

EXHIBIT A

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Attorneys for Defendant Flexcare, LLC

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

JESSICA PLUMMER AND PAIGE
RIEBOLDT, individually and on behalf of all
other similarly situated aggrieved employees,

Plaintiffs,

vs.

FLEXCARE, LLC and DOES 1-50, inclusive,

Defendants

Case No.: 23CV050251

**JOINT STIPULATION OF PRIVATE
ATTORNEYS GENERAL ACT (CAL.
LAB. CODE § 2698, ET SEQ.)
SETTLEMENT AND RELEASE**

1 IT IS HEREBY STIPULATED AND AGREED by and among the undersigned, subject
2 to approval of the Court pursuant to Labor Code section 2699(1)(2), that the settlement of this
3 action shall be effectuated upon and subject to the following terms and conditions. Capitalized
4 terms used herein shall have the meanings set forth in Section 1 or elsewhere in this Joint
5 Stipulation of Private Attorneys General Act ("PAGA") Settlement and Release ("Agreement" or
6 "Settlement Agreement").

7 This Agreement is made by and between Plaintiffs Jessica Plummer, Paige Rieboldt, and
8 (soon to be added as Plaintiff) Danielle Devenney ("Plaintiffs") for themselves and on behalf of
9 other PAGA Members (defined below), and on behalf of the State of California, and Defendant
10 Flexcare, LLC ("Flexcare" or "Defendant"). (Plaintiffs and Defendant, as defined herein, are
11 sometimes collectively referred to as the "Parties"). The Parties agree that the Litigation (defined
12 below) is hereby compromised and settled pursuant to the terms and conditions set forth in this
13 Stipulation of PAGA Settlement ("Stipulation"), and that the Court shall make and enter
14 judgment, subject to the continuing jurisdiction of the Court as set forth below, and subject to the
15 definitions, recitals, and terms set forth herein which by this reference become an integral part of
16 this Stipulation. The Parties have separately negotiated individual settlement agreements to
17 resolve the Plaintiffs' individual Labor Code claims that were not asserted in this Litigation, and
18 the amount that Defendant is paying to resolve those individual claims is not included in the
19 Gross Settlement Fund (defined below).

18 **1) DEFINITIONS**

19 The following terms used in this Agreement shall have the meanings ascribed to them as
20 set forth below:

- 21 a) "Approval Date" means the date on which the Court enters an order granting Plaintiffs'
22 filed motion seeking approval of the Settlement, entering the Judgment, and taking other
23 appropriate action as set forth in the Approval Order.
- 24 b) "Approval Order" means the order by which the Court approves this Agreement pursuant
25 to Labor Code Section 2699, subdivision (1)(2), and dismisses the Litigation without
26 prejudice, while retaining jurisdiction to enforce the Agreement pursuant to Code of Civil
27 Procedure Section 664.6, in substantially the form set forth in Exhibit A hereto.
- 28 c) "Complaint" or "Litigation" means the November 7, 2023 representative action entitled
Jessica Plummer et. al. v. Flexcare, LLC, filed in the Superior Court of the State of

California for the County of Alameda, Case No. 23CV050251, Plaintiffs’ July 26, 2023 and November 28, 2023 correspondence submitted to the California Labor and Workforce Development Agency (“LWDA”) that is attached to or referenced in the Complaint (“PAGA Notices”), and the Amended Complaint to be filed pursuant to this Settlement Agreement, as discussed below.

- d) “Court” shall mean the Superior Court of the State of California for the County of Alameda.
- e) “PAGA Members” means any and all current and former non-exempt clinicians who were employed in California or traveled to California for employment with Flexcare at any time during the PAGA Period, which Defendant represents are approximately 2,256 PAGA Members.
- f) “PAGA Members List” means information regarding the PAGA Members that Defendant shall in good faith compile from their records and shall be authorized by the Court to transmit in a secured and confidential manner to the Settlement Administrator. The PAGA Members List shall be in a Microsoft Excel spreadsheet and shall include the following information for each PAGA Member: (1) full name; (2) last known home address; (3) last known telephone number; (4) social security number; (5) start and end dates of active employment as a PAGA member during the PAGA Period; (6) total compensable pay periods worked during the PAGA Period; (7) total compensable pay periods worked during the PAGA Period in which any overtime or double-time wages were paid; and (8) total compensable pay periods worked during the PAGA Period after a mid-contract reduction in rate of pay.
- g) “PAGA Period” means July 26, 2022 through February 21, 2024.
- h) “Defendant’s Counsel” or “Counsel for Defendant” means:
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- 1 i) "Effective Date" means the date this Agreement shall be effective upon the later of the
2 following dates: (i) the Court enters an order approving the Settlement; and (ii) if an
3 appeal is filed, the date the Court of Appeal or the California Supreme Court has rendered
4 a final ruling affirming the Court's approval of the Agreement without material
5 modification; or (iii) the date that the deadline for seeking appellate review of the Court's
6 entry of the Approval Order has passed without the filing of a timely appeal or timely
7 request for review.
- 8 j) "PAGA Member Penalty Payment" means 25% of the Net Settlement Fund.
- 9 k) "Individual Settlement Payment" means the amount to be paid to each PAGA Member.
- 10 l) "Gross Settlement Fund" means the sum of eight hundred and sixty thousand dollars
(\$860,000) to be paid by Defendant in settlement of this Litigation.
- 11 m) "LWDA Penalty Payment" means 75% of the Net Settlement Fund.
- 12 n) "Net Settlement Fund" means the amount to be distributed as the LWDA Penalty
13 Payment and the PAGA Member Penalty Payment after deducting from the Gross
14 Settlement Fund the amounts approved by the Court for the Plaintiffs' Attorneys' Fees
15 and Litigation Costs (defined below), the Settlement Administration Fee (defined below),
16 and the Plaintiffs' Service Payments (defined below).
- 17 o) "Plaintiffs' Counsel" means:
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- p) "Released Claims" means any and all claims for penalties and attorneys' fees and costs
recoverable under PAGA which the LWDA had, may claim to have, or could have

1 alleged against Released Parties, or which Plaintiffs or PAGA Members could have
2 brought as proxy or agent of the LWDA, arising out of the facts and violations alleged in
3 the Complaint or the PAGA Notices, including PAGA penalties for the following: bait-
4 and-switch claims under Labor Code § 970; failure to pay overtime premiums under §§
5 223, 510, 1194, and 1198; failure to indemnify employees for expenses and losses under
6 § 2802; failure to indemnify employees for want of ordinary care under § 2800; failure to
7 furnish accurate wage statements under §§ 226, 1174, 1175; unlawful failure to make
8 payment of all wages due upon termination under §§ 201, 202, 203, and/or 204. This
9 release shall apply to claims under PAGA arising during the PAGA Period and will be
10 binding and effective upon Plaintiffs, PAGA Members, and the LWDA regardless of
11 whether the PAGA Member cashes his or her settlement check. This release does not
12 apply to claims other than PAGA claims for civil penalties brought by or on behalf of the
LWDA.

- 13 q) “Released Parties” means Defendant, and its past, present, and future agents of all types,
14 employees, members, managers, officers, directors, partners, trustees, shareholders,
15 owners, principals, attorneys, parents, subsidiaries, related entities, divisions, joint
16 venturers, assigns, partners, indemnitees, persons to whom Defendant owes a duty to
17 defend, predecessors, successors, affiliated organizations, insurers, joint employers, and
18 all persons acting by or through or in concert with any of them, and each of them,
19 including any person or entity which Plaintiffs might seek to hold liable as joint
20 employers for the claims asserted in the Litigation. “Released Parties” also means, but
21 only with respect to shifts PAGA Members worked for Defendant, entities with whom
22 Defendant contracted to provide healthcare staff, hospital and/or medical facility site
23 employers of Plaintiffs, managed-service providers or staffing agencies for whom
24 Defendant supplied healthcare staff, and all persons acting by or through or in concert
25 with any of them, and each of them, including any person or entity which Plaintiffs might
26 seek to hold liable as joint employers for the claims asserted in the Litigation. The Parties
27 agree that the release provided in this Agreement is intended to completely and fully
28 resolve all Released Claims that Plaintiffs and PAGA Members have or could have
brought on behalf of the LWDA against any person or entity relating to shifts PAGA
Members worked for Defendant and that specifically listing each released person or

entity by name would be unduly lengthy and burdensome. Accordingly, the Parties agree that PAGA Members are expressly releasing any persons or entities included in this definition even if such person or entity is not specifically named or whether such person or entity is known to Plaintiffs' Counsel or PAGA Members. The definition of Released Parties shall be interpreted as broadly as possible and no persons or entities are expressly excluded from the definition of Released Parties.

- r) "Plaintiffs' Service Payments" means the sum of \$1,000 to be paid to each of the Plaintiffs, subject to Court approval.
- s) "Settlement Administrator" means Analytics, a third-party administrator who shall administer the settlement in accordance with this Agreement. The costs of the Settlement Administrator to perform its duties under this Agreement are currently estimated to be an amount of up to \$10,000 ("Settlement Administration Fee").
- t) "Settlement Packet" means the packet of documents which shall be mailed to all PAGA Members by the Settlement Administrator, including the Cover Letter (in substantially the form set forth in Exhibit B hereto) and each PAGA Member's respective Individual Settlement Payment.
- u) "Settlement Pay Periods" means the number of payroll periods during which each PAGA Member was paid wages as a PAGA Member during the PAGA Period. Defendant represents that there are approximately 51,798 Settlement Pay Periods.
 - i. "Overtime Settlement Pay Periods" means the number of payroll periods during which each PAGA Member was paid any amount of overtime or double-time wages by Defendant during the PAGA Period. Defendant represents that there are approximately 12,600 Overtime Settlement Pay Periods.
 - ii. "Section 970 Settlement Pay Periods" means the number of payroll periods during which each PAGA Member was employed by Defendant during the PAGA Period following a mid-contract reduction in rate of pay. Defendant represents that there are approximately 1,061 Section 970 Settlement Pay Periods.

2) **RECITALS**

- 1 a) On July 26, 2023, Plaintiffs Jessica Plummer and Paige Rieboldt filed a notice with the
2 California Labor & Workforce Development Agency (“LWDA”) asserting multiple
3 violations of the Labor Code, including “bait and-switch” claims under Labor Code §
4 970, failure to pay overtime premiums under §§ 510 and 1194 (based on the omission of
5 “stipend” pay from the regular rate), and several other derivative Labor Code claims,
6 including failure to indemnify employees for expenses and losses under § 2802, failure to
7 indemnify employees for want of ordinary care under § 2800, failure to furnish accurate
8 wage statements under §§ 226, 1174, 1175; unlawful failure to make payment of all
9 wages due upon termination under §§ 201, 202, 203; and untimely payment of wages
10 under § 204.
- 11 b) Because the LWDA did not indicate that it intended to investigate these claims, on
12 November 7, 2023, Plaintiffs Jessica Plummer and Paige Rieboldt filed their PAGA
13 complaint in Alameda Superior Court on behalf of themselves and other aggrieved
14 employees.
- 15 c) Plaintiffs filed an amended PAGA letter on November 28, 2023 which added claims by
16 another aggrieved employee, Danielle Devenney, and also added a claim for unlawful
17 secret underpayment of wages, Labor Code § 223, based on the failure to pay proper
18 overtime premiums.
- 19 d) Prior to Defendant’s deadline to respond to the Complaint, the Parties determined to
20 engage in early mediation. In advance of that mediation, Defendant furnished to
21 Plaintiffs various core documents, including Travel Agreements between Defendant and
22 Plaintiffs, the Overtime section of the Clinician Handbook, and Defendant’s Account
23 Reimbursement Plan. Defendant also provided to Plaintiffs payroll and other data for
24 travel clinicians employed in California between March 2022 and January 2024 which
25 included, inter alia, (1) the total number of travel clinicians whose rate had been reduced
26 mid-contract, (2) the total number of weeks worked by travel clinicians after a rate
27 reduction, and (3) a 25% sample of all travel clinicians employed by Defendant in
28 California from March 2022 through January 2024 which included information on all
weeks worked in California and also weeks worked in which overtime and double-time
was paid.

- 1 e) The Parties exchanged confidential mediation briefs in which each side carefully
2 explained their view of the law and facts. The Parties engaged in a full day mediation
3 session with Hon. Wynne Carvill (Ret.) on February 21, 2024. The Parties were unable
4 to reach a resolution at the mediation, but following further conversations and email
5 correspondence with the mediator and among counsel, the Parties reached a settlement in
6 principle on February 24, 2024, as later documented herein.
- 7 f) Plaintiffs and Plaintiffs' Counsel recognize the expense and length of continued
8 proceedings that would be necessary to litigate Plaintiffs' claims in the Litigation through
9 trial and through any possible appeals. Plaintiffs also have taken into account the
10 uncertainty and risks of the outcome of further litigation, and the difficulties and delays
11 inherent in such litigation. Plaintiffs and Plaintiffs' Counsel are also aware of the
12 burdens of proof necessary to establish liability for the claims asserted in the Litigation,
13 both generally and in response to Defendant's defenses thereto. Plaintiffs and Plaintiffs'
14 Counsel also have taken into account Defendant's agreement to enter into a settlement
15 that confers substantial benefits upon the PAGA Members. Based on the foregoing, and
16 their careful review of documents and data produced by Flexcare, Plaintiffs and
17 Plaintiffs' Counsel have determined that the Settlement set forth in this Stipulation is fair,
18 adequate, and reasonable in view of PAGA's purposes to remediate present labor law
19 violations, deter future ones, and to maximize enforcement of state labor laws and is in
20 the best interests of all PAGA Members.
- 21 g) Defendant has concluded that any further defense of the Litigation would be protracted
22 and expensive for all Parties. Substantial amounts of Defendant's time, energy, and
23 resources have been, and unless this Settlement is completed, shall continue to be,
24 devoted to the defense of the claims asserted by Plaintiffs. Defendant has also taken into
25 account the risks of further litigation in reaching its decision to enter into this Settlement.
26 Even though Defendant contends it is not liable for any of the claims alleged by Plaintiffs
27 in the Litigation, Defendant has agreed, nonetheless, to settle in the manner and upon the
28 terms set forth in this Stipulation and to put to rest the claims alleged in this Litigation.
Defendant has asserted and continues to assert that the claims alleged by Plaintiffs have
no merit and do not give rise to any liability, damages, restitution, penalties, or other
payments. This Stipulation is a compromise of disputed claims. Nothing contained in

1 this Stipulation, no documents referred to herein, and no action taken to carry out this
2 Stipulation, shall be construed or used as an admission by or against Defendant as to the
3 merits or lack thereof of the claims asserted in the Litigation. Defendant contends that it
4 has complied with all applicable state, federal, and local laws.

5 **3) TERMS OF SETTLEMENT**

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

- 8 a) Binding Settlement. This Settlement shall bind the Parties, all PAGA Members, and the
9 LWDA, subject to the terms and conditions hereof and the Court's approval.
- 10 b) Tax Liability. The Parties make no representations as to the tax treatment or legal effect
11 of the payments specified herein, and the PAGA Members are not relying on any
12 statement or representation by the Parties, Plaintiffs' Counsel or Defendant's Counsel in
13 this regard. The PAGA Members and Plaintiffs' Counsel understand and agree that they
14 shall be responsible for the payment of all taxes and penalties assessed on the payments
15 specified herein.
- 16 c) Circular 230 Disclaimer. The Parties acknowledge and agree that (1) no provision of this
17 Stipulation, and no written communication or disclosure between or among the Parties,
18 Plaintiffs' Counsel, or Defendant's Counsel and other advisers, is or was intended to be,
19 nor shall any such communication or disclosure constitute or be construed or be relied
20 upon as, tax advice within the meaning of United States Treasury Department Circular
21 230 (31 CFR Part 10, as amended); (2) the acknowledging party (a) has relied exclusively
22 upon his, her, or its own, independent legal and tax counsel for advice (including tax
23 advice) in connection with this Stipulation, (b) has not entered into this Stipulation based
24 upon the recommendation of any other party or any attorney or advisor to any other party,
25 and (c) is not entitled to rely upon any communication or disclosure by any attorney or
26 adviser to any other party to avoid any tax penalty that may be imposed on the
27 acknowledging party; and (3) no attorney or adviser to any other party has imposed any
28 limitation that protects the confidentiality of any such attorney's or adviser'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 Stipulation.

- 1 d) Amendment of Complaint. Prior to or on March 26, 2024, Plaintiffs shall file a First
2 Amended Complaint, substantially as set forth in Exhibit C, which shall (i) add Danielle
3 Devenney as a representative Plaintiff; (ii) add Plaintiffs' November 28, 2023 letter to
4 LWDA as an Exhibit to the Complaint; and (iii) add Labor Code section 223 as an
5 additional PAGA predicate. At the same time, Plaintiffs' Counsel shall submit a copy of
6 the First Amended Complaint to the LWDA.
- 7 e) Approval of Settlement. Plaintiffs shall be responsible for moving the Court by March
8 26, 2024 to approve the Settlement and enter the Judgment. The Parties agree to work
9 diligently and cooperatively to have this Settlement presented to the Court for approval,
10 including working cooperatively in good faith to address any questions raised by the
11 Court and making any amendments required by the Court to make any immaterial
12 changes. Plaintiffs' Counsel will be responsible for drafting the motion for approval of
13 Settlement and all documents necessary to obtain the Court's approval of the Settlement
14 and will allow Defendant's Counsel a reasonable opportunity to comment and have input
15 on said motion, particularly as to information that Defendant considers confidential,
16 proprietary, or trade secret. Defendant further agrees that they will not oppose Plaintiffs'
17 motion for approval of the Settlement. The Judgment shall provide for, among other
18 things, the Settlement Packet to be sent to PAGA Members as specified herein.
- 19 f) Plan of Allocation
- 20 i. Based on the Gross Settlement Amount of \$860,000, each Overtime
21 Settlement Pay Period shall be valued at \$50 per Overtime Settlement Pay
22 Period; each Section 970 Settlement Pay Period shall be valued at \$50 per
23 Section 970 Settlement Pay Period, and each Settlement Pay Period that is
24 both an Overtime Settlement Pay Period and a Section 970 Settlement Pay
25 Period shall be valued at \$75 per Pay Period.
- 26 ii. Settlement Pay Periods that are neither Overtime Settlement Pay Periods
27 nor Section 970 Settlement Pay Periods shall be valued by subtracting the
28 total value of the Overtime Settlement Pay Periods and the Section 970
Settlement Pay Periods from the Gross Settlement Amount of \$860,000,

1 and dividing that amount by the number of Settlement Pay Periods that are
2 neither Overtime Settlement Pay Periods nor Section 970 Settlement Pay
3 Periods.

- 4
5 iii. Individual Settlement Payments will be calculated based on the value of
6 each PAGA Member's Overtime Settlement Pay Periods, Section 970
7 Settlement Pay Periods, and additional Settlement Pay Periods in
8 proportion to the PAGA Member Penalty Payment.

9 g) Settlement Administration.

- 10 i. Within fourteen (14) calendar days after the Approval Date,
11 Defendant shall provide the Settlement Administrator with the
12 PAGA Members List for purposes of mailing the Settlement Packets
13 to PAGA Members. Also within fourteen (14) calendar days after
14 the Approval Date, Plaintiffs shall provide the Settlement
15 Administrator with any updated addresses they have received from
16 PAGA Members.
- 17 ii. Determination of Individual Settlement Payments. Within fourteen
18 (14) calendar days after receiving the PAGA Members List from
19 Defendant, the Settlement Administrator shall determine the
20 eligibility for, and the amount of, each Individual Settlement
21 Payment under the terms of this Stipulation and Plan of Allocation,
22 and shall provide that information to Plaintiffs' Counsel and to
23 Defendant's Counsel. The Settlement Administrator's determination
24 of the eligibility for and amount of each Individual Settlement
25 Payment shall be binding upon the PAGA Members and the Parties,
26 yet subject to review by Plaintiffs' Counsel, Defendant's Counsel,
27 and the Court. In the absence of fraud or gross negligence,
28 Defendant's records shall be presumed accurate.
- iii. Delivery of Settlement Packets. Upon receipt of the PAGA
Members List, the Settlement Administrator shall perform a search

1 based on the National Change of Address Database maintained by
2 the United States Postal Service to update and correct any known or
3 identifiable address changes. Within fourteen (14) days of receiving
4 the Gross Settlement Amount from Defendant as provided herein,
5 the Settlement Administrator shall mail copies of the Settlement
6 Packet, which shall include the Cover Letter and each PAGA
7 Member's respective Individual Settlement Payments, to all PAGA
8 Members via regular First Class U.S. Mail. The Settlement
9 Administrator shall exercise its best judgment to determine the
10 current mailing address for each PAGA Member. The address
11 identified by the Settlement Administrator as the current mailing
12 address shall be presumed to be the most current mailing address for
13 each PAGA Member. The Parties agree that this procedure for
14 notice provides the best notice practicable to PAGA Members and
15 fully complies with due process.

- 16 iv. Undeliverable Settlement Packets. Any Settlement Packet returned
17 to the Settlement Administrator as non-deliverable shall be re-mailed
18 to the forwarding address affixed thereto. If no forwarding address
19 is provided, the Settlement Administrator shall promptly attempt to
20 determine a correct address by the use of skip-tracing, or other type
21 of automated search, using the name, address, and/or Social Security
22 number of the PAGA Member involved, and shall then perform a re-
23 mailing to the PAGA Member whose Settlement Packet was
24 returned as non-deliverable, assuming another mailing address is
25 identified by the Settlement Administrator. If these procedures are
26 followed, notice to PAGA Members shall be deemed to have been
27 fully satisfied, and if the intended recipient of the Settlement Packet
28 does not receive the Settlement Packet, the intended recipient shall
nevertheless remain bound by all terms of the Settlement and the
Judgment.

- v. Disputes Regarding Administration of Settlement. Any dispute not resolved by the Settlement Administrator concerning the administration of the Settlement shall be resolved by the Court. Prior to any such involvement of the Court, counsel for the Parties shall confer in good faith and make use of the services of mediator Hon. Wynne Carvill, if necessary, to resolve the dispute without the necessity of involving the Court.
- vi. Accounting. The Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid out.
- vii. Best Efforts. The Parties agree to use their best efforts to carry out the terms of this Settlement.
- h) Plaintiffs' Attorneys' Fees and Litigation Costs. Subject to Court approval, Plaintiffs' Counsel will request and be paid from the Gross Settlement Fund (i) an amount up to thirty percent (30%) of the Gross Settlement Fund, totaling two hundred fifty-eight thousand dollars (\$258,000) for attorneys' fees ("Plaintiffs' Attorneys' Fees Payment"), and (ii) an amount of up to twenty thousand (\$20,000) for reimbursement of actual litigation costs and expenses ("Plaintiffs' Litigation Costs Payment"). Plaintiffs' Counsel shall provide the Settlement Administrator with a properly completed and signed IRS Form W-9 in order for the Settlement Administrator to process the Plaintiffs' Attorneys' Fees and Litigation Costs approved by the Court. In the event that the Court awards Plaintiffs' Counsel less than two hundred fifty-eight thousand dollars (\$258,000) in attorneys' fees and/or less than twenty thousand Dollars (\$20,000) in costs, the difference shall become part of the Net Settlement Fund and shall be distributed to the LWDA and the PAGA Members as part of their Individual Settlement Payments. Plaintiffs' Counsel shall be paid any Court-awarded attorneys' fees and costs no later than fourteen (14) days after Defendant provides the Settlement Administrator with the Gross Settlement Amount. Plaintiffs' Counsel shall be solely and legally responsible to pay all applicable taxes on the Plaintiffs' Attorneys' Fees and Litigation Costs. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiffs' Counsel for the Plaintiffs' Attorneys' Fees and Litigation Costs. This Settlement is not conditioned upon the Court

1 awarding Plaintiffs' Counsel any particular amount of attorneys' fees or costs, unless the
2 amount awarded is more than specified in this paragraph.

3 i) Plaintiffs' Service Payment. Subject to Court approval, Plaintiffs will request and be
4 paid from the Gross Settlement Fund an amount up to \$1,000 each as Plaintiffs' Service
5 Payments, which Defendant will not oppose. The service payment shall be paid to
6 Plaintiffs from the Gross Settlement Amount no later than fourteen (14) days after
7 Defendant provides the Settlement Administrator with the Gross Settlement Amount.
8 The Settlement Administrator shall issue an IRS Form 1099 to Plaintiffs for their service
9 payment. Plaintiffs shall be solely and legally responsible to pay any and all applicable
10 taxes on their service payment and shall hold harmless Defendant, Plaintiffs' Counsel,
11 and Defendant's Counsel from any claim or liability for taxes, penalties, or interest
12 arising as a result of payment of the service payment. Plaintiffs' Service Payment shall
13 be made in addition to Plaintiffs' Individual Settlement Payment. Any amount requested
14 by Plaintiffs for the service payment and not awarded by the Court shall become part of
15 the PAGA Fund and shall be distributed to the LWDA and to the PAGA Members as part
16 of their Individual Settlement Payments.

17 j) LWDA Penalty Payment. Within fourteen (14) days after Defendant provides the
18 Settlement Administrator with the Gross Settlement Amount, the Settlement
19 Administrator shall transmit the LWDA Penalty Payment to the LWDA as one lump sum
20 payment, and if this payment is made by check, the check shall remain valid for one year.

21 k) Individual Settlement Payments. The PAGA Members shall not be required to submit a
22 claim in order to receive a share of the PAGA Fund, and no portion of the Gross
23 Settlement Amount shall revert to Defendant or result in an unpaid residue. Individual
24 Settlement Payments shall be paid by the Settlement Administrator from the Net
25 Settlement Fund pursuant to the formula set forth herein.

26 a. Individual Settlement Payments shall be made by check and shall be made
27 payable to each PAGA Member as set forth in this Stipulation.

28 b. Individual Settlement Payments shall be allocated one hundred percent (100%) as
non-wage penalties not subject to payroll tax withholdings. The Settlement

1 Administrator shall issue an IRS Form 1099 (if required) to each PAGA Member
2 along with the Individual Settlement Payment.

3 c. It is expressly understood and agreed that the receipt of Individual Settlement
4 Payments shall not entitle any PAGA Member to additional compensation or
5 benefits under any collective bargaining agreement or under any bonus, contest,
6 or other compensation or benefit plan or agreement in place during the period
7 covered by the Settlement, nor shall it entitle any PAGA Member to any increased
8 pension and/or retirement, or other deferred compensation benefits. It is the intent
9 of the Parties that the Individual Settlement Payments provided for in this
10 Stipulation are the sole payments to be made by Defendant to the PAGA
11 Members in connection with this Settlement, with the exception of Plaintiffs, and
12 that the PAGA Members are not entitled to any new or additional compensation
13 or benefits as a result of having received the Individual Settlement Payments.
14 Furthermore, the receipt of Individual Settlement Payments by the PAGA
15 Members shall not, and does not, by itself establish any general, special, or joint
16 employment relationship between and among the PAGA Members and
17 Defendant.

18 d. Checks issued to PAGA Members shall remain valid for one hundred eighty (180)
19 days. All checks issued to PAGA Members that have not been cashed or
20 deposited within the 180-day period will be cancelled, and the funds associated
21 with such cancelled checks will be transmitted by the Settlement Administrator to
22 Legal Aid at Work, as *cy pres*. If the Court does not approve the *cy pres* but
23 otherwise approves the Settlement, then funds associated with cancelled checks
24 will be transmitted by the Settlement Administrator to the Controller of the State
25 of California to be held pursuant to the Unclaimed Property Law, California Civil
26 Code § 1500 et seq., in the names and corresponding amounts associated with
27 each PAGA Member whose check(s) are cancelled.

28 1) Settlement Administration Fee. The Settlement Administration fees and expenses, which
are estimated not to exceed ten thousand dollars (\$10,000) shall be paid from the Gross
Settlement Amount. The Parties agree to cooperate in the Settlement Administration

1 process and to make all reasonable efforts to control and minimize Settlement
2 Administration Fee.

- 3 a. The Parties each represent they do not have any financial interest in the
4 Settlement Administrator or otherwise have a relationship with the Settlement
5 Administrator that could create a conflict of interest.
- 6 b. The Settlement Administrator shall keep the Parties timely apprised of the
7 performance of all Settlement Administrator responsibilities required by the
8 Settlement. The Settlement Administrator shall be authorized to establish a
9 Qualified Settlement Fund (“QSF”) pursuant to IRS rules and regulations in
10 which the Gross Settlement Amount shall be placed and from which payments
required by the Settlement shall be made.

11 m) Funding and Allocation of the Gross Settlement Amount. No later than fourteen (14)
12 days after the Effective Date, Defendant shall provide to the Settlement Administrator in
13 any feasible manner, including, but not limited to, by way of a wire transfer, the Gross
14 Settlement Amount. If this Settlement is not finally approved by the Court in full, or is
15 terminated, rescinded, canceled, or fails to become effective for any reason, or if the
16 Effective Date does not occur, then no portion of the Gross Settlement Amount shall be
paid by Defendant.

17 n) Release by Plaintiffs, PAGA Members, and State of California. Upon the Effective Date,
18 Plaintiffs, all PAGA Members, and the State of California shall be deemed to have fully,
19 finally, and forever released, relinquished, and discharged each and all of the Released
20 Parties from the Released Claims.

21 o) No Admission. This Agreement and compliance with this Agreement shall not be
22 construed as an admission by Defendant of any liability whatsoever, or as an admission
23 by Defendant of any violations of Plaintiffs’ or the PAGA Members’ rights, or any
24 violations of any order, law, statute, duty or contract whatsoever. Defendant specifically
25 disclaims any liability to Plaintiffs or any of the allegedly PAGA Members or the LWDA
26 for any alleged violation of rights, or for any alleged violation of any order, law, statute,
duty or contract.

27 p) Non-Evidentiary Use. Neither this Agreement nor any of its terms shall be offered or
28 used as evidence by any of the Parties, or their respective counsel in the Litigation or in

1 any other action or proceeding against Released Parties; provided, however, this shall not
2 prevent this Agreement from being used, offered, or received in evidence in any action or
3 proceeding to enforce, construe, or finalize this Agreement as to any person or entity
4 covered by this Agreement.

5 q) Nullification. If the Court should for any reason fail to approve this Agreement, then: (1)
6 this Agreement shall be considered null and void, (2) neither this Agreement nor any of
7 the related negotiations or proceedings shall be of any force or effect, and (3) all Parties
8 to this Agreement shall stand in the same position, without prejudice, as if the Agreement
9 had been neither entered into, nor filed with the Court. However, the Parties will make
10 best efforts to satisfy any concerns expressed by the Court, including negotiating in good
11 faith with respect to any suggested modification of the Agreement, so as to obtain
12 approval for the Settlement. Invalidation of any material portion of this Agreement shall
13 invalidate this Agreement in its entirety unless the Parties subsequently agree in writing
14 that the remaining provisions shall remain in full force and effect.

15 r) Voluntariness. This Agreement is executed voluntarily and without duress or undue
16 influence on the part of or on behalf of any of the Parties, or any other person, firm or
17 other entity.

18 s) Amendments. The terms and provisions of this Agreement may be amended only by a
19 written agreement that is both: (a) signed by the Plaintiffs and Defendant and (b)
20 approved by the Court. Any waiver of any provision of this Agreement shall not
21 constitute a waiver of any other provision of this Agreement unless expressly so indicated
22 otherwise.

23 t) Assignment. None of the rights, commitments, or obligations recognized under this
24 Agreement may be assigned by any Party, PAGA Member, Plaintiffs' Counsel, or
25 Defendant's Counsel without the express written consent of each other Party and their
26 respective counsel hereto. The representations, warranties, covenants, and agreements
27 contained in this Agreement are for the sole benefit of the Parties under this Agreement,
28 and shall not be construed to confer any right or to avail any remedy to any other person.
Plaintiffs expressly warrant that they have not transferred to any person or entity any
right or cause of action, or claim released by this Agreement.

- 1 u) Interim Stay of Action. The Parties agree to stay and to request that the Court stay all
2 proceedings in the Action, except such proceedings necessary to implement and complete
3 the Settlement and enter the Judgment.
- 4 v) Governing Law. This Agreement shall be governed, construed, and interpreted, and the
5 rights of the Parties shall be determined, in accordance with the laws of the State of
6 California.
- 7 w) Entire Agreement. This Agreement contains the entire understanding of the Parties
8 hereto in respect of the subject matter contained herein. This Agreement supersedes all
9 prior agreements and understandings among the Parties hereto with respect to the
10 settlement of the Litigation.
- 11 x) Counterparts. This Agreement, and any amendments hereto, may be executed in any
12 number of counterparts and any Party and/or their respective counsel hereto may execute
13 any such counterpart, each of which when executed and delivered shall be deemed to be
14 an original and all of which counterparts taken together shall constitute but one and the
15 same instrument. It shall not be necessary in making proof of this Agreement or any
16 counterpart hereof to produce or account for any of the other counterparts. A facsimile,
17 scanned or digital signature, including but not limited to DocuSign, shall be treated as an
18 original signature for all purposes.
- 19 y) Dispute(s). Should any dispute(s) arise among the Parties or their respective counsel
20 regarding the implementation or interpretation of this Agreement, the Parties agree to
21 submit any such dispute(s) to the Court.
- 22 z) Binding. This Agreement shall bind and inure to the benefit of the Parties hereto and to
23 their respective successors, assigns, legatees, heirs, and personal representatives.
- 24 aa) Dismissal & Continuing Jurisdiction. The Parties agree that upon the occurrence of the
25 dismissal without prejudice of the Litigation pursuant to the terms of this Agreement, this
26 Agreement shall be enforceable by the Court pursuant to Code of Civil Procedure section
27 664.6 and the Court shall retain exclusive and continuing equity jurisdiction over this
28 Litigation and over all Parties and PAGA Members to interpret and enforce the terms,
conditions and obligations of the Agreement. Plaintiffs' Counsel shall submit the
Approval Order to the LWDA, in compliance with California Labor Code section
2699(1)(3).

1 bb) Invalidity of Any Provision. Before declaring any term or provision of this Stipulation
2 invalid, the Parties request that the Court first attempt to construe the terms or provisions
3 valid to the fullest extent possible consistent with applicable precedents so as to define all
4 provisions of this Stipulation as valid and enforceable.

5 **IN WITNESS WHEREOF**, the Parties have executed this Agreement on the last date
6 set forth below.

7 **APPROVED AND ACCEPTED**

8
9 Dated: May 7, 2024

PLAINTIFF:

10 *Jessica Plummer*

11 JESSICA PLUMMER

12 Dated: May 7, 2024

PLAINTIFF:

13 *Paige Rieboldt*

14 PAIGE RIEBOLDT

15 Dated: 5/7, 2024

PLAINTIFF:

16 *Danielle Devenney*

17 DANIELLE DEVENNEY

18
19
20 Dated: _____, 2024

DEFENDANT:

21
22
23 FLEXCARE, LLC
24
25
26
27
28

Plummer v. FlexCare Joint Settlement Agreement 5.2.2024

Final Audit Report

2024-05-07

Created:	2024-05-07
By:	Maggie Brulez (brulez@stuevesiegel.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAWsVliiDUOPrjVFRz9Dz9CbbqSf2b6Jnm

"Plummer v. FlexCare Joint Settlement Agreement 5.2.2024" History

-  Document created by Maggie Brulez (brulez@stuevesiegel.com)
2024-05-07 - 4:41:13 PM GMT
-  Document emailed to Paige Rieboldt (prieboldt@gmail.com) for signature
2024-05-07 - 4:41:19 PM GMT
-  Document emailed to Danielle Devenney (ddevenney33@gmail.com) for signature
2024-05-07 - 4:41:19 PM GMT
-  Document emailed to Jessica Plummer (jessicaelizabethplummer@gmail.com) for signature
2024-05-07 - 4:41:19 PM GMT
-  Email viewed by Paige Rieboldt (prieboldt@gmail.com)
2024-05-07 - 5:31:29 PM GMT
-  Document e-signed by Paige Rieboldt (prieboldt@gmail.com)
Signature Date: 2024-05-07 - 5:32:00 PM GMT - Time Source: server
-  Email viewed by Danielle Devenney (ddevenney33@gmail.com)
2024-05-07 - 6:30:16 PM GMT
-  Document e-signed by Danielle Devenney (ddevenney33@gmail.com)
Signature Date: 2024-05-07 - 7:07:16 PM GMT - Time Source: server
-  Email viewed by Jessica Plummer (jessicaelizabethplummer@gmail.com)
2024-05-07 - 7:54:58 PM GMT
-  Document e-signed by Jessica Plummer (jessicaelizabethplummer@gmail.com)
Signature Date: 2024-05-07 - 8:01:03 PM GMT - Time Source: server

✔ Agreement completed.

2024-05-07 - 8:01:03 PM GMT

1 bb) Invalidity of Any Provision. Before declaring any term or provision of this Stipulation
2 invalid, the Parties request that the Court first attempt to construe the terms or provisions
3 valid to the fullest extent possible consistent with applicable precedents so as to define all
4 provisions of this Stipulation as valid and enforceable.

5 **IN WITNESS WHEREOF**, the Parties have executed this Agreement on the last date
6 set forth below.

7 **APPROVED AND ACCEPTED**

8
9 Dated: _____, 2024

PLAINTIFF:

10 _____
11 JESSICA PLUMMER

12 Dated: _____, 2024

PLAINTIFF:

13 _____
14 PAIGE RIEBOLDT

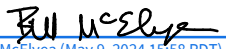
15 Dated: _____, 2024

PLAINTIFF:

16 _____
17 DANIELLE DEVENNEY

18
19
20 Dated: May 9, 2024, 2024

DEFENDANT:

21 
22 Bill McElroy (May 9, 2024 15:58 PDT)
23 FLEXCARE, LLC

Plummer v. FlexCare Joint Settlement Agreement 5.2.2024 clean

Final Audit Report

2024-05-09

Created:	2024-05-09
By:	Sumy Kim (skim@ohaganmeyer.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAhP-s5xwU-5n1HkUWN95RZ_7q7roh3G1e

"Plummer v. FlexCare Joint Settlement Agreement 5.2.2024 clean" History

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2024-05-09 - 6:31:17 PM GMT

 Document emailed to bmcelyea@flexcarestaff.com for signature
2024-05-09 - 6:31:45 PM GMT

 Email viewed by bmcelyea@flexcarestaff.com
2024-05-09 - 10:57:31 PM GMT

 Signer bmcelyea@flexcarestaff.com entered name at signing as Bill McElyea
2024-05-09 - 10:58:18 PM GMT

 Document e-signed by Bill McElyea (bmcelyea@flexcarestaff.com)
Signature Date: 2024-05-09 - 10:58:20 PM GMT - Time Source: server

 Agreement completed.
2024-05-09 - 10:58:20 PM GMT