the Agreement as outlined in Sections 4 and 7, or any other third-party administrator
7 agreed to by the Parties and approved by the Court for the purposes of administering this Agreement. The
8 Parties each represent that they do not have any financial interest in the Settlement Administrator.

9 1.33 “Settlement Administrator Costs” means the fees and expenses reasonably incurred by the
10 Settlement Administrator as a result of the procedures and processes expressly required by this Agreement,
11 and shall include all costs of administering the Agreement, including, but not limited to, all tax document
12 preparation, custodial fees, and accounting fees incurred by the Settlement Administrator; all costs and fees
13 associated with preparing, issuing and mailing any and all notices and other correspondence to Class
14 Members and/or Aggrieved Employees; all costs and fees associated with communicating with Class
15 Members and/or Aggrieved Employees, Class Counsel, and Defendants’ Counsel; all costs and fees
16 associated with computing, processing, reviewing, and paying the Individual Settlement Amounts, and
17 resolving disputes; all costs and fees associated with calculating tax withholdings and payroll taxes, if any,
18 making related payment to federal and state tax authorities, if any, and issuing tax forms relating to
19 payments made under the Agreement; all costs and fees associated with preparing any tax returns and any
20 other filings required by any governmental taxing authority or agency; all costs and fees associated with
21 preparing any other notices, reports, or filings to be prepared in the course of administering Individual
22 Settlement Amounts; and any other costs and fees incurred and/or charged by the Settlement Administrator
23 in connection with the execution of its duties under this Agreement.

24 **2. DESCRIPTION OF THE LITIGATION**

25 2.1 On or about March 1, 2023, Plaintiff sent notice to the LWDA to exhaust administrative
26 remedies under the PAGA for failure to pay overtime wages, failure to pay minimum wages, meal period
27 violations, rest period violations, wage statement violations, waiting time penalties, failure to reimburse
28 expenses, violation of Labor Code section 558, failure to maintain accurate records, and failure to provide

1 paid sick leave. On June 2, 2023, Plaintiff send an amended notice to the LWDA to include the statute for
2 failure to reimburse expenses. The LWDA did not respond to the notices within the statutorily required
3 time frame and, as such, Plaintiff became authorized to act as a Private Attorneys General on all alleged
4 PAGA claims.

5 2.2 On or about March 2, 2023, Plaintiff filed a class action Complaint in Sacramento County
6 Superior Court on behalf of herself and Class Members alleging claims for failure to pay overtime wages,
7 failure to pay minimum wages, meal period violations, rest period violations, wage statement violations,
8 waiting time penalties, failure to reimburse expenses, and unfair competition. Plaintiff filed a First
9 Amended Complaint on approximately June 22, 2023 to add a PAGA cause of action based on the
10 violations alleged in the notices to the LWDA on behalf of herself and Aggrieved Employees.

11 2.3 Through informal discovery, Defendants and Defendants' Counsel provided Class
12 Counsel with copies of all applicable versions of its policies and procedures, employee handbooks,
13 information on Class Members including, but not limited to, Class Members' dates of employment, total
14 number of Class Members, their average rate of pay, and timecard data and payroll reports for a randomly
15 selected sample of Class Members.

16 2.4 On November 13, 2023, the Parties participated in a lengthy mediation with private mediator
17 Russ J. Wunderli. Esq. At the conclusion of the mediation, the Parties were able to come to a resolution.
18 At all times, the Parties' settlement negotiations have been non-collusive, adversarial, and at arm's length.

19 2.5 Discussions between Plaintiff and Class Counsel, between counsel for the Parties, document
20 productions, extensive legal analysis, the provision of information by Defendants to Plaintiff and the
21 detailed analysis of the records, including expert analysis, have permitted each side to assess the relative
22 merits of the claims and the defenses to those claims.

23 2.6 In the Action, Plaintiff contends that Defendants violated California law by 1) failing to pay
24 Plaintiff and similarly situated employees for all hours worked, including time spent outside of their
25 scheduled shifts; 2) failing to authorize and permit all meal and rest periods; 3) failing to reimburse
26 employees for the use of personal cellphones; 4) failing to pay Covid-19 supplemental paid sick leave to
27 employees who had been employed less than six (6) months; and 5) failing to incorporate the value of
28 bonuses into employees' regular rates of pay. Defendants have denied each of Plaintiff's claims and

1 Defendants have denied that this Action is appropriate for class certification for anything other than
2 settlement purposes. The agreed upon Gross Settlement Amount was reached after evaluating the Parties'
3 theories of potential exposure for the underlying claims and the class data supporting these claims. The
4 Parties, with the assistance of the mediator, also assessed appropriate discounts to the potential liability
5 based on Defendants' factual and legal contentions and defenses.

6 2.7 The Parties agree that the above-described investigation and evaluation, as well as discovery
7 and the information exchanged to date, are more than sufficient to assess the merits of the respective
8 Parties' positions and to compromise the issues on a fair and equitable basis. Plaintiff, Class Counsel,
9 Defendants, and Defendants' Counsel have concluded that it is desirable that the Action be settled in a
10 manner and upon such terms and conditions set forth herein in order to avoid further expense,
11 inconvenience and distraction of further legal proceedings, and the risk of an adverse outcome each of the
12 Parties potentially face in the Action. Therefore, the Parties desire to resolve the claims in the Action.
13 Plaintiff, Class Counsel, Defendants, and Defendants' Counsel are of the opinion that the Agreement for
14 the consideration and terms set forth herein is fair, reasonable, and adequate in light of all known facts and
15 circumstances.

16 **3. THE CONDITIONAL NATURE OF THIS AGREEMENT**

17 3.1 This Agreement and all associated exhibits or attachments are made for the sole purpose of
18 settling the Action. This Agreement and the settlement it evidences are made in compromise of disputed
19 claims. Because the Action was pled as a class action, this Agreement must receive preliminary and final
20 approval by the Court. Accordingly, the Parties enter into this Agreement and associated settlement on a
21 conditional basis. If the Effective Date does not occur, or if the Court's approval of the settlement is
22 reversed or materially modified on appellate review, this Agreement shall be deemed null and void; it shall
23 be of no force or effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and
24 the negotiation, terms and entry of the Agreement shall remain subject to the provisions of California
25 Evidence Code Sections 1119 and 1152, Federal Rule of Evidence 408, and any other analogous rules of
26 evidence that may be applicable.

27 3.2 Defendants have denied all claims as to liability, damages, liquidated damages, penalties,
28 interest, fees, restitution, injunctive relief and all other forms of relief asserted in the Action. Defendants

1 have agreed to resolve the Action via this Agreement, but to the extent this Agreement is deemed void or
2 the Effective Date does not occur, Defendants do not waive, but rather expressly reserve, all rights to
3 challenge all such claims and allegations in the Action upon all procedural and factual grounds, including,
4 without limitation, the ability to challenge class or collective treatment on any grounds, as well as to assert
5 any and all other potential defenses or privileges.

6 **4. SCOPE OF THE CLASS**

7 4.1 The scope of the class of individuals encompassed under the Agreement and subject to all
8 obligations and duties required under the Agreement, shall include all Class Members as defined in Section
9 1.5 and all Aggrieved Employees as defined in Section 1.2. However, it shall not include any Class
10 Members who submit valid and timely requests to opt-out of the Agreement and settlement, as set forth in
11 Section 7.5.1.

12 4.2 Only Participating Class Members and Aggrieved Employees are entitled to recover under
13 this Agreement.

14 4.3 Any person who believes that he or she is a Class Member or Aggrieved Employee and
15 wishes to participate in the Agreement, but did not receive a Notice of Settlement because his or her name
16 did not appear on the class list provided to the Settlement Administrator prior to mailing, may submit a
17 data request to the Settlement Administrator. The data request must contain all of the following
18 information: (a) the full name and, if applicable, Social Security Number of the individual making the
19 request; (b) the name used by such employee as of the time his or her employment with Defendants ended;
20 (c) the individual's dates of employment with Defendants; and (d) a return address to which a response
21 may be sent. Every data request must be postmarked on or before the conclusion of the Notice Period or
22 otherwise submitted to the Settlement Administrator such that it is received before the conclusion of the
23 Notice Period. Upon receipt of any data requests, the Settlement Administrator shall promptly (in no event
24 more than two business days) transmit the data requests to Defendants' Counsel and request that
25 Defendants review their records.

26 4.4 If Defendants agree that the person listed in a data request is a Class Member and/or
27 Aggrieved Employee, the Settlement Administrator shall promptly mail a Notice of Settlement to the
28 person who submitted the data request, at the address designated for that purpose in the data request. All

provisions of this Agreement relating to the Notice of Settlement shall apply to Notice of Settlements sent in response to data requests, and any person who submits a data request and is sent a Notice of Settlement in response shall be treated by the Settlement Administrator as a Class Member and/or Aggrieved Employee for all other purposes.

4.5 If Defendants do not agree that the person listed in a data request is a Class Member and/or Aggrieved Employee, Defendants' Counsel and Class Counsel shall attempt to resolve any such dispute in good faith within seven (7) calendar days of Class Counsel being advised in writing of the data request dispute. Defendants' records shall control unless the individual submitting the data request provides persuasive evidence to doubt the accuracy of those records. Each data request dispute that Defendants' Counsel and Class Counsel cannot timely resolve shall be resolved by the Settlement Administrator. The Settlement Administrator must accept and weigh all the evidence provided in a good faith attempt to resolve the dispute. The Settlement Administrator must resolve any dispute submitted to it within seven (7) calendar days after Defendants' Counsel and Class Counsel submit the dispute to the Settlement Administrator. The decision by the Settlement Administrator shall be final as between the parties, subject to Court review.

5. TERMS OF THE SETTLEMENT

The Parties agree as follows:

5.1 Gross Settlement Amount: In consideration and exchange for the releases described in Section 6, Defendants shall pay the Gross Settlement Amount (\$292,500.00). Funding of the Gross Settlement Amount shall occur within 21 calendar days after the Effective Date to be held in trust in a QSF by the Settlement Administrator. The Gross Settlement Amount includes payments to Participating Class Members, Aggrieved Employees, all attorneys' fees, costs and litigation expenses related to the Action incurred to date, as well as all such fees and costs incurred in documenting the Agreement, administering the Agreement (including Settlement Administrator Costs), and obtaining final approval of the Agreement, the Enhancement Payment to the Class Representative and the PAGA Payment. Any monies necessary to satisfy Defendants' tax obligations (*e.g.* employer FICA, FUTA and SDI contributions on wage payments) on any monies distributed to Participating Class Members will be paid in addition to the Gross Settlement Amount.

1 5.2 Attorneys' Fees and Costs: Class Counsel will apply to the Court for attorney's fees of 35%
2 of the Gross Settlement Amount, which shall be paid from the Gross Settlement Amount. Defendants have
3 agreed to not oppose Class Counsel's application for attorneys' fees so long as it does not exceed the 35%
4 threshold. Class Counsel will also be entitled to reimbursement for advanced litigation expenses not to
5 exceed \$10,000, which shall be paid from the Gross Settlement Amount. Defendants have agreed to not
6 oppose Class Counsel's request for reimbursement for advanced litigation expenses so long as they do not
7 exceed the \$10,000 threshold. The Settlement Administrator will issue Class Counsel an IRS Form 1099
8 for the attorneys' fees and costs paid under this Agreement. In the event that the Court awards less than
9 the requested attorney's fees and/or costs, the portion of the requested amounts not awarded to Class
10 Counsel shall be added to the Net Settlement Amount to be distributed to Participating Class Members on
11 a pro rata basis.

12 5.3 Settlement Administrator Costs: The Settlement Administrator Costs shall be paid from the
13 Gross Settlement Amount and shall not exceed \$10,000. The difference between any actual costs and the
14 allocated \$10,000 shall be added to the Net Settlement Amount to be distributed to Participating Class
15 Members on a pro rata basis.

16 5.4 Enhancement Payment: Class Counsel, on behalf of Plaintiff, shall apply to the Court for
17 an Enhancement Payment to the Class Representative in an amount not to exceed Ten Thousand Dollars
18 and No Cents (\$10,000) to compensate for the risks, time, and expense of her involvement in the Action
19 and securing the benefits of this Agreement for Class Members. The Enhancement Payment is in addition
20 to the Individual Settlement Amount Plaintiff would otherwise be due under the Agreement as a
21 Participating Class Member. Defendants have agreed to not oppose Class Counsel's request for an
22 Enhancement Payment to Plaintiff so long as it does not exceed the amount stated herein. The
23 Enhancement Payment will be designated as a non-wage payment and reported on an IRS Form 1099-
24 MISC. In the event that the Court awards less than the Enhancement Payment amount requested, then any
25 portion of the requested amount not awarded to the Class Representative shall be added to the Net
26 Settlement Amount to be distributed to Participating Class Members on a pro rata basis.

27 5.5 PAGA Payment: Ten Thousand Dollars and No Cents (\$10,000) of the Gross Settlement
28 Amount shall be allocated to resolving claims under the PAGA. Seventy-Five percent (75%) of the PAGA

1 Payment will be paid to the LWDA and Twenty-Five percent (25%) will be paid to Aggrieved Employees
2 on a pro rata basis as described below in Section 5.8. Any amount not approved by the Court for the
3 allocated PAGA Payment shall be added to the Net Settlement Amount to be distributed to Participating
4 Class Members on a pro rata basis.

5 5.6 Treatment of Residue and Cy Pres: For any portion of the Net Settlement Amount or PAGA
6 Payment allocated to Participating Class Members and/or Aggrieved Employees that were not claimed by
7 cashing their respective settlement checks before the deadline to do so, that remaining amount shall be
8 donated equally, *i.e.* 50/50, to Capital Pro Bono, Inc., and the Center for Workers' Rights under the doctrine
9 of *cy pres*. No portion of the Gross Settlement Amount will revert to Defendants for any reason.

10 5.7 No Additional Benefits Contributions: All Individual Settlement Amounts paid to
11 Participating Class Members and Aggrieved Employees shall be deemed to be income solely in the year in
12 which such amounts were actually received. It is expressly understood and agreed that the receipt of such
13 Individual Settlement Amounts will not entitle any Participating Class Member or Aggrieved Employee to
14 any new or additional compensation or benefits under any company bonus or other compensation or benefit
15 plan or agreement in place during the period covered by the Agreement, nor will it entitle any Participating
16 Class Member or Aggrieved Employee to any increased retirement, 401(k) and/or 403(b) benefits or
17 matching benefits, or deferred compensation benefits. It is the intent of this Agreement that the Individual
18 Settlement Amounts provided for in this Agreement are the sole payments to be made by Defendants to
19 the Participating Class Members and Aggrieved Employees in connection with this Agreement
20 (notwithstanding any contrary language or agreement in any benefit or compensation plan document that
21 might have been in effect during the period covered by this Agreement).

22 5.8 Pro Rata Distribution Formula: Payment to Participating Class Members and Aggrieved
23 Employees of their Individual Settlement Amount will not require the submission of a claim form. A Net
24 Settlement Amount will be determined by subtracting from the Gross Settlement Amount any amounts for
25 approved attorneys' fees and costs, any Enhancement Payment to the Class Representative, the Settlement
26 Administrator Costs, and the PAGA Payment. Each Class Member's share will be initially determined by
27 dividing their total Qualifying Workweeks within the Class Period by the total Qualifying Workweeks of
28 all Class Members. That fraction will then be multiplied by the Net Settlement Amount to arrive at the

Class Member's individual share of the Net Settlement Amount. Any funds allocated to Class Members under this formula who timely opt out of the Settlement will be redistributed to Participating Class Members on a pro rata basis, *i.e.* each Participating Class Member's share will be determined by dividing their total Qualifying Workweeks within the Class Period by the total Qualifying Workweeks of all Participating Class Members and that fraction will then be multiplied by the Net Settlement Amount to arrive at the Participating Class Member's individual share of the Net Settlement Amount. Each Aggrieved Employee's share of the 25% portion of the PAGA Payment will be determined by dividing their total Qualifying Workweeks within the PAGA Claim Period by the total Qualifying Workweeks by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share.

5.9 Tax Allocation: The Parties recognize that the Individual Settlement Amounts to be paid to Participating Class Members and/or Aggrieved Employees reflect a settlement of a dispute over claimed penalties and wages. The Settlement Administrator shall calculate the employer's share of payroll taxes on the amounts paid to Participating Class Members as wages as well as calculating all required withholdings and deductions from said wage payments. The characterization of Individual Settlement Amounts to Participating Class Members and Aggrieved Employees are as follows:

5.9.1 Twenty percent (20%) of each Participating Class Members' Individual Settlement Amount shall be allocated for payment of disputed wages and shall be subject to required employer taxes. Participating Class Members shall receive an IRS Form W-2 for reporting of this portion of their Individual Settlement Amount.

5.9.2 Eighty percent (80%) of each Participating Class Members' Individual Settlement Amount shall be allocated for disputed statutory penalties and interest, and no amount shall be deducted for any taxes. This portion of the Individual Settlement Amount consists of other income, not wages, for which the Participating Class Members shall receive an IRS Form 1099-MISC.

5.9.3 The entirety (100%) of each Aggrieved Employee's share of the 25% portion of the PAGA Payment shall be allocated for payment of disputed civil penalties, and no amount shall be deducted for any taxes. This portion of the Individual Settlement Amount consists of other income, not wages, for which the Aggrieved Employees shall receive an IRS Form 1099-MISC.

1 5.10 Participating Class Members and Aggrieved Employees shall be solely responsible for the
2 reporting and payment of their share of any federal, state and/or municipal income or other taxes on
3 payments made pursuant to this Agreement, and shall hold the Parties, Class Counsel, and Defendants'
4 Counsel free and harmless from any claims resulting from treatment of such payments as non-taxable,
5 including the treatment of such payments as not subject to withholding or deduction for payroll and
6 employment taxes. No party has made any representation to any of the other Parties as to the taxability of
7 any payments pursuant to this Agreement, including the payments to Participating Class Members, the
8 payments to Aggrieved Employees, the payments to Class Counsel, the payments to the Class
9 Representative, the payroll tax liability of Defendants, or the allocation of the Net Settlement Amount or
10 PAGA Payment to wage and non-wage income as provided in this Section, or otherwise as to tax
11 implications of any provision of this Agreement.

12 5.11 No Additional Contribution by Defendants: Defendants' monetary obligation under this
13 Agreement is limited to the Gross Settlement Amount and any employer side payroll taxes owed on
14 amounts characterized as wages under this Agreement. All other costs and expenses arising out of or in
15 connection with the performance of this Agreement shall be paid from the Gross Settlement Amount, unless
16 expressly provided otherwise herein. However, in the event this agreement is deemed null and void as
17 described in Section 3 because the Court, in its independent determination, finds that the Agreement does
18 not meet the standards for settlement approval, then Defendants and Plaintiff shall be equally responsible
19 for the costs of the Settlement Administrator incurred between the date the Agreement was executed and
20 the date of such event.

21 5.12 Certification For Settlement Purposes: The Parties agree that, for purposes of settlement
22 only, certification of the class as defined in Section 1.5 and 4.1 is appropriate and the requisites for
23 establishing class certification have been met and are met.

24 5.13 Adequacy of Class Counsel and Class Representative: The Parties agree that, for purposes
25 of settlement only, Class Counsel and Plaintiff are adequate representatives for Class Members and
26 Aggrieved Employees.

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1 **6. RELEASE**

2 6.1 Release of Claims by Participating Class Members: Upon the Effective Date, all
3 Participating Class Members will be deemed to fully, finally and forever release the Released Class Claims
4 as to all Released Parties. In addition, on the Effective Date, all Participating Class Members and their
5 successors in interest will be permanently enjoined and forever barred from prosecuting any of Released
6 Class Claims against any of the Released Parties.

7 6.2 Release of Claims by Aggrieved Employees: Upon the Effective Date, all Aggrieved
8 Employees will be deemed to fully, finally and forever release the Released PAGA Claims as to all
9 Released Parties. In addition, on the Effective Date, all Aggrieved Employees and their successors in
10 interest will be permanently enjoined and forever barred from prosecuting any of the Released PAGA
11 Claims against any of the Released Parties.

12 **7. SETTLEMENT ADMINISTRATION**

13 7.1 Duties of Settlement Administrator: The Settlement Administrator shall be responsible for:
14 1) receiving Class Member and Aggrieved Employee contact information and confirming addresses are
15 valid; 2) calculating estimated Individual Settlement Amounts and any and all taxes associated with the
16 Individual Settlement Amounts, including employer taxes; 3) taking appropriate steps to trace and locate
17 any individual Class Members and Aggrieved Employee whose address or contact information as provided
18 to the Settlement Administrator is inaccurate or outdated and mailing the Notice of Settlement to Class
19 Members; 4) providing notification to the appropriate state and federal officials of this Agreement as
20 required under the law; 5) receiving, independently reviewing, and resolving any challenges (in
21 consultation with Class Counsel and Defendants' Counsel) from Class Members or Aggrieved Employees,
22 including any associated documentation, regarding their Qualified Workweek calculations; 6) receiving
23 and serving on Class Counsel, Defendants' Counsel, and the Court, copies of any written objections, and/or
24 any opt out statements; 7) establishing a toll free telephone line and responding to inquiries and requests
25 for information or assistance from Class Members and/or Aggrieved Employees; 8) maintaining a QSF; 9)
26 determining and paying the final amounts due to be paid under the Agreement after resolution of all
27 challenges, disputes, opt-outs, awarded attorneys' fees and costs, Settlement Administrator Costs, PAGA
28 Payment, taxes, any Enhancement Payments, and for funds that cannot be distributed due to the inability

1 to locate Class Members or Aggrieved Employees; 10) determining the validity of any disputes or late opt-
2 outs by previously unidentified Class Members or Aggrieved Employees; 11) paying any residual funds
3 from uncashed checks; 12) reporting to Class Counsel and Defendants' Counsel regarding the statistics of
4 the administration, including (a) the number of initial Notice of Settlements mailed; (b) the number of
5 forwarded Notice of Settlements; (c) the number of re-mailed Notice of Settlements; (d) the number of
6 total undeliverable Notice of Settlements; (e) the number of address traces performed for undeliverable
7 Notice of Settlements; (f) the number of Notice of Settlements undeliverable from traced addresses; (g) the
8 number of total objections received; (h) the number of opt-out requests received; (i) the number of disputes
9 received; (j) the number of disputes resolved; 13) providing a declaration to the Court regarding the final
10 statistics of the administration and compliance with all payment obligations under the Agreement; 14)
11 completing all necessary tax reporting on the QSF and payment of the Individual Settlement Amounts to
12 Participating Class Members and Aggrieved Employees; and 15) carrying out other related tasks as
13 necessary to effectuate the terms of this Agreement and any Order of the Court. All disputes relating to
14 the Settlement Administrator's ability and need to perform its duties shall be referred to the Court, if
15 necessary, which will have continuing jurisdiction over the terms and conditions of this Agreement, until
16 all payments and obligations contemplated by the Agreement have been fully executed.

17 7.2 Notice to Class Members and Aggrieved Employees: Defendants represent and warrant that
18 Class Members and Aggrieved Employees are able to read and write in English such that no translation of
19 the Notice of Settlement into another language is necessary. The Notice of Settlement will provide Class
20 Members and Aggrieved Employees with a summary of the terms and conditions of the Agreement, how
21 to participate in the settlement, how to object to the Agreement, how to dispute the individual's Qualifying
22 Workweeks, and how to opt-out from the Agreement. The Notice of Settlement will also inform Class
23 Members and Aggrieved Employees of the Gross Settlement Amount, Net Settlement Amount, proposed
24 attorneys' fees and costs allocations, any proposed Enhancement Payments, proposed Settlement
25 Administrator Cost allocations, proposed PAGA Payment allocations, the scope of the class, the nature and
26 extent of the released claims, dates set for a fairness hearing and hearing on Class Counsels' motion for
27 attorneys' fees and costs. The Notice of Settlement shall include information regarding Class Member's
28 and Aggrieved Employee's estimated Individual Settlement Amount. The Notice of Settlement will

1 provide information on how to access electronic copies online of the Notice of Settlement, any motions for
2 approval of the Agreement, any motions for approval of attorneys' fees and costs, and any other documents
3 as the Court directs.

4 7.3 Class Member Data and Mailing: No later than fourteen (14) calendar days after the
5 Preliminary Approval Date, Defendants shall provide the Settlement Administrator with the name, last
6 known mailing address, last known telephone number, Social Security Number, start and end date of
7 employment (if any) of each Class Member and Aggrieved Employee, and any other information the
8 Settlement Administrator needs to effectuate notice to Class Members and Aggrieved Employees as
9 outlined herein. The Settlement Administrator shall review the data to determine the number of Qualifying
10 Workweeks for each Class Member and Aggrieved Employee. No later than fourteen (14) calendar days
11 after receipt of such address information, the Settlement Administrator will perform a national change of
12 address ("NCOA") search, update the addresses per the results of the NCOA search, and then mail the
13 Notice of Settlement, substantially in the form attached as Exhibit 1, to each Class Member and Aggrieved
14 Employee by first-class mail, postage prepaid. The Settlement Administrator shall maintain all information
15 received from Defendants confidential to itself, and Defendants' Counsel. However, Class Counsel shall
16 be able to review the breakdown of Qualified Workweeks and estimated Individual Settlement Amounts
17 for Class Members and Aggrieved Employees prior to mailing for quality assurance provided the personal
18 identifying information is redacted and/or omitted.

19 7.4 Returned and/or Re-mailed Notice of Settlements: In the event that a Notice of Settlement
20 is returned to the Settlement Administrator as undeliverable on or before the conclusion of the Notice
21 Period, the Notice of Settlement shall be sent to the forwarding address affixed thereto within five (5)
22 calendar days. If no forwarding address is provided, then the Settlement Administrator shall promptly
23 attempt to determine a correct address using a skip-trace, computer or other search using the name, address
24 and/or Social Security number of the individual involved, and shall then perform a single re-mailing within
25 five (5) calendar days to any more recent address found as a result of the search. Following each search
26 that does not result in a corrected address, for those Class Members who appear to be current employees
27 of Defendants at the time of the Preliminary Approval Date, the Settlement Administrator shall contact
28 Defendants' Counsel for assistance and Defendants shall cooperate in good faith with the Settlement

1 Administrator's reasonable efforts to obtain valid mailing addresses for Class Members to the extent they
2 are active employees of Defendants. In the event the Notice of Settlement is forwarded to a new address
3 and/or re-mailed to a Class Member, the deadline for the Class Member to submit any request to opt-out,
4 a dispute, or an objection shall be the end of the Notice Period or 10 days from the date of the re-
5 mailing/forwarding to a new address, whichever is later. In the event the procedures in this Section are
6 followed and the Class Member does not timely and properly request to opt-out, the Class Member shall
7 be bound by all terms of the Agreement, including the releases contained in Section 6.

8 7.5 Responses to Notice of Settlement:

9 7.5.1 *Opt-Outs:* The Notice of Settlement shall provide that Class Members who wish to
10 exclude themselves from the Agreement must submit a request to opt-out as provided in this Section. The
11 request to opt-out must (a) state the Class Member's full name and date of birth; (b) a statement that he or
12 she does not want to be a Class Member, does not want to participate in the settlement, and/or wants to be
13 excluded from the settlement; (c) identify the case name and number (*i.e. Tanksley v. Hisham Soliman,*
14 *M.D., Inc.*, Case No. 34-2023-00335509); (d) be signed; and (e) be post-marked no later than the conclusion
15 of the Notice Period or the re-mailing timeline stated in Section 7.4. The Class Member must personally
16 sign the request to opt-out. No request to opt-out may be made on behalf of a group of Class Members.
17 The date of the postmark on the return-mailing envelope shall be the exclusive means used to determine
18 whether a request to opt-out has been timely submitted. Any Class Member who requests to opt-out of the
19 Agreement will not be entitled to any portion of the Net Settlement Amount nor will they have any right
20 to object, appeal or comment thereon. The name of any Class Member who submits a valid and timely opt
21 out request will be specifically identified in any proposed order granting final approval. Class Members
22 who fail to submit a valid and timely request to opt-out shall be bound by all terms of the Agreement and
23 any order or final judgment thereon. Regardless of whether an Aggrieved Employee opts out of being a
24 Class Member, they will still receive their share of the PAGA Payment as Aggrieved Employees cannot
25 opt out of this Agreement as it relates to the PAGA Payment or Released PAGA Claims.

26 7.5.2 *Objection Procedures:* Any Class Member who does not opt-out but who wishes to
27 object to this Agreement or otherwise to be heard concerning this Agreement shall send their written
28 objections to the Settlement Administrator and also serve copies of the objections on Class Counsel and

1 Defendants' Counsel. The Notice of Settlement shall make clear that the Court can only approve or deny
2 the Agreement, not change the terms of the Agreement. The objection must (a) state the Class Member's
3 full name and date of birth; (b) provide evidence that the individual is, in fact, a Class Member; (c) state
4 the reasons for the objection(s), including any supporting documentation; (d) identify the case name and
5 number (*i.e. Tanksley v. Hisham Soliman, M.D., Inc.*, Case No. 34-2023-00335509) (e) be signed; and (f)
6 be post-marked no later than the conclusion of the Notice Period or the re-mailing timeline stated in Section
7 7.4. The Notice of Settlement will inform the Class Member that they should also file a notice of intent to
8 appear with the Court and serve the notice on Class Counsel and Defendants' Counsel, if they intend to
9 appear at the final approval hearing.

10 7.5.3 *Dispute Procedures:* Any Class Member who disputes the number of Qualifying
11 Workweeks on the Notice of Settlement shall contact the Settlement Administrator. The dispute must (a)
12 identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c)
13 be signed; and (d) be post-marked no later than the conclusion of the Notice Period or the re-mailing
14 timeline stated in Section 7.4. The Settlement Administrator shall promptly (in no event more than two
15 business days) forward all such disputes to Defendants' Counsel and request that Defendants review the
16 dispute. Defendants' records shall presumptively control unless the Class Member can produce
17 documentation evidencing other periods of employment worked. If Defendants agree with submitted
18 information, the Class Member shall be credited or subtracted Qualifying Workweeks in accordance with
19 their submitted dispute and that final number of Qualified Workweeks shall govern the calculation of that
20 Class Member's Individual Settlement Amount. If Defendants disagree with the submitted information,
21 Defendants' Counsel will promptly advise Class Counsel of the dispute, which includes turning over any
22 documentation submitted by the Class Member as part of the dispute. Defendants' Counsel and Class
23 Counsel shall attempt in good faith to resolve any such dispute within five (5) calendar days of Class
24 Counsel being advised of the dispute. Each dispute that Defendants' Counsel and Class Counsel cannot
25 timely resolve shall be resolved by the Settlement Administrator, subject to Court review.

26 7.5.4 *Deficient Opt-Outs, Objections, or Disputes:* In the event that a deficient opt-out,
27 objection, or dispute is received on or before the conclusion of the Notice Period, the Settlement
28 Administrator shall mail a letter to the Class Member within five (5) calendar days informing them of the

1 deficiency. If a deficiency letter is mailed to a Class Member, the deadline for the Class Member to cure
2 the deficiency shall be the end of the Notice Period or 10 calendar days from the date of the deficiency
3 letter, whichever is later.

4 7.6 Due Process Acknowledgement: Compliance with the procedures set forth in Sections 7.1
5 to 7.5.4 shall constitute due and sufficient notice to Class Members of the Action and the Agreement and
6 shall satisfy Class Members' due process rights. Nothing else shall be required of the Parties, Class
7 Counsel or Defendants' Counsel to provide notice of the proposed Agreement.

8 7.7 Settlement Administrator Declaration Regarding Notice Period: Within fourteen (14)
9 calendar days after the conclusion of the Notice Period, the Settlement Administrator shall provide Class
10 Counsel and Defendants' Counsel with a signed declaration under penalty of perjury providing a complete
11 and detailed report regarding the statistics and responses of settlement administration to date and all the
12 Settlement Administrators' obligations under Sections 5.8 to 5.9.3 and 7.1 to 7.5.4.

13 7.8 Settlement Administrator Payments to Participating Class Members, Class Counsel and
14 Plaintiff: Within seven (7) calendar days after the Effective Date and the Court's determination of the
15 amount of attorneys' fees and costs payable to Class Counsel, the Enhancement Payment payable to
16 Plaintiff, the PAGA Payment, and Settlement Administrator Costs, the Settlement Administrator shall
17 calculate the final Net Settlement Amount, the final Individual Settlement Amounts for Participating Class
18 Members and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these
19 calculations Class Counsel and Defendants' Counsel. Defendants shall wire the Gross Settlement Amount
20 and applicable taxes necessary to fund the Settlement as described in Section 5.1 to the Settlement
21 Administrator within twenty-one (21) calendar days after the Effective Date to be to be held in trust in a
22 QSF. Within seven (7) calendar days after Defendants fund the settlement, the Settlement Administrator
23 shall deliver payment of Class Counsels' attorney's fees and costs, the Enhancement Payment payable to
24 Plaintiff, the 75% portion of the PAGA Payment payable to the LWDA, Settlement Administrator Costs,
25 and payment to Participating Class Members and/or Aggrieved Employees as required under this
26 Agreement and approved by Court.

27 7.8.1 The Settlement Administrator shall wire the Court-approved attorneys' fees and
28 costs to Class Counsel unless another method is requested by Class Counsel. Class Counsel shall provide

1 the Settlement Administrator with the pertinent taxpayer identification number and payment instructions
2 after the Final Approval Date.

3 7.8.2 The Settlement Administrator shall send a check by mail for the Court-approved
4 Enhancement Payment to the Class Representative, care of Class Counsel unless another method is
5 requested by Class Counsel.

6 7.8.3 Only Participating Class Members and Aggrieved Employees will receive their
7 Individual Settlement Amount.

8 7.8.4 The Settlement Administrator shall remit and report the applicable portions of the
9 payroll tax payment to the appropriate taxing authorities on a timely basis pursuant to its duties under this
10 Agreement. Defendants agree to reasonably cooperate with the Settlement Administrator to the extent
11 necessary to determine the amount of the payroll tax payment required.

12 7.9 Settlement Check Expiration and Uncashed Checks: The Settlement Administrator shall
13 issue Individual Settlement Amounts to Participating Class Members and Aggrieved Employees in the
14 form of a check, which shall become null and void if not deposited within one hundred eighty (180)
15 calendar days of issuance. After one hundred eighty (180) calendar days of issuance, the checks shall be
16 voided and funds from all uncashed checks shall be transmitted in accordance with Section 5.6. The
17 Settlement Administrator shall deliver these funds within fourteen (14) calendar days after the check
18 cashing deadline.

19 7.10 Settlement Administrator Declaration Regarding Compliance and Settlement
20 Administration: Within twenty-one (21) calendar days after the last day for Participating Class Members
21 and Aggrieved Employees to cash their settlement checks, the Settlement Administrator shall provide Class
22 Counsel and Defendants' Counsel with a signed declaration under penalty of perjury providing a complete
23 and detailed report regarding the settlement administration documenting that all payments under the
24 Agreement have been made, that the Court's final approval order has been complied with, and that all the
25 obligations of the Settlement Administrator have been completed.

26 **8. PRELIMINARY SETTLEMENT ADMINISTRATION SCHEDULE**

27 8.1 The schedule may be modified depending on whether and when the Court grants necessary
28 approvals, orders notice to Class Members and Aggrieved Employees, and sets further hearings. The

schedule may also be modified to correct clerical errors and to reflect the provisions in the Agreement as described above. In the event of such modification, the Parties shall cooperate to complete the settlement procedures as expeditiously as reasonably practicable. The preliminary schedule for notice, approval, and payment procedures carrying out the Agreement is as follows:

Last day for Defendants to provide Settlement Administrator with Class Member and Aggrieved Employee information	Within 14 calendar days after the Preliminary Approval Date
Last day for Settlement Administrator to complete NCOA search, update Class Member and Aggrieved Employee mailing information, and mail Notice of Settlement	Within 14 calendar days after the Settlement Administrators' receipt of Class Members' information from Defendants
Last day for Class Members to opt-out, submit disputes, submit objections, and submit data requests	60 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
Last day for Settlement Administrator to provide Parties with signed declaration reporting on settlement administration statistics	Within 14 calendar days after end of the Notice Period
Last day for Settlement Administrator to calculate the final Net Settlement Amount, the final Individual Settlement Amounts for Participating Class Members and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendants' Counsel	Within 7 calendar days after the Effective Date
Last day for Defendants to fund settlement	Within 21 calendar days after the Effective Date
Last day for Settlement Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Settlement Administrator Costs, payment to Participating Class Members, and payment to Aggrieved Employees	Within 7 calendar days after Defendants have funded the settlement

Last day for Participating Class Members and Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Participating Class Members and Aggrieved Employees
Last day for Settlement Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
Last day for Settlement Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

9. DUTIES OF THE PARTIES

9.1 Preliminary Approval: The Parties will cooperate in obtaining, through an unopposed motion to be filed as soon as reasonably practicable, an order from the Court preliminarily approving this Agreement at the earliest possible date concurrently with the Court's certification of the Action as a class action for settlement purposes. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to the approval and implementation of this Agreement and shall otherwise use their respective best efforts to obtain certification for settlement purposes, approval of, and implementation of this Agreement. The Parties will submit this Agreement to the Court for preliminary approval of its terms and for approval of the steps to be taken to obtain its final approval. Within one week of signing this Agreement Class Counsel shall provide a draft of the Preliminary Approval Motion to Defendants' Counsel. Defendants' Counsel will provide comments and/or proposed revisions within three weeks after receipt of the draft Preliminary Approval Motion from Class Counsel. With regard to the final approval documents, a similar three-week maximum review and response time shall be observed by the Parties. The Parties will request that the Court's preliminary approval of this Agreement be embodied in an Order Granting Preliminary Approval of Class Action and PAGA Settlement.

9.1.1 Plaintiff's motion shall seek an order: 1) Preliminarily approving the Agreement; 2) Approving as to form and content the proposed Notice of Settlement; 3) Directing the mailing of the Notice

1 of Settlement by first class mail to Class Members and Aggrieved Employees; 4) Preliminarily appointing
2 Plaintiff and Class Counsel as representatives of Class Members; 5) Preliminarily approving settlement
3 administration services to be provided by the Settlement Administrator; 6) Preliminarily approving the
4 proposed Enhancement Payment to Plaintiff; 7) Preliminarily approving the application for payment of
5 reasonable attorneys' fees and reimbursement of litigation-related expenses to Class Counsel; and 8)
6 Scheduling a fairness hearing on the question of whether the proposed Agreement should be finally
7 approved as fair, reasonable and adequate as to the Class Members.

8 9.1.2 Defendants shall not oppose Plaintiff's motion for approval of the proposed
9 Agreement.

10 9.1.3 The Parties shall cooperate with each other and the Settlement Administrator during
11 the process of giving Class Members notice and opportunity to object to the Agreement, as necessary and
12 appropriate to assure effective communication to individual Class Members of information about their
13 rights and obligations under this Agreement.

14 9.2 Final Approval and Fairness Hearing: On a date approved by the Court and set forth in the
15 Notice of Settlement, the Court shall hold the Final Approval and Fairness Hearing where objections, if
16 any, may be heard. Class Counsel shall provide the Court as part of the motion for final approval of the
17 Agreement, a declaration by the Settlement Administrator of due diligence and proof of mailing of the
18 Notice of Settlement required to be mailed to Class Members by this Agreement, and of the delivery results
19 of the Settlement Administrator's mailings including tracing and re-mailing efforts. The Settlement
20 Administrator declaration shall identify, by name, any Class Member who submitted a timely and valid
21 request to opt out during the Notice Period.

22 9.2.1 Class Counsel and Defendants shall work in good faith to draft a mutually agreeable
23 Proposed Order Granting Final Approval of Class Action and PAGA Settlement and Final Judgment. The
24 Proposed Order Granting Final Approval of Class Action and PAGA Settlement and Final Judgment shall
25 include findings and orders: 1) Approving the Agreement, adjudging the terms thereof to be fair, reasonable
26 and adequate, and directing that its terms and provisions be carried out; 2) Approving the payment of an
27 Enhancement Payment to the Class Representative; 3) Approving Class Counsel's application for an award
28 of attorneys' fees and reimbursement of out-of-pocket litigation expenses; 4) Approving the Settlement

1 Administrator Costs; and 5) Providing that the Court will retain jurisdiction to oversee administration and
2 enforcement of the terms of the Agreement and the Court's orders.

3 9.2.2 Following entry of the Court's order granting final approval of the Agreement, the
4 Parties will each act to ensure the fulfillment of all its provisions, including but not limited to the following:
5 1) Should an appeal be taken from the final approval of the Agreement or motion to set aside the judgement
6 be filed, all parties will support the final approval order on appeal or otherwise; 2) Class Counsel will assist
7 the Settlement Administrator as needed or requested in the process of identifying and locating Participating
8 Class Members and Aggrieved Employees entitled to payments under the Agreement and assuring delivery
9 of such payments; 3) Class Counsel and Defendants' Counsel will cooperate with each other and assist the
10 Settlement Administrator as needed or requested in completing the distribution of any residual amounts, as
11 specified above, to the *cy pres* beneficiaries; 4) Class Counsel, in conjunction with the Settlement
12 Administrator, will certify to the Court completion of all payments required to be made by this Agreement.

13 9.3 Final Judgment: If the Court approves this Agreement at the final approval and fairness
14 hearing, the Parties will request that the Court enter an Order Granting Final Approval of Class Action and
15 PAGA Settlement and Final Judgment.

16 9.4 Notice to LWDA: Plaintiff will provide notice to the Labor and Workforce Development
17 Agency ("LWDA") of this settlement in accordance with Labor Code § 2699(1)(2).

18 **10. MISCELLANEOUS TERMS**

19 10.1 Defendants' Right to Withdraw Based on Opt-Outs: If, prior to the Final Approval Date,
20 10% or more of the Class Members have submitted proper and timely requests to opt-out in accordance
21 with the provisions of the Agreement, Defendants may rescind the Agreement and all actions taken in its
22 furtherance will be thereby null and void. Defendants must exercise this right of rescission, in writing, to
23 Class Counsel, within seven (7) calendar days after the Settlement Administrator notifies the Parties of the
24 total number of opt-outs. If the option to rescind is exercised, then any Settlement Administrator Costs
25 shall be paid by Defendants. Defendants have represented that there are approximately 7,540 workweeks
26 during the Class Period. In the event the number of workweeks during the Class Period is more than
27 8,294 (*i.e.*, greater than 10% more than 7,540), then the Gross Settlement Amount shall be increased
28 proportionally by the workweeks in excess of 7,540, multiplied by the pay period value. For example,

1 if there were 11,900 workweeks represented to exist during the Class Period, but there are actually 15,000
2 workweeks in the Class Period, and the actual workweek value is \$5.00 per workweek, Defendants would
3 have to increase the Gross Settlement Amount by \$15,500.00 (15,000 workweeks – 11,900 workweeks
4 = 3,100 workweeks x \$5.00/workweek).

5 10.2 Circular 230 Disclaimer: EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF
6 THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT
7 OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND
8 AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN
9 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
10 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
11 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON
12 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT
13 CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
14 RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX
15 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
16 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
17 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY
18 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
19 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX
20 PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
21 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
22 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX
23 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
24 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
25 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY
26 THIS AGREEMENT.

27 10.3 No Prior Assignments: The Parties represent, covenant, and warrant that they have not
28 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 right released and discharged in this Agreement.

10.4 Waiver of Appeal and Ability to Opt Out: To the extent permitted by applicable law, by signing this Agreement Defendants are waiving any rights to appeal from the Court's approval of the settlement unless the Court materially modifies the settlement. Furthermore, by signing this Agreement Plaintiff is waiving any right or ability to opt out of this Agreement during the Notice Period or otherwise.

10.5 Exhibits Incorporated by Reference: The terms of this Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth in this Agreement. Any Exhibits to this Agreement are an integral part of the Settlement.

10.6 Judgment and Retention of Jurisdiction to Enforce: Upon the Effective Date, judgment will be entered according to this Agreement. The Parties stipulate and agree that the Sacramento County Superior Court shall have continuing jurisdiction to enforce the terms of the Agreement pursuant to Civil Procedure Code section 664.6 and that the prevailing party any action necessary to enforce the terms of the Agreement after default by the other party may recover reasonable attorney's fees and costs related thereto.

10.7 Mutual Cooperation: The Parties agree to cooperate fully with one another to accomplish and implement the terms of this Agreement. Such cooperation shall include, but not be limited to, execution of such other documents and the taking of such other action as may reasonably be necessary to fulfill 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 Court order, or otherwise, to effectuate this Agreement and the terms set forth herein.

10.8 No Admission of Liability: Neither the acceptance nor the performance by Defendants of the terms of this Agreement, nor any of the related negotiations or proceedings, is or shall be claimed to be, construed as, or deemed to be, an admission by Defendants of the truth of any of the allegations in the Complaint, the representative character of the Action, the validity of any of the claims that were or could have been asserted by Plaintiff and/or Class Members in the Action, or of any liability or guilt of Defendants in the Action. Nothing in this Agreement shall be construed to be or deemed an admission by Defendants of any liability, culpability, negligence, or wrongdoing toward Plaintiff, the Class Members, or any other person, and Defendants specifically disclaim any liability, culpability, negligence, or

wrongdoing toward Plaintiff, the Class Members, or any other person. Each of the Parties has entered into this Stipulation with the intention to avoid further disputes and litigation.

10.9 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 certified mail, return receipt requested, addressed as follows:

To Plaintiff and the Class:

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624

To Defendants:

Timothy B. Del Castillo
Lisa L. Bradner
Daniel Richardson
Castle Law: California Employment Counsel, PC
2999 Douglas Blvd., Suite 180
Roseville, CA 95661
Phone: 916-245-0122

10.10 Mutual Drafting of Agreement: 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 its counsel participated in the drafting of this Agreement.

10.11 Attorneys' Fees and Costs Limitations: Neither Class Counsel nor any other attorneys acting for, or purporting to act for, the Class, Class Members, or Plaintiff, may recover or seek to recover any amounts for fees, costs, or disbursements from the Releasees or the Gross Settlement Amount except as expressly provided in this Agreement.

10.12 No Modifications: This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest. This Agreement may not be discharged except by performance in accordance with its terms.

1 10.13 Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant and
2 represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and
3 to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
4 to effectuate its terms and to execute any other documents required to effectuate the terms of this
5 Agreement.

6 10.14 Class Member Signatories: Because the Action has not yet been certified, and the Class
7 Members are so numerous, the Parties agree that it is impossible or impractical to have each Class Member
8 sign this Agreement. It is agreed that, for purposes of seeking approval of the Agreement, this Agreement
9 may be executed on behalf of all Class Members by the Class Representative.

10 10.15 Counterparts: This Agreement shall become effective upon its execution by all of the
11 undersigned. Plaintiff, Class Counsel, Defendants and Defendants' Counsel may execute this Agreement
12 in counterparts, and execution of counterparts shall have the same force and effect as if each had signed
13 the same instrument. Facsimile, electronic, and/or scanned copies of signatures shall have the same force
14 and effect of originals.

15 10.16 Choice of Law: The Agreement and any exhibits hereto shall be considered to have been
16 negotiated, executed, and delivered, and to have been wholly performed, in the State of California, and the
17 rights and obligations of the Parties to the Agreement shall be construed and enforced in accordance with,
18 and governed by, the substantive laws of the State of California without giving effect to that State's choice
19 of law principles.

20 10.17 Headings and Captions: Section titles or captions contained in the Agreement are inserted
21 as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of
22 this Agreement, or any provision thereof.

23 10.18 No Retaliation or Discouragement: The Parties agree they will take no action that could be
24 construed as retaliation against any Class Members for participating or seeking to participate in this class
25 action settlement. The Parties will not discourage any class member from participating or seeking to
26 participate in this class action settlement. This is a material term of the Agreement and non-breaching
27 Parties will seek court intervention if this provision is breached.
28

1 10.19 Integrated Agreement: This Agreement sets forth the entire understanding between the
2 Parties and supersedes any and all prior agreements, oral or written, pertaining to the subject matter hereof.
3 Each party acknowledges that there is no representation, inducement, promise or agreement which has been
4 made, orally or otherwise, by the other party, concerning the terms or conditions of this Agreement, which
5 is not expressly embodied in this Agreement. In entering into this Agreement, the Parties represent that the
6 terms of this Agreement are fully understood and voluntarily accepted by the Parties.

7 10.20 Binding on Successors and Assigns: This Agreement will be binding upon, and inure to the
8 benefit of, the successors or assigns of the Parties to this Agreement, as previously defined.

9 10.21 Invalidity of Any Provision: Before declaring any provision of this Agreement invalid, the
10 Court will first attempt to construe the provision as valid to the fullest extent possible consistent with
11 applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

12 10.22 Waiver of Compliance: No waiver of any condition or covenant contained in this
13 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply
14 or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

15 IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized
16 attorneys, as of the day and year herein set forth.

17 **For Plaintiff:**

18 Date: _____

19 _____
20 Ruth Tanksley

21 **For Defendants:**

22 Date: Dec 26, 2023

23 _____
24 Hisham Soliman (Dec 26, 2023 20:51 GMT+2)

25 By: Hisham Soliman, M.D.
26 For Hisham Soliman M.D. Inc.
27
28

1 10.19 Integrated Agreement: This Agreement sets forth the entire understanding between the
 2 Parties and supersedes any and all prior agreements, oral or written, pertaining to the subject matter hereof.
 3 Each party acknowledges that there is no representation, inducement, promise or agreement which has been
 4 made, orally or otherwise, by the other party, concerning the terms or conditions of this Agreement, which
 5 is not expressly embodied in this Agreement. In entering into this Agreement, the Parties represent that the
 6 terms of this Agreement are fully understood and voluntarily accepted by the Parties.

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 8 benefit of, the successors or assigns of the Parties to this Agreement, as previously defined.

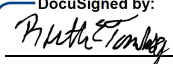
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 10 Court will first attempt to construe the provision as valid to the fullest extent possible consistent with
 11 applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

12 10.22 Waiver of Compliance: No waiver of any condition or covenant contained in this
 13 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply
 14 or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

15 IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized
 16 attorneys, as of the day and year herein set forth.

17 **For Plaintiff:**

18 Date: 12/27/2023

DocuSigned by:

 Ruth Tankley

21 **For Defendants:**

22 Date: _____

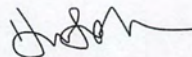
23 By: Hisham Soliman, M.D.
 24 For Hisham Soliman M.D. Inc.

1 Date: **Dec 26, 2023**


Hisham Soliman (Dec 26, 2023 20:51 GMT+2)

Hisham Soliman, M.D.

2
3
4 Date: **Dec 26, 2023**



Abeer Soliman

7 APPROVED AS TO FORM

Shimoda & Rodriguez Law, PC

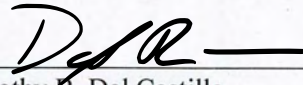
9 Dated: _____

By: _____
Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Attorney for Plaintiff and Aggrieved
Employees

13 APPROVED AS TO FORM

**Castle Law: California Employment
Counsel, PC**

15 Dated: **December 26, 2023**

16 By: 
Timothy B. Del Castillo
Lisa L. Bradner
Daniel Richardson
Attorney for Defendants

1
2 Date: _____

Hisham Soliman, M.D.

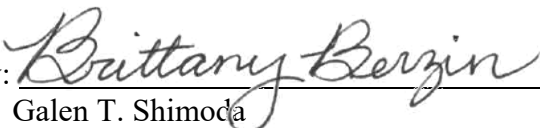
3
4
5 Date: _____

Abeer Soliman

6
7 APPROVED AS TO FORM

Shimoda & Rodriguez Law, PC

8
9 Dated: _____

By: 

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Attorney for Plaintiff and Aggrieved
Employees

10
11
12
13 APPROVED AS TO FORM

**Castle Law: California Employment
Counsel, PC**

14
15 Dated: _____

By: _____

Timothy B. Del Castillo
Lisa L. Bradner
Daniel Richardson
Attorney for Defendants

Exhibit 1

CALIFORNIA SUPERIOR COURT
FOR THE COUNTY OF SACRAMENTO

RUTH TANKSLEY, individually and on behalf of all other
similarly situated employees,

Plaintiff,

vs.

HISHAM SOLIMAN M.D. INC., a California Corporation;
and DOES 1 to 100, inclusive,

Defendants.

Case No. 34-2023-00335509

**NOTICE OF PROPOSED CLASS ACTION AND
PAGA SETTLEMENT, AND HEARING DATE FOR
FINAL COURT APPROVAL OF SETTLEMENT**

ATTENTION: all non-exempt employees who have, or continue to, work for Hisham Soliman M.D., Inc. in California from March 2, 2019, up to [REDACTED] (the "Class Members").

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE IN OR OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

You are receiving this notice pursuant to an order from the Sacramento County Superior Court ("Court") granting Plaintiff's motion for preliminary approval of a Joint Stipulation Regarding Class and Action PAGA Settlement and Release ("Agreement" or "Settlement") as fair, reasonable, and adequate. The Settlement was entered into between Plaintiff Ruth Tanksley ("Plaintiff" or "Class Representative") and Defendants Hisham Soliman M.D. Inc., Hisham Soliman and Abeer Soliman ("Defendants") on behalf of Class Members as defined above. The terms of the Settlement are outlined herein. You are receiving this notice because Defendants' records indicate you fall within the definition of "Class Member." Defendants' records also indicate that you worked [REDACTED] weeks during the applicable Class Period (as defined below), which means your total share of the settlement proceeds is estimated to be [REDACTED]. Your actual share of the settlement proceeds will vary depending on the total number of Class Members that choose to participate and the resolution of any workweek disputes as described in this notice.

The terms of the Agreement and a description of the case are identified in this notice. Pursuant to the Court's order, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

I. BACKGROUND OF THE CASE

On March 2, 2023, Plaintiff filed a Complaint against Defendants in the Sacramento County Superior Court of California on behalf of herself and Class Members. The term "Action" means this putative class action pending in Sacramento County Superior Court, Case No. 34-2023-00335509. The Class Period is from March 2, 2019 up to [REDACTED] (the "Class Period").

In the Action, Plaintiff sought to obtain unpaid wages, interest, statutory penalties, civil penalties, fees, and costs on behalf of herself, Class Members, and Aggrieved Employees. Plaintiff alleged that Defendants violated California law by 1) failing to pay Plaintiff and similarly situated employees for all hours worked, including time spent outside of their scheduled shifts; 2) failing to authorize and permit all meal and rest periods; 3) failing to reimburse employees for the use of personal cellphones; 4) failing to pay Covid-19 supplemental paid sick leave to employees who had been employed less than six (6) months; and 5) failing to incorporate the value of bonuses into employees' regular rates of pay. Defendants have denied all of Plaintiff's allegations. The Action has been actively litigated. There have been on-going investigations, and there has been an exchange of extensive documentation and information. Furthermore, the Parties have participated in a full day mediation facilitated by a neutral third party. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Agreement, Defendants continue to deny all allegations and claims. Defendants have entered into this Settlement to fully, finally, and forever resolve this Action, based on the terms set forth in the Agreement, in order to avoid the burden and expense associated with ongoing litigation.

The Agreement applies to any and all Class Members, which are defined as all non-exempt employees who have, or continue

to, work for Hisham Soliman M.D., Inc. in California from March 2, 2019 up to [REDACTED]. The Agreement also applies to Aggrieved Employees, which are defined as all non-exempt employees who have, or continue to, work for Hisham Soliman M.D., Inc. from March 1, 2022 up to [REDACTED]. If you are a Class Member, you have the opportunity to participate in the Settlement, or to exclude yourself (“opt out”) from the Settlement. This notice is to advise Class Members of how they can either participate in the Settlement or be excluded from the Settlement. As set forth below, Aggrieved Employees cannot opt out of this Agreement as it relates to the PAGA Payment or Released PAGA Claims regardless of whether they opt out of being a Class Member. Aggrieved Employees will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Agreement, Defendants have agreed to pay a total sum of Two Hundred Ninety-Two Thousand Five Hundred Dollars and No Cents (\$292,500) (“Gross Settlement Amount”). Deducted from this Gross Settlement Amount will be sums approved by the Court for attorneys’ fees not to exceed 35% of the Gross Settlement Amount, attorneys’ costs not to exceed \$10,000, Settlement Administrator Costs estimated not to exceed \$10,000, Class Representative’s Enhancement Payment of \$10,000, and \$10,000 for alleged PAGA penalties (the “PAGA Payment”), which will result in a “Net Settlement Amount” for distribution to all Class Members. Any employer side taxes attributable to payments allocated as wages will be paid by Defendants in addition to the Gross Settlement Amount. As explained further below, the amount of each Class Member’s share of the Net Settlement Amount will depend on the number of weeks worked by participating Class Members during the Class Period. Of the \$10,000 allocated to resolving the PAGA claims, 75% of the PAGA Payment will be paid to the State of California Labor and Workforce Development Agency and 25% of the PAGA Payment will be divided among Aggrieved Employees.

The number of weeks you worked during the Class Period and your estimated total share of the Net Settlement Amount and PAGA Payment (“Individual Settlement Amount”) is stated on the first page of this notice. The actual amount received may be more or less than the amount stated depending on the actual number of weeks worked by Participating Class Members (*i.e.*, those who do not opt out of the Settlement), the resolution of any disputes regarding workweeks, and on the distributions finally approved and allocated by the Court. However, whether Class Members opt out will have no effect on Aggrieved Employees’ allocations for the PAGA claims.

B. Individual Settlement Amounts and Allocation Between Class Members and Aggrieved Employees

Defendants will pay Individual Settlement Amounts through the Settlement Administrator, as described below, to each Participating Class Member and to Aggrieved Employees. All Individual Settlement Amounts will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action that all Individual Settlement Amounts payable to eligible Class Members will be allocated from the Net Settlement Amount and paid as 80% for disputed interest, statutory penalties, and other non-wage damages for which IRS Forms 1099-MISC and 1099-INT will issue and 20% for disputed wages for which IRS Forms W-2 will issue. The PAGA Payment to Aggrieved employees will be paid as 100% for civil penalties.

Payment to Participating Class Members and Aggrieved Employees will not require the submission of a claim form. Each Participating Class Member’s share will be determined by dividing their total weeks worked within the Class Period by the total weeks worked by all Participating Class Members within the Class Period. That fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member’s individual share of the Net Settlement Amount. Each Aggrieved Employee’s share of the 25% portion of the PAGA Payment will be determined by dividing their total weeks worked within the PAGA Claim Period by the total weeks worked by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee’s individual share. The PAGA Claim Period is defined as from March 1, 2022, up to [REDACTED]. Defendants’ records indicate that you worked [REDACTED] weeks during the applicable PAGA Claim Period, which means your share of the PAGA Payment is estimated to be [REDACTED]. This amount is included in your estimated Individual Settlement Amount stated on the first page of this notice, not in addition to it. You will still receive your share of the PAGA Payment even if you opt out of being a Class Member. Receipt of the Individual Settlement Amounts will not entitle any Class Member or Aggrieved Employee to additional compensation or benefits under any compensation, retirement or benefit plan or agreement in place during the period covered by the Settlement.

C. Calculations to Be Based on Defendants’ Records and Resolution of Workweek Disputes

For each Class Member, the amount payable will be calculated by the Settlement Administrator from Defendants’ records. Defendants’ records will be presumed correct unless evidence to the contrary is provided to the Settlement Administrator. Defendants’

records and any additional evidence will be reviewed by the Settlement Administrator in the event of a dispute about the number of workweeks worked by an individual Class Member. If a Class Member disputes the accuracy of Defendants' records, all supporting documents evidencing additional workweeks must be submitted by the Class Member. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than [REDACTED]. The dispute will be resolved by the Settlement Administrator based on the records and evidence provided.

D. Release of Claims

For those Class Members who do not opt out and Aggrieved Employees, the Agreement contains the following releases:

Class members who do not opt out will be deemed to have released any and all class claims that are alleged in the Complaint, and any additional wage and hour claims that could have been brought based on the facts alleged in the Complaint, through the Class Period. This release excludes the release of claims not permitted by law. The Released Class Claims exclude claims for workers' compensation or unemployment insurance benefits. This release will cover all Class Members who do not opt out.

Aggrieved Employees will be deemed to have released any and all claims that were brought under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.*, contained in the Complaint and any additional wage and hour PAGA claims that could have been brought based on the facts alleged in the Complaint during the PAGA Claim Period. Aggrieved Employees cannot opt out of this waiver of claims.

The individuals released ("Released Parties") Defendants, as well as Defendants' officers, shareholders, directors, agents, employees, attorneys, and insurers.

Class Members and/or Aggrieved Employees can talk to one of the lawyers appointed as Class Counsel (listed below) for free or talk to their own lawyer if they have questions about the released claims and what they mean.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Participating in the Settlement as a Class Member

If you wish to be a Participating Class Member and believe your workweek information is accurate, **you do not need to take any further action.** Payment will be automatically made to you consistent with the terms of the Agreement and Court Order. If you wish to dispute the workweek calculation, you may follow the procedures outlined in Section II.C above. California law protects Class Members from retaliation based on their decision to participate in the Settlement.

B. Excluding Yourself from the Settlement as a Class Member

The Court will exclude you from the being a Class Member if you request this by [REDACTED]. If you do not wish to be bound by the Settlement as a Class Member, you may request to be excluded (*i.e.*, "opt out") by submitting a timely written request to the Settlement Administrator. The request to opt-out must (a) state your full name and date of birth; (b) a statement that you do not want to be a Class Member, do not want to participate in the Settlement, and/or wants to be excluded from this Settlement; (c) identify the case name and number (*i.e.*, *Tanksley v. Hisham Soliman, M.D., Inc.*, 34-2023-00335509); (d) be signed; and (e) be post-marked no later than [REDACTED]. The request to opt out must be mailed by First Class U.S. Mail, or the equivalent, to:

[admin info]

If you submit a request to opt out which is not postmarked by [REDACTED], your request to opt out will be rejected, and you will be bound by the release and all other terms of the Agreement. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request to opt out. Any Class Member who submits a complete and timely request to opt out shall, upon receipt by the Settlement Administrator, no longer be a Class Member and not receive their share of the Net Settlement Amount. Aggrieved Employees cannot opt out of this Agreement and will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

C. Objection to Settlement

If you do not opt out of the Settlement, you can object to the terms of the Settlement. However, if the Court rejects your

objection, you will still be bound by the terms of the Settlement. You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. The objection must (a) state your full name and date of birth; (b) provide evidence that you are, in fact, a Class Member; (c) state the reasons for the objection(s), including supporting documentation; (d) identify the case name and number (*i.e.*, *Tanksley v. Hisham Soliman, M.D., Inc.*, 34-2023-00335509) (e) be signed; and (f) be post-marked no later than [REDACTED]. The objection must be sent to the Settlement Administrator at the address identified in Section III.B and to counsel for Plaintiff and Defendants at the addresses identified in Section VI of this notice.

If you have submitted a written objection as outlined above, you may also appear at the final approval hearing to state your objection. Any Class Member who does not request exclusion may, if the Class Member so desires, enter an appearance through an attorney. If you appear through your own attorney, you are responsible for paying that attorney. You should also file a notice of intent to appear with the Court and serve the notice on counsel for Plaintiff and Defendants.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

If the Court grants final approval of the Settlement, the Court will make and enter judgment consistent therewith. The judgment, whether favorable or not, will bind all Class Members who do not request exclusion. After final approval, each and every Class Member who does not opt out of the Settlement and Aggrieved Employee, will release Defendants and the Released Parties from the Released Class Claims and the Released PAGA Claims described above. In other words, if you were employed as a Class Member by Defendants in California during the Class Period, and you do not exclude yourself from the Settlement, you will be deemed to have entered into these releases and to have released the above-described claims. In addition, you will be barred from ever suing Defendants and the Released Parties with respect to the claims covered by this Settlement. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Department 27, 720 9th Street, Sacramento, California 9514 on [REDACTED] at [REDACTED] to determine whether the Agreement should be finally approved as fair, reasonable and adequate. The Court also will be asked to approve Class Counsel's request for attorneys' fees and costs, the Settlement Administrator Costs, and the Class Representative's Enhancement Payment. The hearing may be continued without further notice. It is not necessary for you to appear at this hearing.

VI. ADDITIONAL INFORMATION

You may access the Complaint, Class Counsel's motion for preliminary approval, the Agreement, and any other documents required by the Court at the Settlement Administrator's website: [admin web address]. You can also contact Class Counsel or Defendants' Counsel as follows:

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
On behalf of Plaintiff

Timothy B. Del Castillo
Lisa L. Bradner
Daniel E. Richardson
Castle Law: California Employment Counsel, PC
2999 Douglas Blvd., Suite 180
Roseville, CA 95661
Telephone: 916-245-0122
On behalf of Defendants

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. IF YOU HAVE ANY QUESTIONS, CALL [number]

BY ORDER OF THE COURT

Exhibit B

FILED/ENDORSED

JUN 22 2023

By: A. Turner
Deputy Clerk

1 Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
2 Brittany V. Berzin (Cal. State Bar No. 325121)
Shimoda & Rodriguez Law, PC
3 9401 East Stockton Boulevard, Suite 120
Elk Grove, CA 95624
4 Telephone: (916) 525-0716
Facsimile: (916) 760-3733

5 Attorneys for Plaintiff RUTH TANKSLEY

6
7
8 **SUPERIOR COURT OF CALIFORNIA**
9 **FOR THE COUNTY OF SACRAMENTO**

10 RUTH TANKSLEY, individually and on
11 behalf of all other similarly situated
employees,

12 Plaintiff,

13 vs.

14
15 HISHAM SOLIMAN M.D. INC., a California
Corporation; and DOES 1 to 100, inclusive,

16 Defendants.
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Case No. 34-2023-00335509

CLASS ACTION

**FIRST AMENDED COMPLAINT FOR
DAMAGES:**

1. Failure to Pay Overtime Wages
2. Failure to Pay Minimum Wages
3. Meal Period Violations
4. Rest Period Violations
5. Wage Statement Violations
6. Waiting Time Penalties
7. Failure to Reimburse Expenses
8. Unfair Competition
9. Private Attorneys General Act

DEMAND FOR JURY TRIAL

BY FAX

1 Plaintiff RUTH TANKSLEY ("Plaintiff"), on behalf of herself and all other similarly situated
2 employees, hereby files this Complaint against Defendant HISHAM SOLIMAN M.D. INC., a
3 California Corporation; and DOES 1 to 100, inclusive (hereinafter all collectively referred to as
4 "Defendants"). On information and belief, Plaintiff allege the following:

5 **INTRODUCTION**

6 1. This is a class action lawsuit brought by Plaintiff for failure to pay overtime wages,
7 failure to pay minimum wages, meal and rest period violations, wage statement violations, waiting time
8 penalties, failure to reimburse expenses, and unfair competition. Plaintiff has also alleged a
9 representative claim for civil penalties under the Private Attorneys General Act.

10 **JURISDICTION AND VENUE**

11 2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to
12 California Code of Civil Procedure section 410.10 to determine alleged violations of the California
13 Labor Code, California Business and Professions Code, and Wage Order No. 4.

14 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that Defendant
15 resides in Sacramento County. In addition, some of the wrongful acts and violations of law asserted
16 herein occurred within Sacramento County, and Defendants' obligation to pay wages arose in
17 Sacramento County pursuant to *Madera Police Officers Assn. v. City of Madera*, 36 Cal.3d 403, 414
18 (1984).

19 4. Plaintiff sought permission pursuant to Labor Code section 2699 *et seq.* to pursue the
20 claims set forth in this Complaint against Defendants as a Private Attorney General on behalf of herself
21 and other similarly situated employees. Pursuant to Labor Code section 2699.3, Plaintiff gave written
22 notice via online submission to the Labor and Workforce Development Agency ("LWDA") on
23 approximately March 1, 2023. Plaintiff provided facts and legal bases for her claims within the notice to
24 the LWDA on all violations asserted under the Private Attorneys General Act cause of action. Plaintiff
25 submitted the \$75.00 filing fee. The March 1, 2023 notice was also sent via certified mail to Defendants
26 on the same day. Plaintiff is informed and believes, that to date, the LWDA has not provided any
27 response to Plaintiff's notice correspondence. Accordingly, Plaintiff is informed and believes that she
28 has exhausted all administrative remedies pursuant to the Private Attorneys General Act and may bring

1 this action on behalf of herself and all Aggrieved Employees. See Cal. Labor Code § 2699.3(a)(2)(A),
2 (c)(3); *Caliber Bodyworks, Inc. v. Sup. Ct.*, 134 Cal.App.4th 365, 383 n.18, 385 n.19 (2005). Aggrieved
3 Employees includes all non-exempt employees who have, or continue to, work for Defendants in
4 California from March 1, 2022 to the present.

5 **PARTIES**

6 5. RUTH TANKSLEY is an individual over the age of eighteen (18) and is a resident of
7 the State of California.

8 6. On information and belief, Plaintiff alleges, HISHAM SOLIMAN M.D. INC., is now
9 and/or at all times mentioned in this Complaint was a California Corporation and the owner and
10 operator of an industry, business and/or facility doing business in the State of California.

11 7. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the
12 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and
13 are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true
14 names and capacities of these DOE Defendants when they are ascertained.

15 8. At all times mentioned herein, each Defendant was the agent or employee of each of the
16 other Defendants and was acting within the course and scope of such agency or employment. The
17 Defendants are jointly and severally liable to Plaintiff.

18 9. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
19 were members of and/or engaged in a joint employment, joint venture, partnership and common
20 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
21 joint venture, partnership and common enterprise.

22 10. Defendants, and each of them, now and/or at all times mentioned in this Complaint
23 approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

24 11. Defendants proximately caused Plaintiff to be subjected to the unlawful practices,
25 wrongs, complaints, injuries and/or damages alleged in this Complaint.

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1 **CLASS ALLEGATIONS**

2 12. Plaintiff brings the First through Seventh and Ninth Causes of Action on behalf of
3 herself and all others similarly situated as a class action pursuant to California Code of Civil
4 Procedure section 382. The class which Plaintiff seeks to represent is composed of, and defined, as
5 follows:

6 All non-exempt employees who have, or continue to, work for Defendants
7 in California from March 2, 2019 to the present.

8 13. This action has been brought and may be properly maintained as a class action,
9 pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-
10 defined community of interests in the litigation and the proposed class is easily ascertainable.

11 (a) **Numerosity**: The putative class is so numerous that the individual joinder of all members
12 is impracticable under the circumstances of this case. While the exact number of class
13 members is unknown to Plaintiff at this time, Plaintiff is informed and believes that
14 Defendants have employed as many as fifty (50) individuals falling within the above
15 stated class definition throughout the State of California during the applicable statute of
16 limitations, who were subjected to the policies and practices outlined in this Complaint.
17 As such, joinder of all members of the putative class is not practicable.

18 (b) **Common Questions Predominate**: Common questions of law and fact exist as to all
19 members of the putative class and predominate over questions that affect only individual
20 members of the class. These common questions of law and fact include, without
21 limitation, the following:

- 22 (1) Whether Defendants had a policy or practice that resulted in a failure to pay class
23 members for all hours worked;
- 24 (2) Whether Defendants had a policy to provide class members with legally
25 compliant meal periods;
- 26 (3) Whether Defendants had a policy to authorize and permit class members to take
27 legally compliant rest periods;
- 28

- (4) Whether Defendants had a policy or practice requiring class members to use their personal cellphones for work;
- (5) Whether Defendants had a policy or practice requiring class members to use their personal vehicles for work;
- (6) Whether Defendants had a policy to reimburse class members for business expenses they incurred;
- (7) Whether Defendants had a policy to pay premiums for missed meal and rest periods;
- (8) Whether Defendants kept accurate records of class members' hours worked;
- (9) Whether as a result of Defendants' policies and practices class members received all wages, due and owing, at the time of their termination or separation; and
- (10) Whether Defendants provided class members with wage statements that complied with Labor Code section 226.

(c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative class. The putative class also sustained damages arising out of Defendants' common course of conduct in violation of the law as complained of herein. Plaintiff and all members of the putative class were non-exempt employees who were not paid for all hours they worked, did not receive all meal and rest periods, and were not reimbursed for personal cellphone and vehicle expenses they incurred for work. Additionally, Defendants issued Plaintiff and all members of the putative class wage statements that did not comply with Labor Code section 226. As a result, Plaintiff and each member of the putative class will have suffered the same type of harm and seek the same type of recovery based on the same legal theories.

(d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the putative class. For all relevant times, Plaintiff resided in California and worked for Defendants in California. Moreover, Plaintiff is an adequate representative of the putative class as Plaintiff has no interests that are adverse to those of putative class

1 members. Additionally, Plaintiff has retained counsel who has substantial experience in
2 complex civil litigation and wage and hour matters.

- 3 (e) Superiority: A class action is superior to other available means for the fair and efficient
4 adjudication of the controversy since individual joinder of all members of the putative
5 class is impracticable. Class action treatment will permit a larger number of similarly
6 situated persons to prosecute their common claims in a single forum simultaneously,
7 efficiently, and without the unnecessary duplication of effort and expense that numerous
8 individual actions would engender. Further, as damages suffered by each individual
9 member of the class may be relatively small, the expenses and burden of the individual
10 litigation would make it difficult or impossible for individual members of the class to
11 redress the wrongs done to them, and an important public interest will be served by
12 addressing the matter as a class action. The cost to the court system of adjudication of
13 such individualized litigation would be substantial. Individualized litigation would also
14 present the potential for inconsistent or contradictory judgments.

15 14. Plaintiff is unaware of any difficulties that are likely to be encountered in the
16 management of this action that would preclude its maintenance as a class action.

17 **GENERAL ALLEGATIONS**

18 15. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 14 as though fully
19 set forth herein.

20 16. Hisham Soliman M.D., Inc. does business as Advanced Psychiatry Associates and
21 provides psychiatric services remotely to its patients. Plaintiff worked for Defendants from
22 approximately May 2022 to January 12, 2023, as a non-exempt employee. Plaintiff and similarly
23 situated employees typically were scheduled to work shifts from about 9 a.m. to 6 p.m. However, Abeer
24 Soliman instructed Plaintiff and similarly situated employees that if they were not finished with their
25 assigned tasks at the end of their shift, they were required to clock out at 6 p.m., but continue working
26 until the work was completed. Additionally, Plaintiff and similarly situated employees were instructed
27 to send daily reports at 5:50 p.m., but there were often questions about the reports from Mrs. Soliman
28

1 and the providers that Plaintiff and similarly situated employees were required to respond to off-the-
2 clock. These practices resulted in unpaid minimum and overtime wages.

3 17. Defendants did not authorize and permit Plaintiff and similarly situated employees to take
4 all meal and rest periods owed to them. Defendants employed Plaintiff and similarly situated employees
5 for work for periods of more than five hours without providing them an off-duty meal period of at least
6 30 minutes. Defendants did not have a policy or practice to provide off-duty meal periods before the
7 end of the fifth hour of work. Plaintiff and similarly situated employees regularly began meal periods
8 after their fifth hour of work. Mrs. Soliman was aware of this and modified Plaintiff's and similarly
9 situated employees' time records so it would appear meal periods were taken earlier. Plaintiff and
10 similarly situated employees regularly received work communications from providers they needed to
11 respond to even during their meal periods. Defendants employed Plaintiff and similarly situated
12 employees for periods of more than 3.5 hours without providing them 10-minute rest periods. Due to
13 the amount of work Plaintiff and similarly situated employees had they were not always able to take 10-
14 minute breaks. Defendants were aware of this as Plaintiff and similarly situated employees would send
15 a message in Teams if they were able to take a break. On occasions Plaintiff and similarly situated
16 employees did not receive a break, there would be no message from them in Teams. Defendants did not
17 have any policy to pay premiums for missed meal and rest periods. Defendants did not pay Plaintiff and
18 similarly situated employees all missed meal and rest period premiums they were owed.

19 18. Defendants required Plaintiff and similarly situated employees to use their personal
20 cellphones for work to communicate with providers throughout the day. For example, providers would
21 call or text Plaintiff and similarly situated employees about patient follow up, medications, or patients
22 that didn't make their appointments, among other things. Plaintiff and similarly situated employees
23 were instructed to give the providers their cellphone numbers. Patients were scheduled approximately
24 every 20-40 minutes, so providers were in contact communication with Plaintiff and similarly situated
25 employees throughout the day. Defendants also required Plaintiff and similarly situated employees to
26 use their cellphones to record their hours worked. The timekeeping system would send Plaintiff and
27 similarly situated employees a code via text message they were required to use to clock in or out.
28 Defendants did not have any policy to reimburse Plaintiff and similarly situated employees for the use of

1 their personal cellphones for work. As such, no amount for reimbursement was ever paid. Defendants
2 also required Plaintiff and similarly situated employees to drive their personal vehicles for work to
3 deliver supplies to other office locations. Defendants did not have any policy to reimburse Plaintiff and
4 similarly situated employees for mileage incurred. As such, no amount of reimbursement was ever paid.

5 19. Defendants did not provide all Covid-19 supplemental paid sick leave owed to similarly
6 situated employees. Defendants erroneously failed to provide supplemental paid leave to similarly
7 situated employees who worked for Defendants less than 6 months at the time they became eligible to
8 use the leave.

9 20. Due to the practices and policies outline above, Defendants did not provide Plaintiff and
10 similarly situated employees with accurate wage statements. For example, the wage statements did not
11 include accurate gross and net wages earned, total hours worked by the employee, and all applicable
12 hourly rates in effect during the pay period and the corresponding number of hours worked at each
13 hourly rate by the employee, including but not limited to rates and corresponding hours for minimum
14 and overtime wages, paid sick time, and meal and rest period premiums.

15 21. At the time of Plaintiff's and similarly situated employees' termination or separation they
16 had wages owed to them, including minimum wages, overtime wages, paid sick time, and meal and rest
17 period premiums. To date, these wages remain unpaid.

18 **CAUSES OF ACTION**

19 **FIRST CAUSE OF ACTION**
20 **FAILURE TO PAY OVERTIME WAGES**
21 **(As to all Defendants)**

22 22. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 21 as though fully
23 set forth herein.

24 23. During the period Plaintiff and similarly situated employees were employed by
25 Defendants, Defendants were required to compensate them at one and one-half (1½) times the regular
26 rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and
27 two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours per day. *See, e.g.,*
28 IWC Wage Order No. 4, section (3)(A); Cal. Lab. Code §§ 510, 1194.

1 24. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day
2 and/or forty (40) hours per week on several occasions while employed by Defendants. However,
3 Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours
4 worked at their regular rate of pay.

5 25. Plaintiff and similarly situated employees were not exempt from overtime protections
6 employees under the California Wage Orders and Labor Code.

7 26. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
8 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
9 the extent pertinent as if set forth here in full.

10 **SECOND CAUSE OF ACTION**
11 **FAILURE TO PAY MINIMUM WAGES**
 (As to all Defendants)

12 27. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 26 as though fully
13 set forth herein.

14 28. For the period preceding the filing of this Complaint, Defendants were required to
15 compensate Plaintiff and similarly situated employees with at least California's applicable minimum for
16 every hour worked. See MW-Order 2019; IWC Wage Order, No. 4, section 4(A); Cal. Lab. Code §
17 1194.

18 29. Plaintiff was not exempt to the State's Minimum Wage Order. Defendants aware of their
19 obligation to pay the minimum wage for each hour worked but failed to do so.

20 30. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
21 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
22 the extent pertinent as if set forth here in full.

23 **THIRD CAUSE OF ACTION**
24 **MEAL PERIOD VIOLATIONS**
 (As to all Defendants)

25 31. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 30 as though fully
26 set forth herein.

27 32. An employer must provide an employee a meal period in accordance with the
28 applicable Wage Order, and California Labor Code sections 226.7 and 512.

1 40. California Labor Code section 226.7 and Wage Order No. 4, section 12(A) require an
2 employer to provide a rest period of not less than ten (10) minutes for each work period of more than
3 four (4) hours or a major fraction thereof.

4 41. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly
5 situated employees to take paid rest periods of at least ten (10) minutes for each work period that
6 they worked more than four (4) hours or a major fraction thereof.

7 42. Defendants further failed to pay Plaintiff and similarly situated employees the
8 applicable rest period premiums for any such missed rest periods.

9 43. As a proximate result of Defendants' conduct, Plaintiff and similarly situated
10 employees have been damaged as stated in the section below entitled "DAMAGES," which is
11 incorporated here to the extent pertinent as if set forth here in full.

12 **FIFTH CAUSE OF ACTION**
13 **WAGE STATEMENT VIOLATIONS**
14 **(As to all Defendants)**

14 44. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 43 as though fully
15 set forth herein.

16 45. Pursuant to California Labor Code section 226(a), an employer must provide an itemized
17 statement to an employee, semimonthly or at the time of each payment of wages, showing:

18 *(1) gross wages earned, (2) total hours worked by the employee, except for*
19 *any employee whose compensation is solely based on a salary and who is*
20 *exempt from payment of overtime under subdivision (a) of Section 515 or*
21 *any applicable order of the Industrial Welfare Commission, (3) the*
22 *number of piece-rate units earned and any applicable piece rate if the*
23 *employee is paid on a piece-rate basis, (4) all deductions, provided that*
24 *all deductions made on written orders of the employee may be aggregated*
25 *and shown as one item, (5) net wages earned, (6) the inclusive dates of the*
26 *period for which the employee is paid, (7) the name of the employee and*
27 *the last four digits of his or her social security number or an employee*
28 *identification number other than a social security number, (8) the name*
and address of the legal entity that is the employer and, if the employer is
a farm labor contractor, as defined in subdivision (b) of Section 1682, the
name and address of the legal entity that secured the services of the
employer, and (9) all applicable hourly rates in effect during the pay
period and the corresponding number of hours worked at each hourly rate
by the employee. The deductions made from payment of wages shall be
recorded in ink or other indelible form, properly dated, showing the
month, day, and year, and a copy of the statement and the record of the
deductions shall be kept on file by the employer for at least three years at
the place of employment or at a central location within the State of
California.

1 53. Defendants knew of their obligation to pay Plaintiff's and similarly situated employees'
2 their final wages when their employment terminated. Indeed, Defendants had knowledge that Plaintiff
3 and similarly situated employees were not compensated for all hours worked because Defendants
4 instructed them to work off-the-clock. Additionally, Defendants were aware that Plaintiff and similarly
5 situated employees had to work during meal periods, received late meal periods, and did not receive all
6 rest periods, but did not pay any premiums for missed meal and rest periods. Further, Defendants knew
7 employees were eligible for supplemental paid sick leave but failed to provide them with it if they had
8 worked less than six (6) months. Such conduct shows Defendants had knowledge of earned, but unpaid
9 wages at the time of separation, yet Defendants still refused to pay the remaining wages owed.

10 54. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
11 have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by
12 thirty (30) days for Defendants' failure to pay all wages due.

13
14 **SEVENTH CAUSE OF ACTION**
15 **FAILURE TO REIMBURSE EXPENSES**
 (As to all Defendants)

16 55. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 54 as though fully
17 set forth herein.

18 56. California Labor Code section 2802(a) states that "An employer shall indemnify his or
19 her employee for all necessary expenditures or losses incurred by the employee in direct consequence of
20 the discharge of his or her duties, or of his or her obedience to the directions of the employer, even
21 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
22 unlawful."

23 57. Defendants required Plaintiff and similarly situated employees to use their personal
24 cellphones and personal vehicles but failed to reimburse them for such use. Defendants required class
25 members to use their personal cellphones to communicate throughout the day with providers and use
26 their personal vehicles to transport supplies between offices.

27 //

28 //

58. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

EIGHTH CAUSE OF ACTION
UNFAIR COMPETITION
(As to HISHAM SOLIMAN M.D., INC. and DOES 1 to 100)

59. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 58 as though fully set forth herein.

60. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. See California Business and Professions ("B&P") Code § 17200.

61. Plaintiff and similarly situated employees were not paid all wages owed, including minimum and overtime wages, paid sick leave, or reimbursed for business expenses, during their employment or any time thereafter. Moreover, through Defendants conduct Plaintiff and similarly situated employees were denied statutory protections regarding meal and rest periods.

62. Plaintiff further alleges that such actions and/or conduct constitute a violation of the California Unfair Competition Law ("UCL") (Business and Professions Code 17200 *et seq.*) pursuant to *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

63. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to the UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code sections 17203, 17208, violations of California Labor Code sections 226.7, 510, 512, and 1194 all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Action.

NINTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT
(As to all Defendants)

64. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 63 as though fully set forth herein.

11

65. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the following provisions of the Labor Code in their dealings with him and other similarly situated current and former employees:

- Violation of Labor Code §§ 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime Wages)
- Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 4, § 4 (Failure to Pay Minimum Wages)
- Violation of Labor Code §§ 226, 512; IWC Wage Order 4, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code § 226.7; IWC Wage Order 4, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code §§ 226.3, 1174, 1198; IWC Wage Order 4, § 7 (Failure to Maintain Accurate Records)
- Violation of Labor Code §§ 246, 246.5, 248.5, 248.6 (Failure to Provide Paid Sick Leave)
- Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)

66. Plaintiff seeks civil penalties against Defendants as provided in the Labor Code, or, if no civil penalty is provided, default penalties pursuant to Labor Code section 2699(f)(2).

67. Plaintiff seeks these civil penalties from Defendants pursuant to Labor Code sections 2699(a) and 2699.3.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;

- 1 b. Interest for the wages due pursuant to California Labor Code section 1194;
2 c. For reasonable attorney's fees and costs incurred pursuant to California Labor
3 Code section 1194;
4 3. As to the Second Cause of Action:
5 a. Wages in an amount to be proven at trial;
6 b. Interest for the wages due pursuant to California Labor Code section 1194;
7 c. For reasonable attorney's fees and costs incurred pursuant to California Labor
8 Code section 1194;
9 d. Liquidated damages pursuant to California Labor Code section 1194.2;
10 4. As to the Third Cause of Action:
11 a. Wages in an amount to be proven at trial;
12 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
13 section 1021.5;
14 5. As to the Fourth Cause of Action:
15 a. Wages in an amount to be proven at trial;
16 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
17 section 1021.5;
18 6. As to the Fifth Cause of Action:
19 a. Penalties as provided for in Labor Code section 226, including the greater of all
20 actual damages or fifty dollars (\$50.00) for the initial pay period in which the
21 violation occurred and one hundred dollars (\$100.00) per employee for each
22 violation in the subsequent pay periods, but not to exceed four thousand dollars
23 (\$4,000.00);
24 b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section
25 226(e);
26 7. As to the Seventh Cause of Action:
27 a. An amount to be proven at trial;
28 b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);

1 8. As to the Ninth Cause of Action:

- 2 a. For Civil penalties as provided for in the Labor Code for each enumerated
3 violation in an amount to be proven at trial;
- 4 b. For those Labor Code sections, the violation of which there is no civil penalty
5 provided, the default penalty provided in Labor Code section 2699(f): for any
6 initial violation, one hundred dollars (\$100) for each aggrieved employee per pay
7 period; For any subsequent violation, two hundred dollars (\$200) for each
8 aggrieved employee per pay period;
- 9 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
- 10 d. For any other remedies as allowed by law and/or deemed appropriate by the
11 Court;
- 12 9. For such other and further relief as this Court may deem just and proper,
13 including, but not limited to:
- 14 a. Wages as proved at trial;
- 15 b. Injunctive and Declaratory relief;
- 16 c. Attorney's fees and costs as provided for by law; and
- 17 d. Interest.

18
19 Dated: June 5, 2023

Shimoda & Rodriguez Law, PC

20
21 By: Brittany Berzin
22 Galen T. Shimoda
23 Justin P. Rodriguez
24 Brittany V. Berzin
25 Attorneys for Plaintiff
26
27
28

1 *Tanksley v. Hisham Soliman M.D., Inc.*
2 *Sacramento County Superior Court of California 34-2023-00335509*

3 **PROOF OF SERVICE — CCP §§ 1013a and 2015.5**
4 **and California Rules of Court, Rule 1.21 and Rule 2.150**

5 I, Shaniya Baird, declare that:

6 I am a citizen of the United States and am over the age of eighteen years and not a party to
7 the within above-entitled action.

8 On June 21, 2023, I served the following documents on the party below:

9 • **FIRST AMENDED COMPLAINT FOR DAMAGES**

10 Tim Del Castillo (SBN 277296) 11 Lisa L. Bradner (SBN 197952) 12 Daniel Richardson (SBN 289327) 13 Castle Law: California Employment Counsel, PC 14 2999 Douglas Blvd., Suite 180 15 Roseville, CA 95661 16 Phone: 916-587-9106 Email: tdc@castleemploymentlaw.com lb@castleemploymentlaw.com dr@castleemploymentlaw.com rb@castleemploymentlaw.com	
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17 [] [By Mail] I am familiar with my employer's practice for the collection and
18 processing of correspondence for mailing with the United States Postal
19 Service and that each day's mail is deposited with the United States Postal
20 Service that same day in the ordinary course of business. On the date set forth
21 above, I served the aforementioned document(s) on the parties in said action
22 by placing a true copy thereof enclosed in a sealed envelope with postage
thereon fully prepaid, for collection and mailing on this date, following
ordinary business practices, at Salt Lake City, Utah, addressed as set forth
above.

23 [] [By Personal Service] By personally delivering a true copy thereof to the office
of the addressee above.

24 [XXX] [By Electronic Mail] I e-mailed the documents(s) to the person(s) shown above.
25 No error was reported by the e-mail service that I used.

26 [] [By Overnight Courier] By causing a true copy and/or original thereof to be
27 personally delivered via the following overnight courier service: _____
28 //

1 I declare under penalty of perjury under the laws of the State of California that the foregoing
2 is true and correct, and that this declaration was executed on June 21, 2023, at Salt Lake City, Utah.

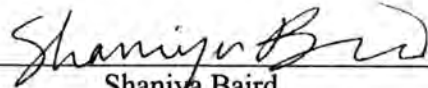
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Exhibit C



Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd.
Suite #120
Elk Grove, CA 95624
Ph. (916) 525-0716
Fax (916) 760-3733
www.shimodalaw.com

June 2, 2023

For Online Filing:

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Tanksley v. Hisham Soliman MD Inc.*

Dear Labor Commissioner,

Our office previously filed a notice with the Labor and Workforce Development Agency on behalf of Ruth Tanksley (“Plaintiff”) on March 1, 2023. In this letter we seek to amend our prior notice to identify an additional provision of the Labor Code Plaintiff alleges was violated based on the previously submitted facts. Accordingly, we are providing the following “employers” notice pursuant to California Labor Code section 2699.3:

Hisham Soliman M.D., Inc.
510 Plaza Drive #170
Folsom, CA 95630

Hisham Soliman
510 Plaza Drive #170
Folsom, CA 95630

Abeer Soliman
510 Plaza Drive #170
Folsom, CA 95630

We are setting forth the “facts and theories” to support each of the counts found within this notice. Please notify us of your intent to investigate any or all of the claims alleged herein against Hisham Soliman M.D., Inc., Hisham Soliman and Abeer Soliman (“Defendants”). Should you decide not to investigate, we request that you allow us to bring the following action on behalf of Plaintiff and all Aggrieved Employees, pursuant to Labor Code section 2699(a). Specifically, Aggrieved Employees shall include, but is not limited to the following: all non-exempt employees who have, or continue to, work for Defendants in California from one year prior to the date of this letter to the present. Plaintiff is permitted to bring a Private Attorneys General Act (“PAGA”) claim for civil penalties on behalf of these individuals pursuant to *Huff v. Securitas Security Services USA, Inc.*, 23 Cal.App.5th 745, 757 (2018) (finding a plaintiff has PAGA standing if affected by one of the alleged violations; the plaintiff need not have personally experienced all the violations pursued in PAGA action).



A. FACTS

Hisham Soliman M.D., Inc. does business as Advanced Psychiatry Associates and provides psychiatric services remotely to its patients. Plaintiff worked for Defendants from approximately May 2022 to January 12, 2023, as a non-exempt employee. Plaintiff and Aggrieved Employees typically were scheduled to work shifts from about 9 a.m. to 6 p.m. However, Abeer Soliman instructed Plaintiff and Aggrieved Employees that if they were not finished with their assigned tasks at the end of their shift, they were required to clock out at 6 p.m., but continue working until the work was completed. Additionally, Plaintiff and Aggrieved Employees were instructed to send daily reports at 5:50 p.m., but there were often questions about the reports from Mrs. Soliman and the providers that Plaintiff and Aggrieved Employees were required to respond to off-the-clock. These practices resulted in unpaid minimum and overtime wages.

Defendants did not authorize and permit Plaintiff and Aggrieved Employees to take all meal and rest periods owed to them. Defendants employed Plaintiff and Aggrieved Employees for work for periods of more than five hours without providing them an off-duty meal period of at least 30 minutes. Defendants did not have a policy or practice to provide off-duty meal periods before the end of the fifth hour of work. Plaintiff and Aggrieved Employees regularly began meal periods after their fifth hour of work. Mrs. Soliman was aware of this and modified Plaintiff's and Aggrieved Employees' time records so it would appear meal periods were taken earlier. Plaintiff and Aggrieved Employees regularly received work communications from providers they needed to respond to even during their meal periods. Defendants employed Plaintiff and Aggrieved Employees for periods of more than 3.5 hours without providing them 10-minute rest periods. Due to the amount of work Plaintiff and Aggrieved Employees had they were not always able to take 10-minute breaks. Defendants were aware of this as Plaintiff and Aggrieved Employees would send a message in Teams if they were able to take a break. On occasions Plaintiff and Aggrieved Employees did not receive a break, there would be no message from them in Teams. Defendants did not have any policy to pay premiums for missed meal and rest periods. Defendants did not pay Plaintiff and Aggrieved Employees all missed meal and rest period premiums they were owed.

Defendants required Plaintiff and Aggrieved Employees to use their personal cellphones for work to communicate with providers throughout the day. For example, providers would call or text Plaintiff and Aggrieved Employees about patient follow up, medications, or patients that didn't make their appointments, among other things. Plaintiff and Aggrieved Employees were instructed to give the providers their cellphone numbers. Patients were scheduled approximately every 20-40 minutes, so providers were in contact communication with Plaintiff and Aggrieved Employees throughout the day. Defendants also required Plaintiff and Aggrieved Employees to use their cellphones to record their hours worked. The timekeeping system would send Plaintiff and Aggrieved Employees a code via text message they were required to use to clock in or out.



Defendants did not have any policy to reimburse Plaintiff and Aggrieved Employees for the use of their personal cellphones for work. As such, no amount for reimbursement was ever paid. Defendants also required Plaintiff and Aggrieved Employees to drive their personal vehicles for work to deliver supplies to other office locations. Defendants did not have any policy to reimburse Plaintiff and Aggrieved Employees for mileage incurred. As such, no amount of reimbursement was ever paid.

Defendants paid bonuses to Aggrieved Employees of \$50 for each review they were named in on Yelp or Google. However, Defendants did not incorporate the value of the bonuses into Aggrieved Employees' regular rates of pay for the purpose of paying overtime and paid sick time.

Defendants did not provide all Covid-19 supplemental paid sick leave owed to Aggrieved Employees. Defendants erroneously failed to provide supplemental paid leave to Aggrieved Employees who worked for Defendants less than 6 months at the time they became eligible to use the leave.

Due to the practices and policies outline above, Defendants did not provide Plaintiff and Aggrieved Employees with accurate wage statements. For example, the wage statements did not include accurate gross and net wages earned, total hours worked by the employee, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee, including but not limited to rates and corresponding hours for minimum and overtime wages, paid sick time, and meal and rest period premiums.

At the time of Plaintiff's and Aggrieved Employees' termination or separation they had wages owed to them, including minimum wages, overtime wages, paid sick time, and meal and rest period premiums. To date, these wages remain unpaid.

B. ALLEGATIONS AND CHARGES

Count One – Violation of Labor Code §§ 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime Wages)

Labor Code sections 510 and 1194 require employers to pay employees 1 ½ times their regular rate of pay for any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek. Employers must also pay employees 1 ½ times their regular rate of pay for the first eight (8) hours worked on the seventh day of work in any one workweek. Finally, employers must pay employees 2 times their regular rate of pay for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh day of work in any one workweek. As stated above, Plaintiff and Aggrieved Employees worked over eight (8) hours per day and forty (40) hours per week



and were not paid all overtime wages owed. Plaintiff and all Aggrieved Employees are entitled to recover all unpaid overtime wages. Failure to pay such wages is against the law.

Count Two – Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 4, § 4 (Failure to Pay Minimum Wages)

During the period Plaintiff and Aggrieved Employees were employed by Defendant they were entitled to be paid at least the State's minimum wage rate for each hour that they worked. *See, e.g.*, IWC Wage Order MW-2019; IWC Wage Order No. 4, § (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendant did not pay Plaintiff and Aggrieved Employees for all hours worked. Thus, Plaintiff and Aggrieved Employees were not paid at least the applicable state minimum wage for those hours worked. This is against the law.

Count Three - Violation of Labor Code §§ 226.7, 512 and Wage Order No. 4, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and Wage Order No. 4, section 11(A) require employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked, which is to be taken before the completion of the fifth hour. Labor Code section 512 and Wage Order No. 4, section 11(B) further provide that employers may not employ employees for a work period of more than ten (10) hours per day without providing the employee with a second meal period of thirty (30) minutes; however, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant meal periods pursuant to California law. Defendant also failed to pay any meal period premiums for their failure to provide meal periods. This was in violation of the law.

Count Four – Violation of Labor Code § 226.7 and Wage Order No. 4, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and Wage Order No. 4, section 12(A) require employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or major fraction thereof worked. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant rest periods pursuant to California law. Defendant also failed to pay any rest period premiums for their failure to provide rest periods. This was in violation of the law.

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Count Five – Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)

Labor Code section 226 requires employers to furnish to employees with “an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer . . . and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee” For the reasons stated above, Defendant failed to comply with these requirements with respect to Plaintiff and Aggrieved Employees. This is in violation of the law.

Count Six – Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)

Labor Code sections 201-203 require that all wages, including minimum wages, overtime wages, paid sick time, and meal and rest premiums, be paid to employees upon separation and/or termination of employment. Here, for the reasons stated above, Plaintiff and Aggrieved Employees did not receive all final wages due and owing to them at the time of termination or seventy-two (72) hours thereafter as required by Labor Code sections 201-203. This is in violation of the law.

Count Seven – Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)

Labor Code section 558 states that it is unlawful for any employer, or other person acting on behalf of an employer, to violate or cause to be violated any of sections 500 to 558.1 of the Labor Code or any order of the Industrial Welfare Commission. Similarly, Labor Code section 558.1 states that it is unlawful for any employer or other person acting on behalf on an employer to violate, or cause to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, as well as Sections 203, 226, 226.7, 1193.6, 1194, or 2802 of the Labor Code. As described above, Defendant, by and through Defendant agents, violated Plaintiff and Aggrieved Employees’ rights provided for under Labor Code sections 558 and 558.1 as well as the incorporated Wage Orders and incorporated statutes therein. Hisham Soliman and Abeer Soliman are officers, directors, shareholders, and/or managing agents of Hisham Soliman M.D., Inc. responsible for the violations stated herein as they were in a position of authority with the power and responsibility to monitor, institute, and/or modify the unlawful practices, but chose to ratify them instead. This is against the law.



Count Eight – Violation of Labor Code §§ 226.3, 1174, 1198 and Wage Order No. 4, § 7 (Failure to Maintain Accurate Records)

Labor Code section 226.3 provides that any employer who fails to maintain records required by Labor Code section 226(a) or provide records required by 226(a) shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation. Labor Code section 1174(d) provides that employers must keep and maintain accurate payroll records showing the hours worked daily by, and the wages paid to, employees. Defendants failed to maintain the accurate records required by law and, instead, maintained incomplete, inaccurate records regarding Plaintiff and Aggrieved Employees' wage records and hours worked. This was against the law.

Labor Code section 1198 provides the standard conditions of labor fixed by the commission shall be the standard conditions of labor for employees. The records requirement in Wage Order No. 4, § 7 is a "standard condition of labor fixed by the commission." See Cal. Labor Code § 1198. It provides, "Every employer who has control over wages, hours, or working conditions shall keep accurate information with respect to each employee, including ... time records showing when the employee begins and ends each work period. Meal periods, split shift intervals, and total daily hours worked shall also be recorded ... Total hours worked during the payroll period and applicable rates of pay..." See Wage Order No. 4, § 7. Defendants failed to keep accurate records in compliance with Wage Order No. 4, § 7 and Labor Code § 1198. This was against the law.

Count Nine – Violation of Labor Code §§ 246, 246.5, 248.5, 248.6 (Failure to Provide Paid Sick Leave)

Labor Code sections 246, *et seq.*, mandate that employers must provide California employees, who work thirty (30) or more days within a year for the employer, paid sick leave of at least one (1) hour for every thirty (30) hours worked that begins to accrue at the commencement of employment. An employer may use a different accrual method, other than providing one hour per every 30 hours worked, provided that the accrual is on a regular basis so that an employee has no less than twenty-four (24) hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period. An employer may limit the use of sick leave to either twenty-four (24) hours or the equivalent of three (3) days, whichever is greater, during a year period. However, employers using an accrual method rather than a lump sum method must allow employees to accrue up to forty-eight (48) hours or the equivalent of six (6) days at any given time. Employers must authorize employees to take paid sick leave under the conditions set forth in the Healthy Workplaces, Healthy Families Act of 2014 ("HWHFA") for the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member. Any sick leave taken must be paid at the employee's regular rate of pay. Labor Code section 248.6



mandates that employers provide eligible employees with Covid-19 supplemental paid sick leave. For the reasons state above, Defendant failed to provide Plaintiff and Aggrieved Employees with sick leave meeting the requirements set forth in HWHFA. Plaintiff will be seeking equitable, injunctive, and restitutionary relief to remedy these violations.

Count Ten – Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)

Labor Code section 2802(a) states that “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” Defendants failed to pay any reimbursements for personal cellphone use and personal vehicle use by Plaintiff and Aggrieved Employees. This was in violation of the law.

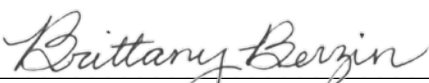
Count Eleven – Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)

Labor Code section 2802(a) states that “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” Defendants failed to pay any reimbursements for use of personal cellphones by Plaintiff and Aggrieved Employees. This was in violation of the law.

If you have any questions or require any further information regarding the facts and theories to support these claims, do not hesitate to contact our office.

Very truly yours,

Shimoda & Rodriguez Law, PC

By: 
Brittany V. Berzin

BVB:sb
cc: Client via e-mail

Exhibit D

Shimoda & Rodriguez Law, PC Costs - Tanksley v. Hisham Soliman, M.D., Inc.

Date	Description	Amount
3/2/2023	Payment to LWDA - PAGA Filing Fee	\$75.00
3/7/2023	One Legal Fee - Filing Complaint	\$121.09
3/7/2023	Court Fee - Filing Complaint	\$435.00
3/7/2023	Court Fee - Complex Fee	\$1,000.00
3/10/2023	Administration/Copy Fee - Class Action - Phone, Fax, Scan, Copying, Westlaw Legal Research Fees	\$500.00
3/17/2023	One Legal Fee - Peremptory Challenge Filing	\$61.26
3/22/2023	Priority Mail - Notice & Acknowledgement to OC	\$7.60
6/2/2023	Certified Mail - Amended PAGA Ltr to Employers	\$25.02
6/5/2023	Mediation Fee	\$3,675.00
6/7/2023	One Legal Fee - Stip and Order re Amending Complaint	\$79.35
6/7/2023	Court Fee - Stip and Order re Amending Complaint	\$20.00
6/27/2023	One Legal Fee - Filing Amended Complaint	\$78.76
8/9/2023	One Legal Fee - Stip and Order re Mediation	\$83.95
8/9/2023	Court Fee - Stip and Order re Mediation	\$20.00
10/30/2023	One Legal Fee - Case Management Conference Statement Filing	\$83.39
11/13/2023	Mediation - Meal	\$9.40
1/17/2024	Notice of Motion Order	\$13.85
1/18/2024	One Legal Fee - Preliminary Approval Motion Filing	\$78.65
1/23/2024	One Legal Fee - Case Management Conference Statement Filing	\$16.88
3/26/2024	Notice of Disassociation and Association of Counsel	\$16.88
Anticipated	One Legal Fee - Final Approval Motion Filing	\$125.00
Anticipated	Personal Service to OC - Final Approval Motion	\$150.00
Anticipated	One Legal Fee - Compliance Declaration Filing	\$83.95

TOTAL: \$6,760.03

Exhibit E

Exhibit F

TASK CATEGORY		GTS	JPR	BVB	RK
<u>Pre-filing investigation, Pleadings, Admin Exhaustion, and Related Law & Motion.</u> Includes time spent during initial client meetings and review of claims and documents; Pre-filing investigation/research; Review of payroll records and prior filings against Defendant; Drafting pleadings, notices, administrative filings; Reviewing and responding to pleadings and court filings; Communications with opposing counsel regarding same, internal communications regarding same, and communications with client regarding same.		4.2	7.6	17.8	-
<u>Case Review, Management, Strategy Meetings, Dispositive Motions.</u> Includes time spent discussing general plan of action updates and strategies in weekly meetings; Research and analysis regarding claim elements and issues affecting representative litigation; Preparing for case management conferences and related meet/confer, drafting of statements, and attendance for hearings; Reviewing minute orders and general correspondence from the Court regarding case management and assignments; Research regarding certification; Research regarding trial plan; Communications with opposing counsel regarding same, internal communications regarding same, communications with client regarding same.		4.9	9.7	6.9	-
<u>Discovery (Pre-Mediation/Non-Mediation Related), Related Law & Motion, and Hearings.</u> Includes time spent preparing discovery requests; Research regarding discovery issues and anticipated objections; Document review and analysis; Seek out witnesses for interviews and obtaining declarations; Review public records requests regarding prior labor commissioner filings and prior wage and hour lawsuits; Communications with opposing counsel regarding same, internal communications regarding same, communications with client regarding same.		2	5.1	8.4	-
<u>Discovery / Investigation for Mediation.</u> Includes time spent preparing informal discovery specifically geared towards mediation; reviewing informal mediation productions, including data, analyses, documents, and public records; Analyzing sample; Perform damages analysis and calculations; Communications with opposing counsel regarding same, internal communications regarding same, communications with client regarding same.		.6	13.8	20.9	-
<u>Mediation / Settlement Conference / Direct Negotiations.</u> Includes time spent drafting/revising mediation brief and accompanying exhibits; Drafting pocket briefs; Review documents productions for potential exhibits; Preparing for and attending mediation; Pre-mediation call with mediator; Legal research relating to issues on day of mediation; Direct negotiations with opposing counsel both before and after mediations; Preparing working draft of MOU; Communications with opposing counsel regarding same, internal communications regarding same, communications with client regarding same.		1.5	15.4	22.7	-
<u>Drafting Settlement Agreements.</u> Includes time spent preparing long form agreement and exhibits, revisions relating thereto; Research regarding any approval procedures or issues regarding disputed terms; Solicit and review settlement administrator bids; Communications with opposing counsel regarding same, internal communications regarding same, communications with client regarding same.		3.9	7.3	4.5	-
<u>Settlement Approval and Administration.</u> Includes time spent drafting motion for preliminary approval and supporting declarations and order; Class data and settlement calculation review; Speaking with Settlement Administrator regarding calculations, distributions, and final approval logistics; Review reports from Settlement Administrator; Respond to Class Member calls and inquiries regarding the settlement and research relating thereto; Draft Motion for Final Approval and supporting declarations, review and finalize exhibits relating thereto; Legal research regarding approval issues. Communications with opposing counsel regarding same, internal communications regarding same, communications with client regarding same. Includes estimated 10 hours for J. Rodriguez supervising final distributions and compliance with Court final approval order and attending compliance hearings.		7.6	28.2	17.5	6.3
TOTAL:		24.7	87.1	98.7	6.3

Galen T. Shimoda (Cal. State Bar No. 226752)
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Attorneys for Plaintiff RUTH TANKSLEY

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

RUTH TANKSLEY, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

HISHAM SOLIMAN M.D. INC., a California
Corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. 34-2023-00335509

*Assigned to Jill H. Talley For All Purposes
Department 23*

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: June 21, 2024

Time: 9:00 a.m.

Dept.: 23

Judge: Hon. Jill H. Talley

Filed: March 2, 2023

FAC Filed: June 22, 2023

Trial Date: None Set

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Final Approval of Class Action and PAGA Settlement (“Motion”) in the above
3 referenced case came before this Court, on June 21, 2024, at 9:00 a.m., in Department 23 before the
4 Honorable Jill H. Talley, presiding. Named Plaintiff Ruth Tanksley (“Plaintiff”) filed this putative
5 class action on March 2, 2023. The operative Complaint alleges that Defendant Hisham Soliman M.D.
6 Inc. (“Defendant”) violated California law by failing to pay overtime wages, failing to pay minimum
7 wages, committing meal and rest period violations, failing to provide accurate wage statements, failing
8 to pay all final wages, failing to reimburse business expenses, and engaging in unfair competition. It
9 is also alleged Defendant is liable for civil penalties under the Private Attorneys General Act
10 (“PAGA”). Plaintiff sought attorneys’ fees and costs as part of this Action. Defendant denied all of
11 Plaintiff’s claims and denied that this case was appropriate for class treatment. No class has been
12 certified. The class settlement was preliminarily approved by this Court on March 7, 2024.

13 The parties have agreed to settle the class and PAGA claims. Defendant and its individual
14 owners, Hisham Soliman, M.D., Inc. and Abeer Soliman, will provide monetary consideration in
15 exchange for a release of claims consistent with the terms of the proposed settlement as set forth in the
16 Joint Stipulation Regarding Class Action and PAGA Settlement and Release (“Agreement” or
17 “Settlement”). Any capitalized terms herein shall have the same meaning as set forth in the
18 Agreement. The Court, having received and considered Plaintiff’s Motion for Final Approval of Class
19 Action and PAGA Settlement, the declarations in support, the Agreement, the proposed Notice of
20 Settlement, and other evidence, HEREBY ORDERS AND MAKES DETERMINATIONS AS
21 FOLLOWS:

22 **I. CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF CLASS**
23 **REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

24 The Court finds that certification of the following class for settlement purposes only is
25 appropriate under the California Code of Civil Procedure and related case law:

26 All non-exempt employees who have, or continue to, work for Hisham
27 Soliman M.D., Inc., in California from March 2, 2019, up to January 13,
28 2024.

1 The Court recognizes that the foregoing definition is for Class Member identification purposes
2 only and is not intended to capture the claims at issue or limit or alter the released claims under the
3 Agreement. A Class Member shall not include the three (3) individuals who timely opted out of the
4 class settlement: Rachelle Cisneros, Breanna Hill, and Anita Acharya. These individuals shall not be
5 bound by the Agreement or any of the releases or obligations therein except for the releases and
6 covenants regarding to the PAGA claims as there is no ability to opt out of a PAGA settlement for
7 Aggrieved Employees.

8 For settlement purposes only, the Court finds that Class Members meet the ascertainability and
9 numerosity requirements since the parties can identify with a matter of certainty, based on payroll
10 records, individuals who fall within the definition and the number of Class Members would make
11 joinder impractical. The commonality and predominance requirements are met for settlement purposes
12 since there are questions of law and fact common to Class Members. The common questions of law or
13 fact in this case all stem from Plaintiff's contentions that Defendants caused the violations outlined
14 above by 1) failing to pay Plaintiff and Class Members for hours worked outside of their scheduled
15 shifts; 2) failing to provide Class Members with an opportunity to take all legally compliant meal
16 periods they were entitled to; 3) failing to provide Class Members with an opportunity to take all legally
17 compliant rest periods they were entitled to; 4) failing to reimburse employees for the use of their
18 personal cellphones and vehicles for work; and 5) failing to pay Covid-19 supplemental paid sick leave
19 to employees who had been employed less than six months; and 6) failing to incorporate the value of
20 bonuses paid to Class Members into their regular rates of pay for the purpose of paying overtime and
21 sick time. The PAGA, waiting time penalty, wage statement, and unfair competition claims also derive
22 from these violations. Additionally, Class Members seek the same remedies under state law. The
23 typicality requirement for settlement purposes is also satisfied since the claims of the Class
24 Representative are based on the same facts and legal theories as those applicable to the Class Members.

25 The Court also finds that certifying the settlement class is required to avoid each Class Member
26 from litigating similar claims individually. This Settlement will achieve economies of scale for Class
27 Members with relatively small individual claims and conserve the resources of the judicial system.
28

1 The Court finds Plaintiff Ruth Tanksley and Plaintiff's counsel, Galen T. Shimoda
2 Justin P. Rodriguez and Renald Konini of Shimoda & Rodriguez Law, PC, to be adequate
3 representatives of the settlement class. The Court appoints them as Class Representative and Class
4 Counsel, respectively.

5 **II. APPROVING CLASS ACTION AND PAGA SETTLEMENT**

6 The Court has again reviewed the preliminarily approved Agreement, which was submitted with
7 Plaintiff's Motion as Exhibit A. The Court finds that final approval is warranted as the Agreement falls
8 within the range of reasonableness and is fair, reasonable, and adequate for the class. The Court also
9 finds the Settlement was agreed upon only after extensive investigation, litigation, and arms-length
10 negotiations by counsel experienced in complex litigation, who took reasonable steps and measures to
11 weigh the potential value of the disputed claims against the risks of continued litigation. The Court also
12 finds the Settlement was agreed upon only after extensive investigation, and arms-length negotiations by
13 counsel experienced in complex litigation, who took reasonable steps and measures to weigh the
14 potential value of the disputed claims against the risks of continued litigation. Class Members were able
15 to object to the Agreement and its terms through the administration process and at a fairness hearing or
16 opt-out of being bound by the preliminarily approved Agreement.

17 No objections were made by Class Members and only three (3) Class members opted out of the
18 settlement. Because the Court finds the Parties' settlement to have been agreed upon only after an
19 extensive investigation and arms-length negotiations, and in an attempt to avoid further delays and costs.
20 The Court gives final approval to the Agreement and all terms therein as if stated here in full, including
21 the \$292,500 Gross Settlement Amount.

22 The Court approves of the Ten Thousand \$10,000 PAGA Payment, which shall be paid from the
23 Gross Settlement Amount, not in addition to the Gross Settlement Amount, to resolve the alleged PAGA
24 claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to the Labor and Workforce
25 Development Agency ("LWDA") and twenty-Five percent (25%) will be paid to Aggrieved Employees
26 on a pro rata basis as described in the Agreement. The Court also finds that based on the facts of this
27 case and the disputed issues. the Agreement provides a recovery that creates an effective, substantial
28 deterrent to any potential future non-compliance, furthering the purpose of the Labor Code and LWDA.

1 The Court approves of the identified *cy pres* beneficiaries and distribution plan wherein any
2 checks issued to Participating Class Members and/or Aggrieved Employees that are not cashed by the
3 deadline to do so shall be donated equally, *i.e.* 50/50, to Capital Pro Bono, Inc., and the Center for
4 Workers' Rights. *See In re Microsoft I-V Cases*, 135 Cal.App.4th 706, 718 (2006). No portion of the
5 Gross Settlement Amount will revert to Defendant or its owners for any reason.

6 The releases and waivers for Class Members who did not opt out of being bound by the
7 Agreement (*i.e.* Participating Class Members), Aggrieved Employees, and the Class Representative are
8 also approved by the Court as set forth in the Agreement.

9 Class Counsel sought an award of attorney's fees of \$102,375, attorney's costs of \$6,760.93, an
10 Enhancement Payment to the Class Representative in the amount of \$10,000, and for Settlement
11 Administrator Costs in the amount of \$6,990. Defendant does not oppose these requests. The Notice of
12 Settlement sent to Class Members included information regarding these amounts and that they would be
13 requested in connection with final approval of the Agreement. Class Members have been given the
14 opportunity to object to these amounts and no objections have been submitted in any respect whatsoever.
15 The Court has reviewed the evidence submitted by Class Counsel regarding their hourly rates, including
16 prior fee awards in Sacramento County Superior Court at the requested rates, and the amount of time
17 expended in litigation for the benefit of Class Members. The Court finds that the rates requested and
18 hours expended are reasonable. The Court has also reviewed the updated itemized costs submitted by
19 Class Counsel, the information provided by the Class Representative regarding the efforts and burdens
20 undertaken for the benefit of the class, and the cost information provided by the Settlement
21 Administrator. The Court finds that these amounts are fair, reasonable, and supported by the evidence
22 submitted by Class Counsel. The requested amounts are approved and awarded as requested, which will
23 be deducted from the Gross Settlement Amount. This finding is further supported by the lack of
24 objections by Class Members to these amounts. The difference between the actual attorneys costs and
25 Settlement Administrator Costs awarded and the originally allocated \$10,000 for each payment will be
26 added to the Net Settlement Amount pursuant to the terms of the Agreement.

1 **III. APPROVAL OF THE DISTRIBUTION METHOD OF NOTICE TO THE CLASS,**
2 **INCLUDING THE NOTICE OF SETTLEMENT**

3 The Court finds that the Notice of Settlement, which was submitted with Plaintiff's Motion as
4 Exhibit A to the Declaration of Madely Nava, fairly and adequately advised Class Members of the terms
5 of the Agreement, the rights being waived, their right to opt out, the ability to dispute the number of
6 workweeks worked during the Class Period, their pro rata share of the Net Settlement Amount, how to
7 participate in the settlement, how to file documentation in opposition to the proposed settlement, and
8 when to appear at the fairness hearing. The Court further finds that the Notice of Settlement and
9 distribution of such notice by first class mail to each identified Class Member at his or her most recent
10 address based on a National Change of Address database search from the Class Members' last known
11 address and a skip trace on any Class Members who have the Notice of Settlement returned as
12 "undeliverable" or "not at this address" comported with all constitutional requirements, including those
13 of due process.

14 **IV. IMPLEMENTATION SCHEDULE**

15 Accordingly, with good cause shown, the Court hereby approves and orders that the following
16 implementation schedule be adhered to:

17

18 Last day for Settlement Administrator to calculate 19 the final Net Settlement Amount, the final 20 Individual Settlement Amounts to Participating 21 Class Members and/or Aggrieved Employees, any 22 applicable taxes thereon, and report the results of 23 these calculations to Class Counsel and 24 Defendant's Counsel	Within 7 calendar days after the Effective Date
25 Last day for Defendant, Hisham Soliman M.D. 26 and Abeer Soliman to fund settlement	Within 21 calendar days after the Effective Date
27 Last day for Settlement Administrator to deliver 28 payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Settlement Administrator Costs, payment to Participating Class Members, and payment to Aggrieved Employees	Within 7 calendar days after funding of the settlement

Last day for Participating Class Members and Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Participating Class Members and Aggrieved Employees
Last day for Settlement Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
Last day for Settlement Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

IT IS FURTHER ORDERED that this final approval order is effective as a judgment with each party to bear its own fees and costs outside of what has been ordered herein. This matter is subject to the Court's continuing jurisdiction to monitor and enforce the terms of this order and the approved Agreement.

IT IS SO ORDERED.

Date: _____

By: _____
Judge of the Superior Court

Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
Renald Konini (Cal State Bar No. 312080)
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Attorneys for Plaintiffs RUTH TANKSLEY

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

RUTH TANKSLEY, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

HISHAM SOLIMAN M.D. INC., a California
Corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. 34-2023-00335509

CLASS ACTION

PROOF OF SERVICE

Date: June 21, 2024

Time: 9:00 a.m.

Dept.: 23

Judge: Hon. Jill H. Talley

Filed: March 2, 2023

FAC Filed: June 22, 2023

Trial Date: None Set

1 *Tanksley v. Hisham Soliman M.D., Inc.*
2 *Sacramento County Superior Court of California 34-2023-00335509*

3 **PROOF OF SERVICE — CCP §§ 1013a and 2015.5**
4 **and California Rules of Court, Rule 1.21 and Rule 2.150**

5 I, Alan Rossner, declare that:

6 I am a citizen of the United States and am over the age of eighteen years and not a party to
7 the within above-entitled action.

8 On May 29, 2024, I served the following documents on the party below:

- 9 • **DECLARATION OF PLAINTIFF RUTH TANKSLEY IN SUPPORT OF**
10 **MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA**
11 **SETTLEMENT**
- 12 • **DECLARATION OF MADELY NAVA OF APEX CLASS ACTION, LLC,**
13 **IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS**
14 **ACTION SETTLEMENT**
- 15 • **DECLARATION OF JUSTIN P. RODRIGUEZ IN SUPPORT OF**
16 **PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION**
17 **AND PAGA SETTLEMENT**
- 18 • **EXHIBIT LIST AND EXHIBITS IN SUPPORT OF PLAINTIFF'S**
19 **MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA**
20 **SETTLEMENT**
- 21 • **MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF**
22 **PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION**
23 **AND PAGA SETTLEMENT**
- 24 • **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR FINAL**
25 **APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**
- 26 • **[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR**
27 **FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**

21 Tim Del Castillo (SBN 277296) 22 Lisa L. Bradner (SBN 197952) 23 Daniel Richardson (SBN 289327) 24 Castle Law: California Employment Counsel, PC 25 2999 Douglas Blvd., Suite 180 26 Roseville, CA 95661 27 Phone: 916-587-9106 28 Email: tdc@castleemploymentlaw.com lb@castleemploymentlaw.com dr@castleemploymentlaw.com rb@castleemploymentlaw.com	
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1 [] [By Mail] I am familiar with my employer's practice for the collection and
2 processing of correspondence for mailing with the United States Postal
3 Service and that each day's mail is deposited with the United States Postal
4 Service that same day in the ordinary course of business. On the date set forth
5 above, I served the aforementioned document(s) on the parties in said action
by placing a true copy thereof enclosed in a sealed envelope with postage
thereon fully prepaid, for collection and mailing on this date, following
ordinary business practices, at Salt Lake City, Utah, addressed as set forth
above.

6 [XXX] [By Personal Service] By personally delivering a true copy thereof to the office
of the addressee above.

7 [] [By Electronic Mail] I e-mailed the documents(s) to the person(s) shown above.
8 No error was reported by the e-mail service that I used.

9 [] [By Overnight Courier] By causing a true copy and/or original thereof to be
10 personally delivered via the following overnight courier service:_____.

11 I declare under penalty of perjury under the laws of the State of California that the foregoing
12 is true and correct, and that this declaration was executed on May 29, 2024, at Sacramento,
13 California.

14 _____
Alan Rossner
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