

PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE

This Private Attorneys General Act Settlement Agreement and Release (“Agreement” or “Settlement”) is made by and between Plaintiff CANDISE HILL (“Plaintiff”), individually, and on behalf of all other aggrieved employees (the “Aggrieved Employees” or “PAGA Group” as described below), and as a private attorney general on behalf of the State of California pursuant to Labor Code section 2699, *et seq.*, the California Private Attorneys General Act (“PAGA”) on the one hand, and Defendant PACIFIC DERMATOLOGY INSTITUTE, INC. (“Defendant”), on the other hand. Plaintiff and Defendant are collectively referred to herein as “the Parties.”

This Agreement, and the settlement embodied herein, shall be binding on Plaintiff, the Aggrieved Employees she represents, and Defendant, subject to the approval of the Court.

WHEREAS, on June 5, 2023, Plaintiff filed a class action complaint (“Complaint”) in the Superior Court of California, San Bernardino County entitled *Candise Hill v. Pacific Dermatology Institute*, Case No. CIVSB2312940 pending in San Bernardino County Superior Court (the “Complaint”). Whereas, also on June 5, 2023, Plaintiff filed a notice letter to the Labor and Workforce Development Agency (“LWDA”) alleging various wage and hour violations (the “Notice”). Shortly after filing the complaint, Defendant’s counsel provided Plaintiff’s counsel a copy of an arbitration agreement signed by Plaintiff. Plaintiff’s counsel determined that it would likely be enforced if Plaintiff opposed arbitrating this matter, and that the class action waiver would likely be found enforceable. On August 30, 2023, Plaintiff filed her First Amended Complaint adding a cause of action for civil penalties under the PAGA (the “Lawsuit”). On September 5, 2023, the Parties stipulated to dismiss all of Plaintiff’s Class Action claims.

The settlement between the Parties has been reached regarding the representative PAGA claims for civil penalties payable to herself, other aggrieved employees, and the State of California pursuant to PAGA, based on allegations that Defendant: (1) failed to pay minimum wage; (2) failed to pay overtime wages; (3) failed to provide meal periods; (4) failed to permit or authorize rest breaks; (5) failed to issue accurate wage statements; (6) failed to pay all wages upon separation of employment; and (7) failed to pay all wages during employment. Specifically, the PAGA Claims are claims asserted or which could have been asserted in the Lawsuit and both or either of Plaintiff’s Complaints and/or PAGA Notice filed with the LWDA, including all PAGA claims stated expressly or by implication in the Notice filed with the LWDA or that could have been alleged based on the facts and circumstances set forth therein. The applicable PAGA Notice related to the Lawsuit is attached hereto as **Exhibit A** (all of the foregoing is collectively referred to as Plaintiff’s “PAGA Claims”).

WHEREAS, on June 5, 2023, Plaintiff timely sent notice letter to the LWDA of her intent to pursue representative actions pursuant to PAGA, on behalf of herself, other aggrieved employees, and the State of California (the notice by Plaintiff to the LWDA is referred to as the “PAGA Notice” herein).

WHEREAS, during the pendency of the Lawsuit, the Parties conducted significant investigation of the facts and law and engaged in an informal discovery exchange prior to mediation. In response to Plaintiff’s Counsel’s informal discovery requests, Defendant provided

Plaintiff's Counsel with information and documents pertaining to Plaintiff and the Aggrieved Employees, and the claims in the Lawsuit, including time punch and payroll data, to provide Plaintiff the opportunity to investigate Plaintiff's allegations and the PAGA Claims.

WHEREAS, on January 18, 2024, the Parties attended a full day mediation with experienced wage-and-hour mediator Steve Pearl, Esq. As a result, the Parties agreed to settle Plaintiff's representative PAGA Claims, taking into account all known facts and circumstances including the difficulty of proving some of Plaintiff's claims, potential defenses asserted by Defendant, the uncertainty associated with litigation, the risks of significant delay, and numerous potential appellate issues.

WHEREAS, for purposes of this Settlement, the Aggrieved Employees are defined as: "All nonexempt employees who are or were employed by Defendant in California from June 5, 2022 to January 22, 2024."

WHEREAS, for purposes of this Settlement, the PAGA Period is defined as the period from June 5, 2022, to January 22, 2024 ("PAGA Period").

WHEREAS, the Parties understand, acknowledge, and agree that this PAGA settlement constitutes a compromise of Plaintiff's PAGA Claims, and that it is the desire and intention of the Parties to effect a final and complete resolution of the Representative PAGA Claims that Plaintiff and the Aggrieved Employees have or may have against Defendant and all of their current and former officers, directors, employees and agents (collectively, the "Released Parties"). The Parties further acknowledge that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission by Defendant or the Released Parties of any wrongdoing or liability. Specifically, Defendant and the Released Parties deny any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit and the PAGA Notice. Defendant and the Released Parties, among other things, contend that they have complied at all times with the California Labor Code and all applicable California laws.

WHEREAS, California Labor Code § 2699(l)(2) requires Court review and approval of any settlement of a civil action filed pursuant to PAGA.

WHEREAS, based on their own independent investigations and evaluations, Defendant and Plaintiff, and their respective counsel, are of the opinion that the amount and terms of the Settlement are fair, reasonable, and adequate and are in the best interests of the Plaintiff, the Aggrieved Employees, and Defendant in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Further, counsel for Plaintiff and the Aggrieved Employees believes that the settlement amount entered into is in the best interests of the Aggrieved Employees and that the settlement for each Aggrieved Employee is fair, reasonable, and adequate, given the inherent risk of litigation.

WHEREAS, the Parties: (1) believe and agree that this Agreement provides for a fair, adequate, and reasonable resolution of the PAGA Claims, (2) have investigated the facts relevant to this settlement and this Agreement, and all matters pertaining thereto, and (3) have arrived at the settlement through extensive, arms-length negotiations, taking into account all relevant factors, present and potential.

WHEREAS, the Parties recognize that in accordance with Labor Code section 2699(l), Court approval is required in the event of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement through a motion for preliminary or final approval. *See also Mendoza v. Nordstrom, Inc.*, 2 Cal. 5th 1074 (2017) (“PAGA authorizes a representative action without the need for class certification”); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1123 (9th Cir. 2014) (“a PAGA suit is fundamentally different than a class action” in that PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out of a PAGA action); *Williams v. Sup. Ct.*, 3 Cal. 5th 531, 546-47 (2017) (“PAGA does not make other potentially aggrieved employees parties or clients of plaintiff’s counsel, does not impose on a plaintiff or counsel any express fiduciary obligations, and does not subject a plaintiff or counsel to scrutiny with respect to the ability to represent a large class”).

Therefore, in consideration of the promises and agreements contained herein, and to avoid the uncertainty, risks, costs, and delays associated with further litigation, the Parties agree and covenant as follows:

1. **Effective Date.** The effective date (“Effective Date”) of this Agreement shall mean the date of entry of the order of the Court approving this Agreement and the PAGA Settlement.
2. **PAGA Released Claims/Effect of Judgment on Aggrieved Employees and LWDA.** The Parties agree and acknowledge that, to the maximum extent permitted by law, the final judgment entered pursuant to this settlement will bind all those who would be bound by a judgment if the action had been brought by the LWDA, including Plaintiff, the LWDA, and the Aggrieved Employees, with respect to the recovery of civil penalties under the California Private Attorneys General Act, California Labor Code § 2698, *et. seq.* only, against the Released Parties. It is expressly understood and agreed that this settlement only includes a full release of the PAGA claims that could have been sought by the State of California Labor Commissioner for the violations identified in Plaintiff’s pre-filing notice letter filed with the LWDA attached as **Exhibit A** upon the Effective Date and full funding of the Gross Settlement amount (“Released PAGA Claims”). This settlement shall not impact aggrieved employees’ ability to assert claims (claims for wages and other damages) other than the PAGA claims being released by this Settlement. Plaintiff does not release any aggrieved employee’s claim for wages or damages.
3. **Notice to LWDA.** Pursuant to California Labor Code § 2699(l)(2), the Parties shall submit to the LWDA a copy of this Agreement at the same time that the Parties submit it to the Court for approval.
4. **No Right to Opt Out.** The Parties agree that there is no statutory right for any Aggrieved Employee to object, opt out or otherwise exclude themselves from the Settlement.
5. **Gross Settlement Amount.** Defendant agrees to pay, in accordance with the terms set forth herein, the total sum of One Hundred Thousand Dollars and Zero Cents (\$100,000.00) as the non-reversionary gross settlement amount (the “Gross Settlement Amount”) in full settlement of the Lawsuit. The Gross Settlement Amount, which represents the total amount payable under this

Settlement by Defendant (subject to the Escalator Clause described below), will be allocated as follows:

- a. PAGA Counsel's attorneys' fees and costs request of up to 35% of the Gross Settlement Amount or Thirty Five Thousand Dollars and Zero Cents (\$35,000.00) ("PAGA Counsel's Fees") and PAGA Counsel's separate request for reasonable litigation costs incurred in this matter ("PAGA Counsel's Costs") not to exceed Fifteen Thousand Dollars and Zero Cents (\$ 15,000.00). Defendant will not oppose these requests. To the extent that the Court approves less than the amount of attorney's fees and costs that PAGA Counsel requests, any reduced amount shall revert to the PAGA Fund.
 - b. Administration costs are estimated not to exceed Five Thousand Dollars and Zero Cents (\$7,500.00) to be paid to the Settlement Administrator ("Administration Costs"), which is a good faith estimate. If the Parties' estimated administration fees are too little, it can be adjusted and shall be paid from the Gross Settlement. If the actual administration fee is less than the Parties' estimated administration fees, the difference between the actual and estimated administration fees will revert to the PAGA Fund; and
 - c. The remainder of the Gross Settlement Amount (the "PAGA Fund") after deducting items (a) and (b) shall be designated as PAGA Penalties to be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i), with 75% paid to the LWDA (the "LWDA PAGA Portion") and 25% paid to the Aggrieved Employees (the "Aggrieved Employees' PAGA Portion") on a pro-rata basis as set forth in Paragraph 7 below.
6. **Allocation Adjustment.** The Parties agree that should the Court deny approval of the Gross Settlement Amount and/or the Net Settlement Amount, the Parties agree to renegotiate the allocation of funds in good faith in an effort to obtain approval of the Settlement.
7. **Allocation and Calculation of the PAGA Penalties.** Each Aggrieved Employee shall receive a portion of the PAGA Penalties on a pro-rata basis. Defendant will calculate: (i) the total number of pay periods worked by each Aggrieved Employee during the PAGA Period, and (ii) the total number of pay periods worked by all Aggrieved Employees during the PAGA Period. To determine each Aggrieved Employee's payment from the Aggrieved Employees' PAGA Portion, Defendant will use the following formula: $\text{Settlement Payment} = \text{Aggrieved Employees' PAGA Portion} \times [\text{Pay Periods Worked by Individual Aggrieved Employee during the PAGA Period} \div \text{Total Pay Periods Worked by All Aggrieved Employees during the PAGA Period}]$.
8. **Escalator Clause:** Defendant's best estimate for the number of pay periods at issue for the PAGA Group for the period of June 5, 2022, to January 22, 2024, is approximately 6,500 pay periods. Should the number of pay periods during the PAGA Period increase by more than 10%, the Gross Settlement Amount will increase proportionately over the 10% grace (i.e., meaning if the pay periods increase by 11% the settlement will increase by 1%). However, if the escalator clause is triggered, Defendant may alternatively choose to end the PAGA Period on the date that the increase would otherwise be triggered.

9. **Tax Treatment of Settlement Amounts.** With regard to settlement payments to Aggrieved Employees, IRS Form 1099s will be issued by the Settlement Administrator, if applicable. IRS Form 1099s are used for payments of miscellaneous income that is not considered wages, such as the penalty payments at issue in this Settlement. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Defendant, their counsel and Plaintiff's and the Aggrieved Employees' counsel are not responsible for any employee tax obligations regarding the allocation of the settlement payments. Payment of the portion allocated to PAGA Counsel's fees and costs will be reflected in a Form 1099 to PAGA Counsel, who shall assume full responsibility and liability for the payment of taxes due on such payments.

10. **Circular 230 Disclaimer.** EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS OR ITS OWN, INDEPENDENT LEGAL AND TAX ADVISERS FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISOR'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

11. **PAGA Settlement Payment Procedures.**

- a. Within thirty (30) calendar days of the Effective Date, Defendant shall deposit the Gross Settlement Amount or \$100,000, minus the approved amount of PAGA Counsel's Fees and the PAGA Counsel's costs, with the Settlement Administrator. Within thirty (30) calendar days of the Effective Date, Defendant shall also tender the approved PAGA Counsel's Fees and PAGA Counsel's costs to PAGA Counsel. Within thirty (30) calendar days of the Effective Date, Defendant shall also provide the Settlement Administrator with a list of all Aggrieved Employees with each listed employee's full name, last known mailing address, last known telephone number, social security number, and the actual number of compensable pay periods worked by them during the PAGA Period. The Settlement Administrator shall run all the addresses of Aggrieved Employees through the

United States Postal Service NCOA database to obtain current address information and shall skip trace and re-mail all returned, undelivered mail within ten (10) calendar days of receiving notice that a notice was undeliverable.

- b. Within thirty (30) calendar days from the date the Gross Settlement Amount has been deposited with the Settlement Administrator as well as the information provided in Paragraph 11 (a), the Settlement Administrator shall:
 - i. Distribute a total of Twenty-Five percent (25%) of the PAGA Fund to the Aggrieved Employees, along with the Notice of PAGA Representative Action Settlement (attached hereto as **Exhibit B**). Aggrieved Employees shall not be required to make claims to receive their share of the PAGA settlement. The payment checks shall be sent to each Aggrieved Employee by U.S. First Class mail to the Aggrieved Employee's last known mailing address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. It will be conclusively presumed that an Aggrieved Employee's individual settlement payment check was received if the payment check has not been returned within thirty (30) calendar days of the original mailing. All uncashed settlement checks shall be redistributed to the LWDA and those Aggrieved Employees who have already cashed their checks based on their pro rata share of the PAGA penalties calculated in accordance with Paragraph 7.
 - ii. Distribute payment to itself for services as Settlement Administrator, as approved by the Court.
- c. Settlement Checks issued to Aggrieved Employees pursuant to this Agreement will expire one hundred and eighty (180) calendar days from the date they are mailed by the Settlement Administrator. All money represented by uncashed settlement checks shall be redistributed by the Settlement Administrator to the LWDA and those Aggrieved Employees who have already cashed their checks based on their pro rata share of the PAGA penalties calculated in accordance with Paragraph 7.
- d. The Parties and their counsel shall not bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

12. **Settlement Administrator.** The Settlement Administrator shall be responsible for sending notices, calculating settlement payments, preparing all checks and mailings, and complying with all requirements set forth herein. As noted above, the costs of the Settlement Administrator shall be paid out of the Gross Settlement Amount, and the Parties agree to use ILYM Group, Inc. as the Settlement Administrator.

13. **Duties of the Parties Related to Approval.** Promptly upon execution of this Agreement, Plaintiff shall file her motion for approval of the proposed Settlement and for the entry of an order approving this Settlement as required by Labor Code section 2699(1). The approval motion will request Court approval of the following: (1) the terms of this Agreement, (2) PAGA Counsel's Fees and PAGA Counsel's Costs, (3) payments to Aggrieved Employees and the LWDA, (4)

payment to the Settlement Administrator, and (5) Final Judgment. In conjunction with the approval motion, Plaintiff shall submit a proposed Final Judgment to the Court.

14. **Interim Stay of Proceedings.** The Parties agree to refrain from further litigation of this matter, except such proceedings necessary to implement and obtain Final Judgment.

15. **Invalid without Court Approval.** In the event this Agreement is not approved by the Court, it shall be deemed null and void, of no force and effect, and of no probative or evidentiary value, and the Parties hereto represent, warrant, and covenant that it will not be used or referred to for any purpose whatsoever. In the event that the Agreement does not become final for any reason, this Agreement shall be null and void and any order entered by the Court in furtherance thereof shall be treated as void ab initio. In such a case, the Parties shall return to the status quo as if they had not entered into this Agreement. The Settlement Administrator will be paid by Defendant for its costs through the date it is notified that the Settlement will not proceed.

16. **Non-Admission of Wrongdoing.** The Parties agree that this Agreement does not constitute an admission by Defendant or any Released Party, of any of the matters alleged in the Lawsuits or of any violation by any of them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. Neither this Agreement nor anything in this Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Plaintiff, Defendant or the Released Parties.

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

18. **Covenants and Representations.** Plaintiff represents and warrants she has not assigned or transferred or purported to assign or transfer, to any person or entity, any claim, right, liability, demand, obligation, expense, action, or causes, or portion thereof, or interest therein, which is or may be subject to this Settlement. Plaintiff acknowledges she has read this Settlement, fully understands her rights, privileges, and duties under the Settlement, and enters into this Settlement freely and voluntarily, and without duress. Plaintiff further acknowledges she had the opportunity to consult with her attorney to explain the terms of this Settlement and the consequences of signing this Settlement.

19. **Termination of Settlement.** If the Court does not approve the Settlement or does not enter judgment as provided for in this Settlement or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or, except as otherwise set forth herein, if one or more of the terms of the Settlement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) calendar days of written notice thereof to elect to terminate the Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement.

20. **Enforcement.** The Parties agree that following entry of the Final Judgment, this Agreement shall be enforceable by the Court and the Court shall retain exclusive and continuing jurisdiction of the Lawsuit over all Parties and the Aggrieved Employees to interpret and enforce the terms, conditions, and obligations of the Agreement pursuant to California Code of Civil Procedure section 664.6. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement actions.

21. **Costs and Fees.** The Parties shall each bear their own costs, attorneys' fees, expert fees, mediator fees, and other fees incurred in connection with this Settlement, the Lawsuit and Plaintiff's claims, except as otherwise set forth specifically herein.

22. **Entire Agreement.** This Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts and writings prior to the date hereof relating to the subject matters hereof. This is a fully integrated agreement. No other promises or agreements shall be binding or shall modify this Agreement unless in writing and signed by the Parties.

23. **Severability.** If any provision of this Agreement or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of the Agreement that can be given effect without the invalid provisions or application, and to this end, the provisions of this Agreement are declared to be severable. Notwithstanding the foregoing, no portion of any release contained herein may be deemed severed or deleted from this Agreement, except upon waiver in writing by the applicable Released Party.

24. **No Construction Against the Drafter.** Each Party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any Party on the basis that the Party was the drafter.

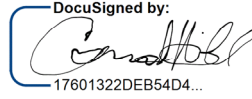
25. **Choice of Law.** This Agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the Parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

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

27. **Cooperation.** Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees that they will abide by this Agreement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Agreement.

28. **Electronic Signature.** Each Party specifically agrees that an electronic signature shall have the same force and effect as a signed original of the Agreement, and that the Parties may use DocuSign, an electronic signature technology, to expedite the execution of this Agreement pursuant to California Civil Code Section 1633.7.

Dated: 3/8/2024

DocuSigned by:

17601322DEB54D4...

Plaintiff, Candise Hill

Dated: Mar 8, 2024

Jeff Bottomley
Jeff Bottomley (Mar 8, 2024 15:40 PST)
Defendant, Pacific Dermatology Institute, Inc.
By: Jeff Bottomley
Its: COO

EXHIBIT A



Suren N. Weerasuriya, Esq.

206 W. 4th Street, Suite 340, Santa Ana, California 92701

Phone (714)406-2048 | suren@gwlawapc.com

June 05, 2023

Submitted Online

California Labor and Workforce Development Agency
Attention: PAGA Administrator

Sent via Certified Mail w/ Return Receipt Requested

Pacific Dermatology Institute, Inc.
c/o Bradley Mudge
240 Newport Center Drive, # 105
Newport Beach, California 92660

Re: *Candise Hill v. Pacific Dermatology Institute, Inc.*

Dear Sir(s) and/or Madam(s):

My firm represents Candise Hill (“Claimant”) regarding Labor Code claims against her current employer Pacific Dermatology Institute, Inc. (“Respondent”)

Please take notice under Labor Code section 2699.3(a)(1) of Respondent’s Labor Code violations. Below are the facts and legal theories establishing the violations.

Also, please take notice that based on the violations and claims described in this correspondence, Complainant will seek penalties against Respondent under the Private Attorneys General Act (Labor Code section 2699, et seq.) for herself and all other aggrieved employees (collectively, the “Aggrieved Employees”).

Respondent violated Labor Code sections 201-203, 204, 210, 212, 225.3, 226, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, and 1197.1

The Aggrieved Employees work for Respondents as assistants, including medical assistants, physician's assistants, and technicians—all in non-exempt positions where they spent more than 50% of their workdays and shifts performing non-exempt duties.

In violation of Labor Code sections 226.7 and 510, Respondent has a practice in place under which it failed to provide meal periods and failed to permit and authorize rest breaks, or pay premiums. Indeed, Respondent, while purporting to provide the Aggrieved Employees with meal periods and rest breaks, implemented and enforced a scheduling practice that left the Aggrieved Employees with insufficient time in a day to take meal periods and rest breaks, while still competently performing their assigned work and duties. Concurrent with this practice, Respondent had a policy and practice that threatened the Aggrieved Employees with disciplinary action for failure to perform their duties.

Consequently, when the Aggrieved Employees lacked the staff support and/or time to perform and complete their duties (as expected by Respondent) while taking compliant meal periods and rest breaks—which was a regular occurrence—they had no choice but to miss rest breaks and meal periods or to take non-compliant meal periods and rest breaks, e.g., on-premises breaks and meal periods, interrupted breaks and meal periods, short breaks and meal periods, or late meal periods.

Through the above policies, procedures, and practices, Respondents failed to provide duty-free meal periods and rest breaks; failed to relinquish control over the Aggrieved Employees during meal periods and rest breaks; failed to provide the Aggrieved Employees with a reasonable opportunity to take uninterrupted 30-minute meal periods and uninterrupted rest breaks; and impeded and discouraged rest breaks.

Moreover, Respondent regularly failed to pay premiums to the Aggrieved Employees for these meal period and rest break violations.

Further, Respondent violated Labor Code sections 226 and 226.3 by failing to provide the Aggrieved Employees accurate wage statements by regularly issuing them wage statements inaccurately stating the “wages earned” by the Aggrieved Employees. The wage statements were inaccurate because they omitted the premiums owed to the Aggrieved Employees for meal period and rest break violations.

Also, Respondent violated Labor Code sections 225.5, 223, 510, 118.12, 1194, 1194.2, 1197, and 1197.1, by failing to pay the Aggrieved Employees the minimum wage for all hours worked; and overtime wages for overtime hours worked. Respondent regularly required the Aggrieved Employees to travel from one office location to another, under Respondent's direction and control. However, Respondent did not pay the Aggrieved Employees for this travel time.

Respondents also violated Labor Code sections 2800 and 2802 by failing to reimburse the Aggrieved Employees for mileage. Respondent required the Aggrieved Employees to travel between office locations but did not reimburse them for mileage.

Respondent also failed to timely pay Aggrieved Employees all wages due to them throughout their employment and following the end of these workers' employment with the Respondent, thus violating Labor Code sections 201-203, 204, and 210. Namely, Respondent failed to pay meal and rest break premiums owed to the Aggrieved Employees during their employment and once their employment with Respondents ended. Additionally, Respondent did not pay the Aggrieved Employees for drive time, when these Employees drove from one location to another, under Respondent's direction and control.

If the Respondent's Labor Code violations are not remedied, in strict compliance with the Labor Code and PAGA, Claimant will bring an action seeking civil penalties, attorney's fees, and costs, for the State of California and all Aggrieved Employees.

If you have any questions, please contact me.

Regards,

A handwritten signature in blue ink, appearing to read 'Suren N. Weerasuriya', is positioned above the printed name.

Suren N. Weerasuriya

EXHIBIT B

NOTICE OF COURT-APPROVED SETTLEMENT

Candise Hill v. Pacific Dermatology Institute, Inc.

San Bernardino County Superior Court Case Number CIVSB2312940

Department S-17

Honorable Joseph T. Ortiz Presiding

THE SUPERIOR COURT OF CALIFORNIA AUTHORIZED THIS NOTICE.

PLEASE READ IT CAREFULLY.

IT IS NOT SPAM MAIL.

YOU ARE NOT BEING SUED OR SOLICITED BY ATTORNEYS.

THIS NOTICE IS TO ADVISE YOU OF PAYMENT BEING MADE TO YOU.

1. You are receiving this Notice because you are eligible to receive money from a representative action (the “Case”) under California’s Private Attorneys General Act (“PAGA”) for alleged Labor Code violations by Pacific Dermatology Institute, Inc. (“PDI”).
2. Candise Hill (“Plaintiff”) filed the Action on behalf of herself, the State of California, and all individuals who worked as non-exempt employees for PDI from June 05, 2022, onwards.
3. Through the Action, Plaintiff sought civil penalties for PDI’s alleged Labor Code violations for unpaid wages, failure to provide meal periods, failure to permit and authorize rest breaks, failure to issue accurate wage statements, and failure to pay all wages during and upon the end of employment. PDI denies the allegations and claims in the Action.
4. PDI and Plaintiff have since settled the Action for a gross settlement amount of \$100,000 (“GSA”). In settling the Action, Plaintiff has not proven PDI’s liability. And PDI has not admitted to liability.
5. Plaintiff and PDI settled the Action after extensive investigations and mediation with an experienced mediator. Plaintiff and PDI agree that the settlement is fair, reasonable, and adequate. They then submitted the settlement agreement and this Notice to the Superior Court for approval.
6. The Court approved the settlement on _____, thus holding that the settlement is fair, reasonable, and adequate.
7. The GSA will cover (a) 25% of all civil penalties to all non-exempt employees who worked for PDI from June 05, 2022, to January 22, 2024 (the “Aggrieved Employees”), including

You; (b) attorney's fees of \$____, which are a court-approved percentage of the GSA; (c) attorney's costs of \$____, which are a court-approved amount; and (d) \$____ in expenses for administration of the Settlement.

8. The settlement administrator is ILYM Group, Inc. ILYM is in charge of calculating the settlement amounts owed to the Aggrieved Employees and sending out settlement checks.
9. PDI's records show that You are an Aggrieved Employee. Therefore, you are entitled to a portion of funds based on your share of the total number of pay periods you worked for PDI from June 05, 2022, to January 22, 2024.
10. Based on PDI's records, Your payment of civil penalties is \$_____. This figure was based on PDI's records showing that you worked _____ pay periods for PDI from June 05, 2022, to January 22, 2024.
11. A check for Your payment is enclosed with this Notice, with an IRS Form 1099.
12. The Court, Plaintiff and her counsel, nor PDI and its counsel, are giving You any tax advice about the payment.
13. You cannot "opt out" of this settlement.
14. You cannot object to this settlement.
15. If You do not deposit the settlement check within 180 days of the date stated on the check, the monetary amount stated on the check will revert back to the settlement administrator, to distribute to the other Aggrieved Employees who have deposited their settlement checks.
16. Any questions about the settlement terms should be directed to Plaintiff's Counsel:

Suren N. Weerasuriya
Gonzalez Weerasuriya, APC
206 4th Street, Suite 340
Santa Ana, California 92701
(714) 406-2048
suren@gwlawapc.com

17. Any questions about the settlement check, including the amount or calculation, should be directed to :

ILYM Group, Inc.
2832 Walnut Ave. Suite C Tustin, CA 92780
(888) 250-6810
(888) 845-6185

18. If You lose Your settlement check, contact ILYM Group, Inc.
19. Please do not contact the Superior Court about this Notice, the settlement, or the Action.