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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
11/5/2024 1:15:45 PM

Clerk of the Superior Court
By C. Hines ,Deputy Clerk

5 **POKALA LAW APC**
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8 **ATTORNEYS FOR DEFENDANT**
Continuum Care Of San Diego, Inc.

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN DIEGO**

12 ERIKA AGUIRRE, an individual, on behalf of
13 herself, and on behalf of all persons similarly
14 situated,

Plaintiff,

15 v.

16 CONTINUUM CARE OF SAN DIEGO, INC
17 dba BrightStar Care, a California Corporation;
18 and DOES 1 through 50, Inclusive;

19 Defendants.

Case No. 37-2023-00043954-CU-OE-CTL

**STIPULATION and [PROPOSED] ORDER
APPROVING SETTLEMENT OF
PRIVATE ATTORNEY GENERAL ACT
("PAGA") LAWSUIT AND ENTERING
JUDGMENT THEREON**

20 Judge: Hon. Katherine Bacal
Dept: C-69

21 Date Action Filed: October 10, 2023
22 Trial Date: None Set

23 **IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:**

24 By and through their respective counsel of record, Plaintiff Erika Aguirre ("Plaintiff") and
25 Defendant Continuum Care of San Diego, Inc. dba BrightStar Care ("Defendant") (collectively, the
26 "Parties"), submit this Stipulation and Proposed Order to settle this Private Attorney General Act
27 ("PAGA") lawsuit, and request that the Court enter an Order in accordance herewith.
28

1 WHEREAS, on July 19, 2023, Plaintiff sent a letter to the California Labor and Workforce
2 Development Agency (“LWDA”) and Continuum Care of San Diego, Inc. dba BrightStar Care,
3 fulfilling the administrative prerequisites to filing a Complaint against Continuum Care of San
4 Diego, Inc. dba BrightStar Care alleging violations of the Private Attorney General Act (“PAGA”).
5 The 65-day notice period for the LWDA to notify of its intent to investigate expired on October 11,
6 2023.

7 WHEREAS, on October 10, 2023, Plaintiff Erika Aguirre filed a Representative Action
8 Complaint against Defendant Continuum Care of San Diego, Inc. dba BrightStar Care alleging a
9 single cause of action for recovery of civil penalties for violation of the PAGA [Labor Code §§
10 2698, *et seq.*] in the Superior Court of the State of California, County of San Diego (Case No. 37-
11 2023-00043954-CU-OE-CTL) (the “Action”). Defendant has not answered the Operative
12 Complaint.

13 WHEREAS, on August 6, 2024, the Parties engaged in a mediation session before mediator
14 Judge Brian Walsh (Ret.). Through arms-length negotiations with the assistance of the mediator, the
15 Parties reached an agreement to settle the Action, pursuant to a PAGA Settlement Agreement
16 (“Settlement Agreement”), a true and correct copy of which is attached hereto as Exhibit 1.

17 WHEREAS, pursuant to California Rule of Court 2699(1)(2), “[t]he superior court shall
18 review and approve any settlement of any civil action filed pursuant to this part.”

19 WHEREAS, Plaintiff submitted the Settlement Agreement to the LWDA at the same time it
20 was submitted to the Court for approval, proof of submission of which is attached hereto as Exhibit
21 2.

22 WHEREAS, the Parties stipulate that, pursuant to the Settlement Agreement, the Parties
23 wish to settle the Action on behalf of the “Aggrieved Employees” as defined in the Settlement
24 Agreement, which means “all personal attendants who were employed by any Defendant in
25 California and classified as a non-exempt personal attendant employee during the PAGA Period.”
26 The PAGA Period is defined in the Settlement Agreement as “the time period from October 12,
27 2022 to August 6, 2024.

1 WHEREAS, the Parties stipulate that, pursuant to the Settlement Agreement, upon final
2 distribution of the entire settlement funds, Plaintiff will file a request for dismissal with prejudice
3 of the Action.

4 WHEREAS, the Parties stipulate and agree that the Court shall retain jurisdiction to enforce
5 the terms of the PAGA Settlement Agreement pursuant to the Code of Civil Procedure section 664.6.

6 THEREFORE, it is stipulated, by and between the Parties, through their counsel of record,
7 that the Court enter an Order approving the Settlement Agreement as required by PAGA.

8
9 **IT IS SO STIPULATED.**

10 Dated: October 25, 2024

BARVIE LAW, APC

11
12 By: Nicole Barvie
13 Nicole Barvie
14 Attorneys for Plaintiffs

15 Dated: October 25, 2024

POKALA LAW APC

16
17 By: Kalyan Pokala
18 Kalyan Pokala
19 Attorneys for Defendants
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~~[PROPOSED]~~ ORDER APPROVING PAGA SETTLEMENT

The Court, having reviewed the Parties’ Settlement Agreement, attached as Exhibit 1, and good cause appearing, finds and orders as follows:

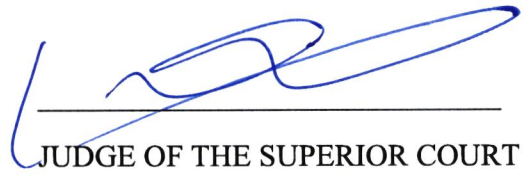
1. The Settlement Agreement and its terms shall be incorporated herein by reference into this Order.
2. All terms used herein shall have the same meaning as defined in the Settlement Agreement.
3. The Court finds that the Settlement Agreement is fair, adequate, and reasonable and that the settlement satisfies the standards and applicable requirements for approval of PAGA representative actions under California law. Therefore, the Court approves the Settlement Agreement and enters the terms of the Settlement Agreement as the Order of this Court.
4. The Court approves of the PAGA payments set forth in the Settlement Agreement, which include the Individual PAGA Payments to be made to the Aggrieved Employees, the PAGA Payment to the LWDA, the Administrative Expenses Payment to the Settlement Administrator, the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment, pursuant to Labor Code §2699(1).
5. Upon entry of this Order, the Parties shall effectuate all terms of the Settlement based on the provisions and timelines set forth in the Settlement Agreement.
6. Without affecting the finality of this Order Approving PAGA Settlement in any way, this Court hereby retains continuing jurisdiction over the Parties as to all matters relating to the administration, consummation, enforcement, and interpretation of the terms of the Settlement Agreement and this Order, and for any other necessary purpose as permitted by Code of Civil Procedure section 664.6 and any other applicable law.

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1 7. After the Settlement Administrator pays all amounts due under the Settlement Agreement,
2 the Parties shall notify the Court, and the Court will enter Judgment releasing Defendant from all
3 claims in the Action as set forth in the Settlement Agreement, and shall dismiss the Action with
4 prejudice.

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6 **IT IS SO ORDERED.**

7
8 Dated: 11/13/24


JUDGE OF THE SUPERIOR COURT

KATHERINE A. BACAL

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EXHIBIT 1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Settlement Agreement”) is made and entered into between Plaintiff Erika Aguirre (“Plaintiff”) acting in her private attorney general capacity, and Defendant Continuum Care of San Diego, a California Corporation (hereinafter referred to as “Defendant”).

I. DEFINITIONS

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

- 1.1 “Action” means the Plaintiff’s PAGA lawsuit alleging wage and hour violations against Defendant captioned *Aguirre v. Continuum Care of San Diego, San Diego County Superior Court Case No. 37-2023-00043954-CU-OE-CTL* initiated on October 10, 2023 and pending in the Superior Court of the State of California, County of San Diego.
- 1.2 “Aggrieved Employees” means all personal attendants who were employed by any Defendant in California and classified as a non-exempt personal attendant employee during the “PAGA Period” (October 12, 2022 to August 6, 2024).
- 1.3 “Aggrieved Employees Data” means the spreadsheet containing the list of Aggrieved Employees with their social security numbers, last known mailing addresses, and their dates of employment and/or pay periods worked as an Aggrieved Employee during the PAGA Period.
- 1.4 “Court” means the Superior Court of California, County of San Diego.
- 1.5 “Individual PAGA Payment” means the Aggrieved Employee’s pro rate share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employees worked during the PAGA Period.
- 1.6 “Defense Counsel” means Kalyan Pokala from Pokala Law, 2535 Kettner Blvd. Suite 2C2, San Diego, CA 92101.
- 1.7 “Effective Date” means the date on which the settlement in the Action is approved through entry of an Order and Judgment.
- 1.8 “LWDA” means the California Labor Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd.(i).
- 1.9 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code Section 2699, subd.(i).
- 1.10 “Gross PAGA Settlement Amount” means the total sum of \$55,000 which is the total amount Defendant agrees to pay under this Settlement Agreement. The Gross PAGA

Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment. The Gross PAGA Settlement Amount shall be all-in with no reversion to Defendant.

- 1.11 "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.12 "PAGA" means the Private Attorneys General Act (California Labor Code §§ 2698 *et seq.*).
- 1.13 "PAGA Payment" means the total amount remaining after payment of the Attorneys' Fees, Attorneys' Expenses and Costs, and Administration Costs from the Gross PAGA Settlement Amount. The PAGA Payment shall be allocated 75% to the LWDA and 25% to the Aggrieved Employees.
- 1.14 "Net Settlement Amount" means the Gross PAGA Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.15 "PAGA Period" means the time period from October 12, 2022 to August 6, 2024.
- 1.16 "Parties" means Plaintiff Erika Aguirre and Defendant Continuum Care of San Diego, a California Corporation.
- 1.17 "PAGA Counsel" means the law firm of Barvie Law, APC., the attorneys representing the Plaintiff in the Action.
- 1.18 "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" means the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.
- 1.19 "Settlement Administrator" or "Administrator" means ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.20 "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross PAGA Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with approval of this Settlement.
- 1.21 "PAGA Notice" means Plaintiff's July 19, 2023 PAGA letter to Defendant and LWDA, providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.22 "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.

- 1.23 “Released PAGA Claims” means the claims being released by the Plaintiff and PAGA Counsel and by the Aggrieved Employees as described in Section V below.
- 1.24 “Released Parties” means Defendant and any of its agents, officers, directors, employees, stockholders, members, parent corporations, subsidiaries, affiliates, partners, predecessors and successors in interest, insurers, and assigns of the foregoing.
- 1.25 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

II. RECITALS

- 2.1 PAGA Counsel mailed the PAGA Notice to the California Labor and Workforce Development Agency (“LWDA”) on July 19, 2023 on behalf of Plaintiff Erika Aguirre, requesting authorization from the LWDA to seek civil penalties as provided by the Private Attorney General Act of 2004 (“PAGA”) for the wage and hour violations alleged in the LWDA Notice. The 65-day notice period for the LWDA to notify of its intent to investigate expired on September 9, 2023.
- 2.2 Pursuant to Labor code section 2699.3, subd(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3 On October 10, 2023, Plaintiff Erika Aguirre filed a Representative Action Complaint against Defendant alleging a single cause of action for recovery of civil penalties for violation of the PAGA [Labor Code §§ 2698, *et seq.*] in the Superior Court of the State of California, County of San Diego (Case No. Case No. 37-2023-00043954-CU-OE-CTL).
- 2.4 On August 6, 2024, the Parties engaged in a mediation session before mediator Judge Brian Walsh (Ret.). Through arms-length negotiations with the assistance of the mediator, the Parties reached an agreement to settle the Action which led to the signing of a Memorandum of Understanding.
- 2.5 As a result of the settlement, the Parties have agreed to fully and finally resolve the Released PAGA Claims alleged in the Action pursuant to this Settlement Agreement.
- 2.6 The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

III. MONETARY TERMS

- 3.1 Gross PAGA Settlement Amount. Defendant promises to pay \$55,000.00 and no more as the Gross PAGA Settlement Amount. Defendant has no obligation to pay the Gross PAGA Settlement Amount prior to the deadlines stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross PAGA Settlement Amount without asking or

requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross PAGA Settlement Amount will revert to Defendant.

3.2 Payments from the Gross PAGA Settlement Amount. The Administrator will make and deduct the following payments from the Gross PAGA Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than a third of the Gross PAGA Settlement Amount, and PAGA Counsel Litigation Expenses Payment of not more than \$15,000. Defendant will not oppose requests for Court approval of these payments. PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fees Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division of sharing of any of these payments.

3.2.2 To the Administrator: An Administrator Expenses Payment not to exceed \$4,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than the Administrator will retain the remainder in the Net Settlement Amount.

3.2.3 To the LWDA and Aggrieved Employees: The PAGA Payment shall be allocated 75% to the LWDA and 25% allocated to the Individual PAGA Payments.

3.2.3.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.3.2. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

IV. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant

estimate there are 106 Aggrieved Employees who collectively worked a total 2,241 pay periods between October 12, 2022 through August 6, 2024. An authorized representative of Defendant will provide a declaration stating the number of Aggrieved Employees and pay periods worked between October 12, 2022 through August 6, 2024 within five days after this Agreement is executed by all parties. The Gross PAGA Settlement Amount will increase proportionally if the number of pay periods in the PAGA Period is more than 10% higher than 2,800.

4.2 Aggrieved Employee Data. Within thirty (30) days after this Agreement is executed by all parties, Defendant will deliver the Aggrieved Employee Data to the Settlement Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Settlement Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Settlement Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3 Funding of Gross PAGA Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator by whichever date is later, February 8, 2025 or 60 days after the Effective Date.

4.4 Payments from the Gross PAGA Settlement Amount. Within fourteen (14) days after Defendant fully funds the Gross PAGA Settlement Amount, the Settlement Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, and the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1 The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2 The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without a USPS forwarding address. Within seven (7) days of receiving a returned check the Settlement Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Settlement Administrator need not

take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Settlement Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3 For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the Children's Advocacy Institute: Child Welfare Scholarship and Journalism Awards in the name(s) of the absent Aggrieved Employees, subject to Court approval and the Aggrieved Employees shall remain bound by the Settlement. The Individual PAGA Payments are 100% penalties and shall be reported using IRS tax form 1099. No attorney herein named or their firm has a connection to or relationship with the Children's Advocacy Institute that could reasonably create an appearance of impropriety as between the recipient and the attorneys named herein or their law firms.

4.4.4 The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

V. RELEASE OF ALL CLAIMS. Effective on the date when Defendant fully funds the entire Gross PAGA Settlement Amount, Plaintiff, PAGA Counsel and the Aggrieved Employees will release claims against all Released Parties as follows:

5.1 PAGA Release. Upon entry of Judgment, the Effective Date and full funding, the Released Parties shall be entitled to a release from the State of California, the Aggrieved Employees and Plaintiff for all "Released PAGA Claims." "Released PAGA Claims" means all PAGA claims for civil penalties under California Labor Code §§ 2698 *et seq.*, predicated on the California Labor Code violations that are asserted in the LWDA Notice and operative complaint (or PAGA Claims that could have been asserted based on the facts alleged in the operative LWDA Notice and operative complaint) which include, but are not limited to, civil penalties pursuant to Labor Code section 2699, *et seq.* for violations of Labor Code sections §§ 201, 202, 203, 204, 210, 226(a), 226.7, 226.8, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802 and all applicable Industrial Welfare Commission Wage Orders during the PAGA Period. The Released PAGA Claims do not include underlying Labor Code claims, claims for wrongful termination, discrimination, unemployment insurance, disability, and workers' compensation, or claims outside of the PAGA Period. The Released PAGA Claims do not include any claims that cannot be released as a matter of law. Plaintiff, the Aggrieved Employees, and the State of California shall be deemed to have, and by operation of the Judgment on the Court's Order Approving the PAGA Settlement, shall have fully, finally, and forever released, relinquished, and discharged each and all of the Released Parties from the Released PAGA Claims. In no event shall the release of the Released PAGA Claims in this Settlement Agreement release any individual claims of any individuals.

5.1.1 In addition to the Gross PAGA Settlement Amount, Defendant has agreed to separately settle Plaintiff's individual claims pursuant to a separate confidential Individual Settlement Agreement. If the Court and/or the LWDA requires the Parties to submit the terms of Plaintiff's Individual Settlement Agreement to obtain approval of the PAGA settlement, the Parties agree that the terms of Plaintiff's Individual Settlement Agreement will only be submitted under seal or disclosed to the Court and/or LWDA in some other way to ensure that the Individual Settlement Amounts are not disclosed publicly.

5.2 Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notices for the entire PAGA Period.

5.3 Release by PAGA Counsel: PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notices.

5.4 Plaintiff's Release: Plaintiff is providing a general release of all known and unknown claims to the Released Parties relating to any and all claims, transactions or occurrences between them in an Individual Settlement Agreement as referred to in paragraph 5.1.1 above. This release includes a release of known and unknown claims including a waiver of Civil Code section 1542. This release specifically excludes a waiver of any claims Plaintiff may have as a PAGA representative (those claims are released in this Agreement) and under workers compensation law.

VI. MOTION FOR APPROVAL OF SETTLEMENT.

6.1 Court Approval of the PAGA Payment. Subject to Defendant's review and approval prior to filing, PAGA Counsel shall be responsible for preparing and filing a Motion for Approval of the PAGA Settlement with the proposed Judgment ("Motion"). PAGA Counsel will provide Defendant's counsel with an opportunity for review and comments at least five business days before filing the Motion. PAGA Counsel shall also serve this Motion with the Agreement on the LWDA at the time the Motion is filed, pursuant to Labor Code Section 2699(1)(2).

6.2 Court Approval of the PAGA Settlement. The Settlement Agreement is contingent upon the approval by the Court. If the Court should fail to approve this Settlement Agreement in the form agreed to by the Parties, the Parties agree to coordinate efforts to address the Court's questions or concerns. If the Court does not approve the Settlement Agreement, and either Party in good faith does not believe that it would be possible to make non-material modifications that would address any concerns raised by the Court, then each of the Parties by and through Counsel shall have the right to provide written notice thereof to terminate the Settlement Agreement, in which event it 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 Agreement.

VII. SETTLEMENT ADMINISTRATION

7.1. Selection of Administrator. The Parties have jointly selected ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185 to serve as the Settlement Administrator and verified that, as a condition of appointment, ILYM agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Settlement Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2 Employer Identification Number. The Settlement Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3 Settlement Administrator Duties. The Settlement Administrator has a duty to perform or observe all tasks to be performed or observed by the Settlement Administrator contained in this Agreement or otherwise. The Settlement Administrator will provide an accounting under oath to the parties of the amounts paid out.

VIII. MISCELLANEOUS PROVISIONS

8.1 Drafting. The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Party shall be considered the "drafter" of this Settlement Agreement for purposes of having terms construed against that Party.

8.2 No Impact on Benefit Plans. Neither the Settlement Agreement nor any amounts paid to Plaintiff or any Aggrieved Employee under the Settlement Agreement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Defendant's sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement Agreement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of Defendant's benefit plans, policy, or bonus program. Defendant retains the right, if necessary, to modify the language of their benefit plans, policies and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement Agreement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement Agreement.

8.3 Successors. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

- 8.4 Costs and Fees. The Parties shall each bear their own costs, attorneys' fees, mediator fees, and other fees incurred in connection with this Settlement Agreement and in connection with the Action and Plaintiff's claims, except as otherwise set forth specifically herein.
- 8.5 Authority. Defendant represents and warrant that the undersigned has the authority to act on behalf of Defendant and to bind Defendant to the terms of this Settlement Agreement. Plaintiff represents and warrant that they have the capacity to act on her own behalf and on behalf of all who might claim through them to bind them to the terms and conditions of this Settlement Agreement.
- 8.6 Governing Law. This Settlement Agreement shall be construed under and governed by the laws of the State of California. This Settlement Agreement shall be deemed to have been entered into in San Diego County, California and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the parties to this Settlement Agreement shall be governed by California law. If any legal or equitable action or arbitration is necessary to enforce the terms of this Settlement Agreement, it shall be brought in the State of California, County of San Diego.
- 8.7 Complete Agreement. The Parties acknowledge and represent that this Settlement Agreement contains the entire understanding between them with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings between them, written and oral, with respect to the subject matter hereof. This Settlement Agreement cannot be amended or modified except by a writing signed by the Parties hereto or their successors-in-interest.
- 8.8 Nullification of Settlement Agreement. In the event that: (i) the Court does not approve the settlement of the Action as provided herein; or (ii) the settlement of the Action does not become final for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions.
- 8.9 Judgment and Continued Jurisdiction. After approval of this settlement, the Parties agree that the Court shall retain continuing jurisdiction over this case under C.C.P. Section 664.6 to ensure the continuing implementation of the provisions of this settlement and that the time within which to bring this action to trial under C.C.P. Section 583.310 shall be extended from the date of the signing of this Agreement by all Parties until the entry of the final order and judgment or if not entered the date this Agreement shall no longer be of any force or effect. In the event that the Court does not approve the Settlement, or if the final order and judgment is reversed on appeal, then there shall be no Effective Date and this Agreement shall become null and void.
- 8.10 Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties

and their Counsel will cooperate with each other and use their best efforts to effect the implementation of the settlement of the Action. If the Parties are unable to reach agreement on the form or content of any document needed to implement the settlement of the Action, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties may seek the assistance of the mediator to resolve such disagreement.

- 8.11 Execution in Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, this Agreement may be executed in one or more counterparts by facsimile, electronic signature, or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 8.12 Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement Agreement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement Agreement.
- 8.13 Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.
- 8.14 Waiver. No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.
- 8.15 Severability. If any term or provision of this Settlement Agreement is held to be invalid or unenforceable, the remaining portions of this Settlement Agreement will continue to be valid and will be performed, construed, and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Settlement Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.
- 8.16 Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed in full.
- 8.17 Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement and receive approval from the Court.

- 8.18 Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.
- 8.19 Denial of Liability. The Parties expressly recognize that the making of this Settlement Agreement does not in any way constitute an admission or concession of wrongdoing on the part of Defendant or an admission or concession regarding the validity of the claims in the Action. Nothing in this Settlement Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation or lack of violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Settlement Agreement may be used in any proceeding in any court that has as its purpose the interpretation, implementation, or enforcement of the Settlement Agreement or any orders or judgments of the Court entered into in connection therewith.
- 8.20 No Admission of Liability or Wrongdoing by Defendant. Defendant contends that all of its employees were compensated in compliance with the law, and that its conduct was not willful with respect to any alleged failure to pay any wages or penalties. Defendant has denied, and continue to deny, each of the claims and contentions alleged in the Action. Defendant has asserted and continue to assert defenses thereto, and have expressly denied and continue to deny any wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Action. Neither this Settlement Agreement, nor any action taken to carry out the terms of this Settlement Agreement, shall ever be construed as, offered, admitted, received or deemed to be evidence in any civil, criminal, administrative, or other proceeding against Defendant or any of the Released Parties, or may be used as an admission, concession, or indication by or against Defendant of any fault, wrongdoing, or liability whatsoever.
- 8.21 Waiver of Right to Appeal. Provided that the Judgment is consistent with the terms and conditions of the Settlement Agreement, Plaintiff and Defendant, inclusive, hereby waive any and all rights to appeal in connection with any issue in the Judgment, including, but not limited to, all rights to any post-judgment proceeding and/or appellate proceeding, such as a motion to vacate or set-aside judgment, a motion for new trial, and any extraordinary writ, and the Judgment will become final and non-appealable at the time it is entered.
- 8.22 Stay of Litigation. The Parties agree that the continuing litigation of the Action shall be stayed and that the time within which to bring this action to trial under C.C.P. Section 583.310 shall be extended from the date of the signing of this Settlement Agreement by all Parties until the entry of the final approval order and judgment or if not entered the date this Agreement shall no longer be of any force or effect.

8.23 Confidentiality. Other than information necessary to secure Court approval of this settlement, the Parties agree to keep confidential all matters relative to this Settlement, including the terms of the Settlement and the facts and circumstances leading up to it. If asked about the disputes between the Parties, the Parties shall provide no other statement than “the matter has been resolved” or “the matter has settled.” The Parties may, however, discuss the terms of this Settlement with their spouses, attorneys, financial advisors, tax advisors, and accountants, or upon a valid court order, at which time the individual receiving information about the terms of this Settlement shall be informed that the terms of this Settlement are confidential, and the individual may not reveal or disclose to any third party the terms of the Settlement. Except as set forth above, neither Plaintiff nor PAGA Counsel shall issue a press release, hold a press conference, publish information about the settlement on any website or social media, respond to any press inquiries, or otherwise publicize the settlement or communicate its terms in public or in private.

8.24 Court Filings. The Parties agree not to object to any Court filings consistent with and/or effectuating this Agreement.

8.25 Disputes. Any dispute between the Parties as to the remaining terms of the Settlement Agreement shall be presented to the mediator, Louis Marlin, for resolution.

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Settlement Agreement, accept and agree to the provisions contained in this Settlement Agreement and hereby execute it voluntarily and with full understanding of its consequences.

PLAINTIFF:

Dated: 09 / 19 / 2024



ERIKA AGUIRRE

DEFENDANT:

Dated: _____

CONTINUUM CARE OF SAN DIEGO

VALEN KASSAB, PRESIDENT & CEO

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PLAINTIFF:

Dated: _____

ERIKA AGUIRRE

DEFENDANT:

Dated: 10/01/2024 _____

CONTINUUM CARE OF SAN DIEGO

Valen Kassab

VALEN KASSAB, PRESIDENT & CEO

EXHIBIT 2



Nicole Barvie <nicole@barvielaw.com>

Thank you for your Proposed Settlement Submission

1 message

DIR PAGA Unit <no-reply@formassembly.com>
To: nicole@barvielaw.com

Fri, Oct 25, 2024 at 2:11 PM

10/25/2024 02:11:02 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm