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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

LUIS DE JESUS CLAUDIO, an individual, on
behalf of himself, and on behalf of all persons
similarly situated,

Plaintiff,

v.

UNI CARE HOME HEALTH INC., a
California Corporation; and DOES 1 through
50, Inclusive,

Defendants.

Case No. 37-2022-00003063-CU-OE-CTL

**DECLARATION OF JEAN-CLAUDE
LAPUYADE, ESQ. IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND PAGA ACTION SETTLEMENT**

Date: June 28, 2024
Time: 9:30 a.m.

Judge: Hon. Wendy M. Behan
Dept.: C-66

1 I, Jean-Claude Lapuyade, Esq., declare as follows:

2 1. I am over eighteen years of age and if called as a witness, I could and would competently
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner
4 of the law firm of JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am co-counsel of record for
5 Plaintiff LUIS DE JESUS CLAUDIO (hereafter "Plaintiff") in this wage and hour class action filed
6 against UNI CARE HOME HEALTH INC. (hereinafter "Defendant").

7 2. This declaration is being submitted in support of Plaintiff's motion for Preliminary
8 Approval of Class Action Settlement.

9 **I. EXHIBITS**

10 3. Attached hereto as **Exhibit "1"** is a true and correct copy of the fully executed Stipulation
11 of Settlement of Class and PAGA Action Claims and Release of Claims ("Agreement" or "Settlement
12 Agreement"). Attached as **Exhibit "A"** to the Agreement is a true and correct copy of the proposed
13 Class Notice.

14 4. Attached hereto as **Exhibit "2"** is a true and correct copy of the proof of filing with the
15 Labor and Workforce Development Agency notice of this settlement with the Settlement Agreement
16 and Motion for Preliminary Approval of Class Action and PAGA Action Settlement evidencing Class
17 Counsel's compliance with California Labor Code Section 2699(l)(2).

18 **II. INTRODUCTION**

19 5. An objective evaluation of the Settlement confirms that the relief negotiated on behalf of
20 the Class is fair, reasonable, and adequate. The Settlement was negotiated by the Parties at arm's length.
21 The Settlement confers substantial benefits to the Settlement Class. The relief offered by the Settlement
22 is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage
23 and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Class Members will
24 not have to wait (possibly years) for relief, nor will they have to bear the risk of class certification being
25 denied or of Defendant prevailing at trial. Given that there are approximately 151 Settlement Class
26 Members, **the average gross recovery is approximately \$1,398.45** (Net Settlement Amount divided by
27 Settlement Class Members.)

6. As discussed below, the proposed Settlement satisfies all criteria for preliminary settlement approval and falls within the range of reasonableness. The average Individual Settlement Payment to the Settlement Class meets or exceeds awards in similar wage and hour class actions. Moreover, the proposed Class is appropriate for provisional certification. Accordingly, Plaintiff respectfully requests the Court grant preliminary approval of the Settlement.

III. FACTS AND PROCEDURE

A. Overview of the Litigation

7. Defendant offers a full spectrum of home health care, hospice, in-home health and telehealth services, including in San Diego County where Plaintiff worked. This action asserts claims on behalf of all employees who are or previously were employed by Defendant who were paid in whole or in part on a piece-rate basis and performed work in California during the period beginning January 25, 2018 to March 5, 2024. At all times during his employment, Plaintiff was classified by Defendant as a non-exempt employee, paid on a piece-rate basis, and was entitled to legally compliant meal and/or rest periods, and minimum, regular and overtime wages for all hours worked. Throughout his employment, Plaintiff was subject to Defendant's written policies and procedures contained in, among other documents, the "Employee Handbook."

8. On January 10, 2022, Plaintiff served Defendant and the Labor and Workforce Development Agency (“LWDA”) with a Notice of Violations (“PAGA Notice”). Plaintiff’s PAGA Notice set forth the facts and theories supporting Defendant’s alleged violations of various provisions of the California Labor Code and applicable Industrial Welfare Commissions (“IWC”) Wage Order and of her intent to pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab. Code Sections 2698 et seq (“PAGA”).

9. On January 25, 2022, Plaintiff filed a class action complaint in the San Diego Superior Court, Case Number 37-2022-00003063-CU-OE-CTL (“Class Action”). The Class Action alleged eight causes of action against Defendant for: (1) Unfair Competition in Violation of California Business and Professions Code §§ 17200; (2) Failure to Pay Minimum Wages in Violation of California Labor Code §§ 1194, 1197 and 1197.1; (3) Failure to Pay Overtime Wages in Violation of California Labor Code

§§ 510 *et seq.*; (4) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 and 512; (5) Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 and 512; (6) Failure to Provide Accurate Itemized Wage Statements in Violation of Cal. Lab. Code §226; (7) Failure to Provide Wages When Due in Violation of Cal. Lab. Code §§ 201, 202 and 203; and (8) Failure to Reimburse Employees for Required Expenses.

10. On March 16, 2022, Plaintiff filed the operative First Amended Complaint, which added a ninth cause of action for Violations of the Private Attorneys General Act pursuant to Labor Code section 2698, *et seq.*

11. Generally, Plaintiff claims that Defendant failed to pay employees for all time worked, including overtime, failed to provide them with proper meal and rest breaks, failed to separately compensate employees for rest breaks and non-productive time, failed to reimburse for required business expenses, and failed to issue accurate itemized wage statements. Defendant forcefully denies liability for each of Plaintiff's claims. Further, Defendant asserts that it fully complied with all applicable employment laws and raised several other significant defenses to Plaintiff's claims, including but not limited to, facially compliant meal and rest period policies, payment of minimum wages and overtime reimbursed its employees for business expenses, compliant wage statements, and timely paid all wages due upon separation of employment.

12. Plaintiff commenced written discovery in July 2022. In August of 2022, Defendant filed its Motion to Compel Arbitration ("Defendant's Motion"), which was set for hearing in February 2023. While Defendant's Motion was pending, the Parties agreed to attend private mediation with Louis Marlin, Esq. on April 12, 2023. As such, the Parties agreed to continue the hearing on Defendant's Motion until after the Parties' mediation. The Parties' April 12, 2023 mediation was unsuccessful. Consequently, Defendant's Motion to Compel Arbitration was heard on June 9, 2023, and ultimately denied by the Court. Thereafter, Defendant appealed the Court's denial of its Motion. While Defendant's appeal was pending and prior to commencement of briefing in the appeal, the Parties continued to engage in arms-length settlement negotiations with Mr. Marlin's assistance and ultimately accepted a mediator's settlement proposal.

13. To facilitate settlement negotiations, the Parties agreed to informally produce additional documents and data points subject to the mediation privilege, including but not limited to, a sampling of the Class Members' time and payroll data, and pertinent written wage and hour policies. As discussed *infra*, Plaintiff's counsel retained the forensic consultants at Berger Consulting Group ("BCG") to analyze Defendant's time and payroll data.

14. On April 12, 2023, the Parties participated in a full day mediation with Louis Marlin, Esq., an experienced mediator of class and PAGA actions. Although the mediation was unsuccessful, the Parties ultimately a mediator's proposal, which was subsequently memorialized in the form of a Memorandum of Understanding. After reaching an agreement in principle, the Parties drafted and negotiated a long-form settlement agreement, which is the subject of the instant motion.

B. Class Counsel Thoroughly Investigated the Factual and Legal Issues

15. Months before filing the Action, Class Counsel began its pre-filing investigation into the Plaintiff's complaints. Class Counsel's investigation started with several lengthy interviews with Plaintiff. As part of the interview process, the Plaintiff produced documents related to his employment, including, among other things, copies of his wage statements. At the conclusion of the interviews, Class Counsel determined that each Plaintiff's complaints justified further inquiry.

16. Class Counsel subsequently requested Plaintiff's employee file from Defendant. In response, Defendant produced documents, including but not limited, Plaintiff's payroll and time records. Class Counsel reviewed and analyzed the documents and determined the documents appeared to substantiate Plaintiff's claim that Defendant failed to, among other things, pay for all time worked, including separate compensation for rest periods and non-productive time, and to provide compliant meal and rest periods.

17. Considering the many anticipated factual disputes, the Parties agreed that it would be in the best interest of both Parties to mediate the matter. To prepare for mediation, Class Counsel requested documents and data points to further evaluate Plaintiff's claims and Defendant's liability exposure to the Class Members. In response to Class Counsel's request, Defendant produced a sampling of Class Member time and payroll records, aggregate workweek and pay period data, and copies of applicable

1 policies, and agreements containing, *inter alia*, compensation, timekeeping and meal and rest period
2 policies. In total, Defendant produced over 500 pages of pertinent policy documents and over 80,000
3 unique cells of time and payroll data for Class Counsel to analyze.

4 18. Class Counsel then retained the statisticians and economists at BCG to evaluate the Class
5 Members' payroll and time data. BCG provides data analysis and damage modeling consulting services
6 specializing in wage and hour class actions. BCG's team of financial and data analysts are credentialed
7 and experienced experts in their fields and have provided their expertise on thousands of cases. Stated
8 differently, the BCG is uniquely qualified to analyze Defendant's time and payroll data.

9 19. BCG analyzed Defendant's time and payroll data to assist in the development of various
10 damage models. Among other things, BCG determined the approximate number of work shifts,
11 workweeks, pay periods, average length of shift and average number of hours worked per week and pay
12 periods during the Class Period. BCG also estimated the amount of paid missed meal period premiums
13 paid during the Class Period, the amount of unreimbursed business expenses, the amount of unpaid
14 wages owed, and the amount of off-the-clock work performed by the Class Members during the Class
15 Period.

16 20. In advance of mediation, Class Counsel created several damage models predicated on the
17 BCG analysis. Class Counsel's models calculated Defendant's potential liability exposure while
18 accounting for the uncertainties of continued litigation. These damage models informed and guided
19 Class Counsel during the mediated settlement discussions.

20 21. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1)
21 determining Plaintiff's suitability as a putative class representative through interviews, background
22 investigations, and analysis of her employment files; (2) evaluating all of Plaintiff's potential claims;
23 (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions,
24 and the type of employer; (4) analyzing the Class' time and payroll records; (5) analyzing Defendant's
25 labor policies and practices; (6) researching settlements in similar cases as well as outstanding issues
26 which could affect settlement approval; (7) evaluating Plaintiff's claims and estimating Defendant's
27 liability for purposes of settlement; (8) drafting the mediation brief; and (9) participating in the

1 mediation. This investigation allowed Class Counsel to fully assess the nature and magnitude of the
2 claims being settled, as well as the impediments to recovery, such as to make an independent assessment
3 of the reasonableness of the terms to which the Parties have agreed.

4 22. Class Counsel only agreed to enter the Settlement following this thorough investigation
5 and evaluation of Plaintiff's claims. Based on his investigation of the facts, applicable law, and
6 marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated
7 with litigation, and the various defenses asserted by Defendants, Class Counsel firmly believes this
8 Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair,
9 reasonable, and adequate, the Court should preliminarily approve the Settlement.

10 **C. The Parties Settled at Mediation**

11 23. On April 12, 2023, the Parties conducted a full day of mediation with Louis Marlin, Esq.,
12 an experienced mediator of wage and hour class and PAGA actions. Mr. Marlin helped manage the
13 Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. The
14 Parties made substantial progress with Mr. Marlin's assistance. Namely, the Parties exchanged
15 information regarding their respective claims and defense, including their respective evaluation of the
16 damages. Despite a full day of arm's length and adversarial negotiations, the mediation concluded
17 without a settlement. However, the Parties ultimately accepted a mediator's proposal, which was
18 subsequently memorialized in the form of a Memorandum of Understanding. The complete and final
19 terms of the Parties' settlement are now set forth in the Agreement. Class Counsel submits that the
20 Settlement constitutes a fair, adequate, and reasonable compromise of the claims at issue.

21 **IV. ARGUMENT**

22 **A. The Court Should Preliminarily Approve the Settlement**

23 24. The Gross Settlement Amount of \$400,000.00 is well within the range of reasonableness
24 considering the nature and magnitude of the claims being settled and the various potential impediments
25 to recovery. Class Counsel retained BCG to develop economic damage models measuring Defendant's
26 potential liability exposure with respect to the Class and PAGA claims. The damage models were
27 informed by Class Counsel's investigation, including the analysis of the time and payroll data

1 Defendant produced. Class Counsel projected Defendant's liability exposure for *class claims* (excluding
2 penalties) at \$2,346,365.93 and Defendant's *maximum* exposure (including waiting time and wage
3 statement penalties) at \$2,905,445.93. Thus, the Gross Settlement Amount of \$400,000.00 represents
4 approximately 17.04% of Defendant's *class-wide* liability exposure and 13.76% of Defendant's
5 *maximum* exposure. The following summarizes Defendant's estimated exposure.

6 (1) Estimated Damages for Unpaid Wages and Rest Periods Due to Defendant's Failure to
7 Separately Compensate for Non-Productive Time and Rest Periods

8 25. Here, Plaintiff alleged that Defendant's piece-rate compensation plan violated California
9 minimum wage and overtime laws because it failed to separately compensate the Class Members for all
10 non-productive time, including rest periods. For example, Plaintiff alleged that he and other Class
11 Members were not compensated for traveling to and from visits with patients and patient charting before
12 and after visits. Further, Plaintiff alleged Defendant's piece-rate pay plan failed to provide separate
13 compensation for paid rest periods because (1) Class Members were compensated on a piece-rate basis
14 and, logically, could not perform work tasks while on a rest period; and (2) Class Members did not
15 receive separate compensation for paid rest periods. Defendant contended that it fully complied with
16 California labor laws, including those for piece-rate based employees, and paid Plaintiff and Class
17 Members for all of their time worked, including separate compensation for non-productive time,
18 including rest periods. Assuming 1-hour unpaid non-productive work per shift, which includes 10-20
19 minutes for separately paid rest periods per shift, Plaintiff estimated Defendant's potential exposure for
20 this claim to be \$2,106,115.33.

21 (2) Estimate Damages for Meal Period Violations

22 26. Plaintiff also alleged that Defendant failed to provide compliant meal periods.
23 Specifically, Plaintiff alleges that due to rigorous work schedules imposed by Defendant, Plaintiff was
24 regularly seeing patients during what was supposed to be his meal period. As a result, Plaintiff and the
25 Class Members regularly suffered from late, short, missed or interrupted meal periods.

26 27. Plaintiff alleged that Defendant's rigorous work requirements caused Plaintiff and Class
27 Members to forego compliant meal periods because they were regularly required to see patients during
28

1 what was supposed to be their off-duty meal periods. Defendant contends that they fully complied with
2 California meal period laws and maintained compliant policies and practices. Similarly, Defendant
3 argued that many Class Members did not work shifts long enough to entitle them to meal periods and,
4 as such, argued any divergence from its written policies were not systematic and, if they existed at all,
5 were individualized. Courts have found that where an employer's meal period policies are compliant,
6 individualized issues exist as to the reasons for missed, late, or truncated meal periods. *See e.g. Lampe*
7 *v. Queen of the Valley Medical Center*, 19 Cal.App.5th 832, 851 (2018) (holding that although only
8 11.1% of the employees' time punches for meal periods were within the first 5 hours, the claim was not
9 certifiable because individualized issues existed as to the reasons for the late meal periods). Plaintiff's
10 expert found that the number of shifts that were long enough to entitle Class Members to meal periods
11 was relatively low. In light of the foregoing, and considering Defendant's defenses, Plaintiff assumed
12 a conservative one meal break violation per week (20% violation rate) and estimated Defendant's
13 potential exposure for this claim to be \$240,250.60.

14 (3) Exposure for Wage Statement Violations and Waiting Time Penalties

15 28. Plaintiff also alleged that the Defendant's labor code violations resulted in derivative
16 liability for wage statement violations and waiting time penalties. Class Counsel considered the
17 arguable presence of various penalties and weighed the potential recoveries against probable defenses.
18 Specifically, Defendant argued that Plaintiff could not prove the "willful" prong needed to obtain
19 waiting time penalties under Labor Code section 203. Additionally, Defendant argued that Plaintiff
20 could not show that Class Members suffered an "injury" because of wage statement violations, as
21 required by Labor Code section 226. (*Naranjo v. Spectrum Security Services, Inc.* (2023) 88
22 Cal.App.5th 927.) Notwithstanding the uncertain nature of the claims, Plaintiff estimated Defendant's
23 exposure for these penalties to be approximately \$559,080 (\$316,830 for Labor Code section 203
24 penalties and \$242,250 for Labor Code section 226 penalties.

25 (4) Defendant's PAGA Exposure

26 29. Class Counsel's damage models also estimate Defendant's exposure for PAGA penalties
27 arising from the aforementioned violations. At the time of mediation, Plaintiff estimate Defendant's
28

1 the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring
2 settlement.

3 33. Finally, continuing to litigate this action would require continued and extensive resources
4 coupled with significant Court time to proceed through trial and post-trial motions; which can often
5 take years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates
6 extensive expert testimony, particularly with regards to damages. But even if Plaintiff is successful at
7 trial, Plaintiff is acutely aware that a judgment does not end the litigation. Plaintiff fully expects that
8 Defendant would appeal any favorable judgment. As demonstrated by *Magadia, supra*, 999 F.3d 668,
9 the risk of an appeal and subsequent reversal is real.

10 34. In this matter, Class Counsel negotiated a Gross Settlement Amount of \$400,000.00 that
11 is roughly 17.04% Defendant's liability exposure for class damages. Given the amount of the settlement
12 here, as compared to potential value of the claims, offset by the various inherent risks to continued
13 litigation, the settlement is fair and reasonable.

14 **B. Proposed Notice Informs the Class About the Case and Settlement**

15 35. The Parties jointly drafted the Class Notice which fairly and neutrally informs the Class
16 Members of their rights and remedies. The Settlement Administrator will first verify addresses, then
17 mail the proposed Class Notice to all Class Members. The Notice will include information regarding
18 the nature of the lawsuit, a summary of the substance of the Settlement's terms, the class definition, the
19 procedure and time period within which to requests for exclusions or objections to the Settlement, the
20 date for the final approval hearing, the formula used to calculate settlement payments, and the terms
21 and scope of the Released Class Claims. Agreement at § III(J)(2)(a). This method was negotiated by
22 the Parties to ensure delivering the most reasonable method of notice to the Class Members while
23 ensuring cost effective administration of the Settlement.

24 36. Accordingly, both the method of disseminating the Class Notice and content of
25 the Class Notice satisfy due process and the requirements of California law. (*See* C.R.C. 3.776(e)-(f);
26 *State of Cal. v. Levi Strauss* (1986) 41 Cal.3d 460,485 (the class notice must "fairly apprise the class
27

1 members of the terms of the proposed compromise and of the options open to dissenting class
2 members.”).)

3 **C. The Court Should Preliminarily Approve the Enhancement Award**

4 37. Approximately 151 Class Members will share in the Net Settlement Amount due entirely
5 to the effort and commitment of Plaintiff. Subject to Court approval, therefore, the Settlement provides
6 for a Service Award of \$10,000 for Plaintiff. The service award is fair and reasonable compensation
7 for the Plaintiff’s efforts bringing the action, assisting Class Counsel with the litigation and settlement,
8 regularly conferring with Class Counsel on the status of his case and the strategies for prosecuting the
9 claims, reviewing the proposed Settlement to ensure that its terms are fair and provide adequate relief
10 for the Settlement Class.

11 38. Class Counsel on behalf of Plaintiff will file a formal motion for the negotiated Service
12 Award once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the
13 above showing is sufficient for preliminary approval of the negotiated Service Award.

14 **D. The Court Should Preliminary Approve the Negotiated Class Counsel Award**

15 39. Class Counsel took this matter on a contingency fee basis and invested significant time
16 and expense successfully prosecuting Plaintiff’s claims. As discussed *supra*, the estimated average
17 Individual Settlement Payment illustrates the demonstrably positive outcome for the Class Members.
18 The Agreement provides for a payment of Attorneys’ Fees and Attorneys’ Expenses and in the amount
19 of one-third of the Gross Settlement Amount (\$133,333.33) and reimbursable litigations costs in an
20 amount not to exceed \$20,000. Agreement § III(K)(10). Considering the positive outcome for the Class
21 Members, and in light of the supporting authority, the proposed Attorneys’ Fees and Attorneys’
22 Expenses are fair and reasonable. Plaintiff will file a formal motion for the negotiated Attorneys’ Fees
23 and Attorneys’ Expenses once preliminary approval of the Settlement is granted. Plaintiff respectfully
24 submits that the above showing is sufficient for preliminary approval of the negotiated attorneys’ fees.

25 **E. The Court Should Provisionally Certify the Settlement Class**

26 40. For Settlement, Plaintiff contends, and Defendant does not dispute, that provisional
27 certification of the Class is appropriate.

41. Because all Class Members are Defendant's current and former employees, the class is readily ascertainable from Defendant's regular business records, i.e., payroll records.

42. The California statutes relating to each of Plaintiff's claims apply with equal force and effect to the entire Settlement Class. Factually, Defendant's policies and practices apply class-wide and Defendant's liability can be determined by facts common to all members of the class. The wage and hour issues are both numerous and substantial, and a class action is the most advantageous method of dealing with the claims of the Settlement Class.

43. Plaintiff's wage and hour claims are typical of the proposed Settlement Class because they arise from the same factual basis and are based on the same legal theories applicable to the other Class Members. Likewise, Plaintiff's interests are entirely coextensive with the interests of the Settlement Class. Plaintiff alleges that he was injured by the same company-wide practices to which the proposed Class Members were subject to and seek the same relief. Plaintiff has already demonstrated his ability to advocate for the interests of the Class Members by initiating this litigation, undertaking extensive class discovery, and evaluating the proposed settlement to assure that it is fair.

44. A class action is superior to a multitude of individual lawsuits. Given the size and amount of each individual claim, the Class Members likely have little incentive to litigate their claims on an individual basis because the out-of-pocket expense and personal commitment necessary to litigate each claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-case adjudication.

F. Class Counsel’s Experience

45. Plaintiff and Class Members are represented by competent and experienced counsel to pursue their claims. I established the JCL Law Firm, APC (“Firm”), in 2010. The Firm is a boutique plaintiff firm representing aggrieved employees and consumers throughout California in wage and hour class actions, PAGA Actions and complex multi-party product liability matters. The Firm currently consists of myself, Jean-Claude Lapuyade, Esq. (Partner/Owner), Sydney Castillo-Johnson, Esq. (Associate Attorney), Perssia Razma, Esq. (Associate Attorney), Monnett De La Torre, Esq.

(Associate Attorney), Andrea Amaya, Esq. (Associate Attorney), Tesla Stone (Paralegal), Jennifer Heming (Paralegal), and Nicole Teller (Legal Assistant).

46. I am qualified to represent the Plaintiff, the State of California, and the Class Members. I have extensive experience with wage and hour class and representative actions litigation like this matter, and employment matters in general. Additionally, I have extensive complex mass tort litigation experience and complex construction product liability experience. I can, will and have adequately represented the interests of the Plaintiff and Class Members throughout this action.

47. I have represented consumers and employees in California class actions, and complex multi-party product liability actions exclusively for more than 14 years. I have been in practice as a plaintiffs' civil litigation attorney since April 2007.

48. I have significant class counsel and collective action counsel experience, as outlined in the firm resume.

49. Since 2010, I have successfully tried two (2) cases to conclusion, each resulting in a favorable verdict for the firm's clients.

50. Finally, I have published appellate experience in *William Blanchette et al., v. The Superior Court of Imperial County, (GHA Enterprises)*, 8 Cal.App.5th 521 and *Duran v. EmployBridge Holding Company, LLC*, 92 Cal.App.5th 59 (2023).

51. Consequently, I was named to the prestigious Thomson Reuters, Super Lawyers, Rising Star in 2015, 2016, 2017 and, again, in 2018. According to Thomson Reuters, the Super Lawyers, Rising Star list recognizes the top 2.5% of eligible attorneys. (see https://www.superlawyers.com/about/selection_process.html.)

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 4th day of June 2024, at San Diego, California.

JCL LAW FIRM, APC

By: 
Jean-Claude Lapuyade
Attorneys for Plaintiff

EXHIBIT 1

ZAKAY LAW GROUP, APLC

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Attorneys for Plaintiff LUIS DE JESUS CLAUDIO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

LUIS DE JESUS CLAUDIO, an individual, on
behalf of himself, and on behalf of all persons
similarly situated,

Plaintiff,

v.

UNI CARE HOME HEALTH INC., a
California corporation; and DOES 1-50,
Inclusive,

Defendants.

Case No. 37-2022-00003063-CU-OE-CTL

[Complaint Filed: January 25, 2022]

**STIPULATION OF SETTLEMENT OF
CLASS AND PAGA ACTION CLAIMS
AND RELEASE OF CLAIMS**

STIPULATION OF SETTLEMENT OF CLASS AND PAGA ACTION AND RELEASE OF CLAIMS

This Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims is entered into by and between Plaintiff Luis De Jesus Claudio (hereinafter “Plaintiff”), an individual, on behalf of himself, and on behalf of all persons similarly situated, and in his representative capacity on behalf of the State of California and the Aggrieved Employees, and Defendant Uni Care Home Health Inc., a California corporation (“Defendant”):

I. DEFINITIONS

- A. “Action” shall mean the putative class and representative action lawsuit designated *Luis De Jesus Claudio v. Uni Care Home Health Inc., et al.*, San Diego County Superior Court, Case No. 37-2022-00003063-CU-OE-CTL, filed January 25, 2022.
- B. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims.
- C. “Aggrieved Employees” means all employees who are or previously were employed by Uni Care Home Health Inc. who were paid in whole or in part on a piece-rate basis and performed work in California during the PAGA Period.
- D. “Aggrieved Employee Payment” shall mean the twenty-five percent (25%) of the PAGA Payment (\$20,000.00) that will be distributed to the Aggrieved Employees as described in this Agreement.
- E. “Class” or the “Class Members” means all employees who are or previously were employed by Uni Care Home Health Inc. who were paid in whole or in part on a piece-rate basis and performed work in California during the Class Period.
- F. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC, and Shani O. Zakay, Esq. of Zakay Law Group, APLC.
- G. “Class Counsel Award” means the award of fees and expenses that the Court authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff, the Class Members and the Aggrieved Employees in the Action, consisting of attorneys’ fees currently not to exceed one-third of the Gross Settlement Amount currently estimated to be \$133,333.33 out of \$400,000.00 plus costs of up to

\$20,000.00. Attorneys' fees will be divided between Class Counsel in the following percentages (50% to JCL Law Firm, APC, and 50% to Zakay Law Group, APLC).

H. "Class Data" means information regarding Class Members that Defendant will in good faith compile from its records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class Member's full name; last known address; Social Security Number; start dates and end dates of employment.

I. "Class Period" means the period beginning January 25, 2018 to March 5, 2024.

J. "Class Representative" shall mean plaintiff Luis De Jesus Claudio.

K. "Court" means the Superior Court for the State of California, County of San Diego currently presiding over the Action.

L. "Defendant" shall mean Uni Care Home Health Inc.

M. "Effective Date" means the later of: (a) if any Class Member validly submits a Notice of Objection, the date on which the time for appeals from any Order ruling on the objections or granting Final Approval of the Settlement has run; (b) the resolution of any appeal, filed by a Class Member who validly submitted a Notice of Objection, from any Orders ruling on any objection or granting Final Approval of the Settlement; or (c) in the event there are no objections submitted and/or all objections submitted have been withdrawn, then the date the Court enters the Final Order and Judgment approving the Settlement.

N. "Final Approval" and/or "Final Approval Order" means the Court's order granting final approval of the Settlement and "Final Approval Date" means the date that the Court signs the Final Approval Order.

O. "Funding Date" shall mean the date by which Defendant must pay the entire Gross Settlement Amount to the Settlement Administrator in accord with the terms of this Agreement. Defendant will pay the Gross Settlement Amount plus the amount of the employer's side payroll tax to the Settlement Administrator within thirty (30) calendar

1 days after the Parties approve the Settlement Administrator’s final calculations of the
2 Settlement payments, which the Settlement Administrator shall provide within fifteen
3 (15) calendar days of the Effective Date.

4 P. “Gross Settlement Amount” means Four Hundred Thousand Dollars and Zero Cents
5 (\$400,000.00) that Defendant must pay into the QSF in connection with this
6 Settlement, inclusive of the sum of Settlement Administration Costs, Class Counsel
7 Award, Service Award, and the PAGA Payment. The Gross Settlement Amount is
8 all-in with no reversion and *exclusive* of the employer’s share of payroll tax, if any,
9 triggered by any payment under this Settlement.

10 Q. “Individual Settlement Payments” means the amount payable from the Net Settlement
11 Amount to each Settlement Class Member and excludes any amounts distributed to
12 Aggrieved Employees pursuant to PAGA.

13 R. “LWDA” shall mean the Labor and Workforce Development Agency.

14 S. “LWDA Payment” shall mean the seventy-five percent (75%) of the PAGA Payment
15 (\$15,000.00) payable to the to the LWDA.

16 T. “Net Settlement Amount” or “NSA” means the Gross Settlement Amount, less Class
17 Counsel Award, Service Award, PAGA Payment, and Settlement Administration
18 Costs.

19 U. “Notice Packet” means the Class Notice to be provided to the Class Members by the
20 Settlement Administrator in the form set forth as **Exhibit A** to this Agreement (other
21 than formatting changes to facilitate printing by the Settlement Administrator).

22 V. “Operative Complaint” shall mean the First Amended Complaint filed by Plaintiff on
23 March 16, 2022, in the San Diego County Superior Court.

24 W. “PAGA” means the California Labor Code Private Attorneys General Act of 2004,
25 Labor Code § 2698 *et seq.*

- 1 X. "PAGA Payment Ratio" means the respective Pay Periods during the PAGA Period
2 for each Aggrieved Employee divided by the total Pay Periods for all Aggrieved
3 Employees during the PAGA Period.
- 4 Y. "PAGA Pay Periods," for purposes of calculating the distribution of the Aggrieved
5 Employee Payment, as defined herein, means the number of pay periods of
6 employment during the PAGA Period that each Aggrieved Employee worked in
7 California.
- 8 Z. "PAGA Period" means the period beginning January 10, 2021 to March 5, 2024.
- 9 AA. "PAGA Payment" shall mean Twenty Thousand Dollars and Zero Cents (\$20,000.00)
10 to be allocated from the Gross Settlement Amount for settlement of PAGA Claims
11 asserted in the Action.
- 12 BB. "Parties" means Plaintiff and Defendant, collectively, and "Party" shall mean either
13 Plaintiff or Defendant, individually.
- 14 CC. "Payment Ratio" means the respective Workweeks for each Class Member divided
15 by the total Workweeks for all Class Members.
- 16 DD. "Plaintiff" shall mean Luis De Jesus Claudio.
- 17 EE. "Plaintiff's and Defendant's Release" means all claims that were or could have been
18 made by Plaintiff in his individual capacity against the Released Parties (as defined
19 below), and all claims that were or could have been made by Defendant against
20 Plaintiff, including a waiver of any and all provisions of California Civil Code section
21 1542, except only for claims by law cannot be waived by private agreement.
- 22 FF. "QSF" means the Qualified Settlement Fund established, designated, and maintained
23 by the Settlement Administrator to fund the Gross Settlement Amount.
- 24 GG. "Released Class Claims" shall mean the release from the Settlement Class Members
25 of all claims alleged in the Action or which could have been alleged in the Action
26 based on the facts alleged in the operative pleading (including without limitation for
27 violations or damages relating to meal periods, rest periods, pay stubs, off the clock

work, unpaid regular and overtime wages, late payment of wages, record keeping, record production, waiting time penalties and unreimbursed business expenses) which arose during the Class Period, and, expressly excluding claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period.

HH. "Released PAGA Claims" shall mean the release from the Aggrieved Employees of all PAGA claims alleged in the Action or which could have been alleged in the Action based on the facts alleged in the operative pleading and/or Plaintiff's PAGA notice to the LWDA (including without limitation for violations or damages relating to meal periods, rest periods, pay stubs, off the clock work, unpaid regular and overtime wages, late payment of wages, record keeping, record production, waiting time penalties and unreimbursed business expenses) which arose during the PAGA Period.

II. "Released Parties" shall mean Defendant, all related companies, and each of Defendant's subsidiaries, owners, shareholders, members, agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees), predecessors, successors and assigns.

JJ. "Response Deadline" means the date forty-five (45) calendar days after the Settlement Administrator mails Notice Packets to Class Members and the last date on which Class Members may submit requests for exclusion or objections to the Settlement. Neither side shall encourage any Class Member to object or to opt out.

KK. "Service Award" means an award in the amount of \$10,000.00 or in an amount that the Court authorizes to be paid to the Class Representative, in addition to his Individual Settlement Payment and his individual Aggrieved Employee Payment, in recognition of his efforts and risks in assisting with the prosecution of the Action.

LL. "Settlement" means the disposition of the Action pursuant to this Agreement.

1 MM. "Settlement Administration Costs" shall mean the amount paid to the Settlement
2 Administrator from the Gross Settlement Amount for administering the Settlement
3 pursuant to this Agreement currently estimated not to exceed \$5,500.00.

4 NN. "Settlement Administrator" means Apex Class Action LLC, located at 18 Technology
5 Drive, Suite 164, Irvine, CA 92618; Tel: (800) 355-0700. The Settlement
6 Administrator establishes, designates, and maintains, as a QSF under Internal
7 Revenue Code section 468B and Treasury Regulation section 1.468B-1, into which
8 the amount of the Gross Settlement Amount is deposited for the purpose of resolving
9 the claims of Settlement Class Members. The Settlement Administrator shall maintain
10 the funds until distribution in an account(s) segregated from the assets of Defendant
11 and any person related to Defendant. *All accrued interest shall be paid and*
12 *distributed to the Settlement Class Members as part of their respective Individual*
13 *Settlement Payment.*

14 OO. "Settlement Class Members" or "Settlement Class" means all Class Members who
15 have not submitted a timely and valid request for exclusion as provided in this
16 Agreement.

17 PP. "Workweeks," for purposes of calculating the distribution of the Net Settlement
18 Amount, shall mean any seven (7) consecutive days beginning on Sunday and ending
19 on Saturday, in which a Class Member is employed and received any form of
20 compensation from Defendant. The Workweeks will be calculated based on
21 Defendant's workweek data and will be presumed to be correct, unless a particular
22 Class Member proves otherwise to the Settlement Administrator by credible written
23 evidence. All workweek disputes will be resolved and decided by the Settlement
24 Administrator, and the Settlement Administrator's decision on all workweeks
25 disputes will be final and non-appealable.

1 **II. RECITALS**

2 A. On January 10, 2022, Plaintiff filed a Notice of Violations with the Labor and
3 Workforce Development Agency (LWDA) and served the same on Defendant.

4 B. On January 25, 2022, Plaintiff filed a complaint in the San Diego Superior Court,
5 Case No. 37-2022-00003063-CU-OE-CTL, alleging claims for:

- 6 1. Unfair Competition In Violation Of Cal. Bus. & Prof. Code §17200 *et seq*;
- 7 2. Failure To Pay Minimum Wages In Violation Of Cal. Lab. Code §§ 1194,
8 1197 & 1197.1;
- 9 3. Failure To Pay Overtime Wages In Violation Of Cal. Lab. Code §§ 510, *et*
10 *seq*;
- 11 4. Failure To Provide Required Meal Periods In Violation Of Cal. Lab. Code §§
12 226.7 & 512 and the Applicable IWC Wage Order;
- 13 5. Failure To Provide Required Rest Periods In Violation Of Cal. Lab. Code §§
14 226.7 & 512 and the Applicable IWC Wage Order;
- 15 6. Failure To Provide Accurate Itemized Statements In Violation Of Cal. Lab.
16 Code § 226;
- 17 7. Failure To Provide Wages When Due In Violation Of Cal. Lab. Code §§ 201,
18 202 and 203;
- 19 8. Failure To Reimburse Employees For Required Expenses In Violation Of Cal.
20 Lab. Code § 2802.

21 C. On March 16, 2022, Plaintiff filed the operative First Amended Complaint in the
22 Action, adding a ninth cause of action for Violations of the Private Attorney General
23 Act pursuant to Labo Code section 2698, *et seq*.

24 D. The Class Representative believes he has claims based on alleged violations of the
25 California Labor Code, and the Industrial Welfare Commission Wage Orders, and
26 that class certification is appropriate because the prerequisites for class certification
27

1 can be satisfied in the Action, and this action is manageable as a PAGA representative
2 action.

3 E. Defendant denies any liability or wrongdoing of any kind associated with the claims
4 alleged in the Action, disputes any wages, damages and penalties claimed by the Class
5 Representative, alleged in the Operative Complaint, and/or alleged in the Class
6 Representative's PAGA notices to the LWDA are owed, and further contends that,
7 for any purpose other than settlement, the Action is not appropriate for class or
8 representative action treatment. Defendant contends, among other things, that at all
9 times they complied with the California Labor Code and the Industrial Welfare
10 Commission Wage Orders, and that Plaintiff's claims are required to be compelled to
11 individual arbitration pursuant to a valid Arbitration Agreement.

12 F. The Class Representative is represented by Class Counsel. Class Counsel investigated
13 the facts relevant to the Action, including conducting an independent investigation as
14 to the allegations, reviewing documents and information exchanged through informal
15 discovery, and reviewing documents and information provided by Defendant
16 pursuant to informal requests for information to prepare for mediation. Defendant
17 produced for the purpose of settlement negotiations certain employment data
18 concerning the Class, which Class Counsel reviewed and analyzed with the assistance
19 of an expert. Based on their own independent investigation and evaluation, Class
20 Counsel are of the opinion that the Settlement with Defendant is fair, reasonable, and
21 adequate, and is in the best interest of the Class considering all known facts and
22 circumstances, including the risks of significant delay, defenses asserted by
23 Defendant, uncertainties regarding class certification, and numerous potential
24 appellate issues. Although it denies any liability, Defendant agrees to this Settlement
25 solely to avoid the inconveniences and cost of further litigation. The Parties and their
26 counsel have agreed to settle the claims on the terms set forth in this Agreement.

1 G. On April 12, 2023, the Parties participated in mediation presided over by Louis
2 Marlin, an experienced mediator of wage and hour class and PAGA actions.
3 Although the mediation was unsuccessful, the Parties ultimately accepted a
4 Mediator's settlement proposal, which was subsequently memorialized in the form of
5 a Memorandum of Understanding.

6 H. This Agreement replaces and supersedes the Memorandum of Understanding and any
7 other agreements, understandings, or representations between the Parties. This
8 Agreement represents a compromise and settlement of highly disputed claims.
9 Nothing in this Agreement is intended or will be construed as an admission by
10 Defendant that the claims in the Action of Plaintiff or the Class Members have merit
11 or that Defendant bears any liability to Plaintiff or the Class on those claims or any
12 other claims, or as an admission by Plaintiff that Defendant's defenses in the Action
13 have merit.

14 I. The Parties believe that the Settlement is fair, reasonable, and adequate. The
15 Settlement was arrived at through arm's-length negotiations, considering all relevant
16 factors. The Parties recognize the uncertainty, risk, expense, and delay attendant to
17 continuing the Action through trial and any appeal. Accordingly, the Parties desire to
18 settle, compromise and discharge all disputes and claims arising from or relating to
19 the Action fully, finally, and forever.

20 J. The Parties agree to certification of the Class for purposes of this Settlement only. If
21 for any reason the settlement does not become effective, Defendant reserves the right
22 to contest certification of any class for any reason and reserve all available defenses
23 to the claims in the Action. The Settlement, this Agreement, and the Parties'
24 willingness to settle the Action will have no bearing on and will not be admissible in
25 connection with any further litigation of the Action other than to enforce the terms of
26 this Agreement.

27 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

1 **III. TERMS OF AGREEMENT**

2 A. Settlement Consideration and Settlement Payments by Defendant.

3 1. Settlement Consideration. In full and complete settlement of the Action, and
4 in exchange for the releases set forth below, Defendant will pay the sum of
5 the Individual Settlement Payments, the Service Award, the Class Counsel
6 Award, PAGA Payment, and the Settlement Administration Costs, as
7 specified in this Agreement, equal to the Gross Settlement Amount of Four
8 Hundred Thousand Dollars and Zero Cents (\$400,000.00). The Parties agree
9 that this is a non-reversionary Settlement and that no portion of the Gross
10 Settlement Amount shall revert to Defendant. Other than the Defendant's
11 share of employer payroll taxes and as provided in Section III.A.2 below,
12 Defendant shall not be required to pay more than the Gross Settlement
13 Amount.

14 2. Class Size. Defendant represents that the Class was comprised of
15 approximately 151 individuals who collectively worked approximately
16 12,332 Workweeks during the Class Period. If the final accounting of the
17 number of Workweeks during the Class Period is more than 12,543
18 Workweeks, Defendant shall notify Plaintiff and the Class Period will be
19 deemed to end on the date that the total number of Workweeks in the Class
20 Period exceeds 12,543.

21 3. Settlement Payment. Defendant shall deposit the Gross Settlement Amount
22 into the QSF, through the Settlement Administrator on or before the Funding
23 Date. Any interest accrued will be added to the NSA and distributed to the
24 Settlement Class Members except that if final approval is reversed on appeal,
25 then Defendant is entitled to prompt return of the principal and all interest
26 accrued.

1 4. Defendant's Share of Payroll Taxes. Defendant's share of employer side
2 payroll taxes is in addition to the Gross Settlement Amount and shall be paid
3 together with the Gross Settlement Amount by the Funding Date.

4 B. Release by Settlement Class Members. Upon entry of final judgment and funding of
5 the Gross Settlement Amount, in exchange for the consideration set forth in this
6 Agreement, Plaintiff and the Settlement Class Members release the Released Parties
7 from the Released Class Claims.

8 C. Release by the Aggrieved Employees. Upon entry of final judgment and funding of
9 the Gross Settlement Amount, in exchange for the consideration set forth in this
10 Agreement, the Plaintiff, the LWDA and the State of California release the Released
11 Parties from the Released PAGA Claims. As a result of this release, the Aggrieved
12 Employees shall be precluded from bringing claims against the Released Parties for
13 the Released PAGA Claims.

14 D. General Release by the Parties. Upon entry of final judgment and funding of the Gross
15 Settlement Amount, for the consideration set forth in this Agreement, the Plaintiff
16 waives, releases, acquits and forever discharges the Released Parties, and Defendant
17 waives, releases, acquits and forever discharges Plaintiff, from any and all claims,
18 whether known or unknown, which exist or may exist on each respective Party's behalf
19 as of the date of this Agreement, including but not limited to any and all tort claims,
20 contract claims, unfair competition claims, wage claims, wrongful termination claims,
21 disability claims, benefit claims, public policy claims, retaliation claims, statutory
22 claims, personal injury claims, emotional distress claims, invasion of privacy claims,
23 defamation claims, fraud claims, quantum meruit claims, and any and all claims arising
24 under any federal, state or other governmental statute, law, regulation or ordinance,
25 including, but not limited to claims for violation of the Fair Labor Standards Act, the
26 California Labor Code, the Wage Orders of California's Industrial Welfare
27 Commission, other state wage and hour laws, the Americans with Disabilities Act, the

1 Age Discrimination in Employment Act (ADEA), the Employee Retirement Income
2 Security Act, Title VII of the Civil Rights Act of 1964, the California Fair Employment
3 and Housing Act, the California Family Rights Act, the Family Medical Leave Act,
4 California's Whistleblower Protection Act, California Business & Professions Code
5 Section 17200 et seq., and any and all claims arising under any federal, state or other
6 governmental statute, law, regulation or ordinance. The Parties also waive and
7 relinquish any and all claims, rights or benefits that they may have under California
8 Civil Code § 1542, which provides as follows:

9
10 ***A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE***
11 ***CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO***
12 ***EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE***
13 ***RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE***
14 ***MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR***
15 ***OR RELEASED PARTY.***

16
17 Thus, notwithstanding the provisions of section 1542, and to implement a full and
18 complete release and discharge of the Released Parties and Plaintiff, the Parties
19 expressly acknowledge this Settlement Agreement is intended to include in its effect,
20 without limitation, all claims the Parties do not know or suspect to exist in each Party's
21 favor at the time of signing this Settlement Agreement, and that this Settlement
22 Agreement contemplates the extinguishment of any such claims. The Parties warrant
23 that they have read this Settlement Agreement, including this waiver of California
24 Civil Code section 1542, and that they have consulted with or had the opportunity to
25 consult with counsel of their choosing about this Settlement Agreement and
26 specifically about the waiver of section 1542, and that the Parties understand this
27 Settlement Agreement and the section 1542 waiver, and so the Parties freely and

1 knowingly enter into this Settlement Agreement. The Parties further acknowledge that
2 they later may discover facts different from or in addition to those they now know or
3 believe to be true regarding the matters released or described in this Settlement
4 Agreement, and even so the Parties agree that the releases and agreements contained
5 in this Settlement Agreement shall remain effective in all respects notwithstanding any
6 later discovery of any different or additional facts. The Parties expressly assume any
7 and all risk of any mistake in connection with the true facts involved in the matters,
8 disputes, or controversies released or described in this Settlement Agreement or with
9 regard to any facts now unknown to the Parties relating thereto. Nothing in this release
10 prevents or restricts the disclosure of factual information related to a claim filed in a
11 civil action or a complaint filed in an administrative action with respect to an act of
12 sexual assault, sexual harassment, or *any* prohibited workplace harassment or
13 discrimination, failure to prevent an act of workplace harassment or discrimination, or
14 retaliation against a person for reporting or opposing harassment or discrimination
15 under FEHA. The Parties acknowledge that they have had more than 5 business days
16 to consult an attorney of their choice, at their own expense, and that they have done
17 so. The Parties may sign this Agreement prior to the end of this period and if they do
18 so they specifically acknowledge and agree that their decision to accept this shortening
19 of time is knowing and voluntary and is not induced by the other Party through fraud,
20 misrepresentation, or a threat to withdraw or alter the offer prior to the expiration of
21 the reasonable time period, or by providing different terms to employees who sign such
22 an agreement prior to the expiration of such time period.

23 E. Nullification of Settlement Agreement. In the event: (i) the Court does not enter the
24 Final Order specified herein; (ii) the Court does not issue an order finally approving
25 the Settlement, as provided herein, or said order does not become final as a result of
26 the occurrence of the Effective Date; (iii) Defendant elects to terminate the Settlement
27 as set forth herein; or (iv) the Settlement does not become final for any other reason,

1 this Settlement Agreement shall be null and void and any order entered by the Court
2 in furtherance of this Settlement shall be treated as void from the beginning. In such
3 a case, the Parties shall be returned to their respective statuses as of the date and time
4 immediately prior to the execution of the MOU, and the Parties shall proceed in all
5 respects as if this Settlement Agreement had not been executed, except that in the event
6 Defendant elects to terminate the Settlement, Defendant shall be responsible for ½ of
7 the settlement administration costs incurred prior to termination. In the event appellate
8 review is sought prior to the Effective Date, administration of the Settlement shall be
9 stayed pending final resolution of the appeal. If the Settlement does not become final
10 because Defendant fails to fund the Gross Settlement Amount, Defendant shall be
11 responsible for all settlement administration costs incurred to that date. Certification
12 of the Class. The Parties stipulate to conditional class certification of the Class for the
13 Class Period for purposes of settlement only. In the event that this Settlement is not
14 approved by the Court, fails to become effective, or is reversed, withdrawn or modified
15 by the Court, or in any way prevents or prohibits Defendant from obtaining a complete
16 resolution of the Released Class Claims and Released PAGA Claims, the conditional
17 class certification (obtained for any purpose) shall be void *ab initio* and of no force or
18 effect, and shall not be admissible in any judicial, administrative or arbitral proceeding
19 for any purpose or with respect to any issue, substantive or procedural.

20 F. Tax Liability. The Parties make no representations as to the tax treatment or legal
21 effect of the payments called for, and Class Members and/or Aggrieved Employees are
22 not relying on any statement or representation by the Parties in this regard. Class
23 Members and/or Aggrieved Employees understand and agree that they will be
24 responsible for the payment of any taxes and penalties assessed on the Individual
25 Settlement Payments and/or Aggrieved Employees' individual shares of the Aggrieved
26 Employee Payment described and will be solely responsible for any penalties or other
27 obligations resulting from their personal tax reporting of Individual Settlement

1 Payments and/or Aggrieved Employees' individual shares of the Aggrieved Employee
2 Payment.

3 G. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
4 the "acknowledging party" and each Party to this Agreement other than the
5 acknowledging party, an "other party") acknowledges and agrees that: (1) no provision
6 of this Agreement, and no written communication or disclosure between or among the
7 Parties or their attorneys and other advisers, is or was intended to be, nor shall any
8 such communication or disclosure constitute or be construed or be relied upon as, tax
9 advice within the meaning of United States Treasury Department circular 230 (31 CFR
10 part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his,
11 her or its own, independent legal and tax counsel for advice (including tax advice) in
12 connection with this Agreement, (b) has not entered into this Agreement based upon
13 the recommendation of any other Party or any attorney or advisor to any other Party,
14 and (c) is not entitled to rely upon any communication or disclosure by any attorney
15 or adviser to any other party to avoid any tax penalty that may be imposed on the
16 acknowledging party, and (3) no attorney or adviser to any other Party has imposed
17 any limitation that protects the confidentiality of any such attorney's or adviser's tax
18 strategies (regardless of whether such limitation is legally binding) upon disclosure by
19 the acknowledging party of the tax treatment or tax structure of any transaction,
20 including any transaction contemplated by this Agreement.

21 H. Preliminary Approval Motion. As soon thereafter as practicable after the execution of
22 this Agreement, Plaintiff shall file with the Court a Motion for Order Granting
23 Preliminary Approval and supporting papers, which shall include this Settlement
24 Agreement. Plaintiff will provide Defendant with a draft of the Motion at least three
25 (3) business days prior to the filing of the Motion to give Defendant an opportunity to
26 review and comment upon the Motion before filing.

1 I. Settlement Administrator. The Settlement Administrator shall be responsible for:
2 establishing and administering the QSF; calculating, processing and mailing payments
3 to the Class Representative, Class Counsel, LWDA, Class Members and Aggrieved
4 Employees; printing and mailing the Notice Packets to the Class Members as directed
5 by the Court; receiving and reporting the objections and requests for exclusion;
6 calculating, deducting and remitting all legally required taxes from Individual
7 Settlement Payments and distributing tax forms for the Wage Portion, the Penalties
8 Portion and the Interest Portion of the Individual Settlement Payments and/or
9 Aggrieved Employees' individual shares of the Aggrieved Employee Payment;
10 processing and mailing tax payments to the appropriate state and federal taxing
11 authorities; providing declaration(s) as necessary in support of preliminary and/or final
12 approval of this Settlement; and other tasks as the Parties mutually agree or the Court
13 orders the Settlement Administrator to perform. The Settlement Administrator shall
14 keep the Parties timely apprised of the performance of all Settlement Administrator
15 responsibilities by among other things, sending a weekly status report to the Parties'
16 counsel stating the date of the mailing, the of number of opt outs from the Settlement
17 it receives (including the numbers of valid and deficient), and number of objections
18 received.

19 J. Notice Procedure.

20 1. Class Data. No later than ten (10) business days after the Preliminary
21 Approval Date, Defendant shall provide the Settlement Administrator with the
22 Class Data for purposes of preparing and mailing Notice Packets to the Class
23 Members.

24 2. Notice Packets.

25 a) The Notice Packet shall contain the Notice of Class Action Settlement
26 in a form substantially similar to the form attached as **Exhibit A**. The
27 Notice of Class Action Settlement shall inform Class Members and

1 Aggrieved Employees that they need not do anything in order to
2 receive an Individual Settlement Payment and/or Aggrieved
3 Employees' individual shares of the Aggrieved Employee Payment
4 and to keep the Settlement Administrator apprised of their current
5 mailing address, to which the Individual Settlement Payments and/or
6 Aggrieved Employees' individual shares of the Aggrieved Employee
7 Payment will be mailed following the Funding Date. The Notice of
8 Class Action Settlement shall set forth the release to be given by all
9 members of the Class who do not request to be excluded from the
10 Settlement Class and/or Aggrieved Employees in exchange for an
11 Individual Settlement Payment and/or Aggrieved Employees'
12 individual shares of the Aggrieved Employee Payment, the number of
13 Workweeks worked by each Class Member during the Class Period,
14 and number of PAGA Periods worked by each Aggrieved Employee
15 during the PAGA Period, if any, and the estimated amount of their
16 Individual Settlement Payment if they do not request to be excluded
17 from the Settlement and each Aggrieved Employees' share of the
18 Aggrieved Employee Payment, if any. The Settlement Administrator
19 shall use the Class Data to determine Class Members' Workweeks and
20 PAGA Pay Periods. The Notice will also advise the Aggrieved
21 Employees that they will release the Released PAGA Claims and will
22 receive their share of the Aggrieved Employee Payment regardless of
23 whether they request to be excluded from the Settlement.

- 24 b) The Notice Packet's mailing envelope shall include the following
25 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
26 ENTITLED TO PARTICIPATE IN A CLASS ACTION
27 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR

ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
NOTICE.”

3. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes. No later than twenty-one (21) calendar days after preliminary approval of the Settlement, the Settlement Administrator shall mail copies of the Notice Packet to all Class Members via regular First-Class U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Class Member. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member.
4. Undeliverable Notices. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to any forwarding address provided within seven (7) calendar days of receiving the returned notice. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address by lawful use of skip-tracing, or other search using the name, address and/or Social Security number of the Class Member involved, and shall then perform a re-mailing, if another mailing address is identified by the Settlement Administrator. In addition, if notice to any Class Member who is currently employed by Defendant, is returned to the Settlement Administrator, as non-delivered and no forwarding address is provided, the Settlement Administrator shall notify Defendant. Defendant will request that the currently employed Class Member provide a corrected address and transmit to the Settlement Administrator any corrected address provided by the Class Member. Class

Members who received a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15) days from the original Response Deadline.

5. Disputes Regarding Individual Settlement Payments. Class Members will have the opportunity, should they disagree with Defendant's records regarding their Workweeks and/or PAGA Pay Periods, to provide documentation and/or an explanation to show a different calculation. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment shall be binding upon the Class Member and the Parties.

6. Disputes Regarding Administration of Settlement. Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court under the laws of the State of California. Before any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the disputes without the necessity of involving the Court.

7. Exclusions. The Notice of Class Action Settlement contained in the Notice Packet shall state that Class Members who wish to exclude themselves from the Settlement must submit a signed copy of the Request for Exclusion form to the Settlement Administrator by the Response Deadline. A Request for Exclusion form will be mailed together with the Notice Packet to all Class Members. The Request for Exclusion will not be valid if it is not timely submitted, if it is not signed by the Class Member, or if it does not contain the name and address and last four digits of the Social Security number of the Class Member. The date of the postmark on the mailing envelope or fax stamp

1 on the Request for Exclusion shall be the exclusive means used to determine
2 whether the request for exclusion was timely submitted. Any Class Member
3 who submits a timely Request for Exclusion shall be excluded from the
4 Settlement Class will not be entitled to an Individual Settlement Payment and
5 will not be otherwise bound by the terms of the Settlement or have any right
6 to object, appeal, or comment thereon. However, any Class Member that
7 submits a timely Request for Exclusion that is also an Aggrieved Employee
8 will still receive his/her pro rata share of the Aggrieved Employee Payment,
9 as specified below, and in consideration, will be bound by the Release of the
10 Released PAGA Claims as set forth herein. Class Members who fail to submit
11 a valid and timely Request for Exclusion on or before the Response Deadline
12 shall be bound by all terms of the Settlement and any final judgment entered
13 in this Action if the Court approves the Settlement. No later than seven (7)
14 calendar days after the Response Deadline, the Settlement Administrator shall
15 provide counsel for the Parties with a final list of the Class Members who have
16 timely submitted Requests for Exclusion.

17 8. Defendant's Option to Terminate Settlement: Defendant retains the right, in
18 the exercise of its sole discretion, to terminate the Settlement within twenty-
19 one (21) calendar days after expiration of the Response Deadline, if ten
20 percent (10%) or more of Class Members exclude themselves from the
21 Settlement provided the Settlement Administrator has provided Defendant the
22 number and percentage of valid and timely Requests for Exclusion. At no time
23 shall any of the Parties or their counsel seek to solicit or otherwise encourage
24 members of the Class to submit Requests for Exclusion from the Settlement.

25 9. Objections. The Notice of Class Action Settlement contained in the Notice
26 Packet shall state that Class Members who wish to object to the Settlement
27 may submit to the Settlement Administrator a written statement of objection

1 (“Notice of Objection”) by the Response Deadline. The postmark date of
2 mailing shall be deemed the exclusive means for determining if a Notice of
3 Objection was served timely. The Notice of Objection, if in writing, must be
4 signed by the Settlement Class Member and state: (1) the case name and
5 number; (2) the name of the Settlement Class Member; (3) the address of the
6 Settlement Class Member; (4) the last four digits of the Settlement Class
7 Member’s Social Security number; (5) the basis for the objection; and (6) if
8 the Settlement Class Member intends to appear at the Final
9 Approval/Settlement Fairness Hearing. Class Members who fail to make
10 objections in the manner specified herein shall be deemed to have waived any
11 objections and shall be foreclosed from making any objection (whether by
12 appeal or otherwise) to the Settlement Agreement and/or from appealing any
13 order by the Court approving the Settlement. No later than fourteen (14)
14 calendar days before the Final Approval Hearing, the Settlement
15 Administrator shall provide counsel for the Parties with complete copies of all
16 objections received, including the postmark dates for each objection. Class
17 Members who submit a timely Notice of Objection will have a right to appear
18 at the Final Approval Hearing in order to have their objections heard by the
19 Court. Class Members who do not submit a timely Notice of Objection may
20 still appear at the Final Approval Hearing, but only with the Court’s
21 permission. At no time shall any of the Parties or their counsel seek to solicit
22 or otherwise encourage Class Members to file or serve written objections to
23 the Settlement or appeal from the Order and Final Judgment. Class Members
24 who submit a written request for exclusion may not object to the Settlement.
25 Class Members may not object to the PAGA Settlement. Class Counsel shall
26 not represent any Class Member with respect to any such objection.

27 K. Allocation of the Gross Settlement Amount.

1 1. Calculation of Individual Settlement Payments. Individual Settlement
2 Payments shall be paid from the Net Settlement Amount and shall be paid
3 pursuant to the formula set forth herein. Using the Class Data, the Settlement
4 Administrator shall add up the total number of Workweeks for all Class
5 Members. The respective Workweeks for each Class Member will be divided
6 by the total Workweeks for all Class Members, resulting in the Payment Ratio
7 for each Class Member. Each Class Member's Payment Ratio will then be
8 multiplied by the Net Settlement Amount to calculate each Class Member's
9 estimated Individual Settlement Payments. Each Individual Settlement
10 Payment will be reduced by any legally mandated employee tax withholdings
11 (e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class
12 Members who submit valid and timely requests for exclusion will be
13 redistributed to Settlement Class Members who do not submit valid and timely
14 requests for exclusion on a pro rata basis based on their respective Payment
15 Ratios.

16 2. Calculation of Individual Payments to the Aggrieved Employees. Using the
17 Class Data, the Settlement Administrator shall add up the total number of
18 PAGA Pay Periods for all Aggrieved Employees during the PAGA Period.
19 The respective PAGA Pay Periods for each Aggrieved Employee will be
20 divided by the total PAGA Pay Periods for all Aggrieved Employees, resulting
21 in the "PAGA Payment Ratio" for each Aggrieved Employee. Each
22 Aggrieved Employee's PAGA Payment Ratio will then be multiplied by the
23 Aggrieved Employee Payment to calculate each Aggrieved Employee's
24 estimated share of the Aggrieved Employee Payment.

25 3. Allocation of Individual Settlement Payments. For tax purposes, Individual
26 Settlement Payments shall be allocated and treated as 20% wages ("Wage
27 Portion") and 80% penalties and pre-judgment interest ("Penalties and Interest

Portion”). The Wage Portion of the Individual Settlement Payments shall be reported on IRS Form W-2 and the Penalties and Interest Portion of the Individual Settlement Payments shall be reported on IRS Form 1099 issued by the Settlement Administrator.

4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved Employee Settlement Payments shall be allocated and treated as 100% penalties and shall be reported on IRS Form 1099.

5. No Credit Toward Benefit Plans. The Individual Settlement Payments and individual shares of the PAGA Payment made to Settlement Class Members and/or Aggrieved Employees under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties’ intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

6. All monies received by Settlement Class Members under the Settlement which are attributable to wages shall constitute income to such Settlement Class Members solely in the year in which such monies are received by the Settlement Class Members. It is the intent of the Parties that Individual Settlement Payments and individual shares of the PAGA Payment provided for in this Settlement Agreement are the sole payments to be made by Defendant to Settlement Class Members and/or Aggrieved Employees in connection with this Settlement Agreement, with the exception of Plaintiff, and that the Settlement Class Members and/or Aggrieved Employees are not entitled to any new or

1 additional compensation or benefits as a result of having received the Individual
2 Settlement Payments and/or their shares of the Aggrieved Employee Payment.

3 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
4 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
5 and/or Aggrieved Employees' last known mailing address no later than fifteen
6 (15) business days after the Funding Date.

7 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
8 Employees shall remain valid and negotiable for one hundred and eighty (180)
9 days from the date of their issuance. In the event an Individual Settlement
10 Payment and/or Aggrieved Employee Payment check has not been cashed
11 within one hundred and eighty (180) days, all funds represented by such
12 uncashed checks, plus any interest accrued thereon, shall be transmitted to
13 consistent with Code of Civil Procedure section 384 to State Controller's
14 Unclaimed Property. Settlement Class Members and/or Aggrieved Employees
15 who do not cash any or all of their Settlement Payment checks, and who have
16 not excluded themselves from the Settlement Class, will nevertheless be
17 bound by the terms of the release by Class Members and Aggrieved
18 Employees, as detailed herein. .

19 9. Service Award. In addition to the Individual Settlement Payment as a
20 Settlement Class Member and his individual share of the Aggrieved Employee
21 Payment, Plaintiff will apply to the Court for an award of not more than
22 \$10,000.00, as the Service Award. Defendant will not oppose a Service
23 Award of not more than \$10,000.00 for Plaintiff. The Settlement
24 Administrator shall pay the Service Award, either in the amount stated herein
25 if approved by the Court or some other amount as approved by the Court, to
26 Plaintiff from the Gross Settlement Amount no later than fifteen (15) calendar
27 days after the Funding Date. Any portion of the requested Service Award that

1 is not awarded to the Class Representative shall be part of the Net Settlement
2 Amount and shall be distributed to Settlement Class Members as provided in
3 this Agreement. The Settlement Administrator shall issue an IRS Form 1099
4 — MISC to Plaintiff for his Service Award. Plaintiff shall be solely and
5 legally responsible to pay any and all applicable taxes on his Service Award
6 and shall hold harmless the Released Parties from any claim or liability for
7 taxes, penalties, or interest arising as a result of the Service Award. Approval
8 of this Settlement shall not be conditioned on Court approval of the requested
9 amount of the Service Award. If the Court reduces or does not approve the
10 requested Service Award, Plaintiff shall not have the right to revoke, withdraw
11 from, or nullify the Settlement, and the Settlement will remain binding.

- 12 10. Class Counsel Award. Defendant will not oppose Class Counsel requesting
13 Attorneys' Fees not to exceed one-third of the Gross Settlement Amount
14 currently estimated to be One Hundred Thirty-Three Thousand Three
15 Hundred Thirty-Three Dollars and Thirty-Three Cents (\$133,333.33) **and**
16 Attorneys' Expenses supported by declaration not to exceed Twenty
17 Thousand Dollars and Zero Cents (\$20,000.00). Any awarded Class Counsel
18 Award shall be paid from the Gross Settlement Amount. Any portion of the
19 requested Attorneys' Fees and/or Attorneys' Expenses that are not awarded to
20 Class Counsel shall be part of the Net Settlement Amount and shall be
21 distributed to Settlement Class Members as provided in this Agreement. The
22 Settlement Administrator shall allocate and pay the Class Counsel Award to
23 Class Counsel from the Gross Settlement Amount no later than fifteen (15)
24 calendar days after the Funding Date. Class Counsel shall be solely and
25 legally responsible to pay all applicable taxes on the payment made pursuant
26 to this paragraph. The Settlement Administrator shall issue an IRS Form 1099
27 — MISC to Class Counsel for the payments made pursuant to this paragraph.

1 If the Court reduces or does not approve the requested Class Counsel Award,
2 Plaintiff and Class Counsel shall not have the right to revoke the Settlement,
3 or to appeal such order, and the Settlement will remain binding.

4 11. PAGA Payment. Twenty Thousand Dollars and Zero Cents (\$20,000.00)
5 shall be allocated from the Gross Settlement Amount for settlement of claims
6 for civil penalties under the Private Attorneys General Act of 2004 (“PAGA
7 Payment”). The Settlement Administrator shall pay seventy-five percent
8 (75%) of the PAGA Payment (\$15,000.00) to the California Labor and
9 Workforce Development Agency no later than fifteen (15) calendar days after
10 the Funding Date (hereinafter “LWDA Payment”). Twenty-five percent
11 (25%) of the PAGA Payment (\$5,000.00) will be distributed to the Aggrieved
12 Employees as described in this Agreement (referred to as the “Aggrieved
13 Employee Payment”).

14 12. Settlement Administration Costs. The Settlement Administrator shall be paid
15 for the costs of administration of the Settlement from the Gross Settlement
16 Amount. The estimate of the Settlement Administration Costs is \$5,500.00.
17 The Settlement Administrator shall be paid the Settlement Administration
18 Costs no later than fifteen (15) calendar days after the Funding Date.

19 L. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with
20 the Court a Motion for Order Granting Final Approval and Entering Judgment, within
21 twenty-eight (28) days following the expiration of the Response Deadline, which
22 motion shall request final approval of the Settlement and a determination of the
23 amounts payable for the Service Award, the Class Counsel Award, the PAGA
24 Payment, and the Settlement Administration Costs. Plaintiff will provide Defendant
25 with a draft of the Motion at least three (3) business days prior to the filing of the
26 Motion to give Defendant an opportunity to propose changes or additions to the
27 Motion.

1. Declaration by Settlement Administrator. No later than seven (7) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the full names of any Class Members who opt out of the Settlement, the number of objections received, the amount of the average, lowest, and highest Individual Settlement Payments, the amount of the average, lowest, and highest Aggrieved Employee Payments, the Settlement Administration Costs, and any other information as the Parties mutually agree or the Court orders the Settlement Administrator to provide.

2. Final Approval Order and Judgment. Class Counsel shall present an Order Granting Final Approval of Class Action Settlement to the Court for its approval, and Judgment thereon, at the time Class Counsel files the Motion for Final Approval.

N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide an opportunity for Counsel for Defendant to review the Motions for Preliminary and Final Approval, including the Order Granting Final Approval of Class Action Settlement, and Judgment at least three (3) business days in advance of filing with the Court. The Parties and their counsel will cooperate with each other and use their best efforts to affect the Court's approval of the Motions for Preliminary and Final Approval of the Settlement, and entry of Judgment.

O. Notice to LWDA of Settlement. Class Counsel will comply with Cal. Lab. Code § 2699(l) and notify the LWDA of the Settlement, including but not limited to, all Court orders and judgments related to the Settlement, within the required statutory and/or Court-prescribed deadlines.

- 1 P. Cooperation. The Parties and their counsel will cooperate with each other and use
2 their best efforts to implement the Settlement.
- 3 Q. Interim Stay of Proceedings. The Parties agree to hold all proceedings and deadlines
4 in the Action, except such proceedings necessary to implement and complete the
5 Settlement, in abeyance pending the Preliminary and Final Approval Hearings to be
6 conducted by the Superior Court. Said stay shall terminate if and when (1) the Court
7 permanently denies approval (preliminary or final) of the Settlement or, (2) the Court
8 issues an Order terminating the stay.
- 9 R. Defendant's Appeal: The Parties will submit a stipulation to the Court of Appeals in
10 Defendant's pending appeal to suspend or extend appellate deadlines to allow time for
11 settlement approval to occur. Defendant will dismiss the appeal upon final approval of
12 the Settlement. If the Court of Appeals rejects the Parties' stipulation to suspend or
13 extend the deadlines, the Parties will meet and confer in good faith in an effort to find
14 a solution which will allow the Parties to seek Settlement Approval without having to
15 incur further resources in prosecuting the Appeal but without Defendant's rights and
16 interests on appeal being prejudiced.
- 17 S. Amendment or Modification. This Agreement may be amended or modified only by
18 a written instrument signed by counsel for all Parties or their successors-in-interest.
- 19 T. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
20 Agreement among these Parties, and no oral or written representations, warranties or
21 inducements have been made to any Party concerning this Agreement or its Exhibit
22 other than the representations, warranties and covenants contained and memorialized
23 in this Agreement and its Exhibit.
- 24 U. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
25 represent they are expressly authorized by the Parties whom they represent to negotiate
26 this Agreement and to take all appropriate actions required or permitted to be taken by
27 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other

documents required to effectuate the terms of this Agreement. The persons signing this Agreement on behalf of Defendant represents and warrants that he/she is authorized to sign this Agreement on behalf of Defendant. Plaintiff represents and warrants that he is authorized to sign this Agreement and that he has not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

V. No Public Comment: The Parties and their counsel agree not to issue any press releases, initiate any contact with the press, respond to any press inquiry or make any public communication about the fact, amount or terms of the settlement, except however that this does not prohibit disclosures required by law and/or within Plaintiff and Plaintiff's counsel and expert, Defendant and Defendant's counsel and expert, and those within Defendant's organization or financial advisors/accountants with a need to know in order to approve or execute the terms of this Settlement Agreement. In response to any inquiries Plaintiff and Plaintiff's counsel will state that "the case was resolved with Court approval." Plaintiff's Counsel shall not report the settlement or its content in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff or the Settlement Class on their website, and shall not contact any reporters or media regarding the settlement, the Action, or their content. However, Plaintiff's Counsel is authorized to make disclosure to the Court and the LWDA for the purposes of obtaining the approval of the settlement, concluding any superior court or appellate court proceedings in the Action, and complying with any California Rules of Court or ethical requirements. This disclosure is limited to court filings, electronic submission of settlement documents to the LWDA, and verbal statements made at hearings or conferences with a judicial officer. Plaintiff and Plaintiff's counsel, or their representatives, are not permitted to disseminate or publish, distribute or discuss the information provided to the Court in those filings outside the filings themselves and any hearing held on those filings, unless ordered otherwise by the Court. Nothing in this provision is intended to prohibit: (i) Plaintiff from discussing this settlement with

1 their spouses, attorneys, tax advisors, or taxing authorities; (ii) Plaintiff's counsel from
2 citing the settlement in this case as evidence supporting their competence as counsel
3 in wage/hour and/or class action matters in public court filings; or (iii) Plaintiff's
4 counsel from communicating with the settlement administrator, Plaintiff in this case,
5 the LWDA, or with the court in which this action is pending; (iv) Plaintiff's counsel
6 to report on the settlement in other courts as may be required by the California Rules
7 of Court or when responding to any inquiry from another court; (v) Plaintiff's counsel
8 from discussing the settlement with the Settlement Class if contacted with questions
9 about the settlement or the distribution of settlement proceeds.

10 W. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
11 to the benefit of, the successors or assigns of the Parties, as previously defined.

12 X. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
13 shall be governed by and interpreted according to the laws of the State of California.

14 Y. Counterparts. This Agreement may be executed in one or more counterparts. All
15 executed counterparts and each of them shall be deemed to be one and the same
16 instrument provided that counsel for the Parties to this Agreement shall exchange
17 among themselves copies or originals of the signed counterparts.

18 Z. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
19 is a fair, adequate and reasonable settlement of this Action and have arrived at this
20 Settlement after extensive arms-length negotiations, taking into account all relevant
21 factors, present and potential.

22 AA. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
23 respect to the interpretation, implementation and enforcement of the terms of this
24 Agreement and all orders and judgments entered in connection therewith, and the
25 Parties and their counsel submit to the jurisdiction of the Court for purposes of
26 interpreting, implementing and enforcing the settlement and all orders and judgments
27 entered in connection with this Agreement.

- 1 BB. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
2 the Court shall first attempt to construe the provisions valid to the fullest extent
3 possible consistent with applicable precedents so as to define all provisions of this
4 Agreement valid and enforceable.
- 5 CC. Waiver of Certain Appeals. The Parties agree not to file an appeal of an order granting
6 final approval of the Settlement.
- 7 DD. Cooperation and Drafting. Each of the Parties has cooperated in the drafting and
8 preparation of this Agreement. Hence, in any construction made to this Agreement,
9 the same shall not be construed against any of the Parties. The Parties agree to take
10 all necessary measures to effectuate this Agreement according to its terms and scope.
- 11 EE. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
12 Released Claims have merit and give rise to liability on the part of Defendant.
13 Defendant claims that the Released Claims have no merit and do not give rise to
14 liability. This Agreement is a compromise of disputed claims. Nothing contained in
15 this Agreement and no documents referred to and no action taken to carry out this
16 Agreement may be construed or used as an admission by or against the Defendant or
17 Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other
18 than as may be specifically set forth herein, each Party shall be responsible for and
19 shall bear its/his own attorney's fees and costs.
- 20 FF. Class Representative's Waiver of Right to Be Excluded or Object. The Class
21 Representative agrees to sign this Agreement and by signing this Agreement is bound
22 by the terms herein stated and further agrees not to request to be excluded from the
23 Settlement Class and agrees not to object to any of the terms of this Agreement. Non-
24 compliance by the Class Representative with this Paragraph shall be void and of no
25 force or effect. Any such requests for exclusion or objections shall therefore be void
26 and of no force or effect.

IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: 05/29/2024


Luis De Jesus Claudio (May 29, 2024 08:07 PDT)

LUIS DE JESUS CLAUDIO

IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:

DATED: 05/30/2024


UNI CARE HOME HEALTH INC.

Albert Keshavarzi
Printed Name

CEO
Title

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: 05/29/2024

JCL LAW FIRM, A.P.C.

By: 

Attorneys for Plaintiff and the Settlement Class
Members

DATED: 05/29/2024

ZAKAY LAW GROUP, APLC

By: 

Attorneys for Plaintiff and the Settlement Class
Members

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DATED: May 30, 2024

FISHER & PHILLIPS LLP.

By: _____

David E. Amaya

Phillip G. Simplor

Julia A. Sherwood

Attorneys for Defendant

EXHIBIT A

**NOTICE OF PENDENCY OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT
AND FINAL HEARING DATE**

**(Luis De Jesus Claudio v. Uni Care Home Health Inc., et al, San Diego County Superior Court Case No.
37-2022-00003063-CU-OE-CTL)**

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Individual Settlement Payment is: \$<<[REDACTED]>>. See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement . Directions are provided below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of San Diego (the “Court”) has been reached between Plaintiff Luis De Jesus Claudio (“Plaintiff”) and Defendant Uni Care Home Health Inc. (“Defendant”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All employees who are or previously were employed by Defendant who were paid in whole or in part on a piece-rate basis and performed work in California during period beginning January 25, 2018 to March 5, 2024 (“Class Period”).

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On January 10, 2022, Plaintiff filed a Notice of Violations with the Labor and Workforce Development Agency (LWDA) and served the same on Defendant. On January 25, 2022, Plaintiff filed a Complaint against Defendant in the Superior Court of the State of California, County of San Diego. Plaintiff asserted claims against Defendant for: (1) Unfair Competition In Violation Of Cal. Bus. & Prof. Code §17200 *et seq*; (2) Failure To Pay Minimum Wages In Violation Of Cal. Lab. Code §§ 1194, 1197 & 1197.1; (3) Failure To Pay Overtime Wages In Violation Of Cal. Lab. Code §§ 510, *et seq*; (4) Failure To Provide Required Meal Periods In Violation Of Cal. Lab. Code

§§ 226.7 & 512 and the applicable IWC Wage Order; (5) Failure To Provide Required Rest Periods In Violation Of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; (6) Failure To Provide Accurate Itemized Statements In Violation Of Cal. Lab. Code § 226; (7) Failure To Provide Wages When Due In Violation Of Cal. Lab. Code §§ 201, 202 And 203; (8) Failure To Reimburse Employees For Required Expenses In Violation Of Cal. Lab. Code § 2802. On March 16, 2022, Plaintiff filed the operative First Amended Complaint, adding a ninth cause of action for Violations of the Private Attorneys General Act pursuant to Labor Code section 2698, *et seq.* (the “Action”).

Defendant expressly denies any liability or wrongdoing of any kind associated with the claims alleged in the Action, dispute any wages, damages and penalties claimed by the Class Representative are owed, and further contend that, for any purpose other than settlement, the Action is not appropriate for class or representative action treatment. Defendant contends, among other things, that at all times it complied with the California Labor Code and the Industrial Welfare Commission Wage Orders.

On April 12, 2023, the Parties participated in an all-day mediation with Louis Marlin, an experienced mediator of wage and hour class and PAGA actions. The Parties ultimately accepted a Mediator’s settlement proposal and reached an agreement for settlement. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Zakay Law Group, APLC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an “all in” amount of Four Hundred Thousand Dollars and Zero Cents (\$400,000.00) (the “Gross Settlement Amount”) to fund the settlement. The Gross Settlement Amount includes the payment of all Individual Settlement Payments, Settlement Administration Costs, Class Counsel Award, Service Award, and the PAGA Payment.

After the Judgment becomes Final, Defendant will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. “Final” means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed, and the Judgment is affirmed.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- Settlement Administration Costs. Payment to the Settlement Administrator, estimated not to exceed \$5,500.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.
- Class Counsel Award. Payment to Class Counsel of an award of attorneys’ fees of no more than 1/3 of the Gross Settlement Amount (currently \$133,333.33) and actually incurred litigation expenses of not more than \$20,000 for all expenses incurred as documented in Class Counsel’s billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Service Award. A Service Award of up to Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook.

- PAGA Payment. A payment of \$20,000.00 relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), \$15,000.00 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$5,000.00 will be distributed to Aggrieved Employees as part of the PAGA Payment.
- Calculation of Payments to Settlement Class Members. After all the above payments of the court-approved Class Counsel Award, the Service Award, the PAGA Payment, and the Settlement Administration Costs are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Individual Settlement Payment for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Settlement Class Members that occurred during the Class Period and multiplying the result by each individual Settlement Class Member's workweeks that occurred during the Class Period. A "workweek" shall mean any seven (7) consecutive days beginning on Sunday and ending on Saturday, in which a Class Member is employed and received any form of compensation from Defendant.
- Calculation of Aggrieved Employees Payments to Aggrieved Employees. The PAGA Payment shall be distributed to Aggrieved Employees irrespective of whether they exclude themselves or opt-out. The PAGA Payment will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective Aggrieved Employee during the PAGA Period. "Aggrieved Employee" means all employees who are or previously were employed by Uni Care Home Health Inc. who were paid in whole or in part on a piece-rate basis and performed work in California during the period beginning January 10, 2021 to March 5, 2024 ("PAGA Period").

If the Settlement is approved by the Court, you will automatically be mailed a check for your Individual Settlement Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. Twenty percent (20%) of each Individual Settlement Payment is allocated to wages ("Wages Portion"). Taxes are withheld from this amount, and each Settlement Class Member will be issued an Internal Revenue Service Form W-2 for such payment. Eighty percent (80%) of each Individual Settlement Payment is allocated to penalties and pre-judgment interest ("Penalties and Interest Portion"). Each Settlement Class Member will be issued an Internal Revenue Service Form 1099 for Penalty Portion and Interest Portion of the Individual Settlement Payments. In addition, no taxes will be withheld from the PAGA Payment paid to Aggrieved Employees, and each Aggrieved Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendant's counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

No Credit Toward Benefit Plans. The Individual Settlement Payments and Aggrieved Employee Payments made to Settlement Class Members and/or Aggrieved Employees under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon entry of final judgment and funding in full of the Gross Settlement Amount by Defendant, Plaintiff and the Settlement Class Members shall release the Released Parties of all claims alleged in the Action or which could have been alleged in the Action based on the facts alleged in the operative pleading (including without limitation for violations or damages relating to meal periods, rest periods, pay stubs, off the clock work, unpaid regular and overtime wages, late payment of wages, record keeping, record production, waiting time penalties and unreimbursed business expenses) which arose during the Class Period, and, expressly excluding claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period. As of the Effective Date and upon funding of the Gross Settlement Amount by Defendant, all Aggrieved Employees shall release all Released PAGA Claims, irrespective of whether they opted-out of the class settlement and will be bound by this PAGA Release (the "PAGA Release"). "Released PAGA Claims" shall mean the release from the Aggrieved Employees of all PAGA claims alleged in the Action or which could have been alleged in the Action based on the facts alleged in the operative pleading and/or Plaintiff's PAGA notice to the LWDA (including without limitation for violations or damages relating to meal periods, rest periods, pay stubs, off the clock work, unpaid regular and overtime wages, late payment of wages, record keeping, record production, waiting time penalties and unreimbursed business expenses) which arose during the PAGA Period.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

5. How much will my payment be?

Defendant's records reflect that you have <<____>> Workweeks worked during the Class Period January 25, 2018 to March 5, 2024).

Based on this information, your estimated Individual Settlement Payment is <<____>>.

Defendant's records reflect that you have <<____>> pay periods worked during the PAGA Period (January 10, 2021 to March 5, 2024).

Based on this information, your estimated Aggrieved Employee Payment is <<____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than _____ [forty-five (45) days after the Notice or fifteen (15) days after the re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: Apex Class Action LLC.

The Court will hold a hearing on _____ to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the PAGA Payment.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than _____. The address for the Settlement Administrator is 18 Technology Drive, Suite 164, Irvine, CA 92618; Tel: (800) 355-0700. The request for exclusion must state in substance that the Class Member has read the Class Notice and that he or she wishes to be excluded from the settlement of the class action lawsuit entitled *Luis De Jesus Claudio v. Uni Care Home Health Inc., et al.*, currently pending in Superior Court of San Diego, Case No. 37-2022-00003063-CU-OE-CTL. The request for exclusion must contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is *Luis De Jesus Claudio v. Uni Care Home Health Inc., et al.*, San Diego County Superior Court, Case No. 37-2022-00003063-CU-OE-CTL.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than _____. The address for the Settlement Administrator is 18 Technology Drive, Suite 164, Irvine, CA 92618; Tel: (800) 355-0700.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel.: (619) 599-8292
Fax: (619) 599-2891

Class Counsel:

Shani O. Zakay, Esq.
Zakay Law Group, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: (619) 599-8292
Fax: (619) 599-8291

Counsel for Defendant:

David Amaya, Esq.
Phillip G. Simpler, Esq.
Julia Sherwood, Esq.
Fisher & Phillips LLP
4747 Executive Drive, Suite 1000
San Diego, CA 92121
T: 858-597-9600
F: 858-597-9601

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at 00:00 AM/PM on _____, at the San Diego County Superior Court, Department C-66, located at 330 West Broadway, San Diego, CA 92101 before Judge Kenneth Medel. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member who does not opt out is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at 1-800-355-0700 or write to *Luis De Jesus Claudio v. Uni Care Home Health Inc., et al.*, San Diego County Superior Court, Case No. 37-2022-00003063-CU-OE-CTL, Settlement Administrator, 18 Technology Drive, Suite 164, Irvine, CA 92618 c/o _____.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to JCL Law firm, APC, 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121 or by visiting the administrator's website at www._____.com.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to State Controller's Unclaimed Property fund subject to the requirements of California Code of Civil Procedure Section 384. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

Final Class and PAGA SAR (6ada749c-d288-43b3-9715-3a9f75909fab)

Final Audit Report

2024-05-30

Created:	2024-05-29
By:	Kelly Chavez (kchavez@fisherphillips.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAACECHEnqQykssxzJ6mpDUBzp1cda3iJWx

"Final Class and PAGA SAR (6ada749c-d288-43b3-9715-3a9f75909fab)" History

-  Document created by Kelly Chavez (kchavez@fisherphillips.com)
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EXHIBIT 2