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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TAMIKA ENGLISH, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

HAVEN POST ACUTE, LLC, a limited liability
company; and DOES 1 through 10, inclusive,

Defendants.

Case No.: CIVSB2424840

[Hon. Christian Towns]

CLASS ACTION

**DECLARATION OF H. SCOTT LEVIANT
IN SUPPORT OF PLAINTIFF'S MOTION
FOR AN ORDER APPROVING
SETTLEMENT OF CLAIMS BROUGHT
PURSUANT TO THE PRIVATE
ATTORNEYS GENERAL ACT OF 2004**

Date: September 9, 2025

Time: 8:30 a.m.

Courtroom: S-26

Judge: Hon. Christian Towns

Action Filed: August 6, 2024

Trial Date: Not Set

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1. I am admitted, in good standing, to practice as an attorney in the State of California, the United States Supreme Court, the Eighth Circuit Court of Appeals, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Eastern, Northern and Southern Districts of California. I have never been subject to discipline by the State Bar of California. I am a fully qualified, adult resident of the State of California, and, if called as a witness herein, I would testify truthfully to the matters set forth herein. All the matters set forth herein are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true.

3. This Declaration is submitted in support of Plaintiff's MOTION FOR AN ORDER APPROVING SETTLEMENT OF CLAIMS BROUGHT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004.

4. Plaintiff alleges that Defendant engaged in practices and procedures that violated the California Labor Code. These alleged statutory violations subject Defendant to potential liability for the Private Attorneys General Act (“PAGA”) penalties pursuant to Labor Code § 2698. Through this action, Plaintiff seeks to recover penalties pursuant to Labor Code § 2698, *et. seq.*

6. Plaintiff worked for Defendant in California during the PAGA Period.

8. On August 4, 2024, Plaintiff's counsel sent a letter to the LWDA on behalf of Plaintiff in compliance with California Labor Code § 2699.3.

9. More than 65 days have passed since the letter was sent to the LWDA, and the LWDA did not indicate that it intended to investigate the alleged violations referenced in the letter.

10. On August 6, 2024, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for failure to pay minimum wages, failure to pay overtime compensation, failure to provide meal periods, failure to authorize and permit rest breaks, failure to indemnify necessary business expenses, failure to timely pay final wages at termination, failure to provide accurate itemized wage statements, and for unfair business practices. On November 20, 2025, Plaintiff filed a First Amended Complaint alleging an additional cause of action for civil penalties under PAGA. The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint.”). The Parties agreed to settle the matter as a PAGA action only.

11. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint, and denies any and all liability for the causes of action alleged. Defendant admits to no claim by virtue of its agreement to settle this matter.

12. Because Court approval of a PAGA settlement is required, this settlement is presented to this Court for review and approval.

13. Counsel for Plaintiff has thoroughly investigated the facts relating to the claims alleged in the operative complaint and have made a thorough study of the legal principles applicable to the claims asserted against Defendant. Based on their investigation and evaluation of this case, Plaintiff's Counsel has concluded that the settlement is fair, reasonable, and adequate in light of all known facts and circumstances, including the defenses asserted by Defendant, potential adverse findings regarding liability, and numerous potential appellate issues.

14. On March 13, 2025, the Parties participated in an all-day mediation presided over by mediator Michael Ludwig, Esq. The Parties were able to reach a settlement which led to this Agreement to settle the Action.

15. The Parties memorialized the terms of the settlement in a long-form agreement (“Settlement”).

SUMMARY OF THE SETTLEMENT TERMS

16. Key provisions of the proposed settlement include the following:

- (a) Aggrieved Employees: All current and former hourly-paid or non-exempt employees employed by Defendant in California during the PAGA Period (the period from August 1, 2023, to March 31, 2025. (Agreement, ¶¶ 1.4, 1.25.)
- (b) No Reversion: The Settlement is *non-reversionary*. (Agreement, ¶ 3.1.)
- (c) Gross Settlement Amount: Defendant agrees to pay the maximum sum of **\$125,000.00** (hereinafter referred to as the “Gross Settlement Amount” or “GSA”) for settlement of the PAGA Penalties, which shall be inclusive of Plaintiff’s Counsel’s attorney’s fees and costs, and the settlement administrator’s fees and costs. (Agreement, ¶¶ 3.1, 3.2.)
- (d) Net Settlement Amount: At least **\$65,483.33** will be available for distribution to the Aggrieved Employees and the LWDA. Of this amount, the LWDA will receive at least **\$42,564.16** under the Agreement, and Aggrieved Employees will receive at least **\$22,919.17**. (Agreement, ¶¶ 1.17, 3.2.3.)
- (e) Attorney’s Fees: Plaintiff’s Counsel requests an award of attorney’s fees of not more than 33 and 1/3% of the GSA, which is currently estimated to be **\$41,666.67**, subject to the escalator clause. (Agreement, ¶ 3.2.1.)
- (f) Litigation Costs: Plaintiff’s Counsel requests an award of costs, in an amount of not more than **\$14,000.00**. (Agreement, ¶ 3.2.1.)
- (g) Settlement Administration: Payment to Aggrieved Employees and administration will be accomplished through third-party settlement administrator, ILYM Group, Inc., which has agreed to perform Administrator duties for a fixed fee not to exceed \$4,000.00¹, which is reasonable, based on all of the services offered. (Agreement, ¶ 3.2.2; Leviant Decl., ¶ 41; Mullins Decl., ¶ 7, Exh. 2.)
- (h) Uncashed Checks: Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more

¹ The Parties agreed that the settlement administration costs are not to exceed \$4,000.00. The actual administration costs are \$3,850, which is less than the maximum amount.

than 180 days after issuance, will be tendered to the Unclaimed Property Fund.
(Agreement, ¶¶ 4.2.2, 4.2.3.)

- (i) PAGA Release: In exchange for the above settlement consideration, Defendant shall be entitled to a *specific* release from the LWDA and each and every Aggrieved Employee, including Plaintiff.² (Agreement, ¶ 5.)
- (j) Notice to LWDA: The Declaration of H. Scott Leviant confirms that notice was provided to the LWDA and attached the confirmatory submission documents.
(Leviant Decl., ¶ 45 and Exh. 3.)

17. A true and correct copy of the PAGA SETTLEMENT AGREEMENT is attached hereto as “**Exhibit 1.**”

THE SETTLEMENT MEETS ALL THE CRITERIA FOR APPROVAL

18. Plaintiff and Plaintiff’s Counsel have diligently investigated the claims in this matter. Plaintiff and Plaintiff’s Counsel concluded, after taking into account the disputed factual and legal issues involved in this Action, the substantial risks attending further prosecution, including risks related to the outcome of possible summary judgment efforts, and the substantial benefits to be received pursuant to the compromise and settlement of the Action as set forth in the Settlement, that settlement on the terms agreed to are in the best interest of Plaintiff and the Aggrieved Employees and are fair and reasonable. Plaintiff’s Counsel brought to bear a great deal of experience with wage and hour actions in negotiating the settlement of this case.

19. Resolution at this time will forestall the need for additional expensive and time-consuming litigation that could very well result in an outcome less satisfactory than that proposed under this settlement. But, before any other consideration, we have agreed to this settlement because it is objectively reasonable. The potential for resolution benefits the aggrieved employees and the State of California, since they do not have to wait additional years for a similar recovery. The efficiency of this

² This comports with settled California Supreme Court authority. *See Arias v. Superior Court*, 46 Cal. 4th 969, 986 (2009) (concluding that “with respect to the recovery of civil penalties, non-party employees as well as the government are bound by the judgment in an action brought under the act....”)

1 litigation benefits the Court, the parties and their counsel. A settled resolution now is the most realistic
2 method for addressing the claims raised in this matter.

3 20. We have engaged in the necessary investigation in this case that made it possible for us to
4 exercise informed judgment in those aspects of the settlement process in which we were involved. The
5 Defendant in this matter produced important information, including the employee handbook as well as
6 pay and time data for all employees. That information, coupled with other data provided, was sufficient
7 to permit Plaintiff's Counsel to adequately evaluate the settlement. Plaintiff had more than enough
8 information upon which to evaluate a fair and reasonable settlement amount.

9 21. Here, the expense, complexity and likely duration of future litigation was to some extent
10 an unknown. However, what is certain is that to adequately establish the foundational violations that
11 would support any penalty award, significant time and expense would be invested. To adequately
12 establish that aggrieved employees experience the alleged violations, and at what frequency, the
13 aggrieved employees would need to be interviewed in a systematic fashion. The process would be
14 expensive and time-consuming. But doing so would have been required, since frequency of violations
15 would need to be established before any penalties could be recovered. As to claims such as meal period
16 and rest break violations, the decisions of aggrieved employees are a major factor in assessing liability.
17 Thus, even if records show a facially non-compliant meal period, no penalty could be assessed
18 automatically. In sum, the evidence collected to date leads us to conclude that, to the extent violations
19 occurred, a fact which Defendant disputes, the violations were *not* systematic and *not* uniform across all
20 of Defendant's employees who worked during the PAGA period. With these considerations in mind, the
21 amount of the Settlement is reasonable. For the PAGA Period, the number of PAGA Pay Periods at
22 issue is estimated to be **4,537** (biweekly) for the **260** Aggrieved Employees. Using the most
23 straightforward formulation of applying the "catch-all" \$100 penalty specified in Labor Code §
24 2699(f)(2) to each PAGA Pay Period, and under a reasonable assumption that not all employees were
25 affected, the total penalty exposure is approximately **\$891,187.50**. This settlement of **\$125,000.00** is a
26 reasonable compromise. In addition, with assistance from Plaintiff's data consultant, and after a
27 thorough review of evidence casting serious doubt on the viability of many of the theories of penalty
28 recover, counsel separately estimated the plausible potential PAGA exposure to be, on a penalty-by-

penalty basis, to be approximately **\$128,817.50**, which includes many overly optimistic assumptions about the ability to prove the frequency of violations for all aggrieved employees who allegedly experienced issues. The settlement is approximately **97%** of that very optimistic exposure calculation, described below:

- Failure to compensate for unpaid wages based on off-the-clock work – Delays caused by the clock-in process prior to clocking in resulted in alleged off-the-clock work. Assuming 25% of employees were affected, the maximum exposure is estimated to be as much as \$113,425.00 (4,537 pay periods * 25% * \$100 penalty). However, employee testimony about timeclock wait times suggests that only a small fraction of the aggrieved employees experienced any off-the-clock waiting time, resulting in a more realistic exposure of \$22,685.00 (\$113,425.00 maximum exposure * 20% violation rate).
- Failure to provide meal periods – Deficient meal periods given the nature of the work resulted in the alleged non-compliant meal periods. Assuming that 25% of the facial violations in the time records resulted in a penalty, the calculated maximum exposure is \$56,712.00 (4,537 total pay periods * 25% * \$50 penalty). However, given that employee choice can be a significant factor in this analysis, a more realistic exposure is \$22,685.00 (\$56,712.00 maximum exposure * 40% violation rate).
- Failure to provide rest breaks – Similarly, time constraints due to the nature of the work resulted in the alleged non-compliant rest breaks. Assuming that rest break violations occurred and 25% of them resulted in a penalty, a generous assumption given that employee rest breaks are not recorded and employee choice can be a significant factor, the calculated maximum exposure is \$113,425.00 (4,537 total pay periods * 25% * \$50 penalty). However, due to the difficulty to precisely measure the amount of missed rest breaks and the highly dependent Aggrieved Employee testimony, it is estimated that this claim could support, at best, a more realistic exposure of \$22,685.00 (\$113,425.00 maximum exposure * 20% violation rate).
- Failure to Timely Pay Final Wages – It is estimated that the maximum exposure for this claim is \$14,500.00 (145 former employees * \$100 penalty). However, given the

Defendant's defenses to underlying unpaid wage claims, the realistic penalty is **\$1,450.00** (\$14,500.00 maximum exposure * 10% underlying violation rate).

- **Failure to Furnish Accurate Itemized Wage Statements** – Assuming 50% of employees experienced a wage statement issue, it is estimated that the maximum exposure for this claim is **\$567,125.00** (4,537 total pay periods * 50% * \$250 penalty). However, after applying a more realistic violation rate, the risk-adjusted penalty is **\$56,712.50** (\$567,125.00 maximum exposure * 10% violation rate).
- **Unreimbursed Business Expenses** – Plaintiff alleged that all employees incurred work-related expenses without reimbursement. Per *employee*, this results in a maximum exposure of **\$26,000.00** (260 total employees * \$100 penalty). However, employee testimony suggested that a portion of the costs for the required materials were recovered; therefore, it is estimated that this claim could support, at best, a more realistic exposure of **\$2,600.00** (\$26,000.00 maximum exposure * 10% violation rate).

22. The PAGA Penalties, pursuant to PAGA and the terms of the Settlement Agreement, will be allocated to the LWDA and all Aggrieved Employees, with sixty-five percent (65%) allocated to the former and thirty-five percent (35%) allocated to the latter.

23. The PAGA Penalties, which are estimated to be at least **\$65,483.33**³, provide genuine and meaningful relief to the LWDA and all alleged Aggrieved Employees consistent with the dual-purpose of PAGA because it both redresses the alleged Aggrieved Employees for the Labor Code violations they suffered from throughout their employment with Defendant and deters Defendant from violating the Labor Code in the future, in light of the long-term, costly process required to litigate, mediate, and ultimately settle the Action. For these reasons, the PAGA Penalties amount to genuine and meaningful relief consistent with the underlying purpose of PAGA.

24. The PAGA Penalties are also reasonable in light of the potential verdict value of all claims released. Indeed, the Settlement Agreement contains a release of all PAGA claims that arise or

³ The PAGA Penalties equal the Gross Settlement Amount (\$125,000.00) less the PAGA Counsel Fees Payment (at least \$41,666.67, subject to the escalator clause), PAGA Counsel Litigation Expenses Payment (\$14,000.00), and Administration Expenses Payment (\$3,850.00).

1 could arise from the facts underlying the operative Complaint and PAGA Notice, including those related
2 to unpaid wages (such as minimum wages and overtime compensation), meal period premiums, rest
3 break premiums, and unreimbursed business expenses. These claims served as the basis of the alleged
4 Aggrieved Employees' PAGA claims.

5 25. Further reflected in the PAGA Penalties is the potential risks in continuing to litigate the
6 Action, including, but not limited to, the risk of not prevailing at trial, and the risk that, even if Plaintiff
7 prevailed, the PAGA damages would be limited due to the largely discretionary nature of PAGA civil
8 penalties; Defendant's defenses; and the fact that the ultimate purpose of the Action is and has been to
9 obtain genuine and meaningful relief for the LWDA and Aggrieved Employees.

10 11 THE EXPERIENCE OF COUNSEL

12 26. Moon Law Group, PC has been engaged in the practice of employment and labor law for
13 almost a decade and presently focuses exclusively on plaintiffs' employment law. The firm and its
14 lawyers have handled many hundreds of wage-related class actions between them. The firm and its
15 lawyers have successfully settled more than 300 class action matters during that time span. The firm and
16 its lawyers have also tried both bench and jury trials (representing both plaintiffs and defendants) relating
17 to employment matters. Moon Law Group, PC, is routinely appointed lead or co-lead class counsel (or
18 counsel for representative plaintiffs in FLSA representative actions) in federal and state courts in
19 California and elsewhere, by way of motion for class certification or motion for settlement approval. I
20 personally participated in the litigation of more than 500 class actions since 1999, and more than 90
21 percent of those cases were wage and hour matters. While I have not maintained a comprehensive list, I
22 have been appointed as lead or co-lead counsel in many hundreds of class actions.

23 27. Kane Moon received a B.A. in History in 1998 from UCLA. He received his J.D. from
24 Loyola Marymount Law School in 2006. He became an Active Member of the State Bar of California
25 in June 2007 and has been an Active Member in good standing continuously since then. He has been
26 selected to Super Lawyers for 2020-2024.

27 28. Mr. Moon co-founded Moon & Yang, APC, now Moon Law Group, PC, in March 2010.
28 Since that time, Mr. Moon built his practice to have an emphasis on employment and related civil

litigation cases. In fact, the practice is focused almost exclusively on advocating for the rights of employees in wage-and-hour litigation through class and representative actions. Moon Law Group, PC is presently class counsel for many dozens of other putative wage-and-hour class and representative action lawsuits pending in various state and federal jurisdictions throughout California. Moon Law Group, PC has also successfully settled hundreds of wage-and-hour cases; tried both bench and jury trials in employment-related matters, representing both plaintiffs and defendants; and been appointed lead or co-lead class counsel in numerous federal and state courts in California. The following is a list of some of the firm's class action settlements that have received preliminary and final approval: *Mark Brulee, et al. v. DAL Global Services, LLC* (C.D. Cal. Dec. 20, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 (class size approx. 2,650; lead counsel) (In approving my \$650 hourly rate, the Court found: "Class Counsel's declarations show that the attorneys are experienced and successful litigators. Other courts have approved the attorneys' current rates for the Moon & Yang, APC attorneys." (*Id.* at *10.); *Sison v. Cha Hollywood Medical Center, L.P.*, LASC BC6441 29 (class size approx. 2,100; co-counsel); *Jones v. Fitness Alliance, LLC*, Riverside Superior Court PSC1404079 (class size approx. 1,000; lead counsel); *Gomez v. H Mart Companies, Inc.*, LASC BC671525 (class size approx. 2,500; co-counsel); *Montoya v. Golden 1 Credit Union*, Sacramento Superior Court 34-2018-00228252 (class size approx. 1,900; lead counsel); *Campa v. Bloomingdales, Inc.*, LASC BC700366 (class size approx. 1,500; lead counsel); *Black v. Mission Healthcare Services, Inc.*, LASC 19STCV04602 (class size approx. 1,000; lead counsel); *Onofre v. Caitac Garment Processing, Inc.*, LASC BC702283 (class size approx. 750; lead counsel); *Martinez v. Bail Hotline Bail Bonds, Inc.*, LASC BC700131 (class size approx. 173; lead counsel); *Jones v. Citiguard, Inc.*, LASC BC664890 (class size approx. 587; lead counsel); *Slaughter v. ACA Security Stems, LP*, LASC BC699137 (class size approx. 300; lead counsel); *Taylor v. Sherman's Delicatessen & Bakery, LLC*, LASC BC722765 (class size approx. 515; lead counsel); *Vertti v. Bagcraft Papercon III, LLC*, LASC 19STCV12729 (class size approx. 260; lead counsel); *Rodriguez v. Rossmoyne, Inc.*, LASC BC699137 (class size approx. 220; lead counsel); *Vargas v. AMS Paving, Inc.*, LASC BC722767 (case size approx. 260; lead counsel); *Garcia v. Comfy U.S.A. Apparel, Inc.*, LASC BC709630 (class size approx. 210; lead counsel); *Lagos v. ThyssenKrupp Elevator Corporation*, LASC BC682972 (\$750,000 for 79 Class Members; lead counsel); *Aparicio v.*

1 *Lineage Logistics, LLC*, LASC BC722764 (class size approx. 155; lead counsel). Mr. Moon's
2 experience is and has been invaluable in assessing the reasonableness of settlements such as the one at
3 issue here.

4 29. Mariam Ghazaryan is an associate at Moon Law Group, PC. Ms. Ghazaryan's practice is
5 focused on labor and employment class action lawsuits involving various violations of California and
6 federal labor laws. Ms. Ghazaryan received her undergraduate degree from UC Irvine. She received her
7 law degree from the Southwestern School of Law. Ms. Ghazaryan was admitted to the California bar in
8 December 2021 and her billing rate is \$600.00 per hour.

9 30. I received my undergraduate degree from Occidental College. Graduating cum laude, I
10 majored in economics and received a "minor" emphasis in mathematics. Along with my study of
11 economics and mathematics, I also had an emphasis in physics. This combination of scientific and
12 economic education has been of assistance during my litigation of complex civil actions. I received my
13 Juris Doctor degree from the University of Southern California Law Center.

14 31. My experience relevant to class action litigation includes the following:

15 (a) I have been involved in the litigation of class actions since 1997, working as a
16 law clerk on several class action matters. Since 1999, I have participated as an
17 attorney in the litigation of hundreds of class actions, in California Superior
18 Courts and in federal courts in California, Illinois, and Louisiana. I emphasized
19 litigation of wage and hour class actions beginning in 2005, but I have focused
20 on complex litigation of different types at all times since 1999.

21 (b) Dating back to 1999, some of the earliest cases in which I contributed to my
22 then-firm's efforts as co-lead/liaison counsel include:

23 i. *In re Paradise Memorial Park Litigation*, Los Angeles Superior
24 Court Lead Case No. BC130375; and,

25 ii. *In re Lincoln Memorial Park Litigation*, Los Angeles Superior
26 Court Lead Case No. BC133643.

27 (c) I have litigated contested class certification motions multiple times, prevailing
28 on many. Examples include the following:

- 1) In 2023, I certified a rest break claim against SMS Transportation, in the matter of *Beard v. SMS Transportation*. Rest break claims are notably difficult to certify.
- 2) In 2023, I certified a regular rate claim against Downtown Women's Center, in the matter of *Evans v. Downtown Women's Center*.
- 3) In 2018, I certified wage and hour claims against Home Depot, in the matter of *Utne v. Home Depot*, in the United States District Court, Northern District of California. The contested certification resulted in a certified class of roughly 140,000 individuals.
- 4) In 2019, I certified a Fair Credit Reporting Act claim related to employment background checks against Wal-Mart Stores, Inc., in the matter of *Pitre v. Wal-Mart Stores, Inc.*, in the United States District Court, Central District of California. The contested certification resulted in a certified class of over 5,000,000 individuals.
- 5) In 2018, I fully briefed a contested class certification motion in the matter of *Harelson v. U.S. Aviation*, in the United States District Court, Northern District of California. After certification was fully briefed, the matter successfully settled.
- 6) In 2013, I certified an investment fraud suit, in the matter of *Larsen v. Coldwell Banker*, in the United States District Court, Central District of California.
- 7) In 2012, I fully briefed a contested class certification motion, in the wage and hour matter of *Gillings v. Time Warner*, in the United States District Court, Central District of California. In that matter, summary judgment was granted against my clients, and the certification motion was deemed moot. I appealed to the Ninth Circuit and obtained a reversal of the District Court's decision. Upon remand, the matter settled.

- 1 8) In approximately 2011, I fully briefed a contested class certification
2 motion, in the wage and hour matter of *Gomez v. Lincare, Inc.*, in the
3 Superior Court of California, County of Orange. Certification was
4 denied. The result was appealed, and a partial reversal was obtained.
- 5 9) In approximately 2008, I fully briefed a contested class certification
6 motion, in the wage and hour matter of *Ghazaryan v. Diva Limousine,*
7 *LTD.*, Superior Court of California, County of Los Angeles.
8 Certification was denied. I appealed, handling all briefing, and, in
9 *Ghazaryan v. Diva Limousine, LTD.*, 169 Cal.App.4th 1524 (2009), pet.
10 for rev. denied, I obtained a decision directing the trial court to certify
11 the class. *Ghazaryan* is now widely cited, including by the California
12 Supreme Court, as a comprehensive source for the standards applied to
13 certification motions in California.
- 14 10) In approximately 2006, I fully briefed a contested class certification
15 motion, in the wage and hour matter of *Laliberte v. Pacific Mercantile*
16 *Bank*, Superior Court of California, County of Orange. Certification
17 was denied. I appealed, handling all briefing. The published opinion of
18 *Laliberte v. Pacific Mercantile Bank*, 147 Cal.App.4th 1 (2007), rev.
19 denied, pet. for cert. den. resulted, and I petitioned for a Writ of
20 Certiorari related to certification due process issues.
- 21 11) In approximately 2008, I assisted with briefing of a contested class
22 certification motion, in the wage and hour matter, against the
23 Automobile Club of Southern California (AAA). A class was certified
24 and the matter tried.
- 25 (d) I have prosecuted appeals in more than 20 class action matters alone, arguing
26 before the United States Court of Appeals for the Ninth Circuit Court and
27 several of California's Courts of Appeal. I have taken several appeals through
28 to Petitions for Writs of Certiorari to the United States Supreme Court. In

1 connection with the appeals I have handled, I have participated in appeals
2 resulting in decisions concerning or relating to class actions or wage and hour
3 issues. Among others, those include:

- 4 i. *Camp v. Home Depot, U.S.A., Inc.*, 84 Cal. App. 5th 638 (October
5 24, 2022), *rev. granted* (February 1, 2023);
- 6 ii. *Donohue v. AMN Services, Inc.*, (February 25, 2021) (amicus
7 counsel)
- 8 iii. *Gilberg v. California Check Cashing Stores, LLC*, 913 F.3d 1169
9 (9th Cir. Jan. 29, 2019), *pet. for rehearing and pet. for en banc*
10 *rehearing den.*;
- 11 iv. *Troester v. Starbucks Corporation*, 5 Cal. 5th 829 (2018), *as*
12 *modified on denial of reh'g* (Aug. 29, 2018);
- 13 v. *Gillings v. Time Warner Cable LLC*, 583 Fed.Appx. 712 (9th Cir.
14 2014);
- 15 vi. *Ghazaryan v. Diva Limousine, LTD.*, 169 Cal. App. 4th 1524
16 (2009), *pet. for rev. denied*;
- 17 vii. *Laliberte v. Pacific Mercantile Bank*, 147 Cal. App. 4th 1 (2007),
18 *rev. denied, pet. for cert. denied*;
- 19 viii. *Alvarez v. May Dept. Stores Co.*, 143 Cal. App. 4th 1223 (2006),
20 *rev. denied, pet. for cert. denied*;
- 21 ix. *Johnson v. Glaxosmithkline, Inc.*, 166 Cal. App. 4th 1497 (2008),
22 *rev. denied*;
- 23 x. *Howard, et al. v. America Online, Inc.*, 208 F.3d 741 (9th Cir.
24 2000), *pet. for cert. denied*;
- 25 xi. *Brown v. Ralphs Grocery Company*, 197 Cal. App. 4th 489 (2011)
26 (amicus counsel);
- 27 xii. *D. R. Horton, Inc. and Michael Cuda*, Case 12–CA–25764, 357
28 NLRB No. 184 (January 3, 2012) (amicus counsel).

- (e) I was the lead appellate author in a matter before the California Supreme Court that generated substantial interest in the field of wage and hour litigation. That matter, *Troester v. Starbucks Corporation*, resolved a significant issue of whether, under California law, a *de minimis* defense exists to the employer's obligation to pay all wages for all compensable time worked by an employee.
- (f) I was the lead appellate counsel in a matter before the California Court of Appeal (Sixth Appellate District) that generated substantial interest in the field of wage and hour litigation. That matter, *Camp v. Home Depot, U.S.A., Inc.*, held that prior jurisprudence erroneously concluded that, under California law, underpayment of wages as a result of rounding of time clock punches is lawful so long as the rounding was neutral on its face and as applied. *Camp* is now pending before the California Supreme Court but remains citable as authority pursuant to an Order of the California Supreme Court.
- (g) In addition to my work on complex litigation matters and class actions, I have authored published articles and columns on issues related to class actions and other litigation issues, including:
- i. H. Scott Leviant, *Unintended Consequences*, 6 U.C. Davis Bus. L.J. 18 (2006), at <http://blj.ucdavis.edu/article.asp?id=636> (May 1, 2006);
 - ii. H. Scott Leviant and Lilit Ter-Astvatsatryan, *Where Troester Stops Not Even Troester Knows*, DAILY JOURNAL (Los Angeles), July 2, 2019;
 - iii. H. Scott Leviant and Lilit Ter-Astvatsatryan, *Unaccounted Time: Reading the Tea Leaves of Troester*, DAILY JOURNAL (Los Angeles), September 12, 2018;
 - iv. Dennis F. Moss and H. Scott Leviant, *Class Actions: One step forward after two steps back*, DAILY JOURNAL (Los Angeles), January 11, 2012;

- v. H. Scott Leviant, *Arbitration: A Look Back, a Look Ahead*, DAILY JOURNAL (Los Angeles), December 28, 2010;
- vi. H. Scott Leviant, *Witnesses Cannot Hide*, Daily Journal (Los Angeles), April 21, 2010;
- vii. H. Scott Leviant, *Divide and Conquer: The New Paradigm of Class Action Defense?*, FORUM, January/February 2009
- viii. H. Scott Leviant, *Class Action Appellate Report*, FORUM, 2009-2010 (Ongoing series);
- ix. H. Scott Leviant & Linh Hua, *Legislature Using Purse Strings to Bind Judiciary*, Daily Journal (San Francisco), March 15, 2010;
- x. H. Scott Leviant, *Wrongfully Recused?*, DAILY JOURNAL (Los Angeles), December 2, 2009;
- xi. H. Scott Leviant, *Cutting Class*, DAILY JOURNAL (Los Angeles), April 15, 2008;
- xii. H. Scott Leviant, *Leveling The Playing Field*, DAILY JOURNAL (Los Angeles), May 4, 2007;
- xiii. H. Scott Leviant, *A Bad Meal Deal: 'Brinker' Gets the Incentive Question Wrong*, DAILY JOURNAL (Los Angeles), August 6, 2008;
- xiv. H. Scott Leviant & Jason E. Barsanti, *Maximize Recovery in Unpaid Wage Cases*, FORUM, January/February 2008;
- xv. H. Scott Leviant, et al., *Electronic Evidence: No Longer an Optional Element in a Comprehensive Litigation Plan*, ADVOCATE, April 2006;
- xvi. H. Scott Leviant, *Improving Rule 12(b)(6) survival odds: Some considerations for effective RICO pleading*, CIVIL RICO REPORT, Volume 15, Number 22, April 26, 2000 (LRP Publications).

(h) In addition to publications in industry newspapers, periodicals and journals, I am the Supervising Editor, primary author and founder of the legal blog The

Complex Litigator (<http://www.thecomplexlitigator.com>). The Complex Litigator reports and comments on news and topics relevant to class action and complex litigation practice, with a primary emphasis on wage and hour litigation issues. Through my blog, I have also, on occasion, published podcasts of round table discussions with preeminent members of the wage and hour practice bar on both the plaintiff and defense sides. My blog has been cited to the California Supreme Court in at least one Petition for Review. The Complex Litigator has been in existence since 2008, having outlasted many other legal blogs, and it has a unique readership that numbers in the tens of thousands.

(i) I have also lectured on issues related to class actions and complex litigation, including the following educational seminars:

- i. *Strategies for Settlement of Individual and Wage & Hour Class Actions*, Bridgeport's Eighth Annual Wage & Hour Litigation Conference (December 16, 2011)
- ii. *The Year in Review – Staying Abreast of Current Cases*, Consumer Attorneys of San Diego Class Action Symposium (October 14, 2011)
- iii. *Concepcion v. AT&T and Derivative Wage & Hour Claims*, Bridgeport's Mid Year Wage & Hour Litigation Conference (June 3, 2011)
- iv. *Advanced Principles: UCL Remedies and Defenses*, 20th Annual Golden State Antitrust and Unfair Competition Law Institute (October 21, 2010)
- v. *Refining Your Wage and Hour Practice*, 2010 CELA Annual Conference (October 2, 2010)
- vi. *Word v. WordPerfect Software, Tips, Tools and Tricks: Legal Technology for Plaintiffs Employment Lawyers* (September 30, 2010)

- vii. *California's 17200 -- Its Use and Abuse*, Federalist Society (May 19, 2010)
- viii. *20 Tips for Successful Navigation of e-Discovery Requirements*, Los Angeles County Bar Association's Thirtieth Annual Labor and Employment Law Symposium (March 31, 2010)
- ix. *Social Networking for Lawyers: A Roadmap to Success*, Los Angeles County Bar Association's 2nd Annual two-day 2009 Small Firm and Solo Practitioners Conference: MISSION POSSIBLE (June 25, 2009)
- x. *A Seminar Overview of the Current State of Employment Law*, The Westchester/LAX/Marina Del Rey Chamber of Commerce (February 23, 2006)

(j) I served three consecutive years as an elected member of the Board of Governors of the Consumer Attorneys of California. In that capacity, I worked to preserve the right of California's consumers and employees to bring proposed class actions. For example, I provided assistance to CAOC in its successful effort to defeat AB 298, which would have substantially impaired the ability of plaintiffs to prosecute class actions in California. More recently, on behalf of CAOC, I co-authored several requests for publication of unpublished class action decisions, including one such request in *Jaimez v. Daihatsu USA, Inc.*, 181 Cal. App. 4th 1286 (2010), and authored amicus briefs for CAOC in the Eighth Circuit matter entitled *Avritt v. Reliastar Life. Ins. Co.*, Case No. 09-2843, the California Supreme Court matter entitled *Californians for Disability Rights v. Mervyn's, LLC*, 39 Cal. 4th 223 (2006), and the California Court of Appeal matter entitled *Brown v. Ralphs Grocery Company*, 197 Cal. App. 4th 489 (2011).

32. My current contingent billing rate is consistent with my practice area, legal market and accepted hourly rates:

- 1 (a) In the December 8, 2008 article “Billable Hours Aren’t the Only Game in Town
2 Anymore,” *NATIONAL LAW JOURNAL*, the following hourly billing rates were
3 reported by Sheppard Mullin Richter & Hampton, a leading firm in the defense of
4 wage-and-hour class actions that I have frequently opposed when litigating wage-
5 and-hour class actions: Partners: \$475-\$795; Associates: 1st Year - \$275, 2nd Year
6 - \$310, 3rd Year - \$335, 4th Year - \$365, 5th Year - \$390, 6th Year - \$415, 7th
7 Year - \$435, 8th Year - \$455.
- 8 (b) In 2009 I was retained as appellate counsel in the appeal of a denial of class
9 certification. For the specialized work on that appeal, I charged an hourly rate of
10 \$650.00 per hour, a rate the hiring co-counsel accepted.
- 11 (c) The 2023-24 Adjusted Laffey Matrix states that an attorney with 20 or more years
12 experience can reasonably charge \$1,057 per hour.
13 <http://www.laffeymatrix.com/see.html>.⁴ That rate is derived from the Washington,
14 D.C. area and requires a costs of living evaluation for use in Los Angeles. Using
15 federal statistics for average attorney salaries, attorney pay is 8.7% lower in Los
16 Angeles, compared to Washington, D.C., indicating an 8.7% downward adjustment
17 to the Laffey Matrix may be appropriate.
18 <https://www.bls.gov/oes/current/oes231011.htm>.⁵ However, using federal
19 employee pay tables, federal employee wages are 0.13% when Los Angeles is
20 compared to Washington, D.C., indicating almost no adjustment to the Laffey
21 Matrix is appropriate. [https://www.opm.gov/policy-data-oversight/pay-](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2017/general-schedule/)
22 [leave/salaries-wages/2017/general-schedule/](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2017/general-schedule/).⁶ And, using Schedule 9 of 5 U.S.C.
23 § 5332, there is a 3% differential favoring Los Angeles. Thus, something in the
24 range of an 8.7% locality reduction to a 3.0% locality increase appears appropriate
25

26 ⁴Last viewed January 30, 2024.

27 ⁵Last viewed January 30, 2024.

28 ⁶ Last viewed January 30, 2024.

here. Thus, applying an adjustment factor of 0.0%, the locality corrected Adjusted Laffey Matrix hourly rate for attorneys with 20 or more years of experience is \$1,057. The complete Adjusted Laffey Matrix is set forth below.

- (d) The full 2023-2024 Adjusted Laffey Matrix provides for the following hourly rates for paralegal/law clerks and attorneys falling into various ranges of years of experience:

Year	Adj. Factor**	Paralegal Clerk	1-3	4-7	8-10	11-19	20+
6/01/23-5/31/24	1.059295	\$239	\$437	\$538	\$777	\$878	\$1,057

- (e) I have been selected to Super Lawyers from 2012-2024, achieving that professional recognition for more than a decade. I was selected for the Rising Stars edition of Super Lawyers in 2009.

- (f) Based upon my practice area, geographic market, experience, including all of the above information, reputation, and generally accepted hourly rates, my current, regular hourly billing rate is now \$975.00, which is well below the presumptively appropriate hourly rate of \$1,057 for attorneys with 20 or more years of experience.

REASONABLENESS OF THE REQUESTED FEE AWARD

33. When this case was taken on a contingent fee basis, with the firm agreeing to assume responsibility for litigation costs, the ultimate result was far from certain. In the course of this litigation, Moon Law Group, PC, paid filing fees, copy charges, Westlaw fees, and mailing, telephone and express mail charges. There was never a guarantee that Moon Law Group, PC, would recoup those expenditures. The firm took on this case, which necessarily required the firm to forego other opportunities, given finite resources to devote to cases.

34. Because of the uncertainty of the outcome in this and other wage and hour litigation undertaken by Moon Law Group, PC, we took this case with the expectation that a risk enhancement,

1 either in the form of a lodestar multiplier or a percentage of the fund award equivalent thereto, would be
2 available if we prevailed. This expectation stems from the fact that many cases we undertake as putative
3 class actions do not resolve successfully.

4 35. Counsel's experience in employment class actions and PAGA cases was integral in
5 evaluating strengths and weaknesses of the case against Defendants and the reasonableness of the
6 settlement. Practice in the narrow fields of wage and hour litigation requires skill and knowledge
7 concerning the rapidly evolving substantive law (state and federal), as well as the procedural law of class
8 action and PAGA action litigation.

9 36. In the past 5 years, Moon Law Group, PC, has settled many dozens of wage & hour class
10 and PAGA actions. Just as the Court in *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, n.11 (2008)
11 observed, it has been the experience at Moon Law Group, PC, that attorney fee awards of one-third of a
12 common settlement fund are the rule, rather than the exception. Here, Class Counsel agrees that they
13 will seek no more than one third of the settlement amount in fees. This is consistent with common
14 practice, consistent with Ninth Circuit practice, consistent with California law approving the percentage
15 of the fund method to award fees from a common fund, *Laffitte v. Robert Half Intern. Inc.*, 1 Cal. 5th
16 480, 503 (2016), and not inappropriate in light of the many hours expended by attorneys and paralegals
17 performing work for Plaintiff before and after the filing of this matter. That work includes:

- 18 (a) Numerous interviews with Plaintiff and review of documents provided by Plaintiff;
- 19 (b) Legal research and investigation regarding the Defendant's practices;
- 20 (c) Preparation of multiple drafts of the original complaint and finalization and filing
21 of the original complaint;
- 22 (d) Preparation of multiple drafts of the subsequent complaint and finalization and
23 filing of the subsequent complaint;
- 24 (e) Review of documents and data produced by Defendant;
- 25 (f) Analysis of the audit results and preparation of a damages model for informal
26 settlement negotiations;
- 27 (g) Drafting, negotiating, and reviewing multiple drafts of the Settlement Agreement
28 and attachments; and

(h) Preparation of the motion for settlement approval.

37. The actual lodestar incurred by Plaintiff's Counsel is approximately **\$98,022.50** to date, based on the firm's contemporaneous time recording software, and I did not bill for a significant amount of time related to numerous other short activities. The breakdown of work by attorney is as follows:

Attorney	Time	Rate	Total
Kane Moon	41.2	\$950	\$39,140.00
H. Scott Leviant	39.1	\$975	\$38,122.50
Mariam Ghazaryan	34.6	\$600	\$20,760.00
	114.9	Total:	\$98,022.50

That lodestar would be higher if I included the estimated time that I did not include in by billing entries. The bottom line is that attorneys for Plaintiff invested substantial amounts of time pursuing informal discovery and evaluating data before and after the settlement negotiations in this matter. Those efforts led to this settlement.

38. I also anticipate that we will spend an additional five (5) hours on this matter, appearing at the hearing of this Motion, working with the administrator to process the Settlement, and preparing final accounting filings after distribution of the Settlement.

39. Our fee request is approximately, **\$41,666.67** which is 33 and 1/3 % of the Gross Settlement Amount, as specified in the Settlement Agreement. As we are requesting a fee of \$41,666.67 this represents a "negative" multiplier of approximately 0.43. Multipliers between two and four are common and reasonable for a lodestar crosscheck. Therefore, Plaintiff's Counsel requests a reasonable award of attorney's fees of not more than 33 and 1/3% of the GSA, which is currently estimated to be **\$41,666.67**.

40. The Agreement also provides for the award of actual costs. Plaintiff's actual, out-of-pocket costs in taking on representation in this Lawsuit on a contingency basis will be approximately **\$14,269.63** as set forth in "Exhibit 2." The costs are capped under the Settlement at \$14,000.00, thus Plaintiff requests an award of **\$14,000.00**.

41. The parties have agreed that administration will be handled by a third-party administrator. (Agreement, ¶ 3.2.2.). In counsel's experience as class counsel in similar wage-and-hour actions with a similar number of employees, ILYM Group, Inc. is fully capable of administering the Settlement at a competitive and reasonable cost and should be approved by the Court to administer the Settlement notice process. Administration will cost **\$3,850.00**. *See* concurrently filed Declaration of Lisa Mullins.

42. As noted above, a true and correct copy of the PAGA SETTLEMENT AGREEMENT is attached hereto as **“Exhibit 1.”**

44. Attached hereto as “**Exhibit 3**” is a true and correct copy of confirmation of the submission of the PAGA SETTLEMENT AGREEMENT to the LWDA.

45. A copy of the PAGA SETTLEMENT AGREEMENT was submitted to the LWDA prior to the filing of this motion. That submission is attached hereto as “**Exhibit 3.**”

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this May 20, 2025, at Los Angeles, California.


H. Scott Leviant, Esq. "Declarant"

Exhibit “1”

Kane Moon (SBN 249834)
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H. Scott Leviant (SBN 200834)
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Attorneys for Plaintiff Tamika English

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

TAMIKA ENGLISH, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

HAVEN POST ACUTE, LLC, a limited
liability company; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: CIVSB2424840

[Hon. Christian Towns, Dept. S26]

PAGA SETTLEMENT AGREEMENT

Complaint Filed: August 6, 2024
Trial Date: Not Set

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff TAMIKA ENGLISH (“Plaintiff”) and defendant HAVEN POST ACUTE, LLC (“Defendant”). The Agreement refers to Plaintiff TAMIKA ENGLISH and Defendant HAVEN POST ACUTE, LLC collectively as “Parties,” or individually as “Party.”

1. **DEFINITIONS.**

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant HAVEN POST ACUTE, LLC, captioned *English v. Haven Post Acute, LLC*, filed on August 6, 2024, and pending in the Superior Court of the State of California, County of San Bernardino, Case No. CIVSB2424840.
- 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross 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 the Settlement.
- 1.4. “Aggrieved Employee(s)” means all current and former hourly-paid or non-exempt employees employed by Defendant in California during the PAGA Period.
- 1.5. “Aggrieved Employee Data” means all Aggrieved Employee identifying information in Defendant’s possession, including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. “Approval Order” means the proposed Court Order Granting Approval of PAGA

1 Settlement.

2 1.8. "Court" means the Superior Court of California, County of San Bernardino.

3 1.9. "Defendant" means Haven Post Acute, LLC, the named defendant in the Action.

4 1.10. "Defense Counsel" means Jose-Manuel A. De Castro of De Castro Law Group, P.C., the
5 attorneys representing Defendant in the Action.

6 1.11. "Effective Date" means the following: (a) the date the Court enters an Order approving the
7 PAGA settlement if the LWDA does not seek to intervene in the matter; or (b) sixty-five
8 (65) calendar days after the date of entry of the Order of the court approving the PAGA
9 settlement if any objection is asserted by the LWDA or the LWDA seeks to intervene in
10 the matter but no appeal is filed; or (c) if a timely appeal is made, ten (10) business days
11 after the final resolution of that appeal if the appeal is rejected, the settlement is upheld,
12 and the settlement approval order is no longer subject to further judicial review.

13 1.12. "Gross Settlement Amount" means \$125,000.00, which is the total amount Defendant
14 agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross
15 Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA
16 Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment,
17 and the Administrator's Expenses.

18 1.13. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 35% of
19 the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved
20 Employee worked during the PAGA Period.

21 1.14. "Judgment" means the judgment entered by the Court based upon the Order granting
22 Approval of the Settlement.

23 1.15. "LWDA" means the California Labor and Workforce Development Agency, the agency
24 entitled, under Labor Code § 2699(i).

25 1.16. "LWDA PAGA Payment" means the 65% of the PAGA Penalties paid to the LWDA
26 under Labor Code § 2699(i).

27 1.17. "Net Settlement Amount" constitutes the amount available from the Gross Settlement
28

Amount to distribute as PAGA Penalties. The Net Settlement Amount is equal to the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to the LWDA as the LWDA PAGA Payment and to the Aggrieved Employees as Individual PAGA Payments.

- 1.18. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.19. “PAGA Approval Motion” means any motion filed with the Court that seeks approval of this Settlement.
- 1.20. “PAGA Counsel” means Moon Law Group, PC, the attorneys representing Plaintiff in the Action.
- 1.21. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.22. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.23. “PAGA Notice” means Plaintiff’s original letter to Defendant and the LWDA providing notice pursuant to Labor Code § 2699.3(a). The PAGA Notice is attached here as **Exhibit A**.
- 1.24. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 35% to the Aggrieved Employees and 65% to the LWDA in settlement of PAGA claims.
- 1.25. “PAGA Period” means the period from August 1, 2023, to March 31, 2025.
- 1.26. “Plaintiff” means Tamika English, the named plaintiff in the Action.
- 1.27. “Released PAGA Claims” means the claims being released as described in Paragraph 5 below.
- 1.28. “Released Parties” means Defendant, and any predecessor, successor, subsidiary, parent, affiliated or related entity, and each of its employees, agents, directors, and/or officers.

1.29. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

2. **RECITALS.**

2.1. On August 6, 2024, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for failure to pay minimum wages for all hours worked, failure to pay overtime wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to indemnify necessary business expenses, failure to pay wages of discharged employees, failure to provide and maintain accurate and compliant wage records, and failure to comply with California Business & Professions Code §§ 17200, et seq. On November 19, 2024, Plaintiff dismissed her class and individual wage and hour claims. On November 20, 2024, Plaintiff filed a First Amended Complaint alleging a single cause of action against Defendant for civil penalties under the Private Attorneys General Act of 2004 (“PAGA”). The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint.”) Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint, and denies any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code § 2699.3(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.

2.3. On March 13, 2025, the Parties participated in an all-day mediation presided over by Michael Ludwig, Esq., which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery, all time and payroll data, policy documents, and the number of aggrieved employees and pay periods at issue.

2.5. 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.

1 **3. MONETARY TERMS.**

2 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below,
3 Defendant promises to pay \$125,000.00 and no more as the Gross Settlement Amount.
4 Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline
5 stated in Paragraph 4.1 of this Agreement. The Administrator will disburse the entire Gross
6 Settlement Amount without asking or requiring Aggrieved Employees to submit any claim
7 as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

8 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct
9 the following payments from the Gross Settlement Amount, in the amounts specified by
10 the Court in the PAGA Approval:

11 3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 33 1/3%,
12 which is currently estimated to be \$41,666.67, subject to the escalator clause, and a
13 PAGA Counsel Litigation Expenses Payment of not more than \$14,000.00. The
14 amounts paid as the PAGA Counsel Fees Payment and the PAGA Counsel
15 Litigation Expenses Payment are both subject to Court approval. Defendant will
16 not oppose requests for these payments provided that do not exceed these amounts.
17 Plaintiff and/or PAGA Counsel will file an application or motion for PAGA
18 Counsel Fees Payment and PAGA Litigation Expenses Payment. Released Parties
19 shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising
20 from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA
21 Counsel Litigation Expenses Payment. The Administrator will pay the PAGA
22 Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more
23 IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for any
24 taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel
25 Litigation Expenses Payment. PAGA Counsel holds Defendant harmless, and
26 indemnifies Defendant, from any dispute or controversy regarding any division or
27 sharing of any of these Payments.
28

- 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. ILYM Group, Inc. was selected by the Parties, based on its not-to-exceed bid of \$4,000.00 for administration services.
- 3.2.3. To the LWDA and Aggrieved Employees: PAGA Penalties to be paid from the Gross Settlement Amount, with 65% allocated to the LWDA PAGA Payment and 35% 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' 35% share of the PAGA Penalties by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.
- 3.2.3.2. From the PAGA Penalties, 65% shall be paid to the LWDA.

4. **SETTLEMENT FUNDING AND PAYMENTS.**

- 4.1. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than fourteen (14) calendar days after the Effective  Date.
- 4.2. Payments from the Gross Settlement Amount. Within fourteen (14) calendar days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fee Payment, and the PAGA Counsel Litigation Expenses Payment. Disbursement of the PAGA Counsel Fee Payment and the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

- 1 4.2.1. The Administrator will issue checks for the Individual PAGA Payments and send
2 them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The
3 face of each check shall prominently state the date (not less than 180 calendar days
4 after the date of mailing) when the check will be voided. The Administrator will
5 cancel all checks not cashed by the void date. Before mailing any checks, the
6 Settlement Administrator must update the recipients' mailing addresses using the
7 National Change of Address Database. Included with each check will be a one-
8 page letter describing the nature of the Individual PAGA Payment. A copy of that
9 letter is attached hereto as **Exhibit B**. The letter may be modified as directed by
10 the Court without requiring any amendment of this Settlement, and the original
11 Exhibit B shall be removed and replaced with any revised version of the letter.
- 12 4.2.2. The Administrator must conduct an Aggrieved Employee Address Search for all
13 Aggrieved Employees whose checks are returned undelivered without USPS
14 forwarding address. Within seven (7) calendar days of receiving a returned check
15 the Administrator must re-mail checks to the USPS forwarding address provided or
16 to an address ascertained through the Aggrieved Employee Address Search. The
17 Administrator need not take further steps to deliver checks to Aggrieved
18 Employees whose re-mailed checks are returned as undelivered. The Administrator
19 shall promptly send a replacement check to any Aggrieved Employee whose
20 original check was lost or misplaced, requested by the Aggrieved Employee prior
21 to the void date.
- 22 4.2.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed
23 and cancelled after the void date, the Administrator shall transmit the funds
24 represented by such checks to the California Controller's Unclaimed Property Fund
25 in the name of the Aggrieved Employee who did not cash the check.
- 26 4.2.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer
27 any additional benefits or make any additional payments to the Aggrieved
28

Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS.

Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

- 5.1. Release by Plaintiff, on behalf of Plaintiff and the State of California: Plaintiff, on behalf of herself and the State of California, releases all claims arising under PAGA that were described in Plaintiff's pre-filing PAGA Notice to the LWDA, to the extent alleged in the Operative Complaint. The PAGA Notice is attached here as **Exhibit A**.
- 5.2. Release of Additional Fees by PAGA Counsel: Other than those fees awarded by the Court pursuant to this Settlement, 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 Notice. PAGA Counsel will receive only those fees awarded by the Court pursuant to this Settlement.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.

Plaintiff shall file an application or motion for approval of this Settlement.

- 6.1. Responsibilities of PAGA Counsel.
- 6.1.1. Drafting of the PAGA Approval Motion. PAGA Counsel will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of

1 insurance coverage for any data breach, defalcation of funds or other misfeasance;
2 all facts relevant to any actual or potential conflicts of interest with Aggrieved
3 Employees or the LWDA; and the nature and extent of any financial relationship
4 with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from
5 PAGA Counsel firm attesting to its timely transmission to the LWDA of all
6 necessary PAGA documents; and (iv) all facts relevant to any actual or potential
7 conflict of interest with Aggrieved Employees and/or the Administrator.

8 6.1.2. Filing the PAGA Approval Motion. PAGA Counsel is responsible for
9 expeditiously finalizing and filing the application or motion for approval of this
10 Settlement no later than sixty (60) calendar days after the full execution of this
11 Agreement and, if necessary, obtaining a prompt hearing date for the motion and
12 appearing in Court to advocate in favor of the motion.

13 6.1.3. Delivery of the Approval Order to the Administrator. PAGA Counsel is
14 responsible for delivering the Approval Order to the Administrator.

15 6.2. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or
16 motion for approval of this Settlement and/or the supporting declarations and documents,
17 PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the
18 Parties by meeting in person or by telephone, and in good faith, to resolve the
19 disagreement. If the Court does not grant the PAGA Approval Motion of this Settlement or
20 conditions its approval on any material change to this Agreement, PAGA Counsel and
21 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in
22 person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy
23 the Court's concerns.
24

25
26 **7. SETTLEMENT ADMINISTRATION.**

27 7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve
28 as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc.

1 agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in
2 this Agreement in exchange for payment of Administration Expenses. The Parties and
3 their Counsel represent that they have no interest or relationship, financial or otherwise,
4 with the Administrator other than a professional relationship arising out of prior
5 experiences administering settlements.

6 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
7 Identification Number for purposes of calculating payroll tax withholdings and providing
8 reports state and federal tax authorities.

9 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
10 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation §
11 468B-1.

12 7.4. Aggrieved Employee Data. Within fourteen (14) calendar days after the Effective Date,
13 Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a
14 Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the
15 Administrator must maintain the Aggrieved Employee Data in confidence, use the
16 Aggrieved Employee Data only for purposes of this Settlement and for no other purpose,
17 and restrict access to the Aggrieved Employee Data to Administrator employees who need
18 access to the Aggrieved Employee Data to effect and perform under this Agreement.
19 Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that
20 the Aggrieved Employee Data omitted employee identifying information and to provide
21 corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without
22 any extension of the deadline by which Defendant must send the Aggrieved Employee
23 Data to the Administrator, the Parties and their counsel will expeditiously use best efforts,
24 in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted
25 Aggrieved Employee Data.
26

27 7.5. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
28 performed or observed by the Administrator contained in this Agreement or otherwise.

1 **8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE**

2 Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, there were 260
3 Aggrieved Employees who worked 4,537 Pay Periods during the PAGA Period. In the event the number
4 of Pay Periods in the PAGA Period worked by Aggrieved Employees (4,537 pay periods) during the
5 foregoing period increases by more than 10% (i.e., 4,991), then Defendant shall increase the Gross
6 Settlement Amount proportionally by the Pay Periods in excess of 4,991 Pay Periods.
7

8 **9. CONTINUING JURISDICTION AND WAIVER OF RIGHT TO APPEAL.**

9 9.1. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
10 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for
11 purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
12 administration matters, and (iii) addressing such post-Judgment matters as are permitted by
13 law.
14

15 9.2. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
16 conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and
17 PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive
18 all rights to appeal from the Judgment, including all rights to post-judgment and appellate
19 proceedings, the right to file motions to vacate judgment, motions for new trial,
20 extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the
21 right to oppose such motions, writs or appeals. If another party appeals the Judgment, the
22 Parties' obligations to perform under this Agreement will be suspended until such time as
23 the appeal is finally resolved and the Judgment becomes final, except as to matters that do
24 not affect the amount of the Net Settlement Amount.
25

26 **10. ADDITIONAL PROVISIONS.**

27 10.1. No Admission of Liability or Representative Manageability for Other Purposes. This
28 Agreement represents a compromise and settlement of highly disputed claims. Nothing in

1 this Agreement is intended or should be construed as an admission by Defendant that any
2 of the allegations in the Operative Complaint have merit or that Defendant has any liability
3 for any claims asserted; nor should it be intended or construed as an admission by Plaintiff
4 that Defendant's defenses in the Action have merit. The Parties agree that representative
5 treatment is for purposes of this Settlement only. If, for any reason the Court does not
6 approve this Settlement, Defendant reserves all available defenses to the claims in the
7 Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement,
8 this Agreement and Parties' willingness to settle the Action will have no bearing on, and
9 will not be admissible in connection with, any litigation (except for proceedings to enforce
10 or effectuate the Settlement and this Agreement).

11 10.2. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
12 together with its attached exhibits shall constitute the entire agreement between the Parties
13 relating to the Settlement, superseding any and all oral representations, warranties,
14 covenants, or inducements made to or by any Party.

15 10.3. Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and
16 represent that they are authorized by Plaintiff and Defendant, respectively, to take all
17 appropriate action required or permitted to be taken by such Parties pursuant to this
18 Agreement to effectuate its terms, and to execute any other documents reasonably required
19 to effectuate the terms of this Agreement including any amendments to this Agreement.

20 10.4. Cooperation. The Parties and their counsel will cooperate with each other and use their
21 best efforts, in good faith, to implement the Settlement by, among other things, modifying
22 the Settlement Agreement, submitting supplemental evidence and supplementing points
23 and authorities as requested by the Court. In the event the Parties are unable to agree upon
24 the form or content of any document necessary to implement the Settlement, or on any
25 modification of the Agreement that may become necessary to implement the Settlement,
26 the Parties will seek the assistance of a mediator and/or the Court for resolution.

27 10.5. No Prior Assignments. The Parties separately represent and warrant that they have not
28

1 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
2 encumber to any person or entity and portion of any liability, claim, demand, action, cause
3 of action, or right released and discharged by the Party in this Settlement.

4 10.6. No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are
5 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be
6 relied upon as such within the meaning of United States Treasury Department Circular 230
7 (31 CFR Part 10, as amended) or otherwise.

8 10.7. Modification of Agreement. This Agreement, and all parts of it, may be amended,
9 modified, changed, or waived only by an express written instrument signed by all Parties
10 or their representatives, and approved by the Court, except where this Agreement expressly
11 permits modifications to **Exhibit B** without further amendment of this Agreement.

12 10.8. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the
13 benefit of, the successors of each of the Parties.

14 10.9. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
15 governed by and interpreted according to the internal laws of the state of California,
16 without regard to conflict of law principles.

17 10.10. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
18 this Agreement. This Agreement will not be construed against any Party on the basis that
19 the Party was the drafter or participated in the drafting.

20 10.11. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
21 during Action and in this Agreement relating to the confidentiality of information shall
22 survive the execution of this Agreement.

23 10.12. Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel
24 pursuant to Evidence Code § 1152, and all copies and summaries of the PAGA Data
25 provided to PAGA Counsel by Defendant in connection with the mediation, other
26 settlement negotiations, or in connection with the Settlement, may be used only with
27 respect to this Settlement, and no other purpose, and may not be used in any way that
28

violates any existing contractual agreement, statute, or rule of court. Not later than ninety (90) calendar days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.

10.13. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

10.14. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

10.15. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Kane Moon, Esq.
H. Scott Leviant, Esq.
Mariam Ghazaryan, Esq.
MOON LAW GROUP, PC
725 South Figueroa St., 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
E-mail: kmoon@moonlawgroup.com
E-mail: hsleviant@moonlawgroup.com
E-mail: mghazaryan@moonlawgroup.com

To Defendant:

Jose-Manuel A. de Castro, Esq.
David G. Larmore, Esq.
Lori V. Minassian, Esq.

DE CASTRO LAW GROUP, P.C.

Glenoaks Blvd., Suite 201

Los Angeles, California 91504

Tel: (310) 270-9877

Fax: (310) 341-2330

E-mail: jmdecastro@decastrolawgroup.com

E-mail: dlarmore@decastrolawgroup.com

E-mail: lminassian@decastrolawgroup.com

10.16. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), 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 if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.17. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure § 583.330 to extend the date to bring a case to trial under Code of Civil Procedure § 583.310 for the entire period of this settlement process.

[Signature Page Follows]

Plaintiff:

Dated: 4/16/2025

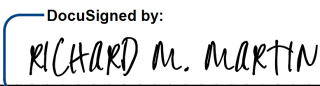
By:  Signed by: 4B29112A2A42455...
Tamika English

Defendant:

DEFENDANT, Haven Post Acute, LLC

Dated: 4/17/2025

By: RICHARD M. MARTIN
Print Name

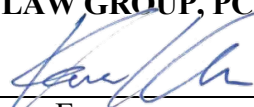
 DocuSigned by: 94CFB1CE999C4BB
Signature

Manager
Title

PAGA Counsel:

MOON LAW GROUP, PC

Dated: 04/16/2025

By: 
Kane Moon, Esq.
H. Scott Leviant, Esq.
Mariam Ghazaryan, Esq.

Attorneys for Plaintiff, Tamika English

Defendant's Counsel:

DE CASTRO LAW GROUP, P.C.

Dated: April 17, 2025

By: Jose-Manuel A. de Castro, Esq.
David G. Larmore, Esq.
Lori V. Minassian, Esq.

Attorneys for Defendant, Haven Post Acute, LLC

Exhibit “2”

Activities Export

05/06/2025
9:32 AM

Date	▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
03/20/2025		\$	Berger Consulting Group; Wire Payment KM ● Unbilled	02301-English Tamika English v. Haven Post Acute (SR)	Support Account	1.00	\$5,175.00	-	\$5,175.00
02/25/2025		\$	One Legal - Joint CMS ● Unbilled	02301-English Tamika English v. Haven Post Acute (SR)	Support Account	1.00	\$22.87	-	\$22.87
02/25/2025		\$	One Legal - Joint CMS ● Unbilled	02301-English Tamika English v. Haven Post Acute (SR)	Support Account	1.00	\$22.87	-	\$22.87
12/18/2024		\$	One Legal - Amended Complaint ● Unbilled	02301-English Tamika English v. Haven Post Acute (SR)	Support Account	1.00	\$20.86	-	\$20.86
11/20/2024		\$	SBSC - Docs Purchased ● Unbilled	02301-English Tamika English v. Haven Post Acute (SR)	Support Account	1.00	\$10.00	-	\$10.00
11/18/2024		\$	One Legal - PO ● Unbilled	02301-English Tamika English v. Haven Post Acute (SR)	Support Account	1.00	\$42.54	-	\$42.54
11/08/2024		\$	ACE - Chamber copies ● Unbilled	02301-English Tamika English v. Haven Post Acute (SR)	Support Account	1.00	\$208.25	-	\$208.25
11/08/2024		\$	One Legal - Stip & Order ● Unbilled	02301-English Tamika English v. Haven Post Acute (SR)	Support Account	1.00	\$42.54	-	\$42.54
11/04/2024		\$	One Legal - App & Decl ● Unbilled	02301-English Tamika English v. Haven Post Acute (SR)	Support Account	1.00	\$15.44	-	\$15.44
								\$0.00 0.00h	\$14,269.63 0.00h

Activities Export

Date	▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
10/23/2024		\$	One legal - Amended Complaint ● Unbilled	02301-English Tamika English v. Haven Post Acute (SR)	Support Account	1.00	\$15.44	-	\$15.44
10/21/2024		\$	English v. Haven Post Acute Michael Ludwig Paid via link from checking ● Unbilled	02301-English Tamika English v. Haven Post Acute (SR)	Kane Moon	1.00	\$7,000.00	-	\$7,000.00
09/10/2024		\$	ACE - Service of Process and Filing of POS of Summons ● Unbilled	02301-English Tamika English v. Haven Post Acute (SR)	Support Account	1.00	\$134.50	-	\$134.50
08/28/2024		\$	One Legal - Cert ● Unbilled	02301-English Tamika English v. Haven Post Acute (SR)	Support Account	1.00	\$20.68	-	\$20.68
08/20/2024		\$	One Legal - Complaint ● Unbilled	02301-English Tamika English v. Haven Post Acute (SR)	Support Account	1.00	\$1,538.64	-	\$1,538.64
								\$0.00 0.00h	\$14,269.63 0.00h

Exhibit “3”